

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

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 21, 2009**

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

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

**IN RE: HB1657** by Giddings (Relating to workers' compensation insurance coverage regarding certain contractors.), **As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill amends the Labor Code and expands the definition of subcontractor.

The Texas Department of Insurance (TDI) indicates that the agency's employees would need additional training on the change in law in order to provide accurate customer service information. Based on analysis from the TDI and the State Office of Risk Management, any costs realized by these agencies due to the implementation of this bill could be absorbed by the agencies.

**Local Government Impact**

According to information received from the Texas Association of Counties, the change in definition of general contractor and subcontractor would mean that a county that acts as its own general contractor on a county construction or renovation project would no longer be classified as a general contractor for the purposes of Subchapter F, Chapter 406, Labor Code (Workers' Compensation Insurance Coverage: Coverage of Certain Independent Contractors). This change would expose a county to suit and liability.

In addition, the Texas Association of Counties reports that subcontractors working on a county project would no longer be deemed as eligible employees of the county for Workers' Compensation coverage. As a result, a county would be liable for any damages from an applicable incident up to the limits under the Tort Claims Act: \$100,000 per person and \$300,000 per occurrence. A county would also incur costs associated with defending itself in an action. The association estimates those costs could range from \$25,000 to \$50,000 per case.

The fiscal impact to units of local government could be significant depending on the number of projects for which the entity is its own general contractor and the number, if any, of incidences affected by Subchapter F.

**Source Agencies:** 454 Department of Insurance, 479 State Office of Risk Management

**LBB Staff:** JOB, KJG, JRO, MW, CH, DB