

**SUBJECT:** Extending time to file judicial appeal of workers' compensation decision

**COMMITTEE:** Business and Industry — committee substitute recommended

**VOTE:** 7 ayes — Deshotel, Elkins, England, Giddings, Keffer, Orr, S. Turner  
0 nays  
4 absent — Christian, Gattis, S. Miller, Quintanilla

**WITNESSES:** (*On original bill:*)  
For — (*Registered, but did not testify:* Royce Bicklein; Rick Levy, Texas AFL-CIO)  
  
Against — (*Registered, but did not testify:* Kathy Barber, Texas Retailers Association)  
  
On — Jonathan Bow, State Office of Risk Management; (*Registered, but did not testify:* Daniel Barry, Texas Department of Insurance, Division of Workers' Compensation; Barbara Klein, State Office of Risk Management)

**BACKGROUND:** Under Labor Code, sec. 252(a), either an injured worker or an insurance company may file a lawsuit to challenge the decision of an administrative appeals panel in a workers' compensation case, as long as the legal action is brought within 40 days of the filing of the appeals panel's decision with the Texas Department of Insurance (TDI).

**DIGEST:** CSHB 4545 would amend Labor Code, sec. 252(a) to provide that a party could file a lawsuit challenging an appeals panel decision within 45 days of when the TDI mailed notice of the decision.  
  
The bill would affect judicial review proceedings filed on or after the bill would take effect on September 1, 2009.

**SUPPORTERS SAY:** CSHB 4545 would provide some balance between insurance companies and injured workers in contested workers' compensation cases. Insurance companies typically have mailboxes at the TDI and become aware of any

adverse appeals panel decisions very quickly. Injured workers must wait until the noticed is mailed from Austin, which can take several days. The postmark may be several days after the date of the decision. These delays further reduce the time for the injured worker to retain legal counsel and for the attorney to review hundreds of pages of complex medical evidence and make a decision whether to pursue the claim in the courts. The bill would provide a reasonable extension and a clear deadline of seeking further legal remedies.

The committee substitute for HB 4545 would provide a clearer and more easily understood standard than proposed in the bill as filed. Setting a 45-day post-mailing limit would avoid potential unintended consequences of the original legislation. That version would have set the deadline at 40 days from the latest day on which any party received the appeals panel decision, regardless of when the decision was filed with TDI. That kind of inexact deadline would be hard to determine. As substituted, HB 4545 would mirror a well-established standard already in TDI workers' compensation rules.

OPPONENTS  
SAY:

No apparent opposition