

By: Taylor of Galveston

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 404.101, Labor Code, is amended by
27 adding Subsection (b-1) to read as follows:

1 (b-1) The office may seek and accept grant funding to enable
2 the office to perform its duties under this subtitle. This
3 subsection does not authorize the office to seek or accept payment
4 from an injured employee.

5 SECTION 4. Section 404.111(a), Labor Code, is amended to
6 read as follows:

7 (a) When assisting an injured employee, the office is
8 entitled to the same access to information related to the
9 employee's injury and workers' compensation claim as the employee
10 or any other party to the claim. [~~Except as otherwise provided by~~
11 this section, the office may access information from an executive
12 agency that is otherwise confidential under a law of this state if
13 that information is necessary for the performance of the duties of
14 the office, including information made confidential under Section
15 402.091.]

16 SECTION 5. Section 402.082(b), Labor Code, is amended to
17 read as follows:

18 (b) On request from the office of injured employee counsel,
19 the [The] division shall provide [~~information maintained under~~
20 Subsection (a)] to the office the identity, claim number, and
21 contact information of claimants receiving assistance from the
22 office [~~of injured employee counsel]. [The confidentiality~~
23 requirements imposed under Section 402.083 apply to injury
24 information maintained by the division.]

25 SECTION 6. Section 402.085(a), Labor Code, is amended to
26 read as follows:

27 (a) The division shall release information on a claim to:

1 (1) the Texas Department of Insurance for any
2 statutory or regulatory purpose, including a research purpose under
3 Chapter 405;

4 (2) a legislative committee for legislative purposes;

5 (3) a state or federal elected official requested in
6 writing to provide assistance by a constituent who qualifies to
7 obtain injury information under Section 402.084(b), if the request
8 for assistance is provided to the division;

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

12 (A) establishing, modifying, or enforcing a
13 child support or medical support obligation; or

14 (B) locating an absent parent; or

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

18 SECTION 7. Section 404.106(a), Labor Code, is amended to
19 read as follows:

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

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

26 (2) identification of any problems in the workers'
27 compensation system from the perspective of injured employees as a

1 class, as considered by the public counsel, with recommendations
2 for regulatory and legislative action; and

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

6 SECTION 8. Section 404.111(d), Labor Code, is repealed.

7 SECTION 9. The changes in law made by this Act to Sections
8 402.082(b), 402.085(a), and 404.111, Labor Code, apply to a claim
9 for workers' compensation benefits based on a compensable injury
10 regardless of whether the injury occurred before, on, or after the
11 effective date of this Act.

12 SECTION 10. This Act takes effect September 1, 2011.