

HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 404

By COMMITTEE ON BUSINESS AND LABOR

June 4

1 On page 1 of the printed A-engrossed bill, line 2, after “656.386” insert “and 656.388”.

2 On page 2, after line 14, insert:

3 “**SECTION 3.** ORS 656.388 is amended to read:

4 “656.388. (1) No claim or payment for legal services by an attorney representing the worker or
5 for any other services rendered before an Administrative Law Judge or the Workers’ Compensation
6 Board, as the case may be, in respect to any claim or award for compensation to or on account of
7 any person, shall be valid unless approved by the Administrative Law Judge or board, or if pro-
8 ceedings on appeal from the order of the board with respect to such claim or award are had before
9 any court, unless approved by such court. In cases in which a claimant finally prevails after remand
10 from the Supreme Court, Court of Appeals or board, then the Administrative Law Judge, board or
11 appellate court shall approve or allow a reasonable attorney fee for services before every prior fo-
12 rum as authorized under ORS 656.307 (5), 656.308 (2), 656.382 or 656.386. No attorney fees shall be
13 approved or allowed for representation of the claimant before the managed care organization or
14 Director of the Department of Consumer and Business Services except for representation at the
15 contested case hearing.

16 “(2) Any claim for payment to a claimant’s attorney by the claimant so approved shall, in the
17 manner and to the extent fixed by the Administrative Law Judge, board or such court, be a lien
18 upon compensation.

19 “(3) **If an injured worker signs an attorney fee agreement with an attorney for repre-**
20 **sentation on a claim made pursuant to this chapter and additional compensation is awarded**
21 **to the worker or a settlement agreement is consummated on the claim after the fee agree-**
22 **ment is signed and it is shown that the attorney with whom the fee agreement was signed**
23 **was instrumental in obtaining the additional compensation or settling the claim, the Ad-**
24 **ministrative Law Judge or the board shall grant the attorney a lien for attorney fees out of**
25 **the additional compensation awarded or proceeds of the settlement in accordance with rules**
26 **adopted by the board governing the payment of attorney fees.**

27 “[3] (4) The board shall, after consultation with the Board of Governors of the Oregon State
28 Bar, establish a schedule of fees for attorneys representing a worker and representing an insurer
29 or self-insured employer, under this chapter.

30 “[4] (5) The board shall approve no claim for legal services by an attorney representing a
31 claimant to be paid by the claimant if fees have been awarded to the claimant or the attorney of the
32 claimant in connection with the same proceeding under ORS 656.268.

33 “[5] (6) Insurers and self-insured employers shall make an annual report to the Director of the
34 Department of Consumer and Business Services reporting attorney salaries and other costs of legal
35 services incurred pursuant to this chapter. The report shall be in such form and shall contain such

1 information as the director prescribes.

2 **“SECTION 4. The amendments to ORS 656.388 by section 3 of this 2007 Act apply to all**
3 **claims in which an order that grants attorney fees is issued after the effective date of this**
4 **2007 Act, regardless of the date of injury.”.**

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