

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 6, 2011

TO: Honorable Byron Cook, Chair, House Committee on State Affairs

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

IN RE: **HB2605** by Taylor, Larry (Relating to the continuation and functions of the division of workers' compensation of the Texas Department of Insurance.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2605, As Introduced: a positive impact of \$2,400,000 through the biennium ending August 31, 2013.

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 |
|-------------|--|
| 2012 | \$1,200,000 |
| 2013 | \$1,200,000 |
| 2014 | \$1,200,000 |
| 2015 | \$1,200,000 |
| 2016 | \$1,200,000 |

All Funds, Five-Year Impact:

| Fiscal Year | Probable Revenue Gain from General Revenue Fund 1 | Probable Revenue (Loss) from Dept Ins Operating Acct 36 | Probable Revenue Gain from Dept Ins Operating Acct 36 |
|-------------|--|--|--|
| 2012 | \$1,200,000 | (\$1,200,000) | \$1,200,000 |
| 2013 | \$1,200,000 | (\$1,200,000) | \$1,200,000 |
| 2014 | \$1,200,000 | (\$1,200,000) | \$1,200,000 |
| 2015 | \$1,200,000 | (\$1,200,000) | \$1,200,000 |
| 2016 | \$1,200,000 | (\$1,200,000) | \$1,200,000 |

Fiscal Analysis

The bill would amend the Insurance and Labor Codes relating to the continuation and functions of the division of workers' compensation (DWC) of the Texas Department of Insurance (TDI). DWC has a separate Sunset date from TDI, and will be abolished on September 1, 2011, unless continued by the Legislature. The bill would continue DWC for 6 years and take effect on September 1, 2011.

The bill would require parties to non-network medical fee disputes to attempt low-level mediation at DWC before appealing to the contested case hearing level, and establishes an administrative appeal mechanism for network medical necessity disputes. The bill would require DWC to conduct all medical necessity contested case hearings and the State Office of Administrative Hearings (SOAH) to conduct all medical fee contested case hearings. The bill would require DWC to develop guidelines for the contested case hearings process and make them publicly available. The bill would require DWC to develop minimum qualification and training

requirements for Medical Quality Review Panel members and establishes the Quality Assurance Panel in statute and clarifies its involvement in the process. The bill would authorize the Commissioner of Workers' Compensation to make final decisions on cases involving monetary penalties and requires all administrative penalties to be deposited in the General Revenue Fund instead of the General Revenue – Dedicated Fund 36 TDI Operating Account (GR-D 36). The bill would strengthen Designated Doctor requirements to ensure DWC can use their expert medical opinions effectively in disputes.

The bill would require the agencies that regulate health professionals who are involved in the provision of health care as part of the workers' compensation system in this state to develop lists of health care providers who have demonstrated experience in workers' compensation to be used to potentially appoint members o the medical quality review panel.

The bill states that the changes to statute regarding the appeal of a medical fee dispute apply only to medical fee disputes based on a review conducted by DWC on or after the effective date of the bill. The bill would take effect September 1, 2011.

Methodology

Based on the analysis provided the Comptroller of Public Accounts, Sunset Advisory Commission (SAC) and TDI, the bill would deposit all administrative penalties assessed and collected by DWC in General Revenue instead of GR-D Fund 36, which would result in a gain to General Revenue of \$1,200,000 each year. Since GR-D Fund 36 is a self-leveling account, this analysis also assumes that any loss in revenue resulting from the implementation of the bill would result in TDI adjusting the assessment of the maintenance tax or other fees accordingly in the following year.

Additionally, the bill would require the losing party appealing DWC's staff-level medical fee decision to pay all associated Contested Case Hearing costs, resulting in an annual savings, as DWC would no longer reimburse SOAH for costs associated with conducting these hearings. However, since the DWC is funded with GR-D Fund 36, a self-leveling account, this recommendation would result in a potential savings to GR-D Fund 36, but the amount is considered to be minimal. This analysis assumes that SOAH will collect payment for all hearings conducted due to the implementation of this bill. Based on the analysis provided by SAC, it is assumed that all duties and responsibilities associated with SOAH implementing the provisions of the bill could be accomplished by utilizing existing resources.

Since General Revenue-Dedicated Texas Department of Insurance Fund 36 is a self-leveling account, this analysis also assumes that any additional revenue resulting from the implementation of the bill would accumulate in the account fund balances and that the TDI would adjust the assessment of the maintenance tax or other fees accordingly in the following year.

Based on the analysis provided by the Sunset Advisory Commission and the Texas Department of Insurance, it is assumed that all duties and responsibilities associated with TDI implementing the other provisions of the bill could be accomplished by utilizing existing resources.

Based on analysis provided by the Texas Medical Board, the Board of Dental Examiners, the Board of Nursing, the Board of Chiropractic Examiners, the Board of Podiatric Medical Examiners, the Board of Pharmacy, the Board of Examiners of Psychologists, and the Executive Council on Physical Therapists and Occupational Therapists, it is assumed that all duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 454 Department of Insurance, 503 Texas Medical Board, 504 Texas State Board of Dental Examiners, 507 Texas Board of Nursing, 508 Board of Chiropractic Examiners, 512 Board of Podiatric Medical Examiners, 515 Board of Pharmacy, 520 Board of Examiners of Psychologists, 533 Executive Council of Physical Therapy & Occupational Therapy Examiners

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