

By: Bailey

H.B. No. 2166

A BILL TO BE ENTITLED

AN ACT

relating to creation and operation of a pilot program for certain voluntary alternative agreements regarding compensable injuries.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 410, Labor Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. PILOT PROGRAM ON VOLUNTARY

ALTERNATIVE AGREEMENTS

Sec. 410.351. PILOT PROGRAM; RECOGNITION OF VOLUNTARY ALTERNATIVE AGREEMENTS. (a) Notwithstanding any other provision of this subtitle, if a voluntary alternative agreement entered into under 29 U.S.C. Section 151 et seq., 45 U.S.C. Section 151 et seq., or Chapter 174, Local Government Code, between a certified self-insurer, an individually insured employer, or an employer engaged in construction, construction maintenance, or construction inspection and a labor organization that is the recognized or certified exclusive representative for employees employed by such a self-insurer or employer who receive workers' compensation coverage is filed with the department, a voluntarily mutually agreed-on provision of the agreement is valid and binding on the parties to the agreement if it does any or all of the following:

(1) establishes an alternative dispute resolution system, which may include provisions for conciliation, mediation, and arbitration that supplement, modify, or replace the provisions

1 of Subchapter C;

2 (2) adopts an agreed-on list of health care providers
3 for medical treatment as the exclusive source of all medical
4 treatment provided under this subtitle;

5 (3) adopts a limited list of physicians to conduct
6 independent medical examinations that the parties may agree is the
7 exclusive source of independent medical examiners under this
8 subtitle;

9 (4) adopts a case management, patient advocate,
10 utilization review, or similar program or combination of programs
11 intended to improve the quality and control the cost of medical and
12 related treatment and care;

13 (5) adopts a light-duty, modified-job, or
14 return-to-work program; or

15 (6) adopts a vocational rehabilitation or retraining
16 program that uses an agreed-on list of providers of rehabilitation
17 services as the exclusive source of providers of rehabilitation
18 services under this subtitle.

19 (b) A voluntary alternative agreement described by this
20 section may provide that arbitration conducted under the agreement:

21 (1) is binding on the parties; or

22 (2) is subject to review in the same manner as a final
23 decision issued by a hearing officer under Subchapter D.

24 (c) This section may not be construed to permit an agreement
25 that:

26 (1) diminishes an employee's entitlement to benefits
27 for total or partial disability, vocational rehabilitation, or

1 medical treatment that are fully paid by the employee's employer or
2 as otherwise provided by this subtitle; or

3 (2) denies an employee the right to legal
4 representation at each stage of the alternative dispute resolution
5 process under this chapter.

6 (d) Any portion of an agreement that violates Subsection (c)
7 is void.

8 Sec. 410.352. RULES. The commissioner shall adopt rules as
9 necessary to implement this subchapter.

10 Sec. 410.353. ANNUAL REPORT. (a) Not later than September
11 30, 2008, and annually thereafter, the commissioner shall prepare
12 and submit to the lieutenant governor, the speaker of the house of
13 representatives, and the legislature a report, based on aggregate
14 data, that includes the following regarding the operation of the
15 pilot program established under Section 410.351:

16 (1) the number of employees and the amount of payroll
17 covered by agreements filed under Section 410.351;

18 (2) the number of claims filed under the pilot
19 program;

20 (3) the average cost per claim, reported by cost
21 components if practicable;

22 (4) the number of litigated claims, including the
23 number of claims submitted to mediation, arbitration, and judicial
24 review;

25 (5) the number of contested claims resolved before
26 arbitration;

27 (6) the projected incurred costs and actual costs of

1 claims;

2 (7) the safety history of entities participating in
3 the pilot program;

4 (8) the number of employees participating in the pilot
5 program receiving vocational rehabilitation services; and

6 (9) the number of employees participating in the pilot
7 program who participate in programs described by Section
8 410.351(a)(5).

9 (b) The commissioner may require the self-insurers and
10 employers described by Section 410.351(a) to provide any necessary
11 information required for the report.

12 Sec. 410.354. EXPIRATION. This subchapter expires and the
13 pilot program is abolished September 1, 2017.

14 SECTION 2. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2007.