
SUBSTITUTE HOUSE BILL 1463

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives R. King, Fuhrman, Cole, Heavey, Jones and Franklin).

Read first time February 26, 1991.

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

1 services before the department and the board. If the court finds that
2 the fee fixed by the director or by the board is inadequate for
3 services performed before the department or board, or if the director
4 or the board has fixed no fee for such services, then the court shall
5 fix a fee for the attorney's services before the department, or the
6 board, as the case may be, in addition to the fee fixed for the
7 services in the court. If in an employee appeal the decision and order
8 of the board is reversed or modified (~~((and if the accident fund is
9 affected by the litigation then))~~) or if in an appeal by the department
10 or employer the worker or beneficiary's right to relief is sustained,
11 the attorney's fee fixed by the court, for services before the court
12 only, and the fees of medical and other witnesses and (~~((the))~~) other
13 litigation costs shall be payable out of the administrative fund of the
14 department. In the case of self-insured employers, (~~((if the decision
15 and order of the board is reversed or modified resulting in additional
16 benefits by the litigation that would be paid from the accident fund if
17 the employer were not self-insured, then))~~) the attorney fees fixed by
18 the court, for services before the court(~~((7))~~) only, and the fees of
19 medical and other witnesses and (~~((the))~~) other litigation costs shall be
20 payable directly by the self-insured employer.

21 NEW SECTION. Sec. 2. (1) The self-insurer shall provide, when
22 authorized under RCW 51.28.070, a copy of the employee's claim file at
23 no cost within fifteen days of receipt of a request by the employee or
24 the employee's representative. The self-insurer shall provide the
25 entire contents of the claim file unless the request is for only a
26 particular portion of the file.

27 (2) The self-insurer shall transmit notice to the department of any
28 protest or appeal by an employee relating to the administration of an
29 industrial injury or occupational disease claim under this chapter

1 within five working days of receipt. The date that the protest or
2 appeal is received by the self-insurer shall be deemed to be the date
3 the protest is received by the department for the purpose of RCW
4 51.52.050.

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

7 NEW SECTION. **Sec. 3.** The self-insurer shall request allowance
8 or denial of a claim within sixty days from the date that the claim is
9 filed, or the claim shall be deemed allowed. A self-insurer may
10 request, for good cause, an extension of the deadline for an additional
11 thirty days, if written notice of the extension is provided to the
12 employee within forty-five days from the date the claim is filed.

13 NEW SECTION. **Sec. 4.** Failure of a self-insurer to comply with
14 sections 2 and 3 of this act shall subject the self-insurer to a
15 penalty under RCW 51.48.080, which shall accrue for the benefit of the
16 employee. The director shall issue an order conforming with RCW
17 51.52.050 determining whether a violation has occurred within thirty
18 days of a request by an employee.

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