

1-1 By: Van de Putte S.B. No. 1814
1-2 (In the Senate - Filed March 11, 2009; March 20, 2009, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 7, 2009, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; April 7, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to return-to-work coordination services and a
1-9 return-to-work reimbursement program for employers participating
1-10 in the workers' compensation system.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subsection (a), Section 413.021, Labor Code, is
1-13 amended to read as follows:

1-14 (a) An insurance carrier shall, with the agreement of a
1-15 participating employer, provide the employer with return-to-work
1-16 coordination services on an ongoing basis as necessary to
1-17 facilitate an employee's return to employment, including on receipt
1-18 of a notice that an injured employee is eligible to receive
1-19 temporary income benefits. The insurance carrier shall notify the
1-20 employer of the availability of the return-to-work reimbursement
1-21 program under Section 413.022 [~~coordination services~~]. [~~In~~
1-22 ~~offering the services, insurance carriers and the division shall~~
1-23 ~~target employers without return-to-work programs and shall focus~~
1-24 ~~return-to-work efforts on workers who begin to receive temporary~~
1-25 ~~income benefits.] The insurance carrier shall evaluate a
1-26 compensable injury in which the injured employee sustains an injury
1-27 that could potentially result in lost time from employment as early
1-28 as practicable to determine if skilled case management is necessary
1-29 for the injured employee's case. As necessary, case managers who
1-30 are appropriately certified [~~licensed to practice in this state~~]
1-31 shall be used to perform these evaluations. A claims adjuster may
1-32 not be used as a case manager. These services may be offered by
1-33 insurance carriers in conjunction with the accident prevention
1-34 services provided under Section 411.061. Nothing in this section
1-35 supersedes the provisions of a collective bargaining agreement
1-36 between an employer and the employer's employees, and nothing in
1-37 this section authorizes or requires an employer to engage in
1-38 conduct that would otherwise be a violation of the employer's
1-39 obligations under the National Labor Relations Act (29 U.S.C.
1-40 Section 151 et seq.).~~

1-41 SECTION 2. The heading to Section 413.022, Labor Code, is
1-42 amended to read as follows:

1-43 Sec. 413.022. RETURN-TO-WORK REIMBURSEMENT [~~PILOT~~] PROGRAM
1-44 FOR [~~SMALL~~] EMPLOYERS; FUND.

1-45 SECTION 3. Subsection (a), Section 413.022, Labor Code, is
1-46 amended by amending Subdivision (2) and adding Subdivision (3) to
1-47 read as follows:

1-48 (2) "Eligible employer" means any employer, other than
1-49 this state or a political subdivision subject to Subtitle C, who
1-50 [~~employs at least two but not more than 50 employees on each~~
1-51 ~~business day during the preceding calendar year and who~~] has
1-52 workers' compensation insurance coverage and who:

1-53 (A) employed at least two but not more than 50
1-54 employees on each business day during the preceding calendar year;
1-55 or

1-56 (B) is a type of employer designated as eligible
1-57 to participate in the program by the commissioner.

1-58 (3) "Program" means the return-to-work reimbursement
1-59 program established under this section.

1-60 SECTION 4. Subsections (b), (c), (c-1), and (g), Section
1-61 413.022, Labor Code, are amended to read as follows:

1-62 (b) The commissioner shall establish by rule a
1-63 return-to-work reimbursement [~~pilot~~] program designed to promote
1-64 the early and sustained return to work of an injured employee who

2-1 sustains a compensable injury. The commissioner, by rule, may
2-2 expand eligibility to participate in the program to types of
2-3 employers who are not described by Subsection (a)(2)(A).

2-4 (c) The [~~pilot~~] program shall reimburse from the account an
2-5 eligible employer for expenses incurred by the employer to make
2-6 workplace modifications necessary to accommodate an injured
2-7 employee's return to modified or alternative work. Reimbursement
2-8 under this section to an eligible employer may not exceed \$5,000
2-9 [~~\$2,500~~]. The expenses must be incurred to allow the employee to
2-10 perform modified or alternative work within doctor-imposed work
2-11 restrictions. Allowable expenses may include:

- 2-12 (1) physical modifications to the worksite;
- 2-13 (2) equipment, devices, furniture, or tools; and
- 2-14 (3) other costs necessary for reasonable
2-15 accommodation of the employee's restrictions.

2-16 (c-1) The commissioner by rule shall establish an optional
2-17 preauthorization plan for eligible employers who participate in the
2-18 [~~pilot~~] program. To participate in the preauthorization plan, an
2-19 employer must submit a proposal to the division, in the manner
2-20 prescribed by the division, that describes the workplace
2-21 modifications and other changes that the employer proposes to make
2-22 to accommodate an injured employee's return to work. If the
2-23 division approves the employer's proposal, the division shall
2-24 guarantee reimbursement of the expenses incurred by the employer in
2-25 implementing the modifications and changes from the account unless
2-26 the division determines that the modifications and changes differ
2-27 materially from the employer's proposal. If determined to be a
2-28 public purpose by the commissioner, and in accordance with rules
2-29 adopted by the commissioner, the division may provide the employer
2-30 an advance of funds under this subsection. Reimbursement or an
2-31 advance of funds under this subsection is subject to the limit
2-32 imposed under Subsection (c).

2-33 (g) The commissioner shall adopt rules as necessary to
2-34 implement this [This] section [expires September 1, 2009].

2-35 SECTION 5. This Act takes effect immediately if it receives
2-36 a vote of two-thirds of all the members elected to each house, as
2-37 provided by Section 39, Article III, Texas Constitution. If this
2-38 Act does not receive the vote necessary for immediate effect, this
2-39 Act takes effect September 1, 2009.

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