



## ADVISORY NO. 507

### **TOPIC: WORKERS' COMPENSATION LEGISLATION TAKES EFFECT**

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#### **2017 WC Legislation Takes Effect**

Last week's recovery efforts after Hurricane Harvey obscured the fact that on September 1, 2017, many new Texas laws took effect, including seven that deal with workers' compensation matters.

Last session, the Texas Legislature passed 20 bills affecting the Texas Workers' Compensation system. Two of those bills were companion bills, so, after an initial filing of 53 comp-related bills at the beginning of the session, the Legislature sent a total of 19 new workers' comp laws to the Governor's desk. Twelve of those bills took effect in May or June, immediately upon the Governor's signature.

Prominent among the bills that have now become law are new laws that waive governmental immunity in the workers' compensation system for public entities, direct the Commissioner in how to impose administrative penalties for unintentional EDI violations, re-designate Division Hearing Officers as Administrative Law Judges, and create greater notice and disclosure requirements on parties filing or resolving suits for judicial review of a Division decision.

#### **Workers' Comp Bills that took effect September 1, 2017**

HB 2061 Petitions in suits for judicial review must be filed with DWC; requires more disclosure of the terms of agreed judgments, default judgments and settlements.

HB 2111 Changes the statutory references to Hearing Officers and replaces that language with "administrative law judges" in the Labor Code.

SB 1895 Requires DWC to consider whether a violation negatively impacts the payment of benefits to an injured worker; DWC should refrain from assessing penalties solely for EDI violations where carrier made a good-faith effort to comply.

HB 2056 Designated doctors are required to disclose copies of their contracts with vendors to the Division upon request.

HB 451 Waives governmental immunity for public entities from lawsuits filed by first responders that allege retaliatory discharge claims following the reporting of or filing of a workers' compensation claim. The bill caps the damages at \$100,000 per person and \$300,000 per occurrence.

SB 877 Political subdivisions that pursue subrogation recovery waive governmental immunity for attorneys' fees payable to the attorney that makes the recovery.

HB 1990 Eliminates the \$2 million cap on the balance of the Texas Certified Self-Insurer Guarantee Trust Fund, which covers self-insurer's claims if they cannot pay them.

**Workers' Comp Bills that took effect earlier this year**

SB 1494 Providing the Commissioner with greater flexibility over the CARF exemption for work hardening and concurrent review. (Effective 5/22/2017)

SB 680 Dealing with step therapy protocols required by a health benefit plan in connection with prescription drug coverage. (Effective 5/23/2017)

HB 1456 Eliminates the payment or bond requirement when appealing an enforcement penalty to SOAH. (Effective 5/26/2017)

HB 1983 Provides that a first responder who suffers PTSD has a compensable injury if caused by an event in the course and scope of employment and the employee's work was a substantial contributing factor to the diagnosis. (Effective 6/1/2017)

HB 2053 Increases the authority of the Division to enforce the Act, with particular emphasis on Chapter 418 violations. (Effective 6/9/2017)

HB 2112 This is an omnibus cleanup bill that, among other things, eliminates the requirement that certain forms be filed with the Division. (Effective 6/9/2017)

HB 2082 Requires OIEC to designate a liaison to assist law enforcement claimants. (Effective 6/9/2017)

HB 2119 Provides that, regardless of the date of death, a surviving spouse of a first responder is entitled to death benefits even if they have remarried. (Effective 6/9/2017)

HB 2546 Permits a physician assistant to sign certain workers' compensation medical reports. (Effective 6/9/2017)

HB 919 This bill requires workers' compensation coverage for members of intrastate fire mutual aid system teams and regional incident management teams deployed during times of disaster.

The bill covers those disaster responders in the same manner that coverage is provided to members of the Texas Task Force 1 Urban Search and Rescue Team. (Effective 6/15/2017)

HB 1989 Requires a self-insured employer that wants to buy a WC policy to certify that the policy covers all of its current claims. (Effective 6/15/2017)

HB 2060 Eliminate the requirement that people hired as Ombudsmen have prior experience in workers' compensation. (Effective 6/15/2017)