

BILL ANALYSIS

Senate Research Center

S.B. 820
By: Fraser
State Affairs
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Enrolled

DIGEST AND PURPOSE

Under current law, an employee assigned an impairment rating under the workers' compensation system is not limited by any deadline to dispute an assessment of maximum medical improvement or impairment rating. This is the result of a court ruling in the case of *Fulton v. Associated Indemnity Corp.*, which invalidated a rule requiring injured workers and insurance carriers to dispute an impairment rating within 90 days or have the rating become final. In that case, the court ruled that the rule had no statutory basis. S.B. 820 makes an impairment rating assigned to an employee under the workers' compensation system final if the employee does not appeal that rating within 90 days.

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 408.123, Labor Code, by adding Subsections (d) through (g), as follows:

(d) Provides that an employee's first valid certification of maximum medical improvement and first valid assignment of an impairment rating is final if the certification or assignment is not disputed before the 91st day after the date written notification of the certification or assignment is provided to the employee and the carrier by verifiable means, except as otherwise provided by this section.

(e) Authorizes an employee's first certification of maximum medical improvement or assignment of an impairment rating to be disputed after the period described by Subsection (d) under certain circumstances.

(f) Provides that if an employee has not been certified as having reached maximum medical improvement before the expiration of 104 weeks after the date income benefits begin to accrue or the expiration date of any extension of benefits under Section 408.104, the impairment rating assigned after the expiration of either of those periods is final if the impairment rating is not disputed before the 91st day after the date written notification of the certification or assignment is provided to the employee and the carrier by verifiable means. Authorizes a certification or assignment to be disputed after the 90th day only as provided by Subsection (e).

(g) Provides that if an employee's disputed certification of maximum medical improvement or assignment of impairment rating is finally modified, overturned, or withdrawn, the first certification or assignment made after the date of the modification, overturning, or withdrawal becomes final if the certification or assignment is not disputed before the 91st day after the date notification of the certification or assignment is provided to the employee and the carrier by verifiable means. Authorizes a certification or assignment to be disputed after the 90th day only as provided by Subsection (e).

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2003.