

1-1 By: Taylor of Galveston (Senate Sponsor - Huffman) H.B. No. 1774
1-2 (In the Senate - Received from the House April 19, 2011;
1-3 April 26, 2011, read first time and referred to Committee on
1-4 Government Organization; May 13, 2011, reported favorably by the
1-5 following vote: Yeas 6, Nays 0; May 13, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the continuation and functions of the office of injured
1-9 employee counsel under the workers' compensation program.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 404.003, Labor Code, is amended to read
1-12 as follows:

1-13 Sec. 404.003. SUNSET PROVISION. The office of injured
1-14 employee counsel is subject to Chapter 325, Government Code (Texas
1-15 Sunset Act). Unless continued in existence as provided by that
1-16 chapter, the office is abolished and this chapter expires September
1-17 1, 2017 [~~2011~~].

1-18 SECTION 2. Subchapter A, Chapter 404, Labor Code, is
1-19 amended by adding Sections 404.007 and 404.008 to read as follows:

1-20 Sec. 404.007. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE
1-21 RESOLUTION. (a) The office shall develop and implement a policy
1-22 to encourage the use of:

1-23 (1) negotiated rulemaking procedures under Chapter
1-24 2008, Government Code, for the adoption of office rules; and

1-25 (2) appropriate alternative dispute resolution
1-26 procedures under Chapter 2009, Government Code, to assist in the
1-27 resolution of internal and external disputes under the office's
1-28 jurisdiction.

1-29 (b) The office's procedures relating to alternative dispute
1-30 resolution must conform, to the extent possible, to any model
1-31 guidelines issued by the State Office of Administrative Hearings
1-32 for the use of alternative dispute resolution by state agencies.

1-33 (c) The office shall:

1-34 (1) coordinate the implementation of the policy
1-35 adopted under Subsection (a);

1-36 (2) provide training as needed to implement the
1-37 procedures for negotiated rulemaking or alternative dispute
1-38 resolution; and

1-39 (3) collect data concerning the effectiveness of those
1-40 procedures.

1-41 (d) The office's alternative dispute resolution policy does
1-42 not affect the manner in which the office participates in the
1-43 division's administrative dispute resolution process or the
1-44 department's alternative dispute resolution process through the
1-45 office's administrative attachment to the department.

1-46 Sec. 404.008. COMPLAINTS. (a) The office shall maintain a
1-47 system to promptly and efficiently act on complaints filed with the
1-48 office. The office shall maintain information about parties to the
1-49 complaint, the subject matter of the complaint, a summary of the
1-50 results of the review or investigation of the complaint, and its
1-51 disposition.

1-52 (b) The office shall make information available describing
1-53 its procedures for complaint investigation and resolution.

1-54 (c) The office shall periodically notify the complaint
1-55 parties of the status of the complaint until final disposition.

1-56 SECTION 3. Section 404.101, Labor Code, is amended by
1-57 adding Subsection (b-1) to read as follows:

1-58 (b-1) The office may seek and accept grant funding to enable
1-59 the office to perform its duties under this subtitle. This
1-60 subsection does not authorize the office to seek or accept payment
1-61 from an injured employee.

1-62 SECTION 4. Section 404.111(a), Labor Code, is amended to
1-63 read as follows:

1-64 (a) When assisting an injured employee, the office is

2-1 entitled to the same access to information related to the
2-2 ~~employee's injury and workers' compensation claim as the employee~~
2-3 ~~or any other party to the claim. [Except as otherwise provided by~~
2-4 ~~this section, the office may access information from an executive~~
2-5 ~~agency that is otherwise confidential under a law of this state if~~
2-6 ~~that information is necessary for the performance of the duties of~~
2-7 ~~the office, including information made confidential under Section~~
2-8 ~~402.091.]~~

2-9 SECTION 5. Section 402.082(b), Labor Code, is amended to
2-10 read as follows:

2-11 (b) ~~On request from the office of injured employee counsel,~~
2-12 ~~the [The] division shall provide [information maintained under~~
2-13 ~~Subsection (a)] to the office the identity, claim number, and~~
2-14 ~~contact information of claimants receiving assistance from the~~
2-15 ~~office [of injured employee counsel]. [The confidentiality~~
2-16 ~~requirements imposed under Section 402.083 apply to injury~~
2-17 ~~information maintained by the division.]~~

2-18 SECTION 6. Section 402.085(a), Labor Code, is amended to
2-19 read as follows:

2-20 (a) The division shall release information on a claim to:

2-21 (1) the Texas Department of Insurance for any
2-22 statutory or regulatory purpose, including a research purpose under
2-23 Chapter 405;

2-24 (2) a legislative committee for legislative purposes;

2-25 (3) a state or federal elected official requested in
2-26 writing to provide assistance by a constituent who qualifies to
2-27 obtain injury information under Section 402.084(b), if the request
2-28 for assistance is provided to the division;

2-29 (4) the attorney general or another entity that
2-30 provides child support services under Part D, Title IV, Social
2-31 Security Act (42 U.S.C. Section 651 et seq.), relating to:

2-32 (A) establishing, modifying, or enforcing a
2-33 child support or medical support obligation; or

2-34 (B) locating an absent parent; or

2-35 (5) the office of injured employee counsel for any
2-36 statutory or regulatory purpose that relates to a duty of that
2-37 office as provided by Section 404.111(a).

2-38 SECTION 7. Section 404.106(a), Labor Code, is amended to
2-39 read as follows:

2-40 (a) The office shall report to the governor, lieutenant
2-41 governor, speaker of the house of representatives, and the chairs
2-42 of the legislative committees with appropriate jurisdiction not
2-43 later than January 1 [~~December 1~~] of each odd-numbered
2-44 [~~even-numbered~~] year. The report must include:

2-45 (1) a description of the activities of the office;

2-46 (2) identification of any problems in the workers'
2-47 compensation system from the perspective of injured employees as a
2-48 class, as considered by the public counsel, with recommendations
2-49 for regulatory and legislative action; and

2-50 (3) an analysis of the ability of the workers'
2-51 compensation system to provide adequate, equitable, and timely
2-52 benefits to injured employees at a reasonable cost to employers.

2-53 SECTION 8. Section 404.111(d), Labor Code, is repealed.

2-54 SECTION 9. The changes in law made by this Act to Sections
2-55 402.082(b), 402.085(a), and 404.111, Labor Code, apply to a claim
2-56 for workers' compensation benefits based on a compensable injury
2-57 regardless of whether the injury occurred before, on, or after the
2-58 effective date of this Act.

2-59 SECTION 10. This Act takes effect September 1, 2011.

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