

## **BILL ANALYSIS**

Senate Research Center  
85R5419 JSC-F

S.B. 876  
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Business & Commerce  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Workers' compensation claim disputes are first addressed through the Texas Department of Insurance, Division of Workers' Compensation (DWC) dispute resolution process, which consists of a benefit review conference, a contested case hearing, and a review by the appeals panel. If a party disagrees with the agency's decision, it may seek judicial review in district court.

Section 410.253, Labor Code, requires a party to provide "written notice of the suit or notice of appeal" to DWC and authorizes DWC to intervene in any judicial review proceeding (Section 410.254, Labor Code). However, the form and substance of the required "written notice" is not defined. This leads to DWC often having no opportunity, or only a limited opportunity, to discern why the petitioner disagrees with DWC's appeals' panel decision.

Once a petition for judicial review has been filed in district court there are several possible outcomes, including settlement, a default judgment, a summary judgment, an agreed judgment, or judgment after trial on the merits. Current statute (Section 410.258, Labor Code) requires that any proposed judgment or settlement made by the parties, be filed with DWC 30 days prior to the date the court is scheduled to enter the judgment or approve the settlement. This allows DWC to review proposed judgments to ensure that they comply with the law. However, some proposed settlements or judgments filed with DWC contain generic language that describe what is being resolved at a high level, but the terms and conditions of the agreement or settlement appear to be intentionally ambiguous or remain undisclosed. As a result, it is often extremely difficult for DWC to review proposed judgments and settlements for compliance with the law and to monitor the quality of appeals panel decisions by tracking the outcome of those appeals.

S.B. 876 amends Section 410.253, Labor Code, to clarify that a party seeking judicial review of a DWC appeals panel decision shall provide DWC with a copy of the party's petition that has been filed with district court. This clarification will ensure that DWC does not receive a generic notice of appeal.

S.B. 876 also amends Section 410.258, Labor Code, to clarify that a party's duty to file any proposed judgment or settlement with DWC includes all proposed judgments and settlements to be entered after summary proceedings, hearings or trial, and any other judgments on the merits, and that any proposed judgments filed with DWC set forth the precise terms of the settlement or agreement.

As proposed, S.B. 876 amends current law relating to service and filing requirements for a party seeking judicial review in certain workers' compensation cases.

### **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 410.253, Labor Code, as follows:

Sec. 410.253. New heading: SERVICE. (a) Requires a party seeking judicial review to simultaneously take certain actions, including providing a copy of the party's petition, rather than a written notice of the suit or notice of appeal, to the Division of Worker's Compensation of the Texas Department of Insurance (DWC).

(b) Prohibits a party from seeking judicial review under Section 410.251 (Exhaustion of Remedies) unless the party has provided the copy of the petition to DWC under Subsection (a)(3), rather than unless the party has provided written notice of the suit to DWC as required by this section.

SECTION 2. Amends Section 410.258, Labor Code, by amending Subsection (a) and adding Subsections (a-1), (a-2), and (a-3), as follows:

(a) Requires the party who initiated the proceeding under this subchapter (Judicial Review-General Provisions) or Subchapter G (Judicial Review of Issues Regarding Compensability or Income or Death Benefits) to file any proposed judgment or settlement, including a proposed default judgment or proposed agreed judgment, rather than to file any proposed judgment or settlement made by the parties to the proceeding, including a proposed default judgment, with DWC by a certain date.

(a-1) Requires the party to also file with DWC at the time of filing the proposed settlement or proposed agreed judgment a separate document that fully describes the terms of the proposed settlement or proposed agreed judgment, if the terms of the proposed settlement or proposed agreed judgment, including all payments to be made, are not described in the proposed settlement or proposed agreed judgment.

(a-2) Requires the proposed settlement or proposed agreed judgment and any separate document described by Subsection (a-1), rather than the proposed judgment or settlement, to be mailed to DWC by certified mail, return receipt requested.

(a-3) Provides that the separate document filed with DWC under Subsection (a-1) is not subject to disclosure under Chapter 552 (Public Information), Government Code.

SECTION 3. Makes application of Section 410.253, Labor Code, as amended by this Act, prospective.

SECTION 4. Makes application of Section 410.258, Labor Code, as amended by this Act, prospective.

SECTION 5. Effective date: September 1, 2017.