

SENATE FILE

0026

SENATE FILE *0026*

SF0026

AN ACT relating to worker's compensation; prescribing separate hearing procedures for claim disputes involving specified amounts; limiting attorney fees for disputes and appeals as specified; and providing for an effective date.

Introduced by: *Charles H. Scott*

SENATE ACTION ON SENATE FILE

2/19 ☐ Introduced
 Aye ___ No ___ Ex ___ Ab ___
☐ Read First Time and Ref. to
 Committee No. ___
☒ Failed Introduction
 Aye *19* No *10* Ex *1* Ab *0*
 Returned from Committee No. ___
 with Recommendation:
☐ Do Pass; ☐ Amend & Do
 Pass; ☐ Do Not Pass;
☐ W/O Recomm; ☐ Re-Refer to
 Committee No. ___
 Re-referred to Committee No. ___
 Returned from Committee No. ___
 with Recommendation:
☐ Do Pass; ☐ Amend & Do
 Pass; ☐ Do Not Pass;
☐ W/O Recomm; ☐ Re-Refer to
 Committee No. ___
 Considered in Comm. of Whole
☐ Amended
☐ Recommended Do Pass
☐ Failed Comm. of Whole
☐ Indefinitely Postponed
☐ Other: ___
 Read Second Time
☐ Amended
☐ Do Pass
☐ Do Not Pass
☐ Accelerated to 3rd Rdg.
 Read Third Time
☐ Amended
☐ Passed ☐ Failed
 Aye ___ No ___ Ex ___ Ab ___
☐ Held for Reconsideration
☐ Motion to Reconsider
☐ Passed ☐ Failed
 Aye ___ No ___ Ex ___ Ab ___
☐ Third Reading Vote
 (On Reconsideration)
☐ Passed ☐ Failed
 Aye ___ No ___ Ex ___ Ab ___
 Sent to House (No Amendments)
 Sent to LSO for Engrossing
 ENGROSSED
 Sent to House

HOUSE ACTION ON SENATE FILE

☐ Received. Read First Time.
 Referred to Committee No. ___
☐ Returned from Committee No. ___
 with Recommendation:
☐ Do Pass; ☐ Amend & Do
 Pass; ☐ Do Not Pass;
☐ W/O Recomm; ☐ Re-Refer to
 Committee No. ___
 Re-referred to Committee No. ___
 Returned from Committee No. ___
 with Recommendation:
☐ Do Pass; ☐ Amend & Do
 Pass; ☐ Do Not Pass;
☐ W/O Recomm; ☐ Re-Refer to
 Committee No. ___
☐ Considered in Comm. of Whole
☐ Amended
☐ Recommended Do Pass
☐ Failed Comm. of Whole
☐ Indefinitely Postponed
☐ Other: ___
☐ Read Second Time
☐ Amended
☐ Do Pass
☐ Do Not Pass
☐ Accelerated to 3rd Rdg.
☐ Read Third Time
☐ Amended
☐ Passed ☐ Failed
 Aye ___ No ___ Ex ___ Ab ___
☐ Held for Reconsideration
☐ Motion to Reconsider
☐ Passed ☐ Failed
 Aye ___ No ___ Ex ___ Ab ___
☐ Third Reading Vote
 (On Reconsideration)
☐ Passed ☐ Failed
 Aye ___ No ___ Ex ___ Ab ___
☐ Sent to Senate
 Sent for Enrolling
 SEA No. ___
 Signed by President
 Signed by Speaker
 Approved by Governor
 Chapter No. ___

SENATE FILE NO. SF0026

Worker's compensation-contests and appeals.

Sponsored by: Joint Labor, Health and Social Services
Interim Committee

A BILL

for

1 AN ACT relating to worker's compensation; prescribing
2 separate hearing procedures for claim disputes involving
3 specified amounts; limiting attorney fees for disputes and
4 appeals as specified; and providing for an effective date.

5

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

7

8 **Section 1.** W.S. 27-14-601(k)(iii), 27-14-602(b) and
9 (d) and 27-14-615 are amended to read:

10

11 **27-14-601. Payment or denial of claim by division;**
12 **notice; objections; review and settlement of claims; duties**
13 **of clerk of court; filing fee.**

14

15 (k) Determinations by the division pursuant to this
16 section and W.S. 27-14-605 shall be in accordance with the
17 following:

1

2 (iii) Notice of a final determination issued by
3 the division under this subsection shall include a statement
4 of reasons and notice of the right to a hearing by a hearing
5 examiner pursuant to W.S. 27-14-602(b)(i) or (ii);

6

7 **27-14-602. Contested cases generally; procedure for**
8 **small claims.**

9

10 (b) Upon receipt of a request for hearing from the
11 division as provided in W.S. 27-14-601(k)(v), the case shall
12 be determined by a hearing examiner in accordance with the
13 law in effect at the time of the injury ~~following the~~ as a
14 small claims hearing or as a contested case hearing subject
15 to the following:

16

17 (i) A request for hearing shall be conducted as a
18 small claims hearing if the amount at issue is less than two
19 thousand dollars (\$2,000.00), as determined by the division
20 in the notice of request for hearing filed pursuant to W.S.
21 27-14-601(k)(v). Each party to the hearing may within
22 thirty (30) days from the date of notice of request, submit
23 to the hearing examiner any written evidence and argument on
24 the issue. Copies of the material submitted to the hearing
25 examiner shall be mailed or delivered to all opposing

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

13
14 (ii) All other requests for hearing not specified
15 under paragraph (b)(i) of this section shall be conducted as
16 a contested case in accordance with procedures of the
17 Wyoming Administrative Procedure Act and the Wyoming Rules
18 of Civil Procedure as applicable under rules of the office
19 of administrative hearings. The hearing examiner shall
20 render a decision in a contested case hearing within thirty
21 (30) days after the close of the hearing;

22
23 (iii) Appeals may be taken from the decision
24 rendered in any small claims hearing or contested case
25 hearing by any affected party to the contested case to the

1 district court as provided by the Wyoming Administrative
2 Procedure Act;—

3

4 (iv) Hearings may be held under this subsection
5 in any area of Wyoming giving consideration to the
6 convenience of the employee, employer and division.

7

8 (d) After a final determination is rendered by the
9 division and upon written request of an employee or
10 claimant, the hearing examiner may appoint an attorney to
11 represent the employee or claimants and in a contested case
12 hearing conducted under paragraph (b)(ii) of this section.
13 At the conclusion of the contested case hearing, the hearing
14 examiner may allow the appointed attorney a reasonable fee
15 for his services at the conclusion of the proceeding
16 provided after appointment. Any fees allowed by the hearing
17 examiner shall not exceed twenty-five percent (25%) of the
18 benefits at issue in the contested case and shall be paid
19 only if an application for attorney's fees is filed within
20 sixty (60) days after the decision is rendered. An appointed
21 attorney shall be paid according to the order of the hearing
22 examiner either from the worker's compensation account, from
23 amounts awarded to the employee or claimants or from the
24 employer. In any contested case hearing conducted under
25 paragraph (b)(ii) of this section where the issue is the

1 compensability of an injury, a prevailing employer's
2 attorney fees shall also be paid according to the order of
3 the hearing examiner from the worker's compensation account,
4 not to affect the employer's experience rating. An award of
5 attorney's fees shall be for a reasonable number of hours
6 and shall not exceed twenty-five percent (25%) of the
7 benefits at issue in the contested case hearing. In all
8 other cases if the employer or division prevails, the
9 attorney's fees allowed an employee's attorney shall not
10 affect the employer's experience rating. Attorney fees
11 allowed pursuant to this subsection shall be at an hourly
12 rate established by the director of the office of
13 administrative hearings and any application for attorney's
14 fees shall be supported by a verified itemization of all
15 services provided. No fee shall be awarded in any case in
16 which the hearing examiner determines the claim or objection
17 to be frivolous and without legal or factual justification.

18

19 **27-14-615. Appointment of attorneys for court**
20 **proceedings; fees.**

21

22 (a) Upon request, the district court may appoint an
23 attorney to represent the employee during proceedings in the
24 district court and appeal to the supreme court.

25

1 (b) Following conclusion of proceedings in district
2 court, the district court may:

3

4 (i) Allow the attorney for the employee
5 prevailing on appeal, or for the employer prevailing on
6 appeal if the issue involves the compensability of an injury
7 pursuant to subsection (d) of this section, a reasonable fee
8 for his services, ~~at the conclusion of the proceedings in~~
9 ~~district court and~~ not to exceed twenty-five percent (25%)
10 of the benefits at issue; or

11

12 (ii) If the employee did not initiate the appeal,
13 allow the attorney for the employee a reasonable fee for his
14 services, not to exceed twenty-five percent (25%) of the
15 benefits at issue.

16

17 (c) The supreme court may, following conclusion of
18 proceedings in the supreme court:

19

20 (i) Allow for reasonable attorney fees not to
21 exceed twenty-five percent (25%) of the benefits at issue,
22 for services ~~at the conclusion of the proceedings in the~~
23 ~~supreme court.~~ rendered to the employee prevailing on appeal
24 to the supreme court, or to the prevailing employer if the

1 issue of the appeal involves the compensability of an injury
2 pursuant to subsection (d) of this section; or

3

4 (ii) If the employee did not initiate the appeal
5 to the supreme court, allow the attorney for the employee a
6 reasonable fee for his services, not to exceed twenty-five
7 percent (25%) of the benefits at issue.

8

9 (d) In any appeal where the issue is the
10 compensability of an injury, a prevailing employer's
11 attorney fees shall also be paid according to the order of
12 the district court or supreme court from the worker's
13 compensation account, not to affect the employer's
14 experience rating. An award of attorney's fees under this
15 subsection shall be for a reasonable number of hours and
16 shall not exceed twenty-five percent (25%) of the benefits
17 at issue in the appeal. In all other cases, if the employer
18 or division prevails in the district court or supreme court,
19 as the case may be, the fees allowed an employee's attorney
20 shall not affect the employer's experience rating.

21

22 **Section 2.** W.S. 27-14-601(j) is repealed.

23

24 **Section 3.** This act is effective July 1, 1996.

25

1996

STATE OF WYOMING

96LSO-0137

1

(END)

Worker's compensation-contests and
appeals.

96LSO-0137.C1

FISCAL NOTE

Fiscal or personnel impact is not determinable. Appeals beyond the 1st level of hearing would be reduced due to limitation of fees paid to attorneys, data is not available to know current number of cases that are appealed although a database is being developed to track dollars and cases.

Prepared by: Robert Curtis

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53RD WYOMING STATE LEGISLATURE
BUDGET SESSION 1996

SENATE

SEQUENCE : 18

FEBRUARY 19 1996

BILL : SF0026
AMENDMENT:

3:17 PM

MOVED BY : JT. LABOR
TITLE :

SECONDED BY:

ACTION : INTRODUCTION

AYES : 19

BARTON
COE
ENZI
GEIS
GILBERTZ
GRIEVE
HAWKS
KINNISON
KUNZ
LARSON

LAWLER
MEIER
MILLER
PICARD
SCHIFFER
SCOTT
TWIFORD
ZIMMERMAN
MR. PRESIDENT

NOES : 10

APPLEGATE
CAMERON
CATHCART
GOODENOUGH
HARRIS

MAXFIELD
PHILLIPS
PREVEDEL
SARCLETTI
VINICH

EXCUSED : 1

PECK

ABSENT : 0

CONFLICT : 0

VOTES REQ: 2/3 OF MEMBERSHIP REQUIRED