

HB 2764 Management-Labor Advisory Committee proposed -A7 amendments

Sections	Affected statute	Summary
1	656.012(2)(b)	Adds policy objective of providing access to adequate representation for injured workers.
2	656.262(11)(a)	Adds new 25% penalty and reasonable assessed attorney fee if the insurer unreasonably delays or unreasonably refuses to pay attorney fees or costs.
2	656.262(11)(a)	Increases the dollar cap on the assessed attorney fee that may be awarded to \$4,000 (adjusted annually based on increases to the SAWW) when the insurer unreasonably delays or unreasonably refuses to pay compensation, attorney fees or costs.
2	656.262(14)(a)	Adds new hourly attorney fee for time spent spent during interviews or depositions (mandates WCB rules).
3	656.277(1)	Adds that the director may award a reasonable assessed attorney fee if the attorney is instrumental in obtaining reclassification of a claim from nondisabling to disabling.
4	656.313(1)(b)	Adds that attorney fees and costs withheld pending appeal accrue interest.
5	656.382(1)	Adds new reasonable assessed attorney fee if the insurer refuses to pay attorney fees or costs due under an order or otherwise unreasonably resists payment of attorney fees or costs.
5	656.382(2)	Expands the circumstances in which an attorney fee is assessed when an employer or insurer initiates an appeal disputing a worker's award for compensation, by adding that a reasonable fee must be awarded if all or part of the compensation awarded to the worker is not disallowed or reduced on appeal.
5	656.382 (new)	Requires additional attorney fees to be awarded if an employer or insurer initiates an appeal raising attorney fees, penalties, or costs as a separate issue, and the attorney fees, penalties, or costs are not disallowed or reduced on appeal.
5	656.382 (new)	Adds new reasonable assessed attorney fee for a worker's attorney's efforts in briefing a matter when an employer or insurer initiates an appeal, the matter is briefed, the appeal is withdrawn prior to a decision, and the claimant prevails.
6	656.385(1)	Expands the jurisdictions in which an attorney fee is assessed in disputes related to medical or vocational benefits by adding that the fee must also be awarded by the board or a court.
6	656.385(1)	Increases the dollar cap on the assessed attorney fee that may be awarded to \$4,000 (adjusted annually based on increase to the SAWW) in disputes related to medical or vocational benefits.

6	656.385(2)	Adds new reasonable assessed attorney fee when the insurer refuses or unreasonably resists payment of attorney fees that are related to medical or vocational benefits and due pursuant to an order.
6	656.385(3)	Adds new reasonable assessed attorney fee when the insurer initiates an appeal and attorney fees awarded under 656.385(1) and (2) are not disallowed or reduced on appeal.
6	656.385(3)	Expands the circumstances in which an attorney fee is assessed when an insurer initiates an appeal disputing medical or vocational benefits, by adding that a reasonable fee must be awarded if all or part of the compensation awarded to the worker is not disallowed or reduced on appeal.
6	656.385(4)	Expands the jurisdictions permitted to issue a penalty when an insurer initiates a vexatious or unreasonable appeal, by adding that such a penalty may also be issued by the board or a court.
7	656.386 (new)	Adds new reasonable assessed attorney fee if a worker prevails on a dispute for any increase of costs.
8	656.388(1)	Deletes prohibition on attorney fees for representation before the director in a non-contested case hearing.
8	656.388(4)	Requires the board to review all attorney fee schedules biennially.
8	656.388 (new)	When establishing attorney fee schedules, requires the board to consider the contingent nature of workers' compensation law, access to attorneys for workers, and the fees earned by attorneys for insurers.
9 and 10	(new)	Adds a new assessed attorney fee if the attorney is instrumental in obtaining temporary total disability (TTD) benefits prior to a decision by an Administrative Law Judge.
	(new)	Adds a new assessed attorney fee if the worker prevails in a dispute over temporary total disability (TTD) benefits after a request for hearing has been filed.
11		Applies to any order issued or attorney fees incurred on or after the effective date (1/1/16).