

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 16, 2007**

**TO:** Honorable Robert Duncan, Chair, Senate Committee on State Affairs

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB724** by Solomons (Relating to resolution of certain disputes regarding workers' compensation claims for medical benefits.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB724, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	\$0
2010	\$0
2011	\$0
2012	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable (Cost) from <i>DEPT INS</i> <i>OPERATING ACCT</i> 36	Probable Revenue Gain from <i>DEPT INS</i> <i>OPERATING ACCT</i> 36	Probable Revenue (Loss) from <i>SUBSEQUENT</i> <i>INJURY FUND</i> 5101	Change in Number of State Employees from FY 2007
2008	(\$3,585,662)	\$3,585,662	(\$1,983,600)	31.7
2009	(\$2,084,560)	\$2,084,560	(\$2,035,800)	31.7
2010	(\$2,084,560)	\$2,084,560	(\$2,105,400)	31.7
2011	(\$2,084,560)	\$2,084,560	(\$2,157,600)	31.7
2012	(\$2,084,560)	\$2,084,560	(\$2,209,800)	31.7

**Fiscal Analysis**

The bill would amend the Insurance Code to provide a new appeal process for certain workers' compensation medical disputes. The bill would allow a party in a medical dispute to request an administrative hearing as the first stage of an appeal. Under the bill, if an unpaid, disputed portion of a fee is greater than \$2,000 or if a service that an Independent Review Organization determined was necessary is greater than \$3,000 the hearing would be conducted by the State Office of Administrative Hearings (SOAH). Other disputes, including all prospective medical disputes, including spinal surgery, would be appealable to a Contested Case Hearing (CCH) conducted by the Division of Workers' Compensation (DWC) at the Texas Department of Insurance (TDI). A benefit review conference would not be a prerequisite for a CCH in these cases. The bill provides that if a party is

unsatisfied with the SOAH or CCH decision they could proceed directly to judicial review. The bill would apply to disputes that are pending adjudication by DWC on or after September 1, 2007, disputes that may be remanded from a court to DWC on or after September 1, 2007, and to disputes that arise on or after September 1, 2007.

The bill would amend the Labor Code to add surviving parents to the list of beneficiaries eligible for death benefits in workers' compensation cases. The bill would reduce the amount of death benefits paid into the Subsequent Injury Fund from 364 weeks to 260 weeks in no-beneficiary fatal injury cases where a surviving parent receives death benefits.

The bill would take effect September 1, 2007.

## **Methodology**

Based on the analysis of TDI, it is assumed the bill would result in an additional 2,061 CCHs and 645 SOAH cases each fiscal year. Additionally, the bill would allow the courts to remand pending medical disputes cases for an administrative hearing that must be conducted in fiscal year 2008. It is assumed this would result in an additional 115 CCHs and 2,182 SOAH cases in fiscal year 2008.

It is assumed costs for TDI's Indemnity Dispute Resolution section would include salaries for an additional 13.0 FTEs, 11 Administrative Law Judges II (10 hearing officers and one hearing officer manager) and three Legal Secretaries II, in the amount of \$696,800 each fiscal year with associated benefit costs of \$197,125. It is assumed there would be a one-time equipment cost associated with these FTEs of \$94,996 in fiscal year 2008. It is assumed specialized training for fee dispute resolution would be required for these additional hearing officers and that costs, including travel, for the training would be \$67,400 in fiscal year 2008, costs for legal secretary training would be \$500 in fiscal year 2008, and costs for standard training would be \$3,250 for fiscal years 2009 through 2012. It is assumed costs for standard and regional travel for these hearing officers would be \$84,000 each fiscal year. It is assumed telephone and consumable costs would be \$14,560 each fiscal year.

It is assumed costs for TDI's Medical Dispute Resolution section would include salaries for 2.0 FTEs, one Auditor II and one Legal Assistant I, in the amount of \$69,592 each fiscal year with associated benefit costs of \$19,688. It is assumed there would be a one-time equipment cost associated with these FTEs of \$9,216 in fiscal year 2008. It is assumed other operating costs, including telephone, travel, and consumable costs, would be \$2,740 each fiscal year.

It is assumed that additional support staff will be needed in those DWC field offices with large hearing dockets. It is assumed costs for this staff would include salaries for 5.0 FTEs, five Administrative Assistant II, in the amount of \$124,900 each fiscal year with associated benefit costs of \$35,334. It is assumed there would be a one-time equipment cost associated with these FTEs of \$23,040 in fiscal year 2008. It is assumed other operating costs, including telephone, travel, and consumable costs, would be \$6,850 each fiscal year.

It is assumed SOAH would bill TDI \$100 per hour for the SOAH cases and that each case would average 6 hours in length. This analysis assumes SOAH costs incurred by TDI would be \$1,696,200 in fiscal year 2008 and \$387,000 in subsequent fiscal years and that these costs would be paid out of General Revenue - Dedicated Fund 36 to SOAH through an interagency contract from TDI. It is assumed SOAH would need an additional 2.7 FTEs each fiscal year to hire Administrative Law Judges to preside over the cases. It is assumed SOAH would contract with temporary Administrative Law Judges to try the 2,182 cases remanded from court in fiscal year 2008.

Based on the analysis of the Office of Injured Employee Counsel (OIEC), it is assumed OIEC would participate as an advocate for injured workers in an additional 1,675 medical fee dispute cases as a result of the provisions of the bill. It is assumed OIEC's costs would include salaries for an additional 9.0 FTEs, eight Ombudsman I and one Administrative Assistant II, in the amount of \$307,676 with associated benefit costs of \$87,042. It is assumed costs would include the reclassification of an existing Ombudsman I position to a Program Specialist II position which would include additional salary of \$4,653 and associated benefit costs of \$1,316. Other costs and operating expenses, including travel, printing, and Adjuster's License fees are assumed to be \$42,034 each fiscal year.

Since TDI is required to generate revenues equivalent to its and OIEC's costs of operation under current law, this analysis assumes that all costs incurred in excess of revenues generated would be paid for from General Revenue - Dedicated Fund 36 from either existing fund balances or insurance maintenance tax revenues.

Based on the analysis of TDI, it is assumed the portion of the bill amending the Labor Code would reduce the revenue to the Subsequent Injury Fund by approximately 29 percent each year. It is assumed a majority of claimants would have surviving parents.

### **Technology**

There would be a one-time technology impact of \$28,880 in fiscal year 2008 for computer hardware and software at TDI.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 448 Office of Injured Employee Counsel, 454 Department of Insurance

**LBB Staff:** JOB, KJG, JRO, MW, SK