

Bill No. HB 1837, 2nd Eng.

Amendment No. ____ Barcode 285434

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Campbell moved the following amendment:		
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13	Senate Amendment		
14	Lines 4499-4597, delete those lines		
15			
16	and insert:		
17	Section 26. Subsections (1) and (3) of section 440.34,		
18	Florida Statutes, are amended to read:		
19	440.34 Attorney's fees; costs.--		
20	(1) A fee, gratuity, or other consideration may not be		
21	paid for services rendered for a claimant in connection with		
22	any proceedings arising under this chapter, unless approved as		
23	reasonable by the judge of compensation claims or court having		
24	jurisdiction over such proceedings. Except as provided by this		
25	subsection, any attorney's fee approved by a judge of		
26	compensation claims for services rendered to a claimant must		
27	equal to 20 percent of the first \$5,000 of the amount of the		
28	benefits secured, 15 percent of the next \$5,000 of the amount		
29	of the benefits secured, 10 percent of the remaining amount of		
30	the benefits secured to be provided during the first 10 years		
31	after the date the claim is filed, and 5 percent of the		

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

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

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

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

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

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

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

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

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

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1 ~~permanent impairment, wage loss, or death benefits, arising~~
2 ~~out of the same accident;~~

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

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

15 or

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

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

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