

- SUBJECT:** Alternative worker benefits on government construction projects
- COMMITTEE:** Business and Industry — committee substitute recommended
- VOTE:** 6 ayes — Giddings, Elkins, Martinez, Taylor, Vo, Zedler
0 nays
2 present not voting — Bailey, Solomons
1 absent — Bohac
- WITNESSES:** For — Steve Bent, Texas Association of Responsible Nonsubscribers;
Teresa Galliher, Kent Moore Cabinets, Ltd.
Against — Rick Levy, TX AFL-CIO
On — None
- BACKGROUND:** Labor Code, sec. 406.096 provides that a governmental entity that enters into a building or construction contract shall require the contractor to certify in writing that the contractor provides workers' compensation insurance coverage for each employee of the contractor employed on the public project. Each subcontractor on the public project shall provide such a certificate relating to coverage of the subcontractor's employees to the general contractor, who shall provide the subcontractor's certificate to the governmental entity.
- DIGEST:** CSHB 153 would authorize a governmental entity to allow a contractor or subcontractor to provide alternative benefits under the contract for injuries or death sustained by an employee in the course and scope of employment in at least the following amounts:
- \$400,000 for reasonable and necessary medical expenses related to an injury for at least 104 weeks after the date of injury;
 - \$250,000 for a fatal injury, payable to the employee's legal beneficiary;
 - \$100,000 for a dismemberment; and

- weekly income benefits of at least 75 percent of the employee's pre-injury average weekly wage for at least 104 weeks after the date of injury, but not exceeding \$750 each week.

The bill would apply only to a contractor or subcontractor that did not provide workers' compensation insurance coverage for the contractor's or subcontractor's employees on or before September 1, 2005. The provisions in the bill would expire September 1, 2007.

The bill would take effect September 1, 2005 and would apply only to a contract for building or construction between a governmental entity and a contractor that was entered into on or after that date.

**SUPPORTERS
SAY:**

CSHB 153 would allow a contractor or subcontractor under contract with a governmental entity to provide alternative benefits under the contract for injuries or death sustained by an employee in the course and scope of employment.

Workers' compensation coverage is not mandatory in Texas, but Labor Code sec. 406.096 effectively eliminates the 114,000 non-subscribing businesses from competing on government building and construction projects. The bill would permit responsible, non-subscribers who provided an appropriate level of benefits to their employees the opportunity to compete for these government contracts. It ultimately would reduce costs to the state by allowing more businesses to bid on state contracts, thus increasing competition.

Since smaller, non-subscribing businesses often are owned by minorities and women, the bill would encourage more underserved businesses to bid on state contracts. In some parts of the state, governmental entities cannot find contractors or subcontractors with workers' compensation coverage to bid on building and construction contracts. By opening the contracts to more businesses, the bill would stimulate local hiring by political subdivisions in many areas of the state.

The level of benefits the bill would require exceeds the amounts that the Transportation Code defines as acceptable levels of insurance coverage for employees of certified motor carriers who provide transportation for hire between two or more municipalities. The bill would not attempt to circumvent the workers' compensation system in Texas and would expire on September 1, 2007. It would not cause a departure from the workers'

compensation system because it would apply only to a contractor or subcontractor who did not provide workers' compensation coverage to employees on or before September 1, 2005.

**OPPONENTS
SAY:**

CSHB 153 would create a disincentive for employers to participate in the workers' compensation system at a time when the state is working toward a major overhaul of that system. When governmental entities are spending the public's money on a construction project, the public has a right to know if the businesses seeking that money are complying with the state's workers' compensation health insurance requirement. A better approach would be to focus more on fixing the workers' compensation system to encourage participation rather than circumvention.

NOTES:

The committee substitute added a requirement for \$100,000 coverage for dismemberment and clarifies that weekly income benefits would not exceed \$750. It would apply only to a contractor or subcontractor that did not provide workers' compensation insurance before September 1, 2005, and would expire on September 1, 2007.