

SUBJECT: Adding drive to emergency under first responders' scope of employment

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 7 ayes — Oliveira, Simmons, Collier, Fletcher, Rinaldi, Romero, Villalba
0 nays

WITNESSES: For — Ryan Hudson, Leander VFD and State Firefighters and Fire Marshalls Association; A.R. Babe Schwartz, VFIS; Barbara Marzean, VFIS of Texas and volunteer emergency responders of Texas; (*Registered, but did not testify*: David Crow, Arlington Professional Fire Fighters; Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); Lee Loftis, Independent Insurance Agents of Texas; Mark Mendez, Tarrant County Fire Marshall; Jo Betsy Norton, Texas Mutual Ins. Co.; Glenn Deshields, Texas State Association of Fire Fighters; Stephanie Dew, Ted Regnier, VFIS of Texas)

Against — David Reagan, Texas Municipal League Intergovernmental Risk Pool; (*Registered, but did not testify*: Paul Sugg, Texas Association of Counties Risk Management Pool)

On — (*Registered, but did not testify*: Brent Hatch, Texas Department of Insurance, Division of Workers' Compensation)

BACKGROUND: The Texas Workers' Compensation Act (Labor Code, ch. 401) defines "course and scope of employment" as an activity that has to do with and originates in the work, business, trade, or profession of the employer and that is performed by an employee while engaged in or about the furtherance of the employer's business or affairs.

Under Labor Code, sec. 406.031, an insurance carrier is liable to compensate an employee subject to the Texas Workers' Compensation Act for an injury that arises out of and in the course and scope of that person's employment.

DIGEST: CSHB 2771 would include the travel of firefighters and emergency medical personnel en route to an emergency in the course and scope of their employment under the Texas Workers' Compensation Act.

This bill would take effect September 1, 2015.

SUPPORTERS SAY: CSHB 2771 would ensure that firefighters and emergency medical personnel who responded to emergencies in personal vehicles were covered by the Workers' Compensation Act. Due to the dangerous nature of their positions in responding quickly to emergencies, driving to an emergency call should be considered within the course and scope of their employment as an exception to the general rule that holds transportation to and from work outside the course and scope of employment. Driving under these circumstances poses greater risk to a fireman or to emergency medical personnel than the risks that other drivers on the road face. Current law is not broad enough to address this increased risk imposed by the job.

This bill would not expand the Workers' Compensation Act beyond its intention to cover work-related injuries while an individual was on duty. Firefighters and emergency personnel who are on call may be required to drive to the scene of an emergency. Similarly, volunteer firefighters may be called upon to drive directly to an emergency in their own cars. After being notified to respond, these public servants are on duty while they are en route to the emergency in their own vehicles, and they should be covered in the same manner as other firefighters and emergency personnel responding directly from the station.

CSHB 2771 also would help with recruitment and retention of firemen and emergency medical personnel by providing them with more complete work injury protections.

OPPONENTS SAY: CSHB 2771 inappropriately would amend the workers' compensation law, which is not intended to cover individuals who are driving to work. This action poses no greater risk to firefighters and emergency services personnel than the risks that all other drivers on the road face. The

workers' compensation law is well settled in this area.

OTHER
OPPONENTS
SAY:

CSHB 2711 is unnecessary because the current workers' compensation law is already broad enough to cover many injuries suffered en route to an emergency, as decided on a case-by-case basis. Most large carriers already consider the drive en route to an emergency in a personal vehicle as within the course and scope of employment and already covered under the Workers' Compensation Act.