

Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session
STAFF MEASURE SUMMARY
Senate Committee On Workforce

****CORRECTED****

MEASURE: HB 2764 B

CARRIER: Sen. Rosenbaum

Fiscal: Fiscal impact issued

Revenue: No Revenue Impact

Action Date: 05/27/15

Action: Do Pass With Amendments To The A-Eng Bill. (Printed B-Eng.)

Meeting Dates: 05/13, 05/27

Vote:

Yeas: 3 - Dembrow, Gelser, Rosenbaum

Nays: 2 - Knopp, Thatcher

Prepared By: Matthew Germer, Committee Administrator

WHAT THE MEASURE DOES:

Modifies circumstances under which attorney fees may be awarded and amount of attorney fees in workers' compensation claims. Requires interest payment on compensable benefits, attorney fees and costs that are withheld pending an appeal. Allows attorney fees under certain circumstances for representation related to or before the Director of Department of Consumer and Business Services. Requires attorney fees awarded to be equitable in aggregate in relation to fees earned by attorneys for insurers or self-insurers. Directs Board to review attorney fees biennially.

ISSUES DISCUSSED:

- Overview of workers' compensation system
- Compromise between management and labor that led to the -A9 amendments
- Support of Management-Labor Advisory Committee
- Attorney compensation limits in workers' compensation claims
- Complexity involved in certain workers' compensation claims
- New attorney fees permitted in the measure
- Funding for attorney fee increase

EFFECT OF COMMITTEE AMENDMENT:

Removes award of attorney fee for enforcing certain penalties. Deletes requirement that attorney fee be proportionate to benefit of injured worker if insurer unreasonably delays or refuses to pay attorney fees or costs and instead requires fee to be reasonable. Raises attorney fee cap from \$3,000 to \$4,000 in such cases.

BACKGROUND:

Claimant attorneys are private attorneys hired by injured workers to represent them through the workers' compensation claims process. Claimant attorneys cannot be paid directly by the injured worker but instead are paid out of the compensation awarded to the injured worker or awarded as an assessed fee paid by the insurer or self-insurer based on the adjudicator's judgment. There are five broad reasons for which a claimant attorney can be awarded fees: reversing a denial, obtaining an increase in compensation, obtaining penalties or sanctions, preventing a reduction in compensation, and negotiating settlements. Some claimant attorney fees are set in statute by the Legislative Assembly and some fees are set through administrative rule by the Workers Compensation Board. Attorneys representing insurers and self-insurers are compensated without limits.