

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

11 Representative(s) Brutus offered the following:

13 **Amendment**

14 On page 43, line 24 through page 46, line 4,  
15 remove from the bill: all of said lines

17 and insert in lieu thereof:

18 440.34 Attorney's fees; costs.--

19 A fee, gratuity, or other consideration may not be paid  
20 for services rendered for a claimant in connection with any  
21 proceedings arising under this chapter, unless approved as  
22 reasonable by the judge of compensation claims or court having  
23 jurisdiction over such proceedings. Except as provided by  
24 this subsection, any attorney's fee approved by a judge of  
25 compensation claims for services rendered to a claimant must  
26 equal to 25 ~~20~~ percent of the first \$5,000 of the amount of  
27 the benefits secured, 20 ~~15~~ percent of the next \$5,000 of the  
28 amount of the benefits secured, 15 ~~10~~ percent of the remaining  
29 amount of the benefits secured to be provided during the first  
30 10 years after the date the claim is filed, and 10 ~~5~~ percent  
31 of the benefits secured after 10 years.

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1           (a) However, the judge of compensation claims shall  
2 consider the following factors in each case and may approve an  
3 increase or decrease the attorney's fee of up to \$2,500, based  
4 on a reasonable hourly rate, if, in her or his judgement, the  
5 judge of compensation claims expressly finds that the  
6 attorney's fee based on benefits secured fails to finally  
7 compensate the attorney and that the circumstances of the  
8 particular case warrant such action. This monetary limitation  
9 to hourly rate fees does not apply to attorney's fees paid  
10 under s.440.34(3)(c). Such fees shall be allowed for any  
11 petition for benefits that was ripe, due, and owing and should  
12 have been raised in such petition under this paragraph. Any  
13 fees are waived on any other benefits which were not raised  
14 and which were ripe, due, and owing at the time the issues are  
15 resolved.

16           (b) The judge of compensation claims shall not approve  
17 a compensation order, a joint stipulation for lump-sum  
18 settlement, a stipulation or agreement between a claimant and  
19 his or her attorney, or any other agreement related to  
20 benefits under this chapter which provides for an attorney's  
21 fee in excess of the amount permitted by this section.

22           ~~(a) The time and labor required, the novelty and~~  
23 ~~difficulty of the questions involved, and the skill requisite~~  
24 ~~to perform the legal service properly.~~

25           ~~(b) The fee customarily charged in the locality for~~  
26 ~~similar legal services.~~

27           ~~(c) The amount involved in the controversy and the~~  
28 ~~benefits resulting to the claimant.~~

29           ~~(d) The time limitation imposed by the claimant or the~~  
30 ~~circumstances.~~

31           ~~(e) The experience, reputation, and ability of the~~

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1 ~~lawyer or lawyers performing services.~~  
2 ~~(f) The contingency or certainty of a fee.~~  
3 (3) If the claimant should prevail in any proceedings  
4 before a judge of compensation claims or court, there shall be  
5 taxed against the employer the reasonable costs of such  
6 proceedings, not to include the attorney's fees of the  
7 claimant. A claimant shall be responsible for the payment of  
8 her or his own attorney's fees, except that a claimant shall  
9 be entitled to recover a reasonable attorney's fee from a  
10 carrier or employer:  
11 (a) Against whom she or he successfully asserts a  
12 petition claim for medical benefits only, if the claimant has  
13 not filed or is not entitled to file at such time a claim for  
14 disability, permanent impairment, wage-loss, or death  
15 benefits, arising out of the same accident; or  
16 (b) In any case in which the employer or carrier files  
17 a response to petition ~~notice of denial~~ with the Office of the  
18 Judges of Compensation Claims division and the injured person  
19 has employed an attorney in the successful prosecution of the  
20 petition claim; or  
21 (c) In a proceeding in which a carrier or employer  
22 denies that an injury occurred for which compensation benefits  
23 are payable, and the claimant prevails on the issue of  
24 compensability; or  
25 (d) In cases where the claimant successfully prevails  
26 in proceedings filed under s. 440.24 or s.440.28.  
27 Regardless of the date benefits were initially  
28 requested, attorney's fees shall not attach under this  
29 subsection until 30 days from the date the carrier or  
30 employer, if self-insured, receives the petition.~~In applying~~  
31 ~~the factors set forth in subsection (1) to cases arising under~~

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1 ~~paragraphs (a), (b), (c), and (d), the Judge of Compensation~~  
2 ~~Claims must only consider only such benefits and the time~~  
3 ~~reasonably spent in obtaining them as were secured for the~~  
4 ~~claimant within the scope of paragraphs (a), (b), (c), and~~  
5 ~~(d).~~  
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