LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 4, 2005

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: **HB7** by Solomons (Relating to the continuation and operation of the workers' compensation system of this state and to the abolition of the Texas Workers' Compensation Commission, the establishment of the office of injured employee counsel, and the transfer of the powers and duties of the Texas Workers' Compensation Commission to the Texas Department of Insurance and the office of injured employee counsel; providing administrative violations.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, As Engrossed: a positive impact of $2,191,454 through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	$1,010,729
2007	$1,180,725
2008	$1,180,725
2009	$1,180,725
2010	$1,180,725

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *DEPT INS OPERATING ACCT* 36	Probable Savings/ (Cost) from *DEPT INS OPERATING ACCT* 36	Probable Savings/ (Cost) from *STATE HIGHWAY FUND* 6
2006	$1,010,729	($910,151)	$910,151	$394,100
2007	$1,180,725	($2,575,805)	$2,575,805	$506,880
2008	$1,180,725	($2,515,805)	$2,515,805	$563,200
2009	$1,180,725	($2,454,190)	$2,454,190	$563,200
2010	$1,180,725	($2,406,190)	$2,406,190	$563,200

Fiscal Year	Probable Savings/ (Cost) from *INTERAGENCY CONTRACTS* 777	Change in Number of State Employees from FY 2005
2006	($588,102)	(20.0)
2007	$397,630	(56.0)
2008	$1,276,917	(56.0)
2009	$1,658,136	(56.0)
2010	$2,041,911	(56.0)

Fiscal Analysis

The bill would abolish the Texas Workers' Compensation Commission (TWCC), transfer agency functions to the Texas Department of Insurance (TDI) and a newly created Office of Injured Employee Counsel, and create certain new functions of the workers' compensation system in the state.

SECTIONS 1.013, 1.019 and 4.001 would abolish the Texas Workers' Compensation Commission and transfer regulatory, medical and income dispute resolution, customer assistance and records information and management functions, and workplace education and safety functions to TDI.

SECTIONS 1.014, 1.061, and 4.002 would create the Office of Injured Employee Counsel to provide constituent services for injured workers and transfer TWCC's ombudsman program to the new agency. The bill would authorize the Office to provide legal representation for certain injured workers. The bill would require TDI to provide administrative services including budget planning, purchasing, personnel, and computer support to the new agency.

SECTION 1.052 would specify that revenues from the maintenance tax on gross workers' compensation insurance premiums and administrative penalties are to be deposited to the credit of the TDI operating account in the General Revenue Fund.

SECTIONS 1.162 and 1.163 would provide for the State Average Weekly Wage (SAWW) to be based on the average weekly wage for covered employment definition used by the Texas Workforce Commission and change the cap on maximum weekly temporary, death, and lifetime income benefits from 100 percent to 130 percent of the SAWW. The bill would raise the cap on impairment income benefits and supplemental income benefits from 70 percent to 100 percent of the SAWW.

SECTIONS 1.202, 2.002, 2.052, and 2.153 would authorize the establishment of workers' compensation health care networks and require the state and local political subdivisions and their employees to use the networks.

SECTION 1.203 would repeal the requirements for TWCC to regulate and maintain an Approved Doctor List of providers eligible to bill for medical care in the workers' compensation system.

SECTION 1.251 reduces from 28 days to 14 days the waiting period for injured workers to receive their first week of benefit payments.

SECTIONS 1.356. 1.371, 1.381, 1.382, and 1.396 would require workers’ compensation insurance carriers to develop a TDI-certified informal dispute resolution process and require injured workers, employers, and carriers involved in an income benefit dispute to utilize this process before filing a dispute with TDI. The bill would require a pre-hearing conference to identify contested issues for the formal contested case hearing at TDI and eliminate the current Benefit Review Conference. The bill would authorize parties to a dispute to appeal the hearing decision directly to district court and eliminate TWCC’s Appeals Panel.

SECTION 1.419 would repeal the Field Safety Representative Program, the Hazardous Employer Program, the Approved Professional Source Program, the Drug Free Workplace Program, and TWCC's role in the Rejected Risk Program.

SECTION 1.516 would require medical disputes to go through an initial informal dispute resolution process with the insurance carrier and provide for an Independent Review Organization (IRO) to decide unresolved disputes. The bill would eliminate appeals of IRO decisions to the State Office of Administrative Hearings.

SECTION 1.531 would abolish the Medical Advisory Committee.

SECTION 1.073 would require the Workers' Compensation Research Group at TDI to develop and issue an annual informational report card on workers' compensation networks and conduct certain other studies.

Methodology

It is assumed abolishing TWCC and transferring its functions to TDI and the Office of Injured Employee Counsel (OIEC) would result in savings of $956,735 and a reduction of 18 full-time-equivalent positions (FTEs) in fiscal year 2006 and $1,907,370 and 32 FTEs each year thereafter. It is assumed all employees transferred from TWCC to TDI and OIEC would remain in their current office facilities.

It is assumed the establishment of OIEC would require one Director (Injured Employee Counsel) position at the Group 3 exempt salary level of $85,000 per year beginning in fiscal year 2006. It is assumed four Attorney V positions ($70,872/year, each); 26 Attorney I positions ($46,836/year, each); six Administrative Assistant I positions ($19,452/year, each); 13 Legal Secretary I positions ($23,866/year, each); and one Research Specialist I position ($40,048/year) would be required to carry out the legal assistance and employee advocacy duties of OIEC. Benefit costs related to the 51 FTEs are assumed to be 29.74 percent of total salary costs, or $610,634 per year beginning in fiscal year 2006. It is assumed TDI would incur increased administrative overhead costs of $399,850 each year related to the new OIEC staff and functions.

Based on the analysis of the State Office of Risk Management (SORM), it is assumed an increase in the State Average Weekly Wage (SAWW), an increase in the cap on maximum weekly amount of income benefits from 100 to 130 percent, and the decreased waiting period for benefits to accrue would result in increased costs to the state for workers' compensation claims payments through interagency contract funding by $88,102 in fiscal year 2006; $266,626 in fiscal year 2007; $317,297 in fiscal year 2008; $334,631 in fiscal year 2009; and $349,410 in fiscal year 2010.

Based on the analysis of TDI, it is assumed the certification of workers' compensation health care networks would require one Insurance Specialist V position ($35,100/year) to process applications and additional filings for network certification. It is assumed one Program Specialist V position ($42,216/year) would be required to assist in rule development, program oversight, and all certification-related matters. It is assumed the initial licensing, ongoing monitoring, and examination of the newly established networks would require one Program Administrator I position ($32,988/year), one Insurance Specialist V position ($35,100/year), and one Nurse IV position ($39,708/year). It is assumed additional travel costs related to examinations would be $24,219 in fiscal year 2006 through 2008 and $25,834 in fiscal years 2009 and 2010. It is assumed the cost for providing computer software and hardware for the five positions identified above would be $1,562 each in fiscal year 2006.

Based on analysis of complaint volume related to health maintenance organizations (HMOs), TDI estimates the agency will process an additional 7,000 complaints per year related to the new workers' compensation health care networks. It is assumed TDI would need one Insurance Specialist V position ($35,100/year), two Insurance Specialist IV positions ($32,988/year, each), and five Insurance Specialist III positions ($31,068/year, each) to process complaints. It is assumed the cost for providing computer software and hardware for the eight positions identified above would be $1,562 each in fiscal year 2006.

Based on the analysis of TDI, it is assumed additional funding would be required for professional fees or interagency contracts to administer an annual injured worker survey needed to prepare the annual consumer report cards on certified networks. It is assumed costs of the annual injured worker survey would be $180,000 in fiscal year 2007; $240,000 in fiscal year 2008; $300,000 in fiscal year 2009; and $348,000 in fiscal year 2010. It is assumed one additional Research Specialist IV position ($37,322/year) would be required to analyze data gathered from the surveys to prepare the annual consumer report cards. It is assumed the research staff position would require computer software and computer hardware with enhanced data processing and storage capabilities at a cost of $3,062 in fiscal year 2006 and annual licensing costs of $496 for Statistical Analysis System (SAS) data analysis software.

Benefits costs associated with the 14 full-time positions required by TDI are estimated to be 29.74 percent of total salary costs, or $142,410 in each year.

It is assumed that any costs realized by TDI from implementing the provisions of the bill would be funded through revenues generated as necessary from the insurance maintenance tax.

It is assumed the provision for mandatory workers' compensation health care networks would result in savings to the state's workers' compensation payments for income and medical losses from interagency contract funding to SORM. Based on the analysis of SORM, savings are estimated to be $1,992,767 in fiscal year 2007; $4,782,641 in fiscal year 2008; $5,978,301 in fiscal year 2009; and $7,173,962 in fiscal year 2010. It is assumed that, due to the request for proposal process, SORM would not enter into a contract for network care until fiscal year 2007. Based on the analysis of SORM, it is assumed additional administrative costs would result from contracting with a workers' compensation health care network. Increased costs through interagency contract funding are estimated to be $500,000 in fiscal year 2006; $1,328,511 in fiscal year 2007; $3,188,427 in fiscal year 2008; $3,985,534 in fiscal year 2009; and $4,782,641 in fiscal year 2010.

It is assumed SORM would require one Programmer VI position ($50,952/year) to perform system modifications to accommodate changes in automated processes related to the transfer to a contract for network health care. It is assumed SORM would require one additional Administrative Assistant II position ($23,052/year) and increased operating costs of $1,000 each year to accommodate network notification requirements and handle injured worker customer service concerns during the network transition. It is assumed SORM would require two Program Specialist III positions ($37,332/year), one Legal Assistant I position ($30,000/year), and $1,000 for travel costs each year to accommodate informal dispute resolutions, which would be required to be conducted by insurance carriers. It is assumed the cost for providing computer software and hardware for the five staff positions identified above would be $1,500 each in fiscal year 2006. It is assumed equipment costs for the new positions would be $9,900 in fiscal year 2006. Benefits costs associated with the five full-time-equivalent positions required by SORM are estimated to be 29.74 percent of total salary costs, or $42,033 in each year.

Based on the analysis of the Texas Department of Transportation, it is assumed the use of networks for workers' compensation health care would result in savings to medical costs and indemnity benefits of $394,100 in fiscal year 2006; $506,880 in fiscal year 2007; and $563,200 in each year thereafter.

Based on the analysis of the University of Texas System, it is assumed the use of networks would result in medical cost savings of $910,903 per year. Based on the analysis of the Texas A&M University System, it is assumed the use of networks would result in medical cost savings of $150,000 per year.

Based on current costs to TWCC, it is assumed the elimination of the Approved Doctor List would result in annual savings of $597,351 and a reduction of 6 FTEs each year.

Based on current costs to TWCC, it is assumed the elimination of administrative steps in the income and medical benefit dispute process and the elimination of appeals to the State Office of Administrative Hearings would result in savings of $2,033,852 and a reduction of 49 FTEs in fiscal year 2006 and annual savings of $2,905,503 and a reduction of 71 FTEs beginning in fiscal year 2007. Based on the direct General Revenue appropriations to SOAH for TWCC's allowable base-level of case hours, it is assumed the reduced case workload at SOAH would result in savings of $152,595 in fiscal year 2006 and $305,191 each year thereafter.

Based on current costs to TWCC, it is assumed the elimination of the Field Safety Representative Program, Hazardous Employer Program, Approved Professional Source Program, Drug Free Workplace Program, and TWCC's role in the Rejected Risk Program, would result in annual savings of $1,011,389 and a reduction of 16 FTEs each year. It is assumed abolishing the Medical Advisory Committee would result in savings of $43,893 each year and a reduction of one FTE needed to support the operations of the committee.

It is assumed that any realized savings from the elimination of current functions of TWCC would be offset by a reduction in revenues generated from the workers' compensation maintenance tax.

Technology

Information technology costs associated with the bill are assumed to be $82,316 in fiscal year 2006 and $51,448 in fiscal year 2007.

Local Government Impact

If a political subdivision determines that a provider network is not available or practical, the bill would allow a political subdivision to provide workers' compensation medical benefits to its employees in the manner provided by Chapter 408 of the Labor Code (relating to workers' compensation benefits), or by contracting directly with health care providers, or by contracting through a health benefits pool.

It is assumed that a political subdivision would select the option that provides the most economical and beneficial system for the political subdivision. Therefore, no significant fiscal implications to a unit of local government are anticipated.

Source Agencies: 116 Sunset Advisory Commission, 320 Texas Workforce Commission, 453 Workers' Compensation Commission, 454 Department of Insurance, 479 State Office of Risk Management, 601 Department of Transportation, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

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