

BILL ANALYSIS

Senate Research Center

H.B. 1774
By: Taylor, Larry (Huffman)
Government Organization
4/28/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 1774 is the Sunset bill for the Office of Injured Employee Counsel (OIEC).

The OIEC was created in 2005, when the legislature abolished the Texas Workers' Compensation Commission, transferred its regulatory duties to the Texas Department of Insurance (TDI), and moved its employee assistance functions to OIEC.

OIEC represents the interests of workers' compensation claimants by assisting unrepresented injured employees in navigating the division of workers' compensation of the Texas Department of Insurance (division) dispute resolution process; advocating on behalf of injured employees as a class in rulemaking and judicial proceedings; and informing injured employees and beneficiaries of deceased employees about the compensation system and assisting them in obtaining benefits by publishing information about employees' rights and responsibilities in the system. OIEC also files amicus curiae briefs before courts on issues of importance to injured employees as a class.

The OIEC is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature. As a result of its review of OIEC, the Texas Sunset Advisory Commission (Sunset) recommended continuation of the agency for six years to coincide with the next Sunset review of the division, and two statutory modifications that are contained in this legislation.

H.B. 1774 continues OIEC for six years, to coincide with the next Sunset review of the division. H.B. 1774 limits OIEC's authority to access claim files for injured employees OIEC is not directly assisting. H.B. 1774 also adds standard Sunset language requiring OIEC to maintain complaint information and to encourage the use of its alternative dispute resolution process. The bill also allows additional time for OIEC to complete its legislative report.

H.B. 1774 further clarifies that OIEC has access to individual claim information only when assisting an injured employee.

H.B. 1774 amends current law relating to the continuation and functions of the office of injured employee counsel under the workers' compensation program.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 404.003, Labor Code, as follows:

Sec. 404.003. SUNSET PROVISION. Provides that the office of injured employee counsel (OIEC) is subject to Chapter 325 (Texas Sunset Act), Government Code. Provides that unless continued in existence as provided by that chapter, OIEC is abolished and this chapter expires September 1, 2017, rather than September 1, 2011.

SECTION 2. Amends Subchapter A, Chapter 404, Labor Code, by adding Sections 404.007 and 404.008, as follows:

Sec. 404.007. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) Requires OIEC to develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 (Negotiated Rulemaking), Government Code, for the adoption of OIEC rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution For Use By Governmental Bodies), Government Code, to assist in the resolution of internal and external disputes under OIEC's jurisdiction.

(b) Requires that OIEC's procedures relating to alternative dispute resolution conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) Requires OIEC to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

(d) Provides that OIEC's alternative dispute resolution policy does not affect the manner in which OIEC participates in the division of workers' compensation (division) of the Texas Department of Insurance's (TDI) administrative dispute resolution process or TDI's alternative dispute resolution process through OIEC's administrative attachment to TDI.

Sec. 404.008. COMPLAINTS. (a) Requires OIEC to maintain a system to promptly and efficiently act on complaints filed with OIEC. Requires OIEC to maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) Requires OIEC to make information available describing its procedures for complaint investigation and resolution.

(c) Requires OIEC to periodically notify the complaint parties of the status of the complaint until final disposition.

SECTION 3. Amends Section 404.101, Labor Code, by adding Subsection (b-1), as follows:

(b-1) Authorizes OIEC to seek and accept grant funding to enable OIEC to perform its duties under this subtitle. Provides that this subsection does not authorize OIEC to seek or accept payment from an injured employee.

SECTION 4. Amends Section 404.111(a), Labor Code, as follows:

(a) Entitles OIEC, when assisting an injured employee, to the same access to information related to the employee's injury and workers' compensation claim as the employee or any other party to the claim. Deletes existing text authorizing OIEC, except as otherwise provided by this section, to access information from an executive agency that is otherwise confidential under a law of this state if that information is necessary for the performance

of the duties of OIEC, including information made confidential under Section 402.091 (Failure To Maintain Confidentiality; Offense; Penalty).

SECTION 5. Amends Section 402.082(b), Labor Code, as follows:

(b) Requires the division, on request from OIEC, to provide to OIEC the identity, claim number, and contact information of claimants receiving assistance from OIEC, rather than requiring the division to provide information maintained under Subsection (a) (relating to requiring the division to maintain certain information on every compensable injury) to OIEC. Deletes existing text providing that the confidentiality requirements imposed under Section 402.083 (Confidentiality of Injury Information) apply to injury information maintained by the division.

SECTION 6. Amends Section 402.085(a), Labor Code, to require the division to release information on a claim to certain agencies or persons, including OIEC for any statutory or regulatory purpose that relates to a duty of that office as provided by Section 404.111(a).

SECTION 7. Amends Section 404.106(a), Labor Code, to require OIEC to report to the governor, lieutenant governor, speaker of the house of representatives, and the chairs of the legislative committees with appropriate jurisdiction not later January 1 of each odd-numbered year, rather than not later than December 1 of each even-numbered year.

SECTION 8. Repealer: Section 404.111(d) (relating to requiring the division or TDI to provide any information or data requested by OIEC in furtherance of the duties of OIEC under this chapter, except as provided by this section), Labor Code.

SECTION 9. Provides that the changes in law made by this Act to Sections 402.082(b), 402.085(a), and 404.111, Labor Code, apply to a claim for workers' compensation benefits based on a compensable injury regardless of whether the injury occurred before, on, or after the effective date of this Act.

SECTION 10. Effective date: September 1, 2011.