

BILL ANALYSIS

S.B. 378
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Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law requires an injured employee to be medically examined by a doctor designated by the division of workers' compensation at the Texas Department of Insurance to fully determine the cause, effect, and extent of compensable injury. The doctor's analysis of the injury determines whether the insurance carrier is required to pay benefits to the injured employee, unless contrary evidence is presented. An insurance carrier can challenge the doctor's opinions, but an injured employee cannot obtain a second medical opinion regarding the cause and effects of the injury. Additional opinions could reduce the probability of error in the determination of the nature of an injury.

S.B. 378 authorizes an injured employee to seek a second doctor's opinion if the employee is not satisfied with the opinion of the designated doctor and requires the insurance carrier to pay for the examination.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 378 amends the Labor Code to allow an employee required to be examined by a designated doctor under the workers' compensation system to request a medical examination from the treating doctor or from another doctor to whom an employee is referred by the treating doctor to determine any issue a designated doctor is authorized to review if the designated doctor's opinion is the employee's first medical examination to resolve an issue regarding the impairment caused by the compensable injury, the attainment of maximum medical improvement, the extent of the injury, whether the disability is a direct result of the work-related injury, the employee's ability to return to work, or a similar issue, and the employee is not satisfied with the designated doctor's opinion. The bill requires the commissioner of workers' compensation to provide the insurance carrier and the employee with reasonable time to obtain and present the opinion of a doctor selected by the carrier or employee before the commissioner makes a decision on the merits of the issue. The bill includes an examination requested in accordance with these provisions in the examinations for which an insurance carrier is required to pay.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.