

## **BILL ANALYSIS**

Senate Research Center  
88R7292 RDS-F

S.B. 1122  
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Business & Commerce  
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As Filed

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

S.B. 1122 exempts medical examinations or services performed under the designated doctor program from sales and use tax. A designated doctor is a neutral and independent doctor selected, certified, and trained by the Division of Workers' Compensation (DWC) to answer complex medical questions about work-related injuries or occupational illnesses and perform medical examinations and services to determine what benefits an injured employee is entitled.

In October 2022, the Comptroller of Public Accounts issued a private ruling stating that charges for designated doctor examinations are considered "insurance services" and are subject to Texas sales and use tax. The ruling imposed an unanticipated requirement for doctors to collect sales tax when performing exams that are ordered by the DWC.

In May 2022, the comptroller issued a memo delaying implementation of the guidance provided in the private letter ruling until after the 2023 legislative session to allow DWC and workers' compensation system participants time to seek a legislative change.

S.B. 1122 seeks this legislative change by exempting from sales and use tax any medical examination or service necessary to determine what medical benefits are due to an injured employee under the Texas Workers' Compensation Act.

This legislation amends the definition of "insurance services" in Section 151.0039(b) of the Tax Code, to specifically add that an "insurance service" does not include medical examinations, tests, or services performed under Chapter 408, Subtitle A, Title 5, Labor Code. S.B. 1122 lists the certain medical examinations, tests, and services performed to determine benefits under Chapter 408 that qualify for the sales and use tax exemption. S.B. 1122 adds definitions of the terms "impairment rating" and "maximum medical improvement" using the definitions in Section 401.011, Labor Code.

As proposed, S.B. 1122 amends current law relating to the exclusion of certain medical services performed to determine an appropriate level of workers' compensation benefits from sales and use taxes.

### **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 151.0039(b), Tax Code, as follows:

- (b) Provides that "insurance service" does not include:
  - (1)-(3) makes no changes to these subdivisions;
  - (4)-(5) makes nonsubstantive changes to these subdivisions;

(6) a medical service performed to determine the appropriate level of benefits under Subtitle A (Texas Workers' Compensation Act), Title 5, Labor Code, including:

(A) a medical examination ordered by the commissioner of workers' compensation under Section 408.004 (Required Medical Examinations; Administrative Violation) or 408.0041 (Designated Doctor Examination), Labor Code;

(B) a medical examination requested by an insurance carrier or employee under Section 408.0041, Labor Code;

(C) a medical examination or test:

(i) performed by a health care provider under a referral by another health care provider; and

(ii) related to a medical examination described by Paragraph (A) or (B); or

(D) a medical examination to determine an employee's:

(i) impairment rating; or

(ii) maximum medical improvement.

SECTION 2. Amends Section 151.0039(c), Tax Code, by adding Subdivision (2-a), to provide that "impairment rating" and "maximum medical improvement" have the meanings assigned by Section 401.011 (General Definitions), Labor Code.

SECTION 3. Provides that the changes in law made by this Act do not affect tax liability accruing before the effective date of this Act. Provides that that liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 4. Effective date: upon passage or September 1, 2023.