

BILL ANALYSIS

C.S.H.B. 1870
By: Giddings
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, the period for appealing most administrative decisions in district court generally is 30 days. Until recently, however, an injured employee appealing an administrative decision regarding income benefits under the state's workers' compensation law had 40 days to file an appeal. Recent legislation increased the time frame in which to appeal income benefit administrative decisions from 40 to 45 days with the expectation that giving an injured employee more time to find an attorney to represent the employee in district court would decrease the incidence of default judgments against injured employees who could not find such legal representation.

C.S.H.B. 1870 seeks to establish a clear and uniform time frame to file an appeal in district court, regardless of the workers' compensation benefits at issue, including medical as well as income benefits.

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

C.S.H.B. 1870 amends Labor Code provisions relating to the Texas Workers' Compensation Act to require a party that has exhausted its administrative remedies under the act and is seeking judicial review of a hearing officer's final decision in a contested case hearing regarding certain medical disputes to file suit not later than the 45th day after the date on which the division of workers' compensation of the Texas Department of Insurance mailed the party the hearing officer's decision. The bill specifies that, for purposes of this requirement, the mailing date is considered to be the fifth day after the date the hearing officer's decision was filed with the division.

C.S.H.B. 1870 makes a technical correction conforming a reference to the period in which a suit seeking judicial review in cases other than a medical dispute is initially filed to the actual period otherwise specified in statute.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1870 differs from the original by requiring, rather than authorizing, as in the original, a party that has exhausted its administrative remedies under the Texas Workers' Compensation Act and is seeking judicial review of a hearing officer's final decision in a contested case hearing regarding certain medical disputes to file suit not later than the 45th day after the date on which

the division of workers' compensation of the Texas Department of Insurance mailed the party the hearing officer's decision.

C.S.H.B. 1870 omits provisions included in the original requiring the party bringing suit to appeal the decision to file a petition with the appropriate court in specified counties under certain conditions; requiring a court, if a suit seeking judicial review of a medical dispute is filed in a county other than the appropriate county, to transfer the case to a proper court under certain conditions; requiring notice of the transfer to be given to the parties; requiring a suit transferred to be considered for all purposes the same as if originally filed in the court to which it is transferred; and establishing that a suit is considered to be timely filed in the court to which it is transferred if the suit is initially filed within the 45-day period and then transferred.

C.S.H.B. 1870 differs from the original in nonsubstantive ways.