

BILL ANALYSIS

Senate Research Center

H.B. 145
By: Solomons (Fraser)
State Affairs
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Engrossed

DIGEST AND PURPOSE

Under current law, a claimant may sue an insurance carrier to enforce compliance with a final order or decision rendered by the Texas Workers' Compensation Commission (TWCC). Current law also provides for an administrative penalty for failure to comply with an order from TWCC. These provisions may not be effective due to delays and litigation costs the claimant incurs and the lack of enforcement by the court system. Despite being authorized to issue interlocutory orders by the 76th Legislature, TWCC's authority may have been limited due to the language of the law. H.B. 145 clarifies TWCC's authority to enforce its orders.

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 410.208, Labor Code, as follows:

Sec. 410.208. JUDICIAL ENFORCEMENT OF ORDER OR DECISION;
ADMINISTRATIVE VIOLATION. (a) Authorizes the Texas Workers' Compensation Commission (TWCC) to bring suit in Travis County to enforce the order or decision, if a person refuses or fails to comply with an interlocutory order, final order, or decision of TWCC.

(b) Creates this subsection from existing text to authorize a claimant, if an insurance carrier refuses or fails to comply with an interlocutory order, a final order, or a decision of TWCC, to bring suit in the county of the claimant's residence or the county in which the injury occurred to enforce the order or decision.

(c) Provides that if TWCC brings suit to enforce an interlocutory order, final order, or decision of TWCC, TWCC is entitled to reasonable attorney's fees and costs for the prosecution and collection of the claim, in addition to a judgment enforcing the order or decision and any other remedy provided by law.

(d) Redesignated from Subsection (b). Provides that a claimant who brings suit to enforce an interlocutory order, final order, or decision of TWCC is entitled to a penalty equal to 12 percent of the amount of benefits recovered in the judgment, interest, and reasonable attorney's fees for the prosecution and collection of the claim, in addition to a judgment enforcing the order or decision.

(e) Redesignated from Subsection (c) to provide that a person commits a violation if the person fails or refuses to comply with an interlocutory order, final order, or decision of TWCC within 20 days after the date the order or decision becomes final.

SECTION 2. Amends Section 410.253, Labor Code, as follows:

Sec. 410.253. New heading: SERVICE; NOTICE. (a) Requires a party seeking judicial review to simultaneously:

- (1) file a copy of the party's petition with the court;
- (2) serve any opposing party to the suit; and
- (3) provide written notice of the suit or notice of appeal to TWCC.

(b) Prohibits a party from seeking judicial review under Section 410.251 unless the party has provided written notice of the suit to TWCC as required by this section.

SECTION 3. Amends Section 410.256(f), Labor Code, to provide that settlement of a claim or issue under this section does not constitute a modification or reversal of the decision awarding benefits for the purpose of Section 410.209, rather than 410.205. Deletes a reference to appeals panel.

SECTION 4. Amends Section 410.257(e), Labor Code, to make conforming changes.

SECTION 5. (a) Effective date: September 1, 2003.

(b) Makes application of this Act prospective.