

HOUSE BILL NO. HB0110

Workers' compensation-attorney fees.

Sponsored by: Representative(s) Jaggi, Harvey and
Senator(s) Dockstader

A BILL

for

1 AN ACT relating to workers' compensation; amending the
2 jurisdictional limit for small claims proceedings; limiting
3 awards of attorneys' fees for hearings and appeals as
4 specified; and providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

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8 **Section 1.** W.S. 27-14-602(b)(i) and (d), 27-14-614
9 and 27-14-615 are amended to read:

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11 **27-14-602. Contested cases generally.**

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13 (b) Upon receipt of a request for hearing from the
14 division as provided in W.S. 27-14-601(k)(v), the case
15 shall be determined by a hearing examiner in accordance
16 with the law in effect at the time of the injury as a small

1 claims hearing or as a contested case hearing subject to
2 the following:

3
4 (i) A request for hearing shall be conducted as
5 a small claims hearing if the amount at issue is less than
6 ~~two thousand dollars (\$2,000.00)~~ five thousand dollars
7 (\$5,000.00), is not an issue of the compensability of the
8 injury pursuant to W.S. 27-14-601(a) and the division
9 requests the hearing be held as a small claims hearing. The
10 division shall provide notice that it seeks a small claims
11 hearing under this paragraph in the notice of request for
12 hearing filed pursuant to W.S. 27-14-601(k)(v). If the
13 division provides such notice, the hearing shall be a small
14 claims hearing unless a party to the hearing objects within
15 fifteen (15) days from the date of the notice of request,
16 in which case the hearing officer shall review the file and
17 determine if a small claims hearing is appropriate or if a
18 contested case hearing is necessary or appropriate. Each
19 party to the hearing may within thirty (30) days from the
20 date of notice of request, submit to the hearing examiner
21 any written evidence and argument on the issue. The hearing
22 officer may require either party to provide such documents,
23 filings and evidence as the hearing officer deems relevant
24 to the issue. Copies of the material submitted to the

1 hearing examiner shall be mailed or delivered to all
2 opposing parties. In addition, each party may submit
3 rebuttal evidence and argument to the hearing examiner
4 within forty-five (45) days following the date of notice of
5 request for hearing. Upon request of any party to the
6 hearing and at the discretion of the hearing officer, any
7 proceeding under this paragraph may be conducted in person
8 or by telephone. The hearing examiner shall review the
9 case and written submissions and render a written decision
10 not more than seventy-five (75) days following referral of
11 the request for hearing. No attorney fees or other costs
12 shall be allowed by the hearing examiner on behalf of or
13 for any party to a hearing under this paragraph. In
14 addition, the attorney general's office shall not represent
15 or directly assist the division in the preparation for a
16 hearing under this paragraph;

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18 (d) Upon request, the hearing examiner may appoint an
19 attorney to represent the employee or claimants and may
20 allow the appointed attorney a reasonable fee for his
21 services at the conclusion of the proceeding. An appointed
22 attorney shall be paid according to the order of the
23 hearing examiner either from the worker's compensation
24 ~~account~~fund, from amounts awarded to the employee or

1 claimants or from the employer. In any contested case where
2 the issue is the compensability of an injury, a prevailing
3 employer's attorney fees shall also be paid according to
4 the order of the hearing examiner from the worker's
5 compensation account, not to affect the employer's
6 experience rating. An award of attorney's fees shall be
7 for a reasonable number of hours and shall not exceed the
8 benefits at issue in the contested case hearing. In all
9 other cases if the employer or division prevails, the
10 attorney's fees allowed an employee's attorney shall not
11 affect the employer's experience rating. Attorney fees
12 allowed shall be at an hourly rate established by the
13 director of the office of administrative hearings and any
14 application for attorney's fees shall be supported by a
15 verified itemization of all services provided. No fee
16 shall be awarded in any case in which the hearing examiner
17 determines the claim or objection to be frivolous and
18 without legal or factual justification. If the division or
19 a hearing examiner determines that an injured worker's
20 failure to meet any procedural deadline in this act is
21 through the fault of the worker's attorney, the division
22 shall reconsider its determination or a hearing examiner
23 shall order the contested case returned to the division for

1 redetermination of the contested issues as provided in W.S.
2 27-14-601(k).

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4 **27-14-614. Direct appeal by director from any order;**
5 **stay of execution; costs.**

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7 The director may appeal to the district court from any
8 order or judgment of the hearing examiner awarding
9 compensation or declining to award compensation although he
10 was not a party to the proceedings before the hearing
11 examiner, without the necessity of presenting any petition
12 for reopening of a case to the hearing examiner. After the
13 appeal is perfected, the hearing examiner may stay the
14 execution of the order or judgment appealed from without
15 requiring any bond. The attorney general or his assistant
16 shall represent the director in all cases. All the costs of
17 the new hearings granted upon petition of the director and
18 all costs of appeals conducted by the director shall be
19 paid by the worker's compensation ~~account~~fund except such
20 costs as the court in its discretion shall assess against
21 any of the other parties to the cause.

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23 **27-14-615. Appointment of attorneys for court**
24 **proceedings; fees.**

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2 (a) The district court may appoint an attorney to
3 represent the employee during proceedings in the district
4 court and appeal to the supreme court. The district court
5 may allow the attorney a reasonable fee for his services at
6 the conclusion of the proceedings in district court and the
7 supreme court may allow for reasonable fees for services at
8 the conclusion of the proceedings in the supreme court. In
9 any appeal where the issue is the compensability of an
10 injury, a prevailing employer's attorney fees shall also be
11 paid according to the order of the district court or
12 supreme court from the worker's compensation account, not
13 to affect the employer's experience rating. An award of
14 attorney's fees shall be for a reasonable number of hours
15 and shall not exceed the benefits at issue in the appeal.
16 In all other cases, if the employer or division prevails in
17 the district court or supreme court, as the case may be,
18 the fees allowed an employee's attorney shall not affect
19 the employer's experience rating. No fee shall be awarded
20 to the attorney for an employee or claimant pursuant to
21 this section unless:

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23 (i) The employee or claimant prevailed in the
24 proceeding. For purposes of this paragraph, an employee or

1 claimant has prevailed if any part of the decision appealed
2 from was reversed and the division was ordered as a result
3 of the reversal to pay any monetary benefit in excess of
4 the amount ordered in the decision appealed from; or

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6 (ii) The proceeding was initiated by a party
7 other than the employee or claimant.

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9 **Section 2.** This act is effective July 1, 2012.

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(END)