

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	10 - 0 - 0
Yeas:	Barton, Cameron, Edwards C., Esquivel, Holvey, Kennemer, Matthews, Thatcher, Witt, Schaufler
Nays:	0
Exc.:	0
Prepared By:	Theresa Van Winkle, Administrator
Meeting Dates:	4/24, 4/27

WHAT THE MEASURE DOES: Modifies circumstances under which attorney fees may be awarded in workers' compensation claims. Requires adjusting the amount of certain attorney fees based on increase in the average weekly wage as determined in workers' compensation law. Establishes parameters for modifying attorney fees. Allows the Department of Consumer and Business Services to impose penalty and awards of attorney fees for late payment of amounts due under disputed claims settlement. Sunsets the increase in attorney fee imposed for unreasonable delay in payment of compensation or acceptance or denial of claim on January 2, 2014. Requires the Management-Labor Advisory Committee (MLAC) to review the effects of certain provisions of the measure and report to the Legislative Assembly by January 1, 2013.

ISSUES DISCUSSED:

- Provisions of the measure
- Level of support from stakeholders and the Management-Labor Advisory Committee (MLAC)

EFFECT OF COMMITTEE AMENDMENT: Deletes section in the original measure that modifies the maximum attorney fee for awarded for unreasonably delaying acceptance or denial of a claim or delaying to refuse or pay compensation on January 1, 2014. Clarifies that changes to attorney fees due to increases in the average weekly wage are to be made on July 1st and made to the maximum amount of the attorney fee. Changes the statutory authority from mandatory to permissive for the Department of Consumer and Business Services to assess a penalty and attorney fee. Modifies the timeframe from two to five business days. Clarifies that an attorney fee must be awarded to an attorney who prevailed against a responsibility denial only if they represented the injured worker and had "active and meaningful participation." Requires the Management-Labor Advisory Committee (MLAC) to review the effects of amendments to ORS 656.262 (cooperation by worker and attorney in a claim investigation) and report to the Legislative Assembly by January 1, 2013.

BACKGROUND: ORS 656.262 outlines the method in which workers' compensation claims are processed and paid. One of the statute's provisions requires that if the insurer or self-insured employer unreasonably delays or refuses to pay compensation, or delays acceptance or denial of a claim, they are liable for an additional amount up to 25 percent of amounts due to the injured worker plus any assessed attorney fees up to \$2,000. HB 3345-A increases the maximum amount to \$3,000 and requires the amount to be adjusted annually by the same percentage increase as made to the average weekly wage, as well as for attorney fees in cases regarding certain medical service or vocational rehabilitation. The measure also increases the awarded maximum attorney fee from \$1,000 to \$2,500 for the appearance and active and meaningful participation by an attorney in finally prevailing against a responsibility denial.

HB 3345-A also allows the Department of Consumer and Business Services to assess a penalty and attorney fee if payment is due on a disputed claim settlement and the insurer or self-insured employer has failed to make the payment within two business days after the claimant or their attorney provided written notification of the required payment. The department must adopt a matrix for the assessment of the penalties and attorney fees via the rulemaking process, and provide for penalties and attorney fees based upon a percentage of the settlement allocated to the claimant and allocated to the claimant's attorney as an attorney fee.

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This summary has not been adopted or officially endorsed by action of the committee.