

## **BILL ANALYSIS**

Senate Research Center  
85R22495 JSC-F

C.S.S.B. 1895  
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Business & Commerce  
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Committee Report (Substituted)

### **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. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 1895 amends current law relating to the assessment of administrative penalties under the Texas Workers' Compensation Act.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of workers' compensation in SECTION 1 (Section 415.021, Labor Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 415.021, Labor Code, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Provides that in assessing an administrative penalty:

(1) requires the commissioner of workers' compensation (commissioner) to consider:

(A) through (C) makes no changes to these paragraphs;

(D) makes a nonsubstantive change;

(E) whether the administrative violation has negative impact on the delivery of benefits to an injured employee;

(F) the history of compliance with electronic data interchange requirements; and

(G) creates this paragraph from existing text and makes no further changes; and

(2) makes no changes to this subdivision.

(c-1) Requires the commissioner to adopt rules that require the division of workers' compensation of the Texas Department of Insurance, in the assessment of an administrative penalty against a person, to communicate to the person information about the penalty, including the relevant statute or rule violated, the conduct that gave rise to the violation, and the factors considered in determining the penalty.

SECTION 2. Makes application of Section 415.021(c), Labor Code, as amended by this Act, prospective.

SECTION 3. Requires the commissioner of workers' compensation to adopt rules under Section 415.021(c-1), Labor Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 4. Effective date: September 1, 2017.