

AMENDED IN ASSEMBLY MARCH 20, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1746

Introduced by Assembly Member Alejo

February 14, 2014

An act to amend Section ~~2923~~ 5502 of the Labor Code, relating to ~~employment~~: *workers' compensation*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1746, as amended, Alejo. ~~Employment: death or incapacity of employer. Workers' compensation: proceedings: expedited hearings.~~

Existing law establishes a workers' compensation system to compensate an employee for injuries sustained in the course of his or her employment. Under this system, the Workers' Compensation Appeals Board has jurisdiction to adjudicate claims relating to workers' compensation. Existing law creates the Administrative Director of the Division of Workers' Compensation, who has specified powers and duties relating to the workers' compensation trial process. Existing law requires the administrative director to establish a priority conference calendar for cases in which the employee is represented by an attorney and the disputed issues are employment or injury, as specified.

This bill would additionally require that cases in which the employee is or was employed by an illegally uninsured employer and the disputed issues are employment or injury, as specified, be placed on the priority conference calendar established under existing law.

~~Existing law generally requires an employee to continue his or her service after notice of the death or incapacity of his or her employer, as necessary to protect from serious injury the interests of the employer's successor in interest, until a reasonable time after notice of the facts~~

has been communicated to that successor. Existing law requires the successor to compensate the employee for his or her service according to the terms of the contract of employment.

~~This bill would make technical, nonsubstantive changes to those provisions:~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5502 of the Labor Code is amended to
2 read:

3 5502. (a) Except as provided in subdivisions (b) and (d), the
4 hearing shall be held not less than 10 days, and not more than 60
5 days, after the date a declaration of readiness to proceed, on a form
6 prescribed by the appeals board, is filed. If a claim form has been
7 filed for an injury occurring on or after January 1, 1990, and before
8 January 1, 1994, an application for adjudication shall accompany
9 the declaration of readiness to proceed.

10 (b) The administrative director shall establish a priority calendar
11 for issues requiring an expedited hearing and decision. A hearing
12 shall be held and a determination as to the rights of the parties
13 shall be made and filed within 30 days after the declaration of
14 readiness to proceed is filed if the issues in dispute are any of the
15 following, provided that if an expedited hearing is requested, no
16 other issue may be heard until the medical provider network dispute
17 is resolved:

18 (1) The employee’s entitlement to medical treatment pursuant
19 to Section 4600, except for treatment issues determined pursuant
20 to Sections 4610 and 4610.5.

21 (2) Whether the injured employee is required to obtain treatment
22 within a medical provider network.

23 (3) A medical treatment appointment or medical-legal
24 examination.

25 (4) The employee’s entitlement to, or the amount of, temporary
26 disability indemnity payments.

27 (5) The employee’s entitlement to compensation from one or
28 more responsible employers when two or more employers dispute
29 liability as among themselves.

1 (6) Any other issues requiring an expedited hearing and
2 determination as prescribed in rules and regulations of the
3 administrative director.

4 (c) The administrative director shall establish a priority
5 conference calendar for cases in which the employee is represented
6 by an attorney *or is or was employed by an illegally uninsured*
7 *employer* and the issues in dispute are employment or injury arising
8 out of employment or in the course of employment. The conference
9 shall be conducted by a workers' compensation administrative law
10 judge within 30 days after the declaration of readiness to proceed.
11 If the dispute cannot be resolved at the conference, a trial shall be
12 set as expeditiously as possible, unless good cause is shown why
13 discovery is not complete, in which case status conferences shall
14 be held at regular intervals. The case shall be set for trial when
15 discovery is complete, or when the workers' compensation
16 administrative law judge determines that the parties have had
17 sufficient time in which to complete reasonable discovery. A
18 determination as to the rights of the parties shall be made and filed
19 within 30 days after the trial.

20 (d) (1) In all cases, a mandatory settlement conference, except
21 a lien conference or a mandatory settlement lien conference, shall
22 be conducted not less than 10 days, and not more than 30 days,
23 after the filing of a declaration of readiness to proceed. If the
24 dispute is not resolved, the regular hearing, except a lien trial, shall
25 be held within 75 days after the declaration of readiness to proceed
26 is filed.

27 (2) The settlement conference shall be conducted by a workers'
28 compensation administrative law judge or by a referee who is
29 eligible to be a workers' compensation administrative law judge
30 or eligible to be an arbitrator under Section 5270.5. At the
31 mandatory settlement conference, the referee or workers'
32 compensation administrative law judge shall have the authority to
33 resolve the dispute, including the authority to approve a
34 compromise and release or issue a stipulated finding and award,
35 and if the dispute cannot be resolved, to frame the issues and
36 stipulations for trial. The appeals board shall adopt any regulations
37 needed to implement this subdivision. The presiding workers'
38 compensation administrative law judge shall supervise settlement
39 conference referees in the performance of their judicial functions
40 under this subdivision.

1 (3) If the claim is not resolved at the mandatory settlement
 2 conference, the parties shall file a pretrial conference statement
 3 noting the specific issues in dispute, each party’s proposed
 4 permanent disability rating, and listing the exhibits, and disclosing
 5 witnesses. Discovery shall close on the date of the mandatory
 6 settlement conference. Evidence not disclosed or obtained
 7 thereafter shall not be admissible unless the proponent of the
 8 evidence can demonstrate that it was not available or could not
 9 have been discovered by the exercise of due diligence prior to the
 10 settlement conference.

11 (e) In cases involving the Director of Industrial Relations in his
 12 or her capacity as administrator of the Uninsured Employers Fund,
 13 this section shall not apply unless proof of service, as specified in
 14 paragraph (1) of subdivision (d) of Section 3716, has been filed
 15 with the appeals board and provided to the Director of Industrial
 16 Relations, valid jurisdiction has been established over the employer,
 17 and the fund has been joined.

18 (f) Except as provided in subdivision ~~(a)~~ and in ~~Section 4065,~~
 19 ~~the provisions of (a),~~ this section shall apply irrespective of the
 20 date of injury.

21 ~~SECTION 1. Section 2923 of the Labor Code is amended to~~
 22 ~~read:~~

23 ~~2923. An employee, unless the term of his or her service has~~
 24 ~~expired or unless the employee has a right to discontinue it at any~~
 25 ~~time without notice, shall continue his or her service after notice~~
 26 ~~of the death or incapacity of his or her employer, as necessary to~~
 27 ~~protect from serious injury the interests of the employer’s successor~~
 28 ~~in interest, until a reasonable time after notice of the facts has been~~
 29 ~~communicated to that successor. The successor shall compensate~~
 30 ~~the employee for his or her service according to the terms of the~~
 31 ~~contract of employment.~~