

## **BILL ANALYSIS**

Senate Research Center  
76R15635 PB-D

C.S.H.B. 3697  
By: Siebert (Sibley)  
Economic Development  
5/12/1999  
Committee Report (Substituted)

### **DIGEST**

Currently, the Texas Workers' Compensation Insurance Fund (fund) provides workers' compensation insurance to Texas businesses and their employees and to Texas employers that operate in other states. The 72nd Texas Legislature created the fund in 1991 to operate as a workers' compensation insurance company in the private sector. However, its purpose is to serve as a competitive force in the marketplace, guarantee the availability of workers' compensation insurance in this state, and serve as an insurer of last resort. Since January 1, 1992, the fund has written over 250,000 policies that provide coverage to more than 35,000 businesses. Consequently, the fund has become the largest workers' compensation insurer in the state. C.S.H.B. 3697 would amend certain regulations regarding the operation and disposition of certain surpluses of the fund.

### **PURPOSE**

As proposed, C.S.H.B. 3697 amends regulations regarding the operation of the Texas Workers' Compensation Insurance Fund and the disposition of certain surpluses of that fund.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the commissioner of insurance in SECTION 3 (Sections 10A(g) and (r), Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 9(c), Article 5.76-3, Insurance Code, to authorize the Texas Workers' Compensation Insurance Fund (fund) to price, rather than provide, workers' compensation insurance policies to insureds in the fund's competitive programs, as well as to insureds to whom policies are offered by the fund under Article 5.76-4, rather than to insureds who would not otherwise meet the fund's underwriting standards. Authorizes the system to provide lower premium payments by insureds based on the fund's evaluation of the underwriting characteristics of the individual risk and the appropriate premium to be charged for the policy coverages, rather than by insureds who present higher than normal risks within a class.

SECTION 2. Amends Section 12, Article 5.76-3, Insurance Code, to delete a provision providing an exception under Subsection (b), and to strike language that grants the fund certain tax exemptions. Makes conforming and nonsubstantive changes.

SECTION 3. Amends Article 5.76-5, Insurance Code, by adding Sections 10A, as follows:

Sec. 10A. REIMBURSEMENT OF MAINTENANCE TAX SURCHARGE. Requires the comptroller and the Texas Department of Insurance (department) to cooperate in preparing a list of the insurers and certified self-insurers who paid a maintenance tax surcharge for calendar years 1991-1997. Requires the list to include the amount of the maintenance tax surcharge paid by each insurance company and certified-self insurer. Requires the fund surcharges for certain years to be included in the list prepared for those years. Requires the comptroller and the department to provide the lists compiled under this subsection to the fund by a certain date. Provides that a reference to an insurance company includes the fund. Requires the fund to issue separate checks to each insurer and certified self-insurer for each year in which the tax was paid. Sets forth calendar years in which the maintenance tax surcharge is to be paid on March 1 of each year and to be based on the premium writing of the prior calendar year. Entitles each policyholder not insured by the fund to receive a proportionate share of the amount of the tax paid by the workers'

compensation insurer that provided coverage during each 12-month recoupment period beginning June 1, 1992, and ending May 31, 1998. Entitles certain policyholders to receive a refund of the proportionate share of the maintenance tax surcharge as determined by certain policies. Sets forth policies and procedures for issuing a refund check to the policyholder, including a provision that does not require a refund of \$25 or less to an insurance company. Requires each insurance company to make a diligent effort to locate each policyholder due a refund, and to file a report with the department that covers the recoupment period and outlines information included in the report. Sets forth requirements regarding the department furnishing a report to the fund. Requires a policyholder to provide certain information in order to receive the refund. Requires the insurance company to remit the appropriate refund within a certain date. Requires the company to file a report with the department that contains certain information regarding the policyholder, and to turn over the surcharge for deposit in the fund's surplus in the event the company cannot find the policyholder by a certain date. Sets forth confidentiality requirements for the reports. Requires the commissioner to adopt rules to implement this section. Provides that this section expires September 1, 2002.

SECTION 4. Amends Chapter 5G, Insurance Code, by adding Article 5.76-6, as follows:

Art. 5.76-6. INTERIM STUDIES. Requires the fund to enter in a joint venture with the Research and Oversight Council on Workers' Compensation by providing data for interim studies. Requires funding for the studies to be provided by the fund, to improve work safety, reduce cost, and improve quality of health care delivered to injured workers. Sets forth examinations the studies are required to include. Requires the council to submit requests for proposals for contracts with private vendors to perform the studies. Requires the comptroller to assist the council in bidding, evaluating, and securing the contracts. Requires the Texas Workers' Compensation Commission to assist the council by providing computer data and other information as necessary for the studies. Authorizes the council to enter into certain contracts to implement this article. Requires the council to report the results of the studies and recommendations for proposed legislation to the 77th Legislature not later than February 1, 2001. Requires the council to provide written copies of the report to the governor, the lieutenant governor, and the speaker of the house of representatives. Provides that this article expires March 1, 2001.

SECTION 5. Amends Section 3, Article 21.28-C, Insurance Code, to make this Act applicable to insurance written through the fund only as provided by this subsection. Makes application of this Act prospective to January 1, 2000.

SECTION 6. Makes application of this Act prospective to January 1, 2000.

SECTION 7. Emergency clause.  
Effective date: upon passage.