SENATE BILL 349

Introduced by Harp

2/11	Introduced
2/12	Referred to Judiciary
2/12	First Reading
2/20	Hearing
2/20	Committee ReportBill Passed
2/23	2nd Reading Passed as Amended
2/25	3rd Reading Passed
	Transmitted to House
3/04	First Reading
3/04	Referred to Labor & Employment Relations
3/15	Hearing
•	Died in Committee

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2	INTRODUCED BY HARP
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4	A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING ATTORNEY
5	FEES IN WORKERS' COMPENSATION MATTERS; PROVIDING FOR
6	REGULATION OF ATTORNEY FEES BY THE DEPARTMENT OF LABOR AND
7	INDUSTRY; PROVIDING FOR A MAXIMUM FEE; AMENDING SECTION
8	39-71-613, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
9	AND AN APPLICABILITY DATE."
10	
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	Section 1. Section 39-71-613, MCA, is amended to read:
13	*39-71-613. Regulation of attorneys' fees forfeiture
14	of fee for noncompliance. (1) When an attorney represents or
15	acts on behalf of a claimant, an employer, or any other
16	party on any workers' compensation claim, the attorney
17	shall, within 30 days of undertaking representation of the
18	party, submit to the department a contract of employment, on
19	a form provided by the department, stating specifically the
20	terms of the fee arrangement between the attorney and the
21	claimant party. An attorney replacing another attorney
22	previously representing a party shall submit a new contract
23	conforming with this section within 30 days of undertaking
24	representation of the party. The contract of employment must
25	be signed by the party and the attorney and be approved by

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<u>;</u>	(2)	The	department	may	regul ate	t

the department to be effective.

- the amount of the attorney's fee in any workers' compensation case matter. In regulating the amount of the fee, the department shall consider:
- (a) if the attorney represents the claimant, benefits the claimant gained due to the efforts of the attorney;
- (b) the anticipated time and labor the--attorney--was 10 required to spend-on-the-case perform the legal service;
- 11 (c) the novelty and complexity of the case legal issues 12 involved in the matter; and
- 13 (d) the fees customarily charged for similar legal
- 14 services;
- 15 (e) the time limitations imposed by the client or the
- circumstances of the case;
- 17 (f) the nature and length of the attorney-client
- relationship;
- 19 (g) the experience, skill, and reputation of the
- 20 attorney;
- 21 (h) the ability of the client to pay for the legal
- 22 services rendered;
- 23 (i) the market value of the attorney's services at the
- 24 time and place involved; and
- 25 td)(j) any other relevant matter the department may

LC 1662/01

LC 1662/01

- l consider appropriate.
- 2 (3) Notwithstanding the provisions of subsection (2),
 3 the fee charged to the party by his attorney may not exceed
- 4 \$90 an hour.
- 5 (4) An attorney may not attempt to alter his contract
- 6 of employment with a claimant to obtain a greater fee after
- 7 he has entered into the attorney-client relationship.
- 8 However, an attorney may charge a fee less than the amount
- 9 agreed to in the contract.
- 10 (5) If a dispute arises between a client and an
- 11 attorney regarding attorney fees in a workers' compensation
- 12 claim, upon request of either the client or his attorney or
- 13 upon notice by either party to the department of a violation
- of this section or a rule adopted pursuant to this section,
- 15 the department shall review the matter and issue an order
- 16 resolving the dispute. The fee contract must clearly
- 17 identify the rights granted by this section.
- 18 (6) If an attorney violates a provision of this
- 19 section, a rule adopted under this section, or an order
- 20 fixing an attorney's fee under this section, he shall
- 21 forfeit the right to any fee which he may have collected or
- 22 been entitled to collect."
- NEW SECTION. **Section 2.** Applicability. {This act}
- 24 applies to all contracts entered into on or after (the
- 25 effective date of this act).

- 1 NEW SECTION. Section 3. Effective date. [This act] is
- 2 effective on passage and approval.

-End-

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APPROVED BY COMMITTEE ON JUDICIARY

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2	INTRODU	CED	BY _	HAR	P_							
3												
4	A BILL	FOR	AN A	CT	ENT:	TLED:	"AN	ACT	REGUL	ATING	ATTO	RNEY
5	FEES	IN	WOR	KER	s'	COMPE	NSATION	MAT	TERS:	PROVI	DING	FOR

REGULATION OF ATTORNEY FEES BY THE DEPARTMENT OF LABOR AND INDUSTRY; PROVIDING FOR A MAXIMUM FEE; AMENDING SECTION 39~71-613, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE

9 AND AN APPLICABILITY DATE."

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-613, MCA, is amended to read:

"39-71-613. Regulation of attorneys' fees — forfeiture of fee for noncompliance. (1) When an attorney represents or acts on behalf of a claimant, an employer, or any other party on any workers' compensation claim, the attorney shall, within 30 days of undertaking representation of the party, submit to the department a contract of employment, on a form provided by the department, stating specifically the terms of the fee arrangement between the attorney and the elaiment party. An attorney replacing another attorney previously representing a party shall submit a new contract conforming with this section within 30 days of undertaking representation of the party. The contract of employment must be signed by the party and the attorney and be approved by

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attorney	's	fee	in	any	worl	kers'	c

1 2 the department to be effective.

attorney's fee in any workers' compensation case <u>matter</u>. In regulating the amount of the fee, the department shall consider:

(a) if the attorney represents the claimant, the benefits the claimant gained due to the efforts of the attorney;

9 (b) the <u>anticipated</u> time <u>and labor</u> the--attorney--was
10 required to spend-on-the-case perform the legal service;

12 (c) the <u>novelty and complexity of the case legal issues</u>
12 involved in the matter; and

(d) the fees customarily charged for similar legal
services;

15 (e) the time limitations imposed by the client or the
16 circumstances of the case;

17 (f) the nature and length of the attorney-client relationship;

19 (g) the experience, skill, and reputation of the 20 attorney;

21 (h) the ability of the client to pay for the legal

22 <u>services rendered;</u>

25

23 (i) the market value of the attorney's services at the

24 time and place involved; and

(d)(j) any other relevant matter the department may SECOND READING

- 1 consider appropriate.
- 2 (3) Notwithstanding the provisions of subsection (2),
- 3 the fee charged to the party by his attorney may not exceed
- 4 \$90 an hour.
- 5 (4) An attorney may not attempt to alter his contract
- 6 of employment with a claimant to obtain a greater fee after
- 7 he has entered into the attorney-client relationship.
- 8 However, an attorney may charge a fee less than the amount
- 9 agreed to in the contract.
- 10 (5) If a dispute arises between a client and an
- 11 attorney regarding attorney fees in a workers' compensation
- 12 claim, upon request of either the client or his attorney or
- 13 upon notice by either party to the department of a violation
- 14 of this section or a rule adopted pursuant to this section,
- 15 the department shall review the matter and issue an order
- 16 resolving the dispute. The fee contract must clearly
- 17 identify the rights granted by this section.
- 18 (6) If an attorney violates a provision of this
- 19 section, a rule adopted under this section, or an order
- 20 fixing an attorney's fee under this section, he shall
- 21 forfeit the right to any fee which he may have collected or
- 22 been entitled to collect."
- 23 NEW SECTION. Section 2. Applicability. [This act]
- 24 applies to all contracts entered into on or after [the
- 25 effective date of this act].

- 1 NEW SECTION. Section 3. Effective date. (This act) is
- 2 effective on passage and approval.

-End-

SENATE BILL NO. 349

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2	INTRODUCED BY HARP	2	(2) The department may regulate the amount of the
3		3	attorney's fee in any workers' compensation case matter. I
4	A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING ATTORNEY	4	regulating the amount of the fee, the department shall
5	FEES IN WORKERS' COMPENSATION MATTERS; PROVIDING FOR	5	consider:
6	REGULATION OF ATTORNEY FEES BY THE DEPARTMENT OF LABOR AND	6	(a) if the attorney represents the claimant, the
7	INDUSTRY; PROVIDING FOR A MAXIMUM FEE; AMENDING SECTION	7	benefits the claimant gained due to the efforts of th
8	39-71-613, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	8	attorney;
9	AND AN APPLICABILITY DATE."	9	(b) the anticipated time and labor theattorneywa
10		10	required to spend-on-the-case perform the legal service;
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	11	(c) the novelty and complexity of the case legal issue
12	Section 1. Section 39-71-613, MCA, is amended to read:	12	involved in the matter; and
13	*39-71-613. Regulation of attorneys' fees forfeiture	13	(d) the fees customarily charged for similar lega
14	of fee for noncompliance. (1) When an attorney represents or	14	services;
15	acts on behalf of a claimant, an employer, or any other	15	(e) the time limitations imposed by the client or th
16	party on any workers' compensation claim, the attorney	16	circumstances of the case;
17	shall, within 30 days of undertaking representation of the	17	(f) the nature and length of the attorney-clien
18	party, submit to the department a contract of employment, on	18	relationship;
19	a form provided by the department, stating specifically the	19	(g) the experience, skill, and reputation of the
20	terms of the fee arrangement between the attorney and the	20	attorney;
21	claimant party. An attorney replacing another attorney	21	(h) the ability of the client to pay for the lega
22	previously representing a party shall submit a new contract	22	services rendered;
23	conforming with this section within 30 days of undertaking	23	(i) the market value of the attorney's services at the
24	representation of the party. The contract of employment must	24	time and place involved; and
25	be signed by the party and the attorney and be approved by	25	$ ext{td} ag{(j)}$ any other relevant matter the department matter

the department to be effective.

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THIRD READING

AS AMENDED

SB 0349/02

SB 0349/02

- 1 consider appropriate.
- 2 (3) Notwithstanding the provisions of subsection (2),
- 3 the fee charged to the party by his attorney may not exceed
- 4 \$90 an hour.
- 5 (4) An attorney may not attempt to alter his contract
- 6 of employment with a claimant to obtain a greater fee after
- 7 he has entered into the attorney-client relationship.
- 8 However, an attorney may charge a fee less than the amount
- 9 agreed to in the contract.
- 10 (5) THIS SECTION DOES NOT RESTRICT A CLAIMANT AND AN
- 11 ATTORNEY FROM ENTERING INTO A CONTINGENCY FEE AGREEMENT, AS
- 12 AUTHORIZED IN 39-71-614(3), IN CASES WHERE THE INSURER
- 13 DENIES A CLAIM PURSUANT TO 39-71-606 OR TERMINATES BENEFITS
- 14 PURSUANT TO 39-71-609.
- 15 (5)(6) If a dispute arises between a client and an
- 16 attorney regarding attorney fees in a workers' compensation
- 17 claim, upon request of either the client or his attorney or
- 18 upon notice by either party to the department of a violation
- 19 of this section or a rule adopted pursuant to this section,
- 20 the department shall review the matter and issue an order
- 21 resolving the dispute. The fee contract must clearly
- 22 identify the rights granted by this section.
- 23 (6)(7) If an attorney violates a provision of this
- 24 section, a rule adopted under this section, or an order
- 25 fixing an attorney's fee under this section, he shall

- forfeit the right to any fee which he may have collected or
- 2 been entitled to collect."
- MEW SECTION. Section 2. Applicability. [This act]
- 4 applies to all contracts entered into on or after [the
- 5 effective date of this actl.
- 6 NEW SECTION. Section 3. Effective date. [This act] is
- 7 effective on passage and approval.

-End-