

## **BILL ANALYSIS**

Senate Research Center

S.B. 809  
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State Affairs  
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Enrolled

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

There is a conflict in current law relating to timeframes within which administrative decisions must be appealed to a district court.

H.B. 724, 80th Legislature, Regular Session, 2007, reintroduced an administrative hearing process to resolve workers' compensation disputes regarding medical benefits; however, the new legislation did not adequately provide for a timeframe to appeal administrative decisions regarding medical benefits to district court. As such, in 2008, the Austin Court of Appeals in *Hartford Inc. Co v. Crain* held that parties had 40 days, rather than 30 days as established in Chapter 2001 (Administrative Procedure), Government Code, to appeal an administrative medical dispute decision into a district court. The court of appeals held that the 40-day judicial review deadline for challenging an appeals panel decision, expressly stated in Section 410.252 (Time for Filing Petition; Venue), Labor Code, applies to medical disputes, not just indemnity disputes, and trumps the 30-day time frame set out in the Government Code.

Subsequent to the *Hartford* decision, H.B. 4545, 81st Legislature, Regular Session, 2009, amended the timeframe in Section 410.252, Labor Code, to appeal income benefit administrative decisions from 40 to 45 days to give injured employees more time to find attorney representation, in hopes that default judgments against injured employees who could not find legal representation would decrease. Unfortunately, H.B. 4545 failed to address or offer a codified timeframe for parties appealing medical disputes in district court.

S.B. 809 amends Chapter 413 (Medical Review), Labor Code, to give a party the same timeframe to appeal an administrative medical dispute decision as an indemnity dispute decision. Specifically, a party should be provided 45 days to appeal a medical dispute decision into district court. This change benefits all workers' compensation system participants by establishing a clear timeframe to file an appeal in district court, regardless of the workers' compensation benefits at issue.

S.B. 809 amends current law relating to adjudication of certain workers' compensation disputes, including judicial review in district court.

### **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 410.252(d), Labor Code, to provide that if a suit is initially filed within the 45-day period, rather than 40-day period, in Subsection (a) (relating to seeking judicial review), and is transferred under Subsection (c) (relating to transferring a case to a proper court), the suit is considered to be timely filed in the court to which it is transferred.

SECTION 2. Amends Section 413.031(k-1), Labor Code, as follows:

(k-1) Authorizes a party who has exhausted all administrative remedies described by Subsection (k) (relating to a hearing for certain medical disputes) and who is aggrieved

by a final decision of the division or the State Office of Administrative Hearings (SOAH) to seek judicial review of the decision. Requires that judicial review under this subsection be conducted in the manner provided for judicial review of a contested case under Subchapter G (Contested Cases: Judicial Review), Chapter 2001, Government Code, except that in the case of a medical fee dispute the party seeking judicial review under this section is required to file suit not later than the 45th day after the date on which SOAH mailed the party the notification of the decision. Provides that for purposes of this subsection, the mailing date is considered to be the fifth day after the date the decision was issued by SOAH.

SECTION 3. Amends Section 413.0311(d), Labor Code, as follows:

(d) Requires that judicial review under this subsection be conducted in the manner provided for judicial review of a contested case under Subchapter G, Chapter 2001, Government Code, except that the party seeking judicial review under this section is required 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 (TDI) mailed the party the decision of the hearings officer. Provides that, for purposes of this subsection, the mailing date is considered to be the fifth day after the date the decision of the hearings officer was filed with the division.

SECTION 4. Amends Section 1305.103(c), Insurance Code, to authorize an issue regarding whether a carrier properly provided an employee the information required by this subsection to be resolved using the process for adjudication of disputes under Chapter 410 (Adjudication of Disputes), Labor Code, as used by TDI's division of workers' compensation.

SECTION 5. Amends Section 1305.451, Insurance Code, by adding Subsection (e) to authorize an issue regarding whether an employer properly provided an employee with the information required by this section to be resolved using the process for adjudication of disputes under Chapter 410, Labor Code, as used by TDI's division of workers' compensation.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 2011.