

By: Giddings

H.B. No. 1870

A BILL TO BE ENTITLED

AN ACT

1
2 relating to judicial review in district court of certain workers'
3 compensation disputes.

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

5 SECTION 1. Section 410.252(d), Labor Code, is amended to
6 read as follows:

7 (d) If a suit is initially filed within the 45-day [~~40-day~~]
8 period in Subsection (a), and is transferred under Subsection (c),
9 the suit is considered to be timely filed in the court to which it is
10 transferred.

11 SECTION 2. Section 413.0311(d), Labor Code, is amended to
12 read as follows:

13 (d) A party who has exhausted all administrative remedies
14 under Section 413.031 and this section and who is aggrieved by a
15 final decision of the hearings officer under Subsection (c) may
16 seek judicial review of the decision. Except as provided by
17 Section 413.0312, judicial [~~Judicial~~] review under this subsection
18 shall be conducted in the manner provided for judicial review of a
19 contested case under Subchapter G, Chapter 2001, Government Code.

20 SECTION 3. Subchapter C, Chapter 413, Labor Code, is
21 amended by adding Section 413.0312 to read as follows:

22 Sec. 413.0312. JUDICIAL REVIEW OF CERTAIN MEDICAL DISPUTES:
23 TIME FOR FILING PETITION; VENUE. (a) A party may seek judicial
24 review of a final decision of a hearings officer in a contested case

1 hearing under Section 413.0311 by filing suit not later than the
2 45th day after the date on which the division mailed the party the
3 decision of the hearings officer. For purposes of this section,
4 the mailing date is considered to be the fifth day after the date
5 the decision of the hearings officer was filed with the division.

6 (b) The party bringing suit to appeal the decision must file
7 a petition with the appropriate court:

8 (1) in the county where the employee resided at the
9 time of the injury or death, if the employee is deceased; or

10 (2) in the case of an occupational disease, in the
11 county where the employee resided on the date disability began or
12 any county agreed to by the parties.

13 (c) If a suit under this section is filed in a county other
14 than the county described by Subsection (b), the court, on
15 determining that it does not have jurisdiction to render judgment
16 on the merits of the suit, shall transfer the case to a proper court
17 in a county described by Subsection (b). Notice of the transfer of
18 a suit shall be given to the parties. A suit transferred under this
19 subsection shall be considered for all purposes the same as if
20 originally filed in the court to which it is transferred.

21 (d) If a suit is initially filed within the 45-day period in
22 Subsection (a), and is transferred under Subsection (c), the suit
23 is considered to be timely filed in the court to which it is
24 transferred.

25 SECTION 4. The change in law made by this Act applies only
26 to a suit for judicial review filed on or after the effective date
27 of this Act. A suit for judicial review filed before the effective

1 date of this Act is covered by the law as it existed on the date the
2 suit was filed, and the former law is continued in effect for that
3 purpose.

4 SECTION 5. This Act takes effect September 1, 2011.