

AMENDED IN ASSEMBLY MARCH 20, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1746**

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**Introduced by Assembly Member Alejo**

February 14, 2014

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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.~~

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