

BILL ANALYSIS

C.S.H.B. 2466
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that while Texas has shown lower rates of nonfatal work-related injuries, it continues to have higher work-related fatalities than most states. C.S.H.B. 2466 seeks to amend current law to address safety issues faced in small businesses and high-risk industries.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of workers' compensation in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2466 amends the Labor Code to require the commissioner of workers' compensation to adopt rules establishing a safety reimbursement program designed to assist eligible employers in the creation of safe and healthy workplaces for employees of Texas. The bill requires the rules to include requirements for eligible employer applications and appropriate use of allocated funds. The bill requires the program to reimburse an eligible employer up to \$5,000 per calendar year for expenses incurred by the employer to facilitate a safe and healthy workplace for employees of the employer and lists examples of allowable expenses. The bill defines "eligible employer" as an employer, other than the state or a political subdivision of the state subject to statutory provisions regarding workers' compensation insurance coverage for certain government employees, that has workers' compensation insurance coverage and that employed at least two but not more than 50 employees on each business day during the preceding calendar year or is a type of employer designated as eligible to participate in the program by the commissioner.

C.S.H.B. 2466 requires the commissioner by rule to establish an optional preauthorization plan for eligible employers that participate in the program. The bill requires the plan to require that an eligible employer submit to the Texas Department of Insurance (TDI) workers' compensation division a proposal in compliance with division rules that describes the workplace modifications and other changes that the employer proposes to make to facilitate a safe and healthy workplace for employees of the employer. The bill requires the workers' compensation division, if the division approves an eligible employer's proposal, to guarantee reimbursement, subject to the annual cap, of the expenses incurred by the employer in implementing the approved modifications and changes unless the division determines that the modifications and changes differ materially from the employer's proposal.

C.S.H.B. 2466 requires the commissioner, from administrative penalties collected by the workers' compensation division, to annually deposit the first \$100,000 into the general revenue

fund of the state treasury to the credit of the TDI operating account for the purposes of funding the program. The bill authorizes money for the program to be spent by the division, on appropriation by the legislature, only for the purposes of implementing the program. The bill requires an insurance company to notify eligible employers of the availability of the program as provided by commissioner rule. The bill authorizes implementation of the program only to the extent funds are available.

C.S.H.B. 2466 requires the commissioner, not later than December 1, 2018, to report to the governor, the lieutenant governor, the speaker of the house of representatives, and the members of the legislature regarding the implementation and results of the program and recommendations regarding the continuation of the program, including any changes necessary to enhance the effectiveness of the program. The bill's provisions expire September 1, 2019.

C.S.H.B. 2466 requires the commissioner, as soon as practicable after the bill's effective date, to adopt rules necessary to implement the program and requires the workers' compensation division to implement the program beginning January 1, 2016. The bill prohibits an eligible employer from receiving reimbursement under the program for costs incurred before January 1, 2016.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2466 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter H, Chapter 411, Labor Code, is amended by adding Section 411.1031 to read as follows:

Sec. 411.1031. SAFETY REIMBURSEMENT PROGRAM FOR EMPLOYERS. (a) In this section:

(1) "Program" means the workers' compensation safety reimbursement program.

(2) "Eligible employer" means any employer, other than this state or a political subdivision subject to Subtitle C, who has workers' compensation insurance coverage and who:

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

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

(See Subdivision (1) above.)

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter H, Chapter 411, Labor Code, is amended by adding Section 411.1031 to read as follows:

Sec. 411.1031. SAFETY REIMBURSEMENT PROGRAM. (a) In this section:

(See Subdivision (2) below.)

(1) "Eligible employer" means an employer, other than this state or a political subdivision of this state subject to Subtitle C, that has workers' compensation insurance coverage and that:

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

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

(2) "Program" means the workers' compensation safety reimbursement

(b) The commissioner shall establish by rule a safety reimbursement program designed to assist eligible employers in the creation of safe and healthy workplaces for employees of this state, including requirements for employer applications and appropriate use of allocated funds.

(c) The program shall reimburse an eligible employer for expenses incurred by the eligible employer to facilitate a safe and healthy workplace for employees of this state. Reimbursement under this section to an eligible employer shall not exceed \$5,000 per year. Allowable expenses may include:

- (1) physical modifications to the worksite;
- (2) safety equipment, devices, or tools;
- (3) safety training for employees; and
- (4) other costs necessary to correct any identified safety hazards and protect employees from unsafe working conditions.

(d) The commissioner by rule shall establish an optional preauthorization plan for eligible employers who participate in the program. To participate in the preauthorization plan, an employer must submit a proposal to the division, in the manner prescribed by the division that describes the workplace modifications and other changes that the employer proposes to make to facilitate a safe and healthy workplace for employees of this state.

If the division approves the employer's proposal, the division shall guarantee reimbursement of the expenses incurred by the employer in implementing the modifications and changes approved by the division unless the division determines that the modifications and changes differ materially from the employer's proposal. Reimbursement under this subsection is subject to the limit imposed under Subsection (c).

(e) From administrative penalties collected by the division, the commissioner shall annually deposit the first \$100,000 into the general revenue fund of the state treasury to the credit of the Texas Department of Insurance operating account for the purposes of funding the program. Money

program established under this section.

(b) The commissioner shall adopt rules establishing a safety reimbursement program designed to assist eligible employers in the creation of safe and healthy workplaces for employees of this state. The rules must include requirements for eligible employer applications and appropriate use of allocated funds.

(c) The program shall reimburse an eligible employer for expenses incurred by the employer to facilitate a safe and healthy workplace for employees of the employer. Reimbursement under this section to an eligible employer may not exceed \$5,000 per calendar year. Allowable expenses may include:

- (1) physical modifications to the worksite;
- (2) safety equipment, devices, and tools;
- (3) safety training for employees; and
- (4) other measures or equipment necessary to correct identified safety hazards and protect employees from unsafe working conditions.

(d) The commissioner by rule shall establish an optional preauthorization plan for eligible employers that participate in the program. The plan must require that an eligible employer submit to the division a proposal in compliance with division rules that describes the workplace modifications and other changes that the employer proposes to make to facilitate a safe and healthy workplace for employees of the employer.

(e) If the division approves an eligible employer's proposal submitted under Subsection (d), the division shall guarantee reimbursement of the expenses incurred by the employer in implementing the modifications and changes approved by the division unless the division determines that the modifications and changes differ materially from the employer's proposal. Reimbursement under this subsection is subject to the limit imposed under Subsection (c).

(f) From administrative penalties collected by the division, the commissioner shall annually deposit the first \$100,000 into the general revenue fund of the state treasury to the credit of the Texas Department of Insurance operating account for the purposes of funding the program. Money

for the program may be spent by the division, on appropriation by the legislature, only for the purposes of implementing this section.

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

(g) Insurance companies shall also notify eligible employers of the availability of the safety reimbursement program as provided by commissioner rule.

(See Subsection (f) above.)

(See SECTION 2(b) below.)

(h) This section expires September 1, 2019.

SECTION 2. ELIGIBILITY FOR SAFETY REIMBURSEMENT PROGRAM.

No equivalent provision.

(a) The program established under Section 411.1031, Labor Code, as added by this Act, takes effect January 1, 2016.

(b) Not later than December 1, 2018, the commissioner of workers' compensation shall report to the governor, the lieutenant governor, the speaker of the house of representatives, and the members of the

for the program may be spent by the division, on appropriation by the legislature, only for the purposes of implementing this section.

(See Subsection (h) below.)

(g) An insurance company shall notify eligible employers of the availability of the program as provided by commissioner rule.

(h) Notwithstanding Subsections (a)-(g), this section may be implemented only to the extent funds are available.

(i) Not later than December 1, 2018, the commissioner shall report to the governor, the lieutenant governor, the speaker of the house of representatives, and the members of the legislature regarding:

- (1) the implementation of the program;
- (2) the results of the program; and
- (3) recommendations regarding the continuation of the program, including any changes necessary to enhance the effectiveness of the program.

(j) This section expires September 1, 2019.

SECTION 2.

(a) As soon as practicable after the effective date of this Act, the commissioner of workers' compensation shall adopt rules necessary to implement the workers' compensation safety reimbursement program established under Section 411.1031, Labor Code, as added by this Act.

(b) The division of workers' compensation of the Texas Department of Insurance shall implement the workers' compensation safety reimbursement program established under Section 411.1031, Labor Code, as added by this Act, beginning January 1, 2016.

(See Section 411.1031(i) above.)

legislature regarding the implementation of the program established by Section 411.1031, Labor Code, as added by this Act, and the results of the program. The report must include any recommendations regarding the continuation of the program, including any changes required to enhance the effectiveness of the program.

No equivalent provision.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. Except as otherwise provided by this Act, if this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

(c) An eligible employer may not receive reimbursement under Section 411.1031, Labor Code, as added by this Act, for costs incurred before January 1, 2016.

SECTION 3. This Act takes effect September 1, 2015.