

SUBJECT: Specifying authority to investigate workers' compensation fraud

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 7 ayes — Oliveira, Shine, Collier, Romero, Stickland, Villalba, Workman
0 nays

WITNESSES: For — (*Registered, but did not testify:* Adam Burklund, American Insurance Association; Chris Jones, Combined Law Enforcement Associations of Texas; Annie Spilman, National Federation of Independent Business/Texas; Joe Woods, Property Casualty Insurers Association of America; Cathy Dewitt, Texas Association of Business; Rene Lara, Texas AFL-CIO; Jo Betsy Norton, Texas Mutual Insurance Company)

Against — None

On — Nick Canaday, Texas Department of Insurance, Division of Workers' Compensation

BACKGROUND: Insurance Code, sec. 701.101 tasks the insurance fraud unit within the Texas Department of Insurance (TDI) with investigating fraudulent insurance activities.

Labor Code, sec. 414.005 tasks TDI's Division of Workers' Compensation with maintaining an investigation unit to evaluate claims of administrative violation and breach of duty in workers' compensation cases.

Labor Code, sec. 418.001 classifies fraudulently obtaining or withholding workers' compensation benefits or coverage valued under \$1,500 as a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000). Fraudulently obtaining or withholding workers' compensation benefits or coverage valued at \$1,500 or more is classified as a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000).

DIGEST: HB 2053 would add that the Texas Department of Insurance's Division of Workers' Compensation had to maintain its investigation unit to investigate alleged offenses under the Texas Workers' Compensation Act, with particular emphasis on fraudulently obtaining or denying benefits or fraudulently obtaining workers' compensation insurance coverage. The division also would be allowed to provide technical or litigation assistance to an authority to which it referred persons involved in a case.

The bill would authorize the commissioner of workers' compensation to issue subpoenas compelling the attendance and testimony of a witness or the production of materials relevant to a workers' compensation fraud investigation, regardless of the state in which the witness or materials were located.

HB 2053 also would increase from less than \$1,500 to less than \$2,500 the value up to which fraudulently obtaining or withholding workers' compensation benefits or coverage was a class A misdemeanor. Fraudulently obtaining or withholding workers' compensation benefits or coverage valued at \$2,500 or more would be classified as a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000).

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply only to offenses committed and subpoenas issued on or after that date.

SUPPORTERS SAY: HB 2053 would help the Texas Department of Insurance (TDI) more effectively respond to workers' compensation fraud by establishing a much-needed centralization of authority and resources within the department. Currently, both the insurance fraud unit and the Division of Workers' Compensation (DWC) investigate workers' compensation fraud claims, resulting in duplicate expenses and information gaps between the agencies. Housing these investigations within the division would be a better use of TDI's resources.

The bill would ensure that only the most qualified experts conducted workers' compensation fraud investigations. The Division of Workers' Compensation retains attorneys trained specifically to analyze workers' compensation cases, providing a specialized resource that cannot be used effectively without centralized authority over investigations and the ability to issue subpoenas.

The bill would take an important step toward resolving a threat to the Texas economy. Workers' compensation fraud is a cost that is passed on to insurance purchasers in the form of higher premiums. In order to best respond, TDI should be able to use its resources as efficiently as possible.

HB 2053 also would update criminal penalty thresholds to conform to current Penal Code standards, which were amended in 2015 by the 84th Legislature to define a state-jail felony as theft valued at \$2,500 or more.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

A Senate companion, SB 1306 by Creighton, was referred to the Senate Business and Commerce Committee on March 14.