

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 278  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, occupational health and safety in Texas are enforced by the United States Department of Labor Occupational Health and Safety Administration (OHSA). Under a plan developed by OHSA, a state can adopt legislation to enforce occupational health and safety at the state level.

As proposed, S.B. 278 directs the Texas commissioner of workers' compensation (commissioner) to establish a state plan for the enforcement of occupational health and safety standards similar to what has been done in 26 other states. Furthermore, it allows the commissioner to conduct inspections and collect data in order to enforce occupational health and safety standards. This bill also requires the commissioner to classify hazardous employers and to provide consultations to improve worker safety. To fund the division of the commission of workers' compensation at the Texas Department of Insurance (TDI), this bill establishes an annual maintenance tax on insurers writing workers' compensation insurance policies in the state. This tax would be in addition to all other workers' compensation taxes, and would be paid to TDI at the same time insurers pay the workers' compensation maintenance tax used to fund TDI operations.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of workers' compensation in SECTION 1 (Section 411.153, Labor Code) and to the commissioner of insurance in SECTION 1 (Section 411.155, Labor Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 411, Labor Code, by adding Subchapter I, as follows:

#### **SUBCHAPTER I. STATE OCCUPATIONAL HEALTH AND SAFETY PLAN**

Sec. 411.151. DEFINITIONS. Defines "employee" and "employer."

Sec. 411.152. STATE PLAN. Requires the commissioner of workers' compensation (commissioner) to develop a state enforcement plan for occupational health and safety standards in accordance with federal requirements. Prohibits the state's standards from being more stringent than those set forth by the United State Department of Labor.

Sec. 411.153. GENERAL POWERS AND DUTIES OF COMMISSIONER AND DIVISION. (a) Specifies that the Texas Department of Labor (department), through the division of workers' compensation (division), is charged with implementing and enforcing state laws and administrative rules relating to the protection of life, health, and safety of persons at work. Authorizes the division to obtain occupational health and safety information from any appropriate source.

(b) Authorizes the division to conduct inspections of places of employment at reasonable times as necessary to implement this subchapter.

(c) Requires the division to gather, maintain, and publish certain statistical information relating to occupational health and safety programs operated by other states for use in an ongoing comparative evaluation of the effectiveness of Texas programs. Requires the division to design and conduct research relating to the prevention of job-related injuries and occupational disease and publish the results

of such research. Requires the division to collect information relating to occupational safety and to develop programs designed to reduce job-related injuries and occupational diseases, and to consult with employers regarding compliance with state or federal occupational safety laws, rules, or agreements.

(d) Authorizes the commissioner to adopt rules and prescribe forms as necessary to implement this subchapter.

(e) Authorizes the division to charge a fee for seminars and training programs, and published material offered by the division. Requires the commissioner to set the fees in amounts reasonable and necessary to cover administrative costs.

Sec.411.154. EMPLOYER CLASSIFICATIONS; CONSULTATIONS. (a) Requires the division collect and compile certain information relating to the job-related accident experience of each employer.

(b) Requires the division, based on the compiled information, to classify employers as necessary and appropriate to assist employers in providing safe and healthful conditions of employment, and identify hazardous occupations.

(c) Authorizes the division, on the written request of an employer, to consult with and advise the employer or the employer's representative regarding the improvement of the employer's accident frequency rate and the elimination or reduction of impediments to occupational health and safety at the employer's place of business.

Sec. 411.155. FUNDING; MAINTENANCE TAX. (a) Provides that the occupational health and safety plan adopted under this subchapter is funded through the assessment of an annual maintenance tax collected from certain entities that writes workers' compensation insurance in this state. Requires the commissioner of insurance to set the rate of the maintenance tax in an amount not to exceed one percent of the correctly reported gross workers' compensation insurance premiums of those insurers as reported to the department under Subtitle E, Title 10, Insurance Code. Requires the commissioner of insurance to set the rate of assessment each year to produce the amount of funds that the commissioner estimates will be necessary to operate the occupational health and safety plan. Provides that the tax assessed under this section is in addition to all other taxes imposed on those insurers for workers' compensation purposes and is required to be paid to the department at the same time that the insurers pay the maintenance tax imposed under Chapter 255 (Workers' Compensation Insurance), Insurance Code.

(b) Authorizes the commissioner of insurance to adopt rules as necessary relating to the assessment and collection of the maintenance tax imposed under Subsection (a).

(c) Requires the department to remit all funds received under this section to the comptroller for deposit in the state treasury to the credit of the general revenue fund.

Sec. 411.156. EMPLOYER DUTIES. (a) Requires each employer to ensure a safe and healthful work environment and to install, maintain, and use methods, processes, devices and safeguards for the protection thereof.

(b) Requires each employer to report to the division certain information relating to health and safety issues in the workplace, and that such a report be done in the manner prescribed by the commissioner.

SECTION 2. Amends Section 502.003, Health and Safety Code, by adding Subdivision (4-a) and amending Subdivision (8), to define "commissioner" and "division." Eliminates definition of "director."

SECTION 3. Amends Chapter 502, Health and Safety Code, by adding Section 502.0035, as follows:

Sec. 502.0035. ADMINISTRATION; REFERENCES. Requires that this chapter be administered by the commissioner. Specifies that a reference to the Texas Board of Health, Texas Department of Health, or successor agency thereof, or to the director means the commissioner or division, or a successor agency thereof.

SECTION 4. Repealer: Section 411.018 (Federal OSHA Compliance), Labor Code.

SECTION 5. Requires the commissioner to adopt rules to implement Subchapter I, Chapter 411, Labor Code, as added by this Act, by January 1, 2008. Requires the commissioner to implement the state occupational health and safety plan by September 1, 2008.

SECTION 6. Effective date: September 1, 2007.