

UNITED STATES CONGRESS

Committee:

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Bill No:

Delegation:

Title of Bill:

**TITLE 5--GOVERNMENT ORGANIZATION AND EMPLOYEES
PART III--EMPLOYEES
Subpart G--Insurance and Annuities
CHAPTER 81--COMPENSATION FOR WORK INJURIES
SUBCHAPTER I--GENERALLY
Sec. 8128. Review of award**

An Act to Amend Title 5 U.S.C. Section 8128 to Permit Federal Judicial Review of Decisions of the United States Department of Labor, Employment Standards Administration, Office of Workers' Compensation Programs and Employees Compensation Appeals Board

BE IT ENACTED BY THE UNITED STATES CONGRESS

1 Preamble: Whereas the Federal Employees' Compensation Act provides workers'
2 compensation coverage to more three million federal and postal workers around the world
3 for employment-related injuries, occupational diseases, and deaths but denies those same
4 federal workers' access to federal judicial review of their federal workers' compensation
5 claims, singles out for discrimination those same workers' as opposed to other similarly
6 affected federal and private workers, and furthermore impedes those federal workers'
7 seeking of medical diagnosis and treatment and compensation for their employment-related
8 injuries, occupational diseases, and deaths, the United States hereby amends Title 5U.S.C.
9 Section 8128 as follows to permit Federal Judicial Review of Decisions of the United States
10 Department of Labor, Employment Standards Administration, Office of Workers'
11 Compensation Programs and Employees Compensation Appeals Board

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13 SECTION 1: This act may be cited as, "Review of Award"

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15 SECTION 2: Court of appeals; jurisdiction; persons entitled to review; petition; record;
16 determination and enforcement; service of process; stay of payments.
17 Any person adversely affected or aggrieved by a final decision of the US
18 Department of Labor Employees Compensation Appeals Board as defined at
19 20 CFR 501.1 et seq., may obtain a review of that decision in the United
20 States District Court in which the person resides or where the injury occurred
21 (or to the United States District Court for the District of Columbia if the injury
22 occurred in the District), by filing in such court within sixty days following
23 the issuance of such Board decision a written petition praying that the decision
24 be modified or set aside. A copy of such petition shall be forthwith transmitted
25 by the clerk of the court, to the Board, and to the other parties, and thereupon
26 the Board shall file in the court the record in the proceedings as provided in
27 section 2112 of title 28, United States Code [28 USC § 2112]. Upon such

28 filing, the court shall have jurisdiction of the proceeding and shall have the
29 power to give a decree affirming, modifying, or setting aside, in whole or in
30 part, the decision of the Board and enforcing same to the extent that such
31 order is affirmed or modified. The orders, writs, and processes of the court in
32 such proceedings may run, be served, and be returnable anywhere in the
33 United States. The payment of the amounts required by an award shall not be
34 stayed pending final decision in any such proceeding unless ordered by the
35 court.

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37 SECTION 3: District Court; jurisdiction; enforcement of orders; application of
38 beneficiaries of awards or deputy commissioner; process for compliance with orders.
39 If any agency, employer or his officers or agents fails to comply with a compensation order
40 making an award, that has become final, any beneficiary of such award or the deputy
41 commissioner making the order, may apply for the enforcement of the order to the United
42 States District Court for the judicial district in which the person resides or where the injury
43 occurred (or to the United States District Court for the District of Columbia if the injury
44 occurred in the District). If the court determines that the order was made and served in
45 accordance with law, and that such agency, employer or his officers or agents have failed to
46 comply therewith, the court shall enforce obedience to the order by writ of injunction or by
47 other proper process, mandatory or otherwise, to enjoin upon such agency, person and his
48 officers and agents compliance with the order.

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50 SECTION 4: Institution of proceedings for suspension, setting aside, or enforcement of
51 compensation orders. Proceedings for suspending, setting aside, or enforcing a
52 compensation order, whether rejecting a claim or making an award, shall not be instituted
53 otherwise than as provided in this section.

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55 SECTION 5: For the purposes of these procedures: "Equal Access to Justice Act" or
56 "EAJA" means Section 504 of Title 5 of the United States Code (5 U.S.C. § 504), and
57 provisions related thereto, enacted by Pub. L. No. 96481, 94 Stat. 2325, and Pub. L. No. 99-
58 80, 99 Stat. 183. "Board" means the Employees Compensation Appeals Board. The Equal
59 Access to Justice Act provides for the award of attorney fees and other expenses to the legal
60 representative of eligible individuals and entities who are parties to appeals before the
61 Board. An eligible party may receive an award when it prevails over the Government,
62 unless the Government's position was substantially justified or special circumstances make
63 an award unjust. The Equal Access to Justice Act applies to appeals to the Board.

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65 SECTION 5: This bill shall go into effect 91 days after passage

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