

By: Taylor of Galveston

H.B. No. 1774

Substitute the following for H.B. No. 1774:

By: Cook

C.S.H.B. No. 1774

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the office of injured employee counsel under the workers' compensation program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 404.003, Labor Code, is amended to read as follows:

Sec. 404.003. SUNSET PROVISION. The office of injured employee counsel is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished and this chapter expires September 1, 2017 [~~2011~~].

SECTION 2. Subchapter A, Chapter 404, Labor Code, is amended by adding Sections 404.007 and 404.008 to read as follows:

Sec. 404.007. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The office shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of office rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the office's jurisdiction.

(b) The office's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model

1 guidelines issued by the State Office of Administrative Hearings  
2 for the use of alternative dispute resolution by state agencies.

3 (c) The office shall:

4 (1) coordinate the implementation of the policy  
5 adopted under Subsection (a);

6 (2) provide training as needed to implement the  
7 procedures for negotiated rulemaking or alternative dispute  
8 resolution; and

9 (3) collect data concerning the effectiveness of those  
10 procedures.

11 (d) The office's alternative dispute resolution policy does  
12 not affect the manner in which the office participates in the  
13 division's administrative dispute resolution process or the  
14 department's alternative dispute resolution process through the  
15 office's administrative attachment to the department.

16 Sec. 404.008. COMPLAINTS. (a) The office shall maintain a  
17 system to promptly and efficiently act on complaints filed with the  
18 office. The office shall maintain information about parties to the  
19 complaint, the subject matter of the complaint, a summary of the  
20 results of the review or investigation of the complaint, and its  
21 disposition.

22 (b) The office shall make information available describing  
23 its procedures for complaint investigation and resolution.

24 (c) The office shall periodically notify the complaint  
25 parties of the status of the complaint until final disposition.

26 SECTION 3. Section 404.111(a), Labor Code, is amended to  
27 read as follows:

1           (a) When assisting an injured employee, the office is  
2 entitled to the same access to information related to the  
3 employee's injury and workers' compensation claim as the employee  
4 or any other party to the claim. [~~Except as otherwise provided by~~  
5 ~~this section, the office may access information from an executive~~  
6 ~~agency that is otherwise confidential under a law of this state if~~  
7 ~~that information is necessary for the performance of the duties of~~  
8 ~~the office, including information made confidential under Section~~  
9 ~~402.091.~~]

10           SECTION 4. Section 402.082(b), Labor Code, is amended to  
11 read as follows:

12           (b) On request from the office of injured employee counsel,  
13 the [The] division shall provide [information maintained under  
14 Subsection (a)] to the office the identity, claim number, and  
15 contact information of claimants receiving assistance from the  
16 office [of injured employee counsel]. [~~The confidentiality~~  
17 ~~requirements imposed under Section 402.083 apply to injury~~  
18 ~~information maintained by the division.~~]

19           SECTION 5. Section 402.085(a), Labor Code, is amended to  
20 read as follows:

21           (a) The division shall release information on a claim to:  
22               (1) the Texas Department of Insurance for any  
23 statutory or regulatory purpose, including a research purpose under  
24 Chapter 405;  
25               (2) a legislative committee for legislative purposes;  
26               (3) a state or federal elected official requested in  
27 writing to provide assistance by a constituent who qualifies to

1 obtain injury information under Section 402.084(b), if the request  
2 for assistance is provided to the division;

3 (4) the attorney general or another entity that  
4 provides child support services under Part D, Title IV, Social  
5 Security Act (42 U.S.C. Section 651 et seq.), relating to:

6 (A) establishing, modifying, or enforcing a  
7 child support or medical support obligation; or

8 (B) locating an absent parent; or

9 (5) the office of injured employee counsel for any  
10 statutory or regulatory purpose that relates to a duty of that  
11 office as provided by Section 404.111(a).

12 SECTION 6. Section 404.106(a), Labor Code, is amended to  
13 read as follows:

14 (a) The office shall report to the governor, lieutenant  
15 governor, speaker of the house of representatives, and the chairs  
16 of the legislative committees with appropriate jurisdiction not  
17 later than January 1 [~~December 1~~] of each odd-numbered  
18 [~~even-numbered~~] year. The report must include:

19 (1) a description of the activities of the office;

20 (2) identification of any problems in the workers'  
21 compensation system from the perspective of injured employees as a  
22 class, as considered by the public counsel, with recommendations  
23 for regulatory and legislative action; and

24 (3) an analysis of the ability of the workers'  
25 compensation system to provide adequate, equitable, and timely  
26 benefits to injured employees at a reasonable cost to employers.

27 SECTION 7. Section 404.111(d), Labor Code, is repealed.

1           SECTION 8. The changes in law made by this Act to Sections  
2 402.082(b), 402.085(a), and 404.111, Labor Code, apply to a claim  
3 for workers' compensation benefits based on a compensable injury  
4 regardless of whether the injury occurred before, on, or after the  
5 effective date of this Act.

6           SECTION 9. This Act takes effect September 1, 2011.