

## **BILL ANALYSIS**

Senate Research Center

S.B. 1895

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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Association of School Boards Risk Management Fund ("the Fund") comprises almost 1,100 school districts, community, community colleges and other public educational entities, almost 400 of which are members of the Fund's workers' compensation program. The primary focus of the Fund's WC program is to ensure that injured employees have access to quality medical care, that they received their benefits on time and return to work as soon as they are able to after they have recovered.

Recently, the Fund had an enforcement matter with DWC that included, in large part, allegations that the Fund incorrectly reported the first payment date for temporary income benefits in 86 cases because of the use of a USPS authorized third party mail handler. DWC contended that the Fund misreported the initial payment date by one day on all those claims. The guidelines of the agency say that the correct date to report is the day the payment "left the possession of the insurance carrier." There was no adverse impact to any injured worker. In fact, claim was paid well in advance of the statutory deadline. However, if other factors had been taken into consideration, both DWC and TASB would have saved a substantial amount of time and resources.

Currently, under Section 415.021, Labor Code, in cases of an administrative penalty, the commissioner of workers' compensation considers the seriousness of the violation, the history and extent of previous administrative violations, the demonstrated good faith of the violator, the penalty necessary to deter future violations, and the economic benefit resulting from the prohibited act.

S.B. 1895 seeks to give the commissioner of workers compensation additional relevant facts when reviewing technical compliance issues in order to rationalize penalties for purely technical violations where there is no adverse impact to injured workers.

As proposed, S.B. 1895 amends current law relating to the enforcement of certain administrative penalties by the Texas Division of Workers' Compensation.

### **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 Section 415.021, Labor Code, by amending Subsections (c) and (d), as follows:

(c) Provides that in assessing an administrative penalty:

(1) makes no changes to this subdivision; and

(2) the commissioner of workers' compensation (commissioner) is required, to the extent reasonable, to consider the economic benefit resulting from the prohibited act, consider whether the administrative violation has negative impact on the

delivery of benefits to an injured worker, and refrain from assessing administrative penalties solely for failure to comply with electronic data interchange requirements after good faith efforts to comply.

(d) Requires the commissioner to specifically enumerate the relevant statute or rule, the conduct that gives rise to the alleged violation, and how any penalties assessed by the division were determined.

(e) Redesignates existing Subsection (d) as Subsection (e) authorizing a penalty to be assessed only after the person charged with an administrative violation has been given an opportunity for a hearing under Subchapter C.

SECTION 2. Effective date: upon passage or September 1, 2017.