

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass the A-Engrossed Measure
Vote:	4 - 0 - 1
Yeas:	George, Monnes Anderson, Telfer, Rosenbaum
Nays:	0
Exc.:	Prozanski
Prepared By:	Jeremy Sarant, Administrator
Meeting Dates:	5/20

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

ISSUES DISCUSSED:

- Reason for adjusting maximum amount of attorney fees
- Provisions of the measure

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 656.262 outlines the method by 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, it is liable for up to an additional 25 percent of amounts due to the injured worker plus attorney fees up to \$2,000. House Bill 3345A increases the maximum additional attorney fee to \$3,000 and requires that amount to be adjusted annually by the same percentage increase as the average weekly wage. A similar change applies to attorney fees in cases regarding certain medical services or vocational rehabilitation. The measure also increases the maximum allowable attorney fee from \$1,000 to \$2,500 for active and meaningful participation by an attorney in finally prevailing against a responsibility denial.

HB 3345A also allows the Department of Consumer and Business Services (DCBS) to assess a penalty and attorney fees if payment is due on a disputed claim settlement and the insurer or self-insured employer has failed to make the payment within five business days after the insurer's receipt of written notification of the required payment. DCBS must adopt a matrix for the assessment of the penalties and attorney fees by rulemaking, and provide for penalties and attorney fees based upon a percentage of the claimant award and claimant's attorney fees.