

By: Deshotel

H.B. No. 2429

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to return-to-work coordination services and the  
3 return-to-work reimbursement program for employers participating  
4 in the Texas workers' compensation system.

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

6 SECTION 1. Section 413.021, Labor Code, Subsection (a) is  
7 amended to read as follows: Sec. 413.021. RETURN-TO-WORK  
8 COORDINATION SERVICES. (a) An insurance carrier shall, with the  
9 agreement of a participating employer, provide the employer with  
10 return-to-work coordination services on an ongoing basis as  
11 necessary to facilitate an employee's return to employment,  
12 including upon receipt of a notice that an injured employee is  
13 eligible to receive temporary income benefits. The insurance  
14 carrier shall also notify the employer of the availability of  
15 [~~return-to-work coordination services~~] the return-to-work  
16 reimbursement program under Section 413.022. [~~In offering~~  
17 ~~providing the services, insurance carriers and the division shall~~  
18 ~~target employers without return-to-work programs shall focus~~  
19 ~~return-to-work efforts on workers who begin to receive temporary~~  
20 ~~income benefits.~~] The insurance carrier shall evaluate a  
21 compensable injury in which the injured employee sustains an injury  
22 that could potentially result in lost time from employment as early  
23 as practicable to determine if skilled case management is necessary  
24 for the injured employee's case. As necessary, case managers who

1 are appropriately [~~licensed to practice in this state~~] certified  
2 shall be used to perform these evaluations. A claims adjuster may  
3 not be used as a case manager. These services may be offered by  
4 insurance carriers in conjunction with the accident prevention  
5 services provided under Section 411.061. Nothing in this section  
6 supersedes the provisions of a collective bargaining agreement  
7 between an employer and the employer's employees, and nothing in  
8 this section authorizes or requires an employer to engage in  
9 conduct that would otherwise be a violation of the employer's  
10 obligations under the National Labor Relations Act (29 U.S.C.  
11 Section 151 et seq.).

12 SECTION 2. Section 413.022, Labor Code, is amended to read  
13 as follows:

14 Sec. 413.022. RETURN-TO-WORK [~~PILOT~~] REIMBURSEMENT PROGRAM  
15 FOR [~~SMALL~~] EMPLOYERS; FUND. (a) In this section:

16 (1) "Account" means the workers' compensation  
17 return-to-work account.

18 (2) "Eligible employer" means any employer, other than  
19 this state or a political subdivision subject to Subtitle C, who  
20 employs at least two but not more than 50 employees on each business  
21 day during the preceding calendar year and who has workers'  
22 compensation insurance coverage.

23 (b) The commissioner shall establish by rule a  
24 return-to-work [~~pilot~~] reimbursement program designed to promote  
25 the early and sustained return to work of an injured employee who  
26 sustains a compensable injury. Notwithstanding Subsection (a) (2),  
27 the commissioner may, by rule, expand the types of employers who are

1 eligible for reimbursements under this section.

2 (c) The [~~pilot~~] program shall reimburse from the account an  
3 eligible employer for expenses incurred by the employer to make  
4 workplace modifications necessary to accommodate an injured  
5 employee's return to modified or alternative work. Reimbursement  
6 under this section to an eligible employer may not exceed [~~\$2,500~~  
7 \$5,000. The expenses must be incurred to allow the employee to  
8 perform modified or alternative work within doctor-imposed work  
9 restrictions. Allowable expenses may include:

- 10 (1) physical modifications to the worksite;  
11 (2) equipment, devices, furniture, or tools; and  
12 (3) other costs necessary for reasonable  
13 accommodation of the employee's restrictions.

14 (c-1) The commissioner by rule shall establish an optional  
15 preauthorization plan for eligible employers who participate in the  
16 pilot program. To participate in the preauthorization plan, an  
17 employer must submit a proposal to the division, in the manner  
18 prescribed by the division, that describes the workplace  
19 modifications and other changes that the employer proposes to make  
20 to accommodate an injured employee's return to work. If the  
21 division approves the employer's proposal, the division shall  
22 guarantee reimbursement of the expenses incurred by the employer in  
23 implementing the modifications and changes from the account unless  
24 the division determines that the modifications and changes differ  
25 materially from the employer's proposal. At the discretion of the  
26 commissioner, the division may provide the employer an advance of  
27 funds. Reimbursement or an advance of funds under this subsection

1 is subject to the limit imposed under Subsection (c).

2 (d) The account is established as a special account in the  
3 general revenue fund. From administrative penalties received by  
4 the division under this subtitle, the commissioner shall deposit in  
5 the account an amount not to exceed \$100,000 annually. Money in  
6 the account may be spent by the division, on appropriation by the  
7 legislature, only for the purposes of implementing this section.

8 (e) An employer who wilfully applies for or receives  
9 reimbursement from the account under this section knowing that the  
10 employer is not an eligible employer commits a violation.

11 (f) Notwithstanding Subsections (a)-(e), this section may  
12 be implemented only to the extent funds are available.

13 (g) [~~This section expires September 1, 2009~~] The  
14 commissioner may adopt rules as necessary to implement the  
15 provisions of this section.

16 SECTION 3. EFFECTIVE DATE. This Act takes effect  
17 immediately if it receives a vote of two-thirds of all the members  
18 elected to each house, as provided by Section 39, Article III, Texas  
19 Constitution. If this Act does not receive the vote necessary for  
20 immediate effect, this Act takes effect September 1, 2009.