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SENATE BILL NO. 612

Offered January 14, 2010

A BILL to amend and reenact §§ 65.2-704, 65.2-705, and 65.2-706 of the Code of Virginia, relating to the Workers' Compensation Commission; awards.

Patron—Wagner

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 65.2-704, 65.2-705, and 65.2-706 of the Code of Virginia are amended and reenacted as follows:

§ 65.2-704. Hearing; award or opinion by Commission.

A. The Commission or any of its members or deputies shall hear the parties at issue, their representatives, and witnesses; shall decide the issues in a summary manner; and shall make an award or opinion carrying out the decision. A copy of the award or opinion shall be sent immediately to the parties at issue by priority mail with delivery confirmation or equivalent mailing option. If any party at issue is represented by counsel, receipt of the award or opinion by counsel shall be deemed receipt by the party for purposes of subsection A of § 65.2-705.

B. Any member of the Commission who hears the parties at issue and makes an award under the provisions of subsection A of this section shall not participate in a rehearing and review of such award provided under § 65.2-705. When a member is absent or is prohibited by the provisions of this subsection from sitting with the full Commission to hear a review, the Chairman shall appoint one of the deputies to sit with the other Commission members.

C. Hearings convened by the Commission shall be public proceedings and, upon proper request to the Commission, may, in the discretion of the Commission, be video recorded for public broadcast at the expense of the requesting party, subject only to the same limitations and conditions as apply to court proceedings in the Commonwealth.

§ 65.2-705. Review of award; rehearing.

A. If an application for review is made to the Commission within 20 30 days after receipt of notice of such award to be sent as provided in subsection A of § 65.2-704 issuance of an award, the full Commission, except as provided in subsection B of § 65.2-704 and if the first hearing was not held before the full Commission, shall review the evidence or, if deemed advisable, as soon as practicable, hear the parties at issue, their representatives, and witnesses. The Commission shall make an award which, together with a statement of the findings of fact, rulings of law, and other matters pertinent to the questions at issue, shall be filed with the record of the proceedings. A copy of the award shall be sent immediately to the parties at issue by priority mail with delivery confirmation or equivalent mailing option.

B. A rehearing convened under this section shall be a public proceeding and, upon proper request, may, in the discretion of the Commission, be video recorded for public broadcast at the expense of the requesting party, subject only to the same limitations and conditions as apply to court proceedings in the Commonwealth.

C. Upon an application for review made pursuant to subsection A of this section, the opposing party at issue shall have 14 days thereafter to make an independent application for review.

§ 65.2-706. Conclusiveness of award; appeal.

A. The award of the Commission, as provided in § 65.2-704, if not reviewed in due time, or an award of the Commission upon such review, as provided in § 65.2-705, shall be conclusive and binding as to all questions of fact. No appeal shall be taken from the decision of one Commissioner until a review of the case has been had before the full Commission, as provided in § 65.2-705, and an award entered by it. Appeals shall lie from such award to the Court of Appeals in the manner provided in the Rules of the Supreme Court.

B. The notice of appeal shall be filed with the clerk of the Commission within 30 days from the date of such award or within 30 days after receipt of notice to be sent by priority mail with delivery confirmation or equivalent mailing option of such award. A copy of the notice of appeal shall be filed in the office of the clerk of the Court of Appeals as provided in the Rules of Court.

C. Cases so appealed shall be placed upon the privileged docket of the Court of Appeals and be heard at the next ensuing term thereof. In case of an appeal from the decision of the Commission to the Court of Appeals, or from the decision of the Court of Appeals to the Supreme Court, the appeal shall operate as a suspension of the award and no employer shall be required to make payment of the award

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59 involved in the appeal until the questions at issue therein shall have been fully determined in accordance
60 with the provisions of this title.