

## **BILL ANALYSIS**

Senate Research Center  
82R20971 JSC-F

C.S.S.B. 511  
By: Van de Putte  
State Affairs  
4/11/2011  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, an injured employee has a medical examination by a designated doctor in order to fully determine the causes, effects, and extent of the compensable injury. This medical examination is performed by a doctor chosen by the workers' compensation division of the Texas Department of Insurance. Unless contrary evidence is presented, this designated doctor's analysis of the injury determines whether the insurance carrier should pay benefits to the injured employee.

An insurance carrier can challenge the opinions of the designated doctor; however, no such provision exists for the injured employee. C.S.S.B. 511 will allow an injured employee to seek the opinion of a second doctor if the employee is not satisfied by the opinion of the first designated doctor. A plurality of opinions would reduce the chance of error in the determination of the nature of the injury.

C.S.S.B. 511 amends current law relating to the designated doctor's examination under the workers' compensation system.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of workers' compensation in SECTION 1 (Section 408.0041, Labor Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 408.0041, Labor Code, by adding Subsections (f-2), (f-3), and (f-4) and amending Subsection (h), as follows:

(f-2) Authorizes an employee required to be examined by a designated doctor to request a medical examination to determine maximum medical improvement and the employee's impairment rating from the treating doctor from another doctor to whom the employee is referred by the treating doctor if:

(1) the designated doctor's opinion is the employee's first evaluation of maximum medical improvement and impairment rating; and

(2) the employee is not satisfied with the designated doctor's opinion.

(f-3) Requires the commissioner of workers' compensation (commissioner) to provide the insurance carrier and the employee with reasonable time to obtain and present the opinion of a doctor selected under Subsection (f) (relating to requiring the insurance carrier to pay benefits based on the opinion of the designated doctor during the pendency of any dispute) or (f-2) before the commissioner makes a decision on the merits of the issue.

(f-4) Requires the commissioner by rule to adopt guidelines prescribing the circumstances under which an examination by the employee's treating doctor or another doctor to whom the employee is referred by the treating doctor to determine any issue under Subsection (a), other than an examination under Subsection (f-2), may be appropriate.

(h) Requires the insurance carrier to pay for an examination required under Subsection (a), (f), or (f-2), unless otherwise prohibited by this subtitle or by an order or rule of the commissioner, and the reasonable expenses incident to the employee in submitting to the examination. Makes a nonsubstantive change.

SECTION 2. Effective date: upon passage or September 1, 2011.