

## **BILL ANALYSIS**

H.B. 3724  
By: Elkins  
Business & Industry  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

In 2005, the Legislature passed H.B. 7, 79th Legislature, Regular Session, which made significant changes to the designated doctor processes outlined under Texas Labor Code, Section 408.0041. The scope of issues for which designated doctors are appointed and now perform examinations were broadened to include impairment ratings, maximum medical improvement, extent of injury, disability, the ability of an employee to return to work and similar issues. Furthermore, under the Texas Labor Code, Section 408.0041(f) requires insurance carriers to pay both income and medical benefits in accordance with the designated doctor's report. Accordingly, the designated doctor's opinion has a substantial impact on the benefits paid by carriers. There is also a potential risk that carriers may pay benefits pursuant to a designated doctor's opinion, that is eventually determined to be incorrect. The Texas Workers' Compensation Act has a policy of reimbursing carriers for overpayments made as a result of an interlocutory decision or requirement that benefits be paid. The same should hold true regarding designated doctors.

H.B. 3724 would entitle an insurance carrier that pays a decision pursuant to a designated doctor's opinion which is later determined to be incorrect to receive reimbursement for any overpayments made pursuant to the designated doctor's opinion paid from the subsequent injury fund.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of workers' compensation in SECTION 1 (Section 408.0041, Labor Code) of this bill.

### **ANALYSIS**

H.B. 3724 amends the Labor Code to provide procedures to reimburse an insurance carrier through the subsequent injury fund for overpayment of benefits resulting from a designated doctor opinion which later is reversed or modified by a final arbitration, or a final order or decision of the commissioner of workers' compensation (commissioner) or a court. The bill requires the commissioner to adopt rules to provide for a periodic reimbursement schedule, providing reimbursements at least annually.

H.B. 3724 provides implementation language clarifying that the changes in statute made by this Act apply to a final arbitration or final order or decision of the commissioner or a court rendered on or after September 1, 2007.

### **EFFECTIVE DATE**

September 1, 2007.