

## ADVISORY NO. 156

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### **TOPIC:        CONSTITUTIONALITY OF THE 1989 REFORM ACT**

On Thursday, February 9, 1995, the Texas Supreme Court affirmed the constitutionality of the 1989 Reform Act, reversing the Maverick County trial court and the San Antonio Court of Appeals.

In a unanimous 55-page opinion authored by the Chief Justice, Tom Phillips, the Court acknowledged the presumption that the statute was constitutional and noted that the "wisdom or expediency of the law is the Legislature's prerogative, not ours."

Justice Phillips wrote that the evidence at the time of the trial indicated that the new Act, "more so than its predecessor," tracked the central recommendations of the National Commission on State Workmens' Compensation Laws.

Because the open courts guarantee under the Texas Constitution does not require the Legislature to base compensation benefits solely on wage loss or disability, and because an impairment-based rating system is "sufficiently rational and reasonable", the Legislature could properly select an impairment-based method of calculation over a disability-based system. The Legislature's choice did not deny equal protection to claimants similarly situated, and did not violate substantive due process rights of injured employees.

Noting that all impairments may not be rated under the guides, the Court expressed no opinion as to whether the Act might violate due course of law as applied to a particular claimant. However, this particular challenge was considered with respect to the system as a whole and not any one particular case. The plaintiffs had argued that it was unconstitutional "on its face" and this was rejected by the Court.

In the most controversial provision, with three justices dissenting, the Court also affirmed the provision for judicial review, including jury trial. Acknowledging that the Act does specify certain limiting procedures not found in other trials, the Court stated its opinion that this did not violate a claimant's right to a trial by jury.

The opinion was unanimous, joined by all justices in affirming the constitutionality of the Act. Three justices dissented with respect to the right to jury trial only. They otherwise concurred

that every other feature of the Act was constitutional. Joe Gunn, President of the Texas AFL-CIO called the ruling "a bitter end to the Texas labor movement's four-year legal struggle against [the] law."