

## BILL ANALYSIS

Senate Research Center

S.B. 2269  
By: Perry  
Business & Commerce  
6/8/2023  
Enrolled

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

In 2003, the 78th Texas Legislature passed H.B. 2095, which authorized groups of small and mid-size employers in the same or similar industries to self-insure their workers' compensation liabilities as a "group" if approved by the Texas Department of Insurance (TDI). Workers' compensation insurance rates were high at the time, and offering this option helped small and mid-sized employers to continue to provide affordable workers' compensation insurance coverage to their employees. TDI certified these groups and monitored their financial solvency.

In 2005, the 79th Texas Legislature passed H.B. 1353, which created the Workers' Compensation Group Self-Insurance Guaranty Fund (guaranty fund), which became the financial backstop in case TDI determined that any of the groups were insolvent. Also in 2005, the legislature passed H.B. 7, which made several reforms to the Texas workers' compensation system to reduce claims costs, improve quality of medical care for injured employees, and lower insurance rates for employers.

Over the next few years, TDI issued certificates of authority to groups (only about 9 or 10 groups), and at the same time workers' compensation insurance rates began their steady decline (77 percent decline since 2003). Employers could now afford workers' compensation insurance coverage outside of these groups, and as a result, almost all of these groups shut down. One group (Logistics Trust) became insolvent, and the guaranty fund took over the payment of their claims, leaving only one group (the Cotton Ginners' Trust) left to run their group and provide any additional funding to the guaranty fund trust (the trust) to pay claims. The guaranty fund board is incomplete because there are no longer enough groups to have board members, and no new groups have formed in years. All of the guaranty fund's claim liabilities have been transferred to another workers' compensation insurance company with TDI's approval, and it is time to wind down the operations of the guaranty fund and dissolve both the guaranty fund and the guaranty trust fund.

S.B. 2269 would do three things:

1. Stop the certification of new group self-insureds by TDI after September 1, 2023 (the effective date of the bill). The one remaining solvent group, the Cotton Ginners' Trust, would retain its current certificate of authority.
2. Require the guaranty fund board to submit a revised plan of operation to the commissioner of insurance by December 1, 2023.

This plan would describe the steps needed to wind down the operations of the guaranty fund and trust fund, including a timeline for the wind down, a plan to disburse any remaining funds to a qualified group, and a plan to notify interested parties.

3. Require the commissioner of insurance to approve the wind down plan developed by the guaranty fund board, and to order the dissolution of the guaranty fund and disbursement of remaining funds in the trust once the wind down has been completed.

The commissioner would approve the guaranty fund's revised plan of operation, monitor the wind down plan, and (once completed) issue an order to dissolve the guaranty fund and trust fund, as well as order the disbursement of any remaining funds to qualified groups. To be a "qualified group," a group must have a current certificate of authority and must not have been

declared insolvent by TDI. The guaranty fund board would be abolished once the dissolution order has been issued.

S.B. 2269 amends current law relating to discontinuing group self-insurance coverage and dissolving the Texas self-insurance group guaranty fund and trust fund under the Texas Workers' Compensation Act.

### **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 Subchapter B, Chapter 407A, Labor Code, by adding Section 407A.0521, as follows:

Sec. 407A.0521. NEW CERTIFICATES OF APPROVAL PROHIBITED. (a) Prohibits the commissioner of insurance (commissioner), notwithstanding Section 407A.052 (Issuance of Certificate of Approval; Refusal), from issuing a certificate of approval to a proposed group on or after September 1, 2023.

(b) Authorizes the commissioner to amend a certificate of approval issued to a group before September 1, 2023.

SECTION 2. Amends Subchapter J, Chapter 407A, Labor Code, by adding Section 407A.4561, as follows:

Sec. 407A.4561. REVISED PLAN OF OPERATION: WIND DOWN. (a) Defines "qualified group."

(b) Requires the board of directors of the Texas self-insurance group guaranty fund (board) to submit to the commissioner for approval a revised plan of operation to wind down and dissolve the guaranty fund and trust fund. Requires that the plan include:

(1) steps for:

(A) distributing any remaining money in the guaranty fund and trust fund to qualified groups; and

(B) notifying interested parties; and

(2) an estimated timeline for the wind down.

(c) Requires the commissioner to approve the board's revised plan of operation if the commissioner determines that the plan sufficiently describes the actions the board will take to wind down and dissolve the guaranty fund and trust fund.

(d) Requires the board to:

(1) implement the revised plan of operation approved under Subsection (b); and

(2) provide written notice to the commissioner of the completion of the wind down not later than the 30th day after the date of completion.

(e) Requires the commissioner, not later than the 30th day after the date the commissioner receives the board's notice under Subsection (d), to determine whether the guaranty fund has met its obligations under the approved revised plan

of operation. Requires the commissioner, if the commissioner determines that the guaranty fund met the fund's obligations, to issue an order requiring the distribution of any remaining money in the guaranty fund and trust fund to qualified groups.

(f) Provides that, on the 30th day after the date the commissioner issues the order under Subsection (e):

(1) the guaranty fund and the trust fund are dissolved; and

(2) the board is abolished.

SECTION 3. Requires the board, not later than December 1, 2023, to submit the revised plan of operation to the commissioner required by Section 407A.4561, Labor Code, as added by this Act.

SECTION 4. Effective date: September 1, 2023.