

## **BILL ANALYSIS**

Senate Research Center

H.B. 2514  
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Economic Development  
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Engrossed

### **DIGEST**

Currently, the Texas Workers' Compensation Commission's (TWCC) extra-hazardous employer program is limited in application to public employers such as counties, cities, and school districts. This is the result of a 1996 decision by the Third Court of Appeals, which ruled that the program was duplicative of the federal Occupational Safety and Health Act (OSHA). Also, the Texas Workers' Compensation Act does not authorize TWCC to obtain reimbursement for the cost of inspecting an insurance carrier's accident prevention services program, and if the insurance carrier fails the inspection, the carrier is not responsible for the cost of a reinspection by TWCC. H.B. 2514 limits the application of the renamed hazardous employer program to reflect the OSHA preemption, and requires TWCC to reinspect the accident prevention services of insurance carriers who fail an initial inspection, and to collect reasonable costs from insurance carriers to cover reinspection.

### **PURPOSE**

As proposed, H.B. 2514 establishes conditions regarding workers' compensation programs conducted to increase worker safety.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Texas Workers' Compensation Commission in SECTION 2.04 (Section 411.042, Labor Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. IMMUNITY FOR LIABILITY FOR CERTAIN SAFETY CONSULTATIONS

SECTION 1.01. Amends Section 411.003(a), Labor Code, to provide that an insurance company or safety consultant has no liability for accident, injury, or occupational disease caused by a program, inspection, or other activity or service undertaken by the insurance company for accident prevention.

#### ARTICLE 2. HAZARDOUS EMPLOYER PROGRAM

SECTION 2.01. Amends the heading to Subchapter D, Chapter 411, Labor Code, as follows:

SUBCHAPTER D. New heading: HAZARDOUS EMPLOYER PROGRAM

SECTION 2.02. Amends Section 411.041, Labor Code, as follows:

Sec. 411.041. New heading: APPLICATION; IDENTIFICATION OF HAZARDOUS EMPLOYER. Provides that this subchapter does not apply to a federal entity or to a state agency, institution, or department described by Chapters 501, 502, 503, or 505; Sections 411.043, 411.044, 411.045, 411.046, and 411.047 apply only to a political subdivision that is subject to Chapter 504, and employees not covered by Subdivision (1); Sections 411.0415, 411.042, 411.048, 411.049, and 411.050 apply to all employers, other than those described in Subdivision (1). Makes conforming and nonsubstantive changes.

SECTION 2.03. Amends Sections 411.0415(a) and (c), Labor Code, to make conforming and nonsubstantive changes.

SECTION 2.04. Amends Section 411.042, Labor Code, as follows:

Sec. 411.042. New heading NOTIFICATION TO HAZARDOUS EMPLOYER AND INSURANCE CARRIER. Requires the Texas Workers' Compensation Commission (commission), by rule, to require a minimum interval of at least six months before a subsequent audit to identify an employer who was previously identified as a hazardous employer. Makes conforming and nonsubstantive changes.

SECTION 2.05. Amends Section 411.048, Labor Code, to require the commission to charge a private employer for reimbursement of the reasonable cost of services provided by the division of workers' health and safety of the commission (division), including a reasonable allocation of administrative costs, in providing safety and health services at the employer's request. Provides that this subsection does not apply to services provided to an employer under Section 411.018. Makes conforming and nonsubstantive changes.

SECTION 2.06. Amends Section 411.050, Labor Code, to make conforming changes.

### ARTICLE 3. INSURER ACCIDENT PREVENTION SERVICES

SECTION 3.01. Amends Section 411.064, Labor Code, by creating Subsection(a) from existing text, and by adding Subsections (b) and (c), to require the division, if after the biennial inspection required under this section it determines that an insurance company's accident prevention services are inadequate, to reinspect the services no earlier than 180 days or later than 270 days after they are determined inadequate. Requires the insurance company to reimburse the commission for the cost of reinspection, including the reasonable administrative costs.

### ARTICLE 4. TRANSITION; EFFECTIVE DATE; EMERGENCY

SECTION 4.01. Makes application of Section 411.003, Labor Code, as amended by this Act, prospective.

SECTION 4.02. Makes application of Section 411.064, Labor Code, as amended by this Act, prospective.

SECTION 4.03. Effective date: September 1, 1999.

SECTION 4.04. Emergency clause.