

- SUBJECT:** Modifying penalties for certain workers' compensation violations
- COMMITTEE:** Business and Industry — favorable, without amendment
- VOTE:** 7 ayes — Oliveira, Shine, Collier, Romero, Stickland, Villalba, Workman  
0 nays
- SENATE VOTE:** On final passage, April 26 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** *On House companion bill, HB 4039:*  
For — Dubravka Romano, TASB Risk Management Fund; (*Registered, but did not testify:* Adam Burklund, American Insurance Association; Jesse Ozuna, City of Houston Mayor's Office; Jocelyn Dabeau, Texas Association of Counties Risk Management Pool and Texas Water Conservation Association Risk Management Fund; Pam Beachley, Texas Cotton Ginners' Trust; Bob Kamm, Texas Council Risk Management Fund; Jo Betsy Norton, Texas Mutual Insurance Company; Glenn Scott)
- Against — None
- On — Ryan Brannan, Texas Department of Insurance-Division of Workers' Compensation
- BACKGROUND:** Labor Code, sec. 415.021 governs the assessment of penalties for administrative violations of the Texas Workers' Compensation Act. In assessing a penalty, the Commissioner of Workers' Compensation must consider:
- 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
  - other matters that justice may require.

**DIGEST:** SB 1895 would add to the list of factors considered by the Commissioner of Workers' Compensation in assessing penalties for administrative violations of the Texas Workers' Compensation Act. The bill would require the commissioner to consider whether the violation had a negative impact on the delivery of benefits to an injured employee, as well as the history of compliance with electronic data interchange requirements.

The bill also would require the commissioner as soon as practicable to adopt rules requiring the Texas Department of Insurance's Division of Workers' Compensation to notify a person against whom a penalty was assessed of:

- the relevant statute or rule violated;
- the conduct giving rise to the violation; and
- the factors considered in assessing the penalty.

The bill would take effect September 1, 2017, and would apply only to a violation occurring on or after that date.

**SUPPORTERS SAY:** SB 1895 would make the assessment of penalties in workers' compensation administrative violation cases more fair by allowing the commissioner to assess smaller penalties in cases in which the risk management fund had a history of compliance and payment to an injured employee was not obstructed. Because risk management funds must pass costs along to their member governments in order to pay administrative penalties, the bill would save taxpayer money while preserving the authority of the commissioner to assess whatever fines were determined necessary.

**OPPONENTS SAY:** No apparent opposition.

**NOTES:** A companion bill, HB 4039 by Oliveira, was withdrawn from the Local, Consent, and Resolutions Calendar on May 12.