

1-1 By: Hagenbuch S.B. No. 1455
1-2 (In the Senate - Filed February 19, 2025; March 6, 2025,
1-3 read first time and referred to Committee on Business & Commerce;
1-4 April 14, 2025, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 10, Nays 0; April 14, 2025,
1-6 sent to printer.)

1-7	COMMITTEE VOTE				
1-8		Yea	Nay	Absent	PNV
1-9	Schwertner	X			
1-10	King			X	
1-11	Blanco	X			
1-12	Campbell	X			
1-13	Creighton	X			
1-14	Johnson	X			
1-15	Kolkhorst	X			
1-16	Menéndez	X			
1-17	Middleton	X			
1-18	Nichols	X			
1-19	Zaffirini	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 1455 By: Nichols

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to the funding mechanism for the regulation of workers'
1-24 compensation and workers' compensation insurance; authorizing
1-25 surcharges.
1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-27 SECTION 1. The heading to Title 3, Insurance Code, is
1-28 amended to read as follows:
1-29 TITLE 3. DEPARTMENT FUNDS, FEES, SURCHARGES, AND TAXES
1-30 SECTION 2. The heading to Subtitle C, Title 3, Insurance
1-31 Code, is amended to read as follows:
1-32 SUBTITLE C. INSURANCE MAINTENANCE TAXES AND SURCHARGES
1-33 SECTION 3. Section 201.001(a), Insurance Code, is amended
1-34 to read as follows:
1-35 (a) The Texas Department of Insurance operating account is
1-36 an account in the general revenue fund. The account includes the
1-37 following:
1-38 (1) taxes, surcharges, and fees received by the
1-39 commissioner or comptroller that are required by this code or other
1-40 law to be deposited to the credit of the account; and
1-41 (2) money or credits received by the department or
1-42 commissioner from sales, reimbursements, and fees authorized by law
1-43 other than this code, including money or credits received from:
1-44 (A) charges for providing copies of public
1-45 information under Chapter 552, Government Code;
1-46 (B) the disposition of surplus or salvage
1-47 property under Subchapters C and D, Chapter 2175, Government Code;
1-48 (C) the sale of publications and other printed
1-49 material under Section 2052.301, Government Code;
1-50 (D) miscellaneous transactions and sources under
1-51 Section 403.011 or 403.012, Government Code;
1-52 (E) charges for postage spent to serve legal
1-53 process under Section 17.025, Civil Practice and Remedies Code;
1-54 (F) the comptroller involving warrants for which
1-55 payment is barred under Chapter 404, Government Code;
1-56 (G) sales or reimbursements authorized by the
1-57 General Appropriations Act; and
1-58 (H) the sale of property purchased with money
1-59 from the account or a predecessor fund or account.
1-60 SECTION 4. Sections 201.051(a) and (d), Insurance Code, are

2-1 amended to read as follows:

2-2 (a) Except as otherwise provided by this code or another
2-3 insurance law of this state, the comptroller shall administer and
2-4 enforce the provisions of this code and other insurance laws of this
2-5 state that relate to the administration, collection, and reporting
2-6 of taxes and certain fees, surcharges, and assessments imposed
2-7 under this code or another insurance law of this state, as
2-8 specifically provided by this code.

2-9 (d) Subtitles A and B, Title 2, Tax Code, apply to the
2-10 administration, collection, and enforcement by the comptroller of
2-11 taxes and certain fees, surcharges, and assessments under this code
2-12 or another insurance law of this state. Except as otherwise
2-13 provided by this code, the powers granted to the comptroller under
2-14 those provisions of the Tax Code do not limit and are exclusive of
2-15 the powers granted to the department or the commissioner in
2-16 relation to other fees, surcharges, and assessments under this
2-17 code.

2-18 SECTION 5. Section 251.001(a), Insurance Code, is amended
2-19 to read as follows:

2-20 (a) The commissioner shall annually determine the rate of
2-21 assessment of each maintenance tax or workers' compensation
2-22 surcharge imposed under this subtitle.

2-23 SECTION 6. Section 251.002, Insurance Code, is amended to
2-24 read as follows:

2-25 Sec. 251.002. DUTY TO ADVISE COMPTROLLER OF RATE. The
2-26 commissioner shall advise the comptroller of the applicable rate of
2-27 assessment of a maintenance tax or workers' compensation surcharge
2-28 not later than the 45th day before the due date of the tax or
2-29 surcharge report for the period for which that tax or surcharge is
2-30 due.

2-31 SECTION 7. Section 251.003, Insurance Code, is amended to
2-32 read as follows:

2-33 Sec. 251.003. EFFECT OF LATE ADVISEMENT OF
2-34 RATE. (a) Except as provided by Subsection (b), if the
2-35 commissioner does not advise the comptroller of the applicable rate
2-36 of assessment of a maintenance tax or workers' compensation
2-37 surcharge by the date required by Section 251.002, the rate of
2-38 assessment is the rate applied in the previous tax or surcharge
2-39 period.

2-40 (b) If the commissioner advises the comptroller of the
2-41 applicable rate of assessment of a maintenance tax or workers'
2-42 compensation surcharge after the tax or surcharge has been
2-43 assessed, the comptroller shall:

2-44 (1) advise each taxpayer or surcharge payer in writing
2-45 of the amount of any additional taxes or surcharges due; or

2-46 (2) refund any excess taxes or surcharges paid.

2-47 SECTION 8. The heading to Section 251.004, Insurance Code,
2-48 is amended to read as follows:

2-49 Sec. 251.004. DEPOSIT OF MAINTENANCE TAXES AND SURCHARGES.

2-50 SECTION 9. Section 251.004(a), Insurance Code, is amended
2-51 to read as follows:

2-52 (a) Except as provided by Subsection (b), maintenance taxes
2-53 collected under this subtitle and surcharges collected under
2-54 Chapter 255 shall be deposited in the general revenue fund and
2-55 reallocated to the Texas Department of Insurance operating account.

2-56 SECTION 10. Chapter 255, Insurance Code, is amended to read
2-57 as follows:

2-58 CHAPTER 255. WORKERS' COMPENSATION INSURANCE

2-59 Sec. 255.001. SURCHARGE [~~MAINTENANCE TAX~~] IMPOSED. (a) A
2-60 surcharge [~~maintenance tax~~] is imposed on each authorized insurer
2-61 with gross premiums subject to the surcharge [~~taxation~~] under
2-62 Section 255.003, including a:

- 2-63 (1) stock insurance company;
- 2-64 (2) mutual insurance company;
- 2-65 (3) reciprocal or interinsurance exchange; and
- 2-66 (4) Lloyd's plan.

2-67 (b) The surcharge [~~tax~~] required by this chapter is in
2-68 addition to [~~other~~] taxes or other surcharges imposed that are not
2-69 in conflict with this chapter.

3-1 Sec. 255.002. MAXIMUM RATE; ANNUAL ADJUSTMENT. (a) The
 3-2 sum of the rates [~~rate~~] of assessment for the surcharge imposed by
 3-3 this chapter and the surcharges imposed by Chapters 403 and 405,
 3-4 Labor Code, set by the commissioner, may not exceed 2.7 [~~0.6~~]
 3-5 percent of the gross premiums subject to surcharges [~~taxation under~~
 3-6 Section 255.003].

3-7 (b) The commissioner shall annually adjust the rate of
 3-8 assessment of the surcharge [~~maintenance tax~~] so that the surcharge
 3-9 [~~tax~~] imposed that year, together with any unexpended funds
 3-10 produced by the surcharge [~~tax~~], produces the amount the
 3-11 commissioner determines is necessary to pay the expenses during the
 3-12 succeeding year of regulating workers' compensation insurance.

3-13 Sec. 255.003. PREMIUMS SUBJECT TO SURCHARGE [~~TAXATION~~].

3-14 (a) An insurer shall pay the surcharge [~~maintenance taxes~~] under
 3-15 this chapter on the correctly reported gross workers' compensation
 3-16 insurance premiums from writing workers' compensation insurance in
 3-17 this state, including the modified annual premium of a policyholder
 3-18 that purchases an optional deductible plan under Subchapter E,
 3-19 Chapter 2053.

3-20 (b) The rate of assessment for a surcharge shall be applied
 3-21 to the modified annual premium before application of a deductible
 3-22 premium credit.

3-23 Sec. 255.004. SURCHARGE [~~MAINTENANCE TAX~~] DUE DATES. (a)
 3-24 The insurer shall pay the surcharge [~~maintenance tax~~] annually or
 3-25 semiannually.

3-26 (b) The comptroller may require semiannual payment only
 3-27 from an insurer whose surcharge [~~maintenance tax~~] liability under
 3-28 this chapter for the previous surcharge [~~tax~~] year was at least
 3-29 \$2,000.

3-30 Sec. 255.005. RECOVERY OF SURCHARGE. An insurer may
 3-31 recover a surcharge under this chapter by:

3-32 (1) reflecting the surcharge as an expense in a rate
 3-33 filing required under this code; or

3-34 (2) charging the insurer's policyholders.

3-35 SECTION 11. The heading to Section 281.006, Insurance Code,
 3-36 is amended to read as follows:

3-37 Sec. 281.006. TREATMENT OF CERTAIN TAX REDUCTIONS,
 3-38 SURCHARGES, AND CREDITS.

3-39 SECTION 12. Section 281.006, Insurance Code, is amended by
 3-40 adding Subsection (c) to read as follows:

3-41 (c) Notwithstanding Section 281.005(4), a surcharge imposed
 3-42 by Chapter 255 of this code or Chapter 403, 405, 407, or 407A, Labor
 3-43 Code, is considered to be a fee paid in this state for purposes of
 3-44 this chapter.

3-45 SECTION 13. Section 402.076(b), Labor Code, is amended to
 3-46 read as follows:

3-47 (b) The operations of the division under this section are
 3-48 funded through the surcharge [~~maintenance tax~~] assessed under
 3-49 Section 403.002.

3-50 SECTION 14. Section 403.001(a), Labor Code, is amended to
 3-51 read as follows:

3-52 (a) Except as provided by Sections 403.006, 403.007, and
 3-53 403.008, or as otherwise provided by law, money collected under
 3-54 this subtitle, including surcharges and advance deposits for
 3-55 purchase of services, shall be deposited in the general revenue
 3-56 fund of the state treasury to the credit of the Texas Department of
 3-57 Insurance operating account.

3-58 SECTION 15. Section 403.002, Labor Code, is amended to read
 3-59 as follows:

3-60 Sec. 403.002. SURCHARGES [~~MAINTENANCE TAXES~~]. (a) Each
 3-61 insurance carrier, other than a governmental entity, shall pay an
 3-62 annual surcharge [~~maintenance tax~~] to pay the costs of
 3-63 administering this subtitle and to support the prosecution of
 3-64 workers' compensation insurance fraud in this state.

3-65 (b) The rate of assessment is applied to [~~may not exceed an~~
 3-66 amount equal to two percent of] the correctly reported gross
 3-67 workers' compensation insurance premiums, including the modified
 3-68 annual premium of a policyholder that purchases an optional
 3-69 deductible plan under Subchapter E, Chapter 2053 [~~Article 5.55C~~],

Insurance Code. The rate of assessment shall be applied to the modified annual premium before application of a deductible premium credit.

(c) A workers' compensation insurance company is assessed the surcharge ~~[taxed]~~ at the rate established under Section 403.003 and as limited by Section 255.002(a), Insurance Code. The surcharge ~~[tax]~~ shall be collected in the manner provided for collection of other surcharges ~~[taxes]~~ on gross premiums from a workers' compensation insurance company as provided in Chapter 255, Insurance Code.

(d) Each certified self-insurer shall pay a fee and surcharge ~~[maintenance taxes]~~ as provided by Subchapter F, Chapter 407.

SECTION 16. The heading to Section 403.003, Labor Code, is amended to read as follows:

Sec. 403.003. RATE OF SURCHARGE ~~[ASSESSMENT]~~.

SECTION 17. Section 403.003(a), Labor Code, is amended to read as follows:

(a) The commissioner of insurance shall set and certify to the comptroller the rate of the surcharge, ~~[maintenance tax assessment]~~ taking into account:

(1) any expenditure projected as necessary for the division and the office of injured employee counsel to:

(A) administer this subtitle during the fiscal year for which the rate of assessment is set; and

(B) reimburse the general revenue fund as provided by Section 201.052, Insurance Code;

(2) projected employee benefits paid from general revenues;

(3) a surplus or deficit produced by the surcharge ~~[tax]~~ in the preceding year;

(4) revenue recovered from other sources, including reappropriated receipts, grants, payments, fees, gifts, and penalties recovered under this subtitle; and

(5) expenditures projected as necessary to support the prosecution of workers' compensation insurance fraud.

SECTION 18. Section 403.004, Labor Code, is amended to read as follows:

Sec. 403.004. COLLECTION OF SURCHARGE ~~[TAX]~~ AFTER WITHDRAWAL FROM BUSINESS. The commissioner or the commissioner of insurance immediately shall proceed to collect surcharges ~~[taxes]~~ due under this chapter from an insurance carrier that withdraws from business in this state, using legal process as necessary.

SECTION 19. Section 403.005, Labor Code, is amended to read as follows:

Sec. 403.005. SURCHARGE ~~[TAX]~~ RATE. The commissioner of insurance shall annually adjust the rate of assessment of the surcharge ~~[maintenance tax]~~ imposed under Section 403.003 so that the surcharge ~~[tax]~~ imposed that year, together with any unexpended funds produced by the surcharge ~~[tax]~~, produces the amount the commissioner of insurance determines is necessary to pay the expenses of administering this subtitle.

SECTION 20. Chapter 403, Labor Code, is amended by adding Section 403.0055 to read as follows:

Sec. 403.0055. RECOVERY OF SURCHARGE. An insurer may recover a surcharge under this chapter by:

(1) reflecting the surcharge as an expense in a rate filing required under the Insurance Code; or

(2) charging the insurer's policyholders.

SECTION 21. Section 403.007(e), Labor Code, is amended to read as follows:

(e) If the commissioner determines that the funding under Subsection (a) is not adequate to meet the expected obligations of the subsequent injury fund established under Section 403.006, the fund shall be supplemented by the collection of a surcharge ~~[maintenance tax]~~ paid by insurance carriers, other than a governmental entity, as provided by Sections 403.002 and 403.003. The rate of assessment must be adequate to provide 120 percent of the projected unfunded liabilities of the fund for the next

biennium as certified by an independent actuary or financial advisor.

SECTION 22. The heading to Section 405.003, Labor Code, is amended to read as follows:

Sec. 405.003. FUNDING; SURCHARGE AND RECOVERY OF SURCHARGE BY INSURERS [~~MAINTENANCE TAX~~].

SECTION 23. Section 405.003, Labor Code, is amended by amending Subsections (a), (b), (c), and (d) and adding Subsection (g) to read as follows:

(a) The group's duties under this chapter are funded through the assessment of a surcharge [~~maintenance tax~~] collected annually from all insurance carriers, and self-insurance groups that hold certificates of approval under Chapter 407A, except governmental entities.

(b) The department shall set the rate of the surcharge [~~maintenance tax~~] based on the expenditures authorized and the receipts anticipated in legislative appropriations. The surcharge [~~tax~~] rate for insurance companies may not exceed the limitation in Section 255.002(a), Insurance Code. The surcharge rate is applied to [~~may not exceed one-tenth of one percent of~~] the correctly reported gross workers' compensation insurance premiums. The surcharge [~~tax~~] rate for certified self-insurers may not exceed the limitation in Section 255.002(a), Insurance Code. The surcharge rate is applied to [~~may not exceed one-tenth of one percent of~~] the total surcharge [~~tax~~] base of all certified self-insurers, as computed under Section 407.103(b). The surcharge [~~tax~~] rate for self-insurance groups described by Subsection (a) may not exceed the limitation in Section 255.002(a), Insurance Code. The surcharge rate is applied to [~~may not exceed one-tenth of one percent of~~] the group's gross premium for the group's retention, excluding premium collected by the group for excess insurance.

(c) The surcharge [~~tax~~] imposed under Subsection (a) is in addition to all [~~other~~] taxes or other surcharges imposed on those insurance carriers for workers' compensation purposes.

(d) The surcharge [~~tax~~] on insurance companies and on self-insurance groups described by Subsection (a) shall be assessed, collected, and paid in the same manner and at the same time as the surcharge [~~maintenance tax~~] established for the support of the department under Chapter 255, Insurance Code. The surcharge [~~tax~~] on certified self-insurers shall be assessed, collected, and paid in the same manner and at the same time as the self-insurer surcharge [~~maintenance tax~~] collected under Section 407.104.

(g) An insurer may recover a surcharge under this section by:

(1) reflecting the surcharge as an expense in a rate filing required under the Insurance Code; or

(2) charging the insurer's policyholders.

SECTION 24. Section 407.103, Labor Code, is amended to read as follows:

Sec. 407.103. SELF-INSURER SURCHARGE [~~MAINTENANCE TAX~~]; EFFECT ON GENERAL SURCHARGE [~~MAINTENANCE TAX~~]. (a) Each certified self-insurer shall pay a self-insurer surcharge [~~maintenance tax~~] for the administration of the division and the office of injured employee counsel and to support the prosecution of workers' compensation insurance fraud in this state. Not more than two percent of the total surcharge [~~tax~~] base of all certified self-insurers, as computed under Subsection (b), may be assessed for a surcharge [~~maintenance tax~~] under this section.

(b) To determine the surcharge [~~tax~~] base of a certified self-insurer for purposes of this chapter, the department shall multiply the amount of the certified self-insurer's liabilities for workers' compensation claims incurred in the previous year, including claims incurred but not reported, plus the amount of expense incurred by the certified self-insurer in the previous year for administration of self-insurance, including legal costs, by 1.02.

(c) The surcharge [~~tax~~] liability of a certified self-insurer under this section is the surcharge [~~tax~~] base computed under Subsection (b) multiplied by the rate assessed

workers' compensation insurance companies under Sections 403.002 and 403.003, as limited by Section 255.002(a), Insurance Code.

(d) In setting the rate of the surcharge [~~maintenance tax assessment~~] for insurance companies, the commissioner of insurance may not consider revenue or expenditures related to the operation of the self-insurer program under this chapter.

SECTION 25. Section 407.104, Labor Code, is amended to read as follows:

Sec. 407.104. COLLECTION OF SURCHARGES [~~TAXES~~] AND FEES; ADMINISTRATIVE VIOLATION. (a) The regulatory fee imposed by Section 407.102 and the surcharge [~~taxes~~] imposed by Section 407.103 are due on the 60th day after the issuance of a certificate of authority to self-insure and on the 60th day after each annual renewal date.

(b) The department shall compute the fee and surcharge [~~taxes~~] of a certified self-insurer and notify the certified self-insurer of the amounts due. The surcharge [~~taxes~~] and fees shall be remitted to the division.

(c) The regulatory fee imposed under Section 407.102 shall be deposited in the Texas Department of Insurance operating account to the credit of the division. The self-insurer surcharge imposed under Section 407.103 [~~maintenance tax~~] shall be deposited in the Texas Department of Insurance operating account to the credit of the division.

(d) A certified self-insurer commits an administrative violation if the self-insurer does not pay the surcharge [~~taxes~~] and fee imposed under Sections 407.102 and 407.103 in a timely manner.

(e) If the certificate of authority to self-insure of a certified self-insurer is terminated, the commissioner or the commissioner of insurance shall proceed immediately to collect surcharges [~~taxes~~] due under this subtitle, using legal process as necessary.

SECTION 26. Section 407A.252(b), Labor Code, is amended to read as follows:

(b) The commissioner has full access to the records, officers, agents, and employees of a group as necessary to complete an examination under this section. The commissioner may recover the expenses of the examination under Sections 401.151 and 401.152 [~~Article 1.16~~], Insurance Code, to the extent the surcharge [~~maintenance tax~~] under Section 407A.302 does not cover those expenses.

SECTION 27. The heading to Subchapter G, Chapter 407A, Labor Code, is amended to read as follows:

SUBCHAPTER G. TAXES, SURCHARGES [~~FEES~~], AND ASSESSMENTS

SECTION 28. Section 407A.301, Labor Code, is amended to read as follows:

Sec. 407A.301. SURCHARGE [~~MAINTENANCE TAX~~] FOR DIVISION AND RESEARCH FUNCTIONS OF DEPARTMENT. (a) Each group shall pay a self-insurance group surcharge [~~maintenance tax~~] under this section for:

(1) the administration of the division of workers' compensation of the department;

(2) the prosecution of workers' compensation insurance fraud in this state;

(3) the research functions of the department under Chapter 405; and

(4) the administration of the office of injured employee counsel under Chapter 404.

(b) The surcharge [~~tax~~] liability of a group under Subsections (a)(1) and (2) is based on gross premium for that [~~the~~] group's retention multiplied by the rate assessed insurance carriers under Sections 403.002 and 403.003, as limited by Section 255.002(a), Insurance Code.

(c) The surcharge [~~tax~~] liability of a group under Subsection (a)(3) is based on gross premium for the group's retention multiplied by the rate assessed insurance carriers under Section 405.003, as limited by Section 255.002(a), Insurance Code.

(d) The surcharge [~~tax~~] under this section does not apply to

7-1 premium collected by the group for excess insurance.

7-2 (e) The surcharge [~~tax~~] under this section shall be
7-3 collected by the comptroller as provided by Section 201.051 and
7-4 Chapter 255, Insurance Code.

7-5 SECTION 29. Section 407A.302, Labor Code, is amended to
7-6 read as follows:

7-7 Sec. 407A.302. SURCHARGE [~~MAINTENANCE TAX~~] FOR DEPARTMENT.

7-8 (a) Subject to Subsection (b), each group shall pay the surcharge
7-9 [~~maintenance tax~~] imposed under Chapter 255, Insurance Code, for
7-10 the administrative costs incurred by the department in implementing
7-11 this chapter.

7-12 (b) The surcharge owed by [~~tax liability of~~] a group under
7-13 this section is based on gross premium for the group's retention and
7-14 does not include premium collected by the group for excess
7-15 insurance.

7-16 (c) The surcharge owed [~~maintenance tax assessed~~] under
7-17 this section is subject to Chapter 255, Insurance Code, and shall be
7-18 collected by the comptroller in the manner provided by that
7-19 chapter.

7-20 SECTION 30. Section 407A.303, Labor Code, is amended to
7-21 read as follows:

7-22 Sec. 407A.303. COLLECTION AND PAYMENT OF SURCHARGES
7-23 [~~TAXES~~]. (a) The group shall remit the surcharges [~~taxes~~] for
7-24 deposit in the Texas Department of Insurance operating account to
7-25 the credit of the division.

7-26 (b) A group commits an administrative violation if the group
7-27 does not pay the surcharges [~~taxes~~] imposed under Sections 407A.301
7-28 and 407A.302 in a timely manner.

7-29 (c) If the certificate of approval of a group is terminated,
7-30 the commissioner or the commissioner of insurance shall immediately
7-31 notify the comptroller to collect surcharges [~~taxes~~] as directed
7-32 under Sections 407A.301 and 407A.302.

7-33 SECTION 31. The changes in law made by this Act relating to
7-34 surcharges on gross workers' compensation premiums or certified
7-35 self-insurers' liabilities and expenses apply only to the gross
7-36 annual premiums reported or liabilities and expenses incurred for
7-37 an annual period beginning on or after the effective date of this
7-38 Act. Maintenance taxes imposed on gross annual workers'
7-39 compensation premiums or liabilities and expenses before the
7-40 effective date of this Act are governed by the law as it existed
7-41 before the effective date of this Act, and the former law is
7-42 continued in effect for that purpose.

7-43 SECTION 32. This Act takes effect January 1, 2026.

7-44 * * * * *