

## **BILL ANALYSIS**

Senate Research Center  
81R1910 ALB-F

S.B. 378  
By: Van de Putte  
State Affairs  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, an injured employee is required to have a medical examination by a designated doctor in order to fully determine the cause, effect, and extent of compensable injury. The medical examination is performed by a doctor chosen by the division of workers' compensation at the Texas Department of Insurance. Unless contrary evidence is presented, the designated doctor's analysis of the injury determines whether the insurance carrier is required to pay benefits to the injured employee. An insurance carrier can challenge the opinions of the designated doctor; however, an injured employee cannot obtain a second medical opinion regarding the cause and effects of the injury. A plurality of opinions could reduce the probability of error in the determination of the nature of an injury.

As proposed, S.B. 378 authorizes an injured employee to seek the opinion of a second doctor if the employee is not satisfied with the opinion of the designated doctor and requires the insurance carrier to pay for the examination.

### **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 408.0041, Labor Code, by adding Subsections (f-2) and (f-3) and amending Subsection (h), as follows:

(f-2) Authorizes an employee required to be examined by a designated doctor to request a medical examination to determine maximum medical improvement and the employee's impairment rating from the treating doctor or from another doctor to whom the employee is referred by the treating doctor if the designated doctor's opinion is the employee's first evaluation of maximum medical improvement and impairment rating and the employee is not satisfied with the designated doctor's opinion.

(f-3) Requires the commissioner of workers' compensation (commissioner) to provide the insurance carrier and the employee with reasonable time to obtain and present the opinion of a doctor selected under Subsection (f) or (f-2) before the commissioner makes a decision on the merits of the issue.

(h) Requires the insurance carrier to pay for an examination required under Subsection (a) (relating to the order of a medical examination), (f) (relating to insurance carrier requesting a second medical opinion), or (f-2); and the reasonable expenses incident to the employee in submitting to the examination.

SECTION 2. Effective date: upon passage or September 1, 2009.