

SUBJECT: Staff leasing services companies and workers' compensation claim info

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 10 ayes — Cook, Menendez, Craddick, Frullo, Gallego, Geren,
Hilderbran, Huberty, Solomons, Turner

0 nays

3 absent — Harless, Oliveira, Smithee

WITNESSES: For — (*Registered, but did not testify*: Ronald Cobb, American Insurance Association; Cathy Dewitt, Texas Association of Business; Jo Betsy Norton, Texas Mutual Insurance Co.; David Van Delinder, Independent Insurance Agents of Texas; Joe Woods, Property Casualty Insurers Association of America; *on the committee substitute*: Galt Graydon, National Association of Professional Employer Organization)

Against — None

On — (*Registered, but did not testify*: Victor Alcorta, Insperity; Amy Lee, Texas Department of Insurance, Division of Workers' Compensation; Nancy Moor, Texas Department of Insurance)

BACKGROUND: Insurance Code, sec. 2051.151 requires a workers' compensation insurance company to provide, on the written request of a policyholder, a list of claims charged against the policy, claims payments and reserves, and a statement explaining the effect of claims on premium rates in writing no later than the 30th day after receiving the request. The information is considered provided to the policyholder when received by the U.S. Postal Service or personally delivered to the policyholder. An insurance company failing to comply with this section commits a class D administrative violation.

Some businesses choose to outsource their human resources functions through staff leasing service companies, which assume duties such as interviewing, drug screening, hiring, personnel recordkeeping, payroll, insurance purchasing, and providing notices for clients' employees. Under

such agreements, the employees are hired, paid, and insured by the staff leasing service company, but are employees of the client employer.

DIGEST:

CSHB 625 would require a staff leasing service company that provided workers' compensation insurance for its clients' employees to provide to the client company, on written request, a list of workers' compensation claims associated with the client company and payments made and reserves established on each claim. The staff leasing service company would have to provide the information in writing from its own records if the company was a qualified self-insurer, or from information received from its workers' compensation insurance provider, no later than the 60th day after receiving the client company's written request. The information would be considered provided to the client company when received by the U.S. Postal Service or personally delivered to the client company.

A staff leasing service company failing to comply would commit an administrative violation. A staff leasing services company would not have committed an administrative violation if it requested the information from its workers' compensation insurance provider and the provider did not provide the information within the required time. However, a staff leasing service company would have to notify the Texas Department of Insurance of a provider's failure to comply.

The bill would take effect September 1, 2011.

**SUPPORTERS
SAY:**

CSHB 625 would solve a current problem involving companies that are under contract with a staff leasing service company and are unable to obtain their claims information from their workers' compensation insurance company. Companies require this information to acquire the lowest premiums possible for their workers' compensation insurance.

Currently, the workers' compensation insurance carrier must respond to a request for claims data from the staff leasing service company but not from the company's client, and the carrier only has to provide claims data for all of the company's clients, not individualized data for each single client. It is important for companies to have all of the data when evaluating their options of whether to continue paying for workers' compensation insurance through the staff leasing service company or to try obtaining a better deal by purchasing the insurance themselves.

It also is important for companies to have this information in order to obtain an accurate experience modifier, which is a rating assigned by an insurance company to its policyholders based on how frequently and how badly the policyholders' employees are injured. The experience modifier influences the cost of the policyholder's premiums. Since the staff leasing service company is the purchaser of the policy, the experience modifier represents all of the company's client employers. If a client employer has a great safety rating but contracts with a service company whose other clients have higher injury rates, its experience modifier will be impacted negatively and its premiums may be higher than if the company's modifier was based solely on its own claims.

Under current law, a company would retain the experience modifier that represents all of the staff leasing service company's clients and would not be able to demonstrate its individual claims history. CSHB 625 would afford all companies an experience modifier based solely on their claims, which could decrease the companies' insurance premiums.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

The committee substitute differs from the bill as filed by requiring staff leasing service companies to use their own records in certain cases. The substitute added a provision that a staff leasing services company would not commit an administrative violation if the insurance carrier did not provide the information within the required time and would require a license holder to notify the Texas Department of Insurance of an insurance carrier's failure to comply.