
ENGROSSED SUBSTITUTE SENATE BILL 5515

State of Washington

53rd Legislature

1993 Regular Session

By Senate Committee on Labor & Commerce (originally sponsored by Senators Prentice and Sutherland)

Read first time 03/03/93.

1 AN ACT Relating to employee rights regarding industrial insurance
2 claims; amending RCW 51.52.130; adding new sections to chapter 51.14
3 RCW; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 51.52.130 and 1982 c 63 s 23 are each amended to read
6 as follows:

7 If, on appeal to the superior or appellate court from the decision
8 and order of the board, said decision and order is reversed or modified
9 and additional relief is granted to a worker or beneficiary, or in
10 cases where a party other than the worker or beneficiary is the
11 appealing party and the worker's or beneficiary's right to relief is
12 sustained (~~by the court~~), a reasonable fee for the services of the
13 worker's or beneficiary's attorney shall be fixed by the court. In
14 fixing the fee the court shall take into consideration the fee or fees,
15 if any, fixed by the director and the board for such attorney's
16 services before the department and the board. If the court finds that
17 the fee fixed by the director or by the board is inadequate for
18 services performed before the department or board, or if the director
19 or the board has fixed no fee for such services, then the court shall

1 fix a fee for the attorney's services before the department, or the
2 board, as the case may be, in addition to the fee fixed for the
3 services in the court. If in a worker or beneficiary appeal the
4 decision and order of the board is reversed or modified and if the
5 accident fund or medical aid fund is affected by the litigation
6 ((then)), or if in an appeal by the department or employer the worker
7 or beneficiary's right to relief is sustained, or in an appeal by a
8 worker involving a state fund employer with twenty-five employees or
9 less, in which the department does not appear and defend, and the board
10 order in favor of the employer is sustained, the attorney's fee fixed
11 by the court, for services before the court only, and the fees of
12 medical and other witnesses and the costs shall be payable out of the
13 administrative fund of the department. In the case of self-insured
14 employers, ~~((if the decision and order of the board is reversed or~~
15 ~~modified resulting in additional benefits by the litigation that would~~
16 ~~be paid from the accident fund if the employer were not self-insured,~~
17 ~~then))~~ the attorney fees fixed by the court, for services before the
18 court((-)) only, and the fees of medical and other witnesses and the
19 costs shall be payable directly by the self-insured employer.

20 NEW SECTION. Sec. 2. (1) The self-insurer shall provide, when
21 authorized under RCW 51.28.070, a copy of the employee's claim file at
22 no cost within fifteen days of receipt of a request by the employee or
23 the employee's representative. If the self-insured employer determines
24 that release of the claim file to an unrepresented worker in whole or
25 in part, may not be in the worker's best interests, the employer must
26 submit a request for denial with an explanation along with a copy of
27 that portion of the claim file not previously provided within twenty
28 days after the request from the worker. In the case of second or
29 subsequent requests, a reasonable charge for copying may be made. The
30 self-insurer shall provide the entire contents of the claim file unless
31 the request is for only a particular portion of the file. Any new
32 material added to the claim file after the initial request shall be
33 provided under the same terms and conditions as the initial request.

34 (2) The self-insurer shall transmit notice to the department of any
35 protest or appeal by an employee relating to the administration of an
36 industrial injury or occupational disease claim under this chapter
37 within five working days of receipt. The date that the protest or
38 appeal is received by the self-insurer shall be deemed to be the date

1 the protest is received by the department for the purpose of RCW
2 51.52.050.

3 (3) The self-insurer shall submit a medical report with the request
4 for closure of a claim under this chapter.

5 NEW SECTION. **Sec. 3.** The self-insurer shall request allowance or
6 denial of a claim within sixty days from the date that the claim is
7 filed. If the self-insurer fails to act within sixty days, the
8 department shall promptly intervene and adjudicate the claim.

9 NEW SECTION. **Sec. 4.** Failure of a self-insurer to comply with
10 sections 2 and 3 of this act shall subject the self-insurer to a
11 penalty under RCW 51.48.080, which shall accrue for the benefit of the
12 employee. The director shall issue an order conforming with RCW
13 51.52.050 determining whether a violation has occurred within thirty
14 days of a request by an employee.

15 NEW SECTION. **Sec. 5.** Sections 2 through 4 of this act are each
16 added to chapter 51.14 RCW.

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