

## **BILL ANALYSIS**

Senate Research Center  
85R5419 JSC-F

H.B. 2061  
By: Oliveira (Hancock)  
Business & Commerce  
5/5/2017  
Engrossed

### **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 thirty 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 describes 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.

H.B. 2061 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.

H.B. 2061 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 judgements on the merits, and that any proposed judgements filed with DWC set forth the precise terms of the settlement or agreement.

H.B. 2061 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 provide a copy of the party's petition to the Texas Department of

Insurance, Division of Workers' Compensation (DWC), rather than provide written notice of the suit or notice of the appeal to 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, rather than written notice of the suit, to DWC under Subsection (a)(3) (relating to requiring that a party seeking judicial review provide certain documentation to DWC), rather than 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 a proceeding under this subchapter or Subchapter G (Judicial Review of Issues Regarding Compensability or Income or Death Benefits) to file any proposed judgment or settlement, rather than judgment or settlement made by the parties to the proceeding, including a proposed default judgment or proposed agreed judgment, with DWC not later than the 30th day before the date on which the court is scheduled to enter the judgment or approve the settlement.

(a-1) Requires the party, 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, 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.

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

(a-3) Provides that the separate document filed with the division 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. Provides that Section 410.258, Labor Code, as amended by this Act, applies to a proposed judgment or settlement related to a proceeding under Subchapter F (Judicial Review--General Provisions) or G, Chapter 410 (Adjudication of Disputes), Labor Code, initiated on or after the effective date of this Act.

SECTION 5. Effective date: September 1, 2017.