

## **BILL ANALYSIS**

Senate Research Center

H.B. 3137  
By: Solomons (Armbrister)  
Economic Development  
5-12-97  
Engrossed

### **DIGEST**

Chapter 410 of the Labor Code currently allows insurance carriers engaged in a workers' compensation lawsuit to settle their case and then claim that the settlement agreement reverses or modifies an appeals panel decision awarding benefits. Carriers also use judgments based on default or on an agreement of the parties to accomplish the same end. Additionally, carriers sometimes attempt to use these settlement agreements and judgments to seek reimbursement through the Subsequent Injury Fund for any benefits they may have provided to a claimant. This proposed legislation prevents both of these practices. It also applies some of the Section 410.256 requirements with regard to court approval of settlements to a new Section 410.257 on court approval of judgments. Finally, this proposed legislation would make any judgment entered or settlement approved without complying with Sections 410.256, 410.257, or 410.258 void. This places the burden of compliance with these provisions on the litigating parties rather than the Texas Workers' Compensation Commission (commission).

H.B. 3137 would prevent the use of settlement agreements, and judgments based on default or on an agreement of the parties, to overturn appeals panel decisions. H.B. 3137 would also prevent carriers from using these types of judgments and settlements to seek reimbursement from the subsequent injury fund for benefit payments made to a claimant. This bill ensures that the commission has notice and an opportunity to intervene in a workers' compensation lawsuit to explain why a judgment or settlement should not be approved by a court.

### **PURPOSE**

As proposed, H.B. 3137 prevents the use of settlement agreements, and judgments based on default or on an agreement of the parties, to overturn appeals panel decisions. H.B. 3137 also prevents carriers from using these types of judgments and settlements to seek reimbursement from the subsequent injury fund for benefit payments made to a claimant. H.B. 3137 also ensures that the Texas Workers' Compensation Commission has notice and an opportunity to intervene in a workers' compensation lawsuit to explain why a judgment or settlement should not be approved by a court.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 410.256, Labor Code, to prohibit a claim or issue from being settled contrary to the provisions of an appeals panel decision issued on the claim or issue unless a party to the proceeding has filed for judicial review under this subchapter or Subchapter G. Provides that settlement of a claim or issue under this section does not constitute a modification or reversal of the appeals panel decision awarding benefits for the purpose of Section 410.205. Requires settlement of a claim or issue to be in compliance with all appropriate provisions of the law, including this section and Section 410.259 of this subchapter. Provides that a settlement which on its face does not comply with this section is void. Makes conforming changes.

SECTION 2. Amends Chapter 410F, Labor Code, by adding Sections 410.257 and 410.258, as follows:

Sec. 410.257. JUDGMENT AFTER JUDICIAL REVIEW. Requires a judgment entered by a court on judicial review of an appeals panel decision under this subchapter or Subchapter G to comply with all appropriate provisions of the law. Prohibits a judgment under this section from providing for certain payment or limitation or termination. Prohibits a judgment that resolves an issue of impairment from being entered before the date the claimant reaches maximum medical improvement. Requires the judgment to adopt an impairment rating under Chapter 408G, except to the extent Section 410.307 applies. Prohibits a judgment under this section from ordering reimbursement from the subsequent injury fund. Provides that a judgment under this section based on default or on an agreement of the parties does not constitute a modification or reversal of an appeals panel decision awarding benefits for the purpose of Section 410.205. Provides that a judgment that on its face does not comply with this section is void.

Sec. 410.258. NOTIFICATION OF COMMISSION OF PROPOSED JUDGMENTS AND SETTLEMENTS; RIGHT TO INTERVENE. Sets forth requirements regarding the party who initiated a proceeding under this subchapter or Subchapter G. Sets forth provisions regarding the proposed judgment or settlement. Authorizes the Texas Workers' Compensation Commission (commission) to intervene in a proceeding under Subsection (a) not later than the 30th day after the date of receipt of the proposed judgment or settlement. Sets forth requirements and provisions for the commission regarding review of the proposed judgment or settlement. Sets forth provisions applicable if the commission does not intervene before the 31st day after the date of receipt of the proposed judgment or settlement. Sets forth provisions applicable if the commission intervenes in the proceeding. Provides that a judgment entered or settlement approved without complying with the requirements of this section is void.

SECTION 3. Effective date: September 1, 1997.  
Makes application of this Act prospective.

SECTION 4. Emergency clause.  
Effective date: upon passage.