

28 TAC §147.10.

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) proposes to amend the title of 28 TAC §147.10, concerning commutation of impairment income benefits. Section 147.10 implements Labor Code §408.128.

EXPLANATION. The amendment corrects an inadvertent duplication in the title of §147.10. The recent proposal amending Chapter 147, which was published in the April 5, 2024, issue of the *Texas Register* (49 TexReg 2165) reorganized the chapter to make it easier to understand and use. In that proposal, the title of §147.10 was inadvertently renamed to duplicate the title of §147.11. Amending §147.10 is necessary to correct the title of §147.10 to Commutation of Impairment Income Benefits to better describe its purpose.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Deputy Commissioner Allen Craddock has determined that during each year of the first five years the proposed amendment is in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the section, other than that imposed by the statute. This determination was made because the proposed amendment does not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendment.

Dr. Craddock does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendment is in effect, Dr. Craddock expects that enforcing and administering the proposed amendment will have the public benefit of having a section title that better describes the purpose of §147.10.

Dr. Craddock expects that the proposed amendment will not increase the cost to comply with Labor Code §408.128 because it does not impose requirements beyond those in the statute and does not create obligations beyond those in the current rule. Labor Code §408.128 allows an employee to elect to commute the remainder of their entitled impairment income benefits if the employee has returned to work for at least three months, earning at least 80% of the employee's average weekly wage. Section 147.10 prescribes the form and manner in which an employee may request to commute their impairment income benefits, and an insurance carrier may respond. Correcting the name of the section to better describe its purpose increases efficiency and clarity, and does not impose any additional cost.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. DWC has determined that the proposed amendment will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities because the proposed amendment corrects the title of §147.10 only. The proposed amendment does not change the people the rule affects or impose additional costs. As a result, and in accordance with Government Code §2006.002(c), DWC is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. DWC has determined that this proposal does not impose a possible cost on regulated persons. As

a result, no additional rule amendments are required under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. DWC has determined that for each year of the first five years that the proposed amendment is in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

DWC made these determinations because the proposed amendment simply changes the title of §147.10 to better describe its purpose. The proposed amendment does not change the people the rule affects or impose additional costs.

TAKINGS IMPACT ASSESSMENT. DWC has determined that no private real property interests are affected by this proposal, and this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. DWC will consider any written comments on the proposal that DWC receives no later than 5:00 p.m., Central time, on September 23, 2024. Send your comments to RuleComments@tdi.texas.gov; or to Texas Department of Insurance, Division of Workers' Compensation, Legal Services, MC-LS, P.O. Box 12050, Austin, TX 78711-2050.

To request a public hearing on the proposal, submit a request before the end of the comment period to RuleComments@tdi.texas.gov; or to Texas Department of Insurance, Division of Workers' Compensation, Legal Services, MC-LS, P.O. Box 12050, Austin, TX 78711-2050. The request for a public hearing must be separate from any comments. If DWC holds a public hearing, it will consider written and oral comments presented at the hearing.

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STATUTORY AUTHORITY. DWC proposes §147.10 under Labor Code §§408.128, 402.00111, 402.00116, and 402.061.

Labor Code §408.128 allows an employee to elect to commute the remainder of their entitled impairment income benefits if the employee has returned to work for at least three months, earning at least 80% of the employee's average weekly wage.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

CROSS-REFERENCE TO STATUTE. Section 147.10 implements Labor Code §408.128, enacted by House Bill 752, 73rd Legislature, Regular Session (1993).

TEXT.

§147.10. Commutation of Impairment Income Benefits [~~Notification to the Division of Proposed Judgments and Settlements~~].

(a) - (c) (No change.)

CERTIFICATION. The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Issued in Austin, Texas, on August 7, 2024.



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