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**SUBSTITUTE HOUSE BILL 1611**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** House Labor (originally sponsored by Representatives Reykdal, Dunshee, Sells, and Pollet)

1 AN ACT Relating to claims and compensation under the industrial  
2 insurance laws; and amending RCW 51.52.120.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 51.52.120 and 2011 1st sp.s. c 37 s 304 are each  
5 amended to read as follows:

6 (1) Except for claim resolution structured settlement agreements,  
7 it shall be unlawful for an attorney engaged in the representation of  
8 any worker or beneficiary to charge for services in the department  
9 any fee in excess of a reasonable fee, of not more than thirty  
10 percent of the increase in the award secured by the attorney's  
11 services. Such reasonable fee shall be fixed by the director or the  
12 director's designee for services performed by an attorney for such  
13 worker or beneficiary, if written application therefor is made by the  
14 attorney, worker, or beneficiary within one year from the date the  
15 final decision and order of the department is communicated to the  
16 party making the application.

17 (2) Subject to subsection (3) of this section, if, on appeal to  
18 the board, the order, decision, or award of the department is  
19 reversed or modified and additional relief is granted to a worker or  
20 beneficiary, or in cases where a party other than the worker or  
21 beneficiary is the appealing party and the worker's or beneficiary's

1 right to relief is sustained by the board, the board shall fix a  
2 reasonable fee for the services of his or her attorney in proceedings  
3 before the board if written application therefor is made by the  
4 attorney, worker, or beneficiary within one year from the date the  
5 final decision and order of the board is communicated to the party  
6 making the application. In fixing the amount of such attorney's fee,  
7 the board shall take into consideration the fee allowed, if any, by  
8 the director, for services before the department, and the board may  
9 review the fee fixed by the director. Any attorney's fee set by the  
10 department or the board may be reviewed by the superior court upon  
11 application of such attorney, worker, or beneficiary. The department  
12 or self-insured employer, as the case may be, shall be served a copy  
13 of the application and shall be entitled to appear and take part in  
14 the proceedings. Where the board, pursuant to this section, fixes the  
15 attorney's fee, it shall be unlawful for an attorney to charge or  
16 receive any fee for services before the board in excess of that fee  
17 fixed by the board.

18 (3)(a) If, on appeal to the board, an order, decision, or award  
19 of the department denying treatment or payment for treatment is  
20 reversed or modified and the treatment is ordered to be allowed or  
21 paid for, or in cases where the employer is the appealing party and  
22 an order, decision, or award of the department allowing treatment or  
23 paying for treatment is affirmed in whole or part, the board shall  
24 fix a reasonable fee for the services of the worker's attorney before  
25 the board and the board shall order reimbursement to the claimant for  
26 all reasonable costs incurred before the board including fees of  
27 medical and other witnesses. The fees and costs shall be payable  
28 directly by the state fund or self-insured employer, as appropriate.

29 (b) Attorneys' fees and costs under this subsection must be paid  
30 within sixty days of the date the board's order becomes final. If the  
31 fees and costs are not paid within sixty days, interest shall be  
32 payable on such fees and costs at a rate of twelve percent per annum.  
33 If such fees and costs are not paid within sixty days, the claimant  
34 may enforce the board's order pursuant to RCW 51.32.200 or 51.32.215.  
35 In such instances, the superior court may award reasonable attorneys'  
36 fees and reasonable costs associated with the proceedings before the  
37 superior court. The fees and costs shall be payable directly by the  
38 state fund or self-insured employer, as appropriate.

39 (4) For claim resolution structured settlement agreements, fees  
40 for attorney services are limited to fifteen percent of the total

1 amount to be paid to the worker after the agreement becomes final.  
2 The board will also decide on any disputes as to attorneys' fees for  
3 services related to claim resolution structured settlement agreements  
4 consistent with the procedures in subsection (2) of this section.

5 ~~((4))~~ (5) In an appeal to the board involving the presumption  
6 established under RCW 51.32.185, the attorney's fee shall be payable  
7 as set forth under RCW 51.32.185.

8 ~~((5))~~ (6) Any person who violates this section is guilty of a  
9 misdemeanor.

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