

Bill No. CS for CS for SB 1132

Amendment No. \_\_\_\_ Barcode 303134

CHAMBER ACTION

Senate

House

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Senator Campbell moved the following amendment:

**Senate Amendment (with title amendment)**

On page 213, line 21, through  
page 218, line 13, delete those lines

and insert:

Section 41. Subsections (1) and (3) of section 440.34,  
Florida Statutes, are amended to read:

440.34 Attorney's fees; costs.--

(1) A fee, gratuity, or other consideration may not be  
paid for services rendered for a claimant in connection with  
any proceedings arising under this chapter, unless approved as  
reasonable by the judge of compensation claims or court having  
jurisdiction over such proceedings. Except as provided by this  
subsection, any attorney's fee approved by a judge of  
compensation claims for services rendered to a claimant must  
equal to 20 percent of the first \$5,000 of the amount of the  
benefits secured, 15 percent of the next \$5,000 of the amount  
of the benefits secured, 10 percent of the remaining amount of  
the benefits secured to be provided during the first 10 years

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1 after the date the claim is filed, and 5 percent of the  
2 benefits secured after 10 years. However, the judge of  
3 compensation claims shall consider the following factors in  
4 each case in which an hourly fee may be awarded as provided in  
5 subsection (3) and may increase or decrease the attorney's fee  
6 if, in her or his judgment, the circumstances of the  
7 particular case warrant such action:

8 (a) The time and labor required, the novelty and  
9 difficulty of the questions involved, and the skill requisite  
10 to perform the legal service properly.

11 (b) The fee customarily charged in the locality for  
12 similar legal services.

13 (c) The amount involved in the controversy and the  
14 benefits resulting to the claimant.

15 (d) The time limitation imposed by the claimant or the  
16 circumstances.

17 (e) The experience, reputation, and ability of the  
18 lawyer or lawyers performing services.

19 (f) The contingency or certainty of a fee.

20 (3) If the claimant should prevail in any proceedings  
21 before a judge of compensation claims or court, there shall be  
22 taxed against the employer the reasonable costs of such  
23 proceedings, not to include the attorney's fees of the  
24 claimant. A claimant shall be responsible for the payment of  
25 her or his own attorney's fees, except that a claimant shall  
26 be entitled to recover a reasonable attorney's fee from a  
27 carrier or employer:

28 (a) Against whom she or he successfully asserts a  
29 petition for medical benefits only, which may be increased by  
30 an additional attorney's fee not to exceed \$5,000 based on a  
31 reasonable hourly rate if the claimant has not filed or is not

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1 ~~entitled to file at such time a claim for disability,~~  
2 ~~permanent impairment, wage loss, or death benefits, arising~~  
3 ~~out of the same accident;~~

4 (b) In any case in which the employer or carrier files  
5 a response to petition denying benefits with the Office of the  
6 Judges of Compensation Claims and the injured person has  
7 employed an attorney in the successful prosecution of the  
8 petition, which may be increased by an additional attorney's  
9 fee not to exceed \$5,000 based on a reasonable hourly rate;

10 (c) In a proceeding in which a carrier or employer  
11 denies that an accident occurred for which compensation  
12 benefits are payable, and the claimant prevails on the issue  
13 of compensability, which is the greater of the amount provided  
14 in subsection (1) or, upon showing to the judge of  
15 compensation claims, an attorney's fee not to exceed \$20,000;  
16 or

17 (d) In cases where the claimant successfully prevails  
18 in proceedings filed under s. 440.24 or s. 440.28.

19  
20 Regardless of the date benefits were initially requested,  
21 attorney's fees shall not attach under this subsection until  
22 30 days after the date the carrier or employer, if  
23 self-insured, receives the petition. In applying the factors  
24 set forth in subsection (1) to cases arising under paragraphs  
25 (a), (b), (c), and (d), the judge of compensation claims must  
26 only consider only such benefits and the time reasonably spent  
27 in obtaining them as were secured for the claimant within the  
28 scope of paragraphs (a), (b), (c), and (d).

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1 ===== T I T L E    A M E N D M E N T =====

2 And the title is amended as follows:

3            On page 5, lines 27 and 28, delete those lines

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5 and insert:

6            for attorney's fees; clarifying judges of

7            compensation

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