

BILL ANALYSIS

Senate Research Center

H.B. 1762
By: Price (Deuell)
State Affairs
5/3/2013
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law authorizes an employer, except for a public employer and as otherwise provided by law, to elect to obtain workers' compensation insurance coverage through a licensed insurance company or through self-insurance. However, interested parties express concern about the law's lack of specificity regarding the application of workers' compensation provisions to temporary employment services and their clients. In an effort to provide clarity on this issue, H.B. 1762 sets out certain provisions governing workers' compensation insurance coverage for temporary employees.

H.B. 1762 amends the Labor Code to establish that a certificate of insurance coverage showing that a temporary employment service maintains a policy of workers' compensation insurance constitutes proof of workers' compensation insurance coverage for the temporary employment service and the client of the temporary employment service with respect to all employees of the temporary employment service assigned to the client. The bill requires the state or a political subdivision to accept such a certificate of insurance coverage as proof of workers' compensation coverage.

H.B. 1762 establishes that if a temporary employment service elects to obtain workers' compensation insurance, the service and the client of the service are subject to certain provisions of the Texas Workers' Compensation Act relating to an employee's election to waive or retain the right of action to recover damages for personal injuries or death sustained in the course and scope of employment and relating to the specification that recovery of benefits is the exclusive remedy for the death of or a work-related injury sustained by an employee covered by workers' compensation insurance coverage, except for certain circumstances in which exemplary damages may be recovered.

H.B. 1762 amends current law relating to workers' compensation and other remedies available to an injured temporary employee.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 93, Labor Code, by adding Section 93.004, as follows:

Sec. 93.004. WORKERS' COMPENSATION INSURANCE COVERAGE. (a) Provides that a certificate of insurance coverage showing that a temporary employment service maintains a policy of workers' compensation insurance constitutes proof of workers' compensation insurance coverage for the temporary employment service and the client of the temporary employment service with respect to all employees of the temporary employment service assigned to the client. Requires the state or a political subdivision of the state to accept a certificate of insurance coverage described by this section as proof of workers' compensation coverage under Chapter 406 (Workers' Compensation Insurance Coverage).

(b) Provides that, for workers' compensation insurance purposes, if a temporary employment service elects to obtain workers' compensation insurance, the client of the temporary employment service and the temporary employment service are subject to Sections 406.034 (Employee Election) and 408.001 (Exclusive Remedy; Exemplary Damages).

(c) Provides that an employee's election under Section 406.034(b) (relating to requiring an employee who desires to retain the common-law right of action to recover damages for personal injuries or death to notify the employer in writing that the employee waives coverage under this subtitle (Texas Workers' Compensation Act) and retains all rights of action under common law) made with respect to the temporary employment service applies to any client of the temporary employment service, and prohibits the employee from making a separate election under that section with respect to the client.

SECTION 2. Provides that the change in law made by this Act applies only to a claim based on a work-related injury that occurs on or after the effective date of this Act. Provides that a claim based on a work-related injury that occurs before the effective date of this Act is governed by the law in effect on the date the injury occurred, and the former law is continued in effect for that purpose.

SECTION 3. Effective date: September 1, 2013.