

2 SSB 5515 - S AMD - 000397

3 By Senator Prentice

4 ADOPTED 3/17/93

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 51.52.130 and 1982 c 63 s 23 are each amended to read  
8 as follows:

9 If, on appeal to the superior or appellate court from the decision  
10 and order of the board, said decision and order is reversed or modified  
11 and additional relief is granted to a worker or beneficiary, or in  
12 cases where a party other than the worker or beneficiary is the  
13 appealing party and the worker's or beneficiary's right to relief is  
14 sustained (~~by the court~~), a reasonable fee for the services of the  
15 worker's or beneficiary's attorney shall be fixed by the court. In  
16 fixing the fee the court shall take into consideration the fee or fees,  
17 if any, fixed by the director and the board for such attorney's  
18 services before the department and the board. If the court finds that  
19 the fee fixed by the director or by the board is inadequate for  
20 services performed before the department or board, or if the director  
21 or the board has fixed no fee for such services, then the court shall  
22 fix a fee for the attorney's services before the department, or the  
23 board, as the case may be, in addition to the fee fixed for the  
24 services in the court. If in a worker or beneficiary appeal the  
25 decision and order of the board is reversed or modified and if the  
26 accident fund or medical aid fund is affected by the litigation  
27 (~~then~~), or if in an appeal by the department or employer the worker  
28 or beneficiary's right to relief is sustained, or in an appeal by a  
29 worker involving a state fund employer with twenty-five employees or  
30 less, in which the department does not appear and defend, and the board  
31 order in favor of the employer is sustained, the attorney's fee fixed  
32 by the court, for services before the court only, and the fees of  
33 medical and other witnesses and the costs shall be payable out of the  
34 administrative fund of the department. In the case of self-insured  
35 employers, (~~if the decision and order of the board is reversed or~~  
36 ~~modified resulting in additional benefits by the litigation that would~~

1 ~~be paid from the accident fund if the employer were not self-insured,~~  
2 ~~then))~~ the attorney fees fixed by the court, for services before the  
3 court((7)) only, and the fees of medical and other witnesses and the  
4 costs shall be payable directly by the self-insured employer.

5 NEW SECTION. **Sec. 2.** (1) The self-insurer shall provide, when  
6 authorized under RCW 51.28.070, a copy of the employee's claim file at  
7 no cost within fifteen days of receipt of a request by the employee or  
8 the employee's representative. If the self-insured employer determines  
9 that release of the claim file to an unrepresented worker in whole or  
10 in part, may not be in the worker's best interests, the employer must  
11 submit a request for denial with an explanation along with a copy of  
12 that portion of the claim file not previously provided within twenty  
13 days after the request from the worker. In the case of second or  
14 subsequent requests, a reasonable charge for copying may be made. The  
15 self-insurer shall provide the entire contents of the claim file unless  
16 the request is for only a particular portion of the file. Any new  
17 material added to the claim file after the initial request shall be  
18 provided under the same terms and conditions as the initial request.

19 (2) The self-insurer shall transmit notice to the department of any  
20 protest or appeal by an employee relating to the administration of an  
21 industrial injury or occupational disease claim under this chapter  
22 within five working days of receipt. The date that the protest or  
23 appeal is received by the self-insurer shall be deemed to be the date  
24 the protest is received by the department for the purpose of RCW  
25 51.52.050.

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

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

32 NEW SECTION. **Sec. 4.** Failure of a self-insurer to comply with  
33 sections 2 and 3 of this act shall subject the self-insurer to a  
34 penalty under RCW 51.48.080, which shall accrue for the benefit of the  
35 employee. The director shall issue an order conforming with RCW

1 51.52.050 determining whether a violation has occurred within thirty  
2 days of a request by an employee.

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

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8 On page 1, line 2 of the title, after "claims;" strike the  
9 remainder of the title and insert "amending RCW 51.52.130; adding new  
10 sections to chapter 51.14 RCW; and prescribing penalties."

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