LEGISLATIVE BUDGET BOARD
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FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 4, 2005

TO: Honorable Helen Giddings, Chair, House Committee on Business & Industry

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

IN RE: **SB5** by Staples (Relating to the continuation and operation of the workers' compensation system of this state, including changing the name of the Texas Workers' Compensation Commission to the Texas Department of Workers' Compensation, the powers and duties of the governing authority of that department, the provision of workers' compensation benefits to injured employees, and the regulation of workers' compensation insurers; providing administrative and criminal penalties.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB5, As Engrossed: a positive impact of $1,939,212 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	$967,506
2007	$971,706
2008	$971,706
2009	$971,706
2010	$971,706

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *DEPT INS OPERATING ACCT* 36	Probable Savings/(Cost) from *DEPT INS OPERATING ACCT* 36
2006	$804,592	$162,914	$734,343	($734,343)
2007	$713,292	$258,414	$825,975	($825,975)
2008	$713,292	$258,414	$953,975	($953,975)
2009	$713,292	$258,414	$947,590	($947,590)
2010	$713,292	$258,414	$1,042,590	($1,042,590)

Fiscal Year	Probable Savings/ (Cost) from *STATE HIGHWAY FUND* 6	Probable Savings/ (Cost) from *INTERAGENCY CONTRACTS* 777
2006	$394,100	($515,196)
2007	$506,880	$612,734
2008	$563,200	$1,467,417
2009	$563,200	$1,844,517
2010	$563,200	$2,235,469

Fiscal Year	Change in Number of State Employees from FY 2005
2006	12.0
2007	12.0
2008	12.0
2009	12.0
2010	12.0

Fiscal Analysis

The bill would change the Texas Workers' Compensation Commission agency and its six part-time member commission to the Texas Department of Workers' Compensation with one full-time commissioner, appointed by the Governor, who would serve as the agency's chief executive and administrative officer for a two-year term.

SECTION 3.0151 would establish the Office of Injured Employee Counsel (OIEC) to represent the interests of workers compensation claimants in Texas. The bill would specify that the OIEC would be administratively attached to the Texas Department of Workers' Compensation (TDWC). SECTION 7.0031 would require TDWC to provide suitable office space, personnel, computer support, and other administrative support to the new agency. The bill would require TDWC to transfer to OIEC all resources associated with the workers' compensation ombudsman program no later than March 1, 2006.

SECTION 3.017 would require the Texas Department of Insurance (TDI) to report on certified workers’ compensation health care networks, claims costs and injured worker outcomes; biennially evaluate cost and quality of health care provided by networks; and issue annual consumer report cards comparing networks certified by TDI.

SECTION 3.091 would increase the State Average Weekly Wage (SAWW) for the purposes of calculating minimum and maximum indemnity benefits from $537 to $540 for fiscal year 2006, and thereafter at 85 percent of the Texas Workforce Commission’s SAWW for all covered employment.

SECTION 3.096 would change the waiting period for payment of the first week of temporary income benefits (TIBs) from 28 days to 14 days. This would result in paying an additional week of TIBs to injured workers who had more than 7 days of lost time but less than 28 days of lost time.

SECTION 3.232 would require the commissioner of the Texas Department of Workers’ Compensation to adopt evidence-based, outcome-focused treatment guidelines and return-to-work guidelines.

SECTION 3.242 would direct the TDWC commissioner to establish a return-to-work pilot program for small employers to promote the early and sustained return to work of injured employees and establish a fund for the program. The bill would create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Therefore, the fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current legislature.

SECTION 3.243 would remove the State Office of Administrative Hearings from the medical dispute resolution process.

ARTICLE 4 would amend the Insurance Code to establish the framework for workers' compensation health care networks to provide treatment to injured workers. The bill would require TDI to certify and regulate these networks and would require the Commissioner of Insurance to establish rules necessary to implement the provisions in Chapter 1305, Insurance Code.

SECTION 7.009 would abolish the Medical Advisory Committee established under Section 413.005, Labor Code.

This bill would take effect on September 1, 2005.

Methodology

Based on the analysis of the Texas Workers' Compensation Commission, it is assumed the establishment of OIEC would require one Director (Injured Employee Counsel) position at a salary of $83,000 per year beginning in fiscal year 2006. It is assumed two Attorney V positions ($54,264/year, each); one Legal Assistant IV position ($35,100/year); and one Legal Secretary IV position ($29,232/year); and one Research Specialist I position ($40,048/year) would be required to carry out the employee advocacy duties of the office. Employee benefit costs related to the 5 full-time-equivalent positions are estimated to be $76,093 per year beginning in fiscal year 2006. It is assumed OIEC would be funded either through a direct appropriation of funds or through an interagency contract with TDWC, either of which would be appropriated from General Revenue Funds generated through the annual maintenance tax assessment on gross workers' compensation premiums.

Based on the analysis of TDI, it is assumed the certification of 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 TDI's analysis of complaint volume related to health maintenance organizations (HMOs), it is assumed TDI will process an additional 7,000 complaints per year related to the new workers' compensation health care networks. Due to the increased complaint volume, complexity of cases, and amount of investigation required, 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). 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 both the biennial injured workers report and annual consumer report cards on certified networks. It is assumed costs of the biennial survey would be $65,000 in fiscal year 2006; $68,000 in fiscal year 2008; and $71,000 in fiscal year 2010. 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 $324,000 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 biennial report and 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.

Based on the analysis of the State Office of Risk Management (SORM), it is assumed an increase in the State Average Weekly Wage used to calculate income benefits and a reduction in the waiting period for an injured worker's first week of benefit payments would result in increased costs to the state for workers' compensation claims payments through interagency contract funding by $15,196 in fiscal year 2006; $51,522 in fiscal year 2007; $126,797 in fiscal year 2008; $148,250 in fiscal year 2009; and $155,852 in fiscal year 2010.

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 also assumed that these costs would be offset by medical cost savings to the workers' compensation claim fund (interagency contracts) of $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 SORM would require one Programmer V position ($44,928/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 the cost for providing computer software and hardware for the two positions identified above would be $1,500 each in fiscal year 2006. It is assumed equipment costs for the new staff positions would be $1,200 in fiscal year 2006. Benefits costs associated with the 2 full-time positions required by SORM are estimated to be 29.74 percent of total salary costs, or $20,217 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 the analysis of TWCC, it is assumed access to on-line and print publications of established treatment guidelines would be required to aid in the adoption of evidence-based, outcome-focused treatment guidelines and return-to-work guidelines required by the bill. Costs to the Texas Department of Workers' Compensation (TDWC) for publication subscriptions for 200 employees are estimated to be $22,400 in fiscal year 2006 and $117,900 each year thereafter.

The bill would establish a special Workers' Compensation Return-to-Work account funded by deposits from administrative penalties received by TDWC, not to exceed $100,000 annually. The funds would be used to reimburse small employers for expenses incurred by the employer (not to exceed $2,500) to make workplace modifications necessary to accommodate an injured employee's return to modified or alternative work. The creation of the special account and associated dedication of $100,000 per year in administrative penalties would have no fiscal impact by itself. Any fiscal impact would depend on the amount, if any, so appropriated from the account and is not identified in the table above. This analysis assumes that balances in the Workers' Compensation Return-to-Work account would not exceed $100,000 annually. The pilot program and associated account would expire September 1, 2009.

Based on the analysis of TWCC, it is assumed that the removal of SOAH from the medical dispute resolution process would result in a reduction of 3 full-time equivalent positions who currently accommodate duties related to contested medical dispute decisions. It is assumed the reduction in staff would result in a savings of $147,546 each year from reduced salaries and associated benefits costs.

It is assumed abolishing the Medical Advisory Committee would result in savings of $43,893 each year and a reduction of one full-time equivalent position needed to support the operations of the committee.

It is assumed that any realized costs or savings to TDWC from the provisions of the bill would be offset by a corresponding increase or decrease in the maintenance tax assessed on gross workers' compensation premiums.

Technology

Information technology costs associated with the bill are assumed to be $71,792 in fiscal year 2006 and $45,424 in fiscal year 2007.

Local Government Impact

SECTION 3.316 would amend the Labor Code to require a political subdivision that self-insures either individually or collectively to provide workers' compensation medical benefits to the injured employees of the political subdivision or the injured employees of the members of a pool in a manner provided either by Chapter 1305 of the Insurance Code (added by the bill, relating to workers' compensation health care networks), by Chapter 408 of the Labor Code (relating to workers' compensation benefits), except for certain sections of Chapter 408, or by direct contracting with health care providers or by contracting through a health benefits pool established under Chapter 172, Local Government Code. However, if a political subdivision or pool provides medical benefits under Chapter 172, Local Government Code, the other two options would not apply. The bill would establish standards a political subdivision would be required to meet.

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

Source Agencies: 320 Texas Workforce Commission, 453 Workers' Compensation Commission, 454 Department of Insurance, 479 State Office of Risk Management

LBB Staff: JOB, JRO, SR, MW, DLBa, TG