

HB 673 INTRODUCED BY WHALEN, ET AL.
ATTORNEY FEE TO WORKERS' COMPENSATION CLAIMANT IF
AWARD MORE THAN OFFER BEFORE TRIAL

2/09 INTRODUCED
2/09 REFERRED TO JUDICIARY
2/13 REREFERRED TO BUSINESS & LABOR
3/09 TABLED IN COMMITTEE

1 House BILL NO. 673
2 INTRODUCED BY Whalen, Driscoll, Coker, Menaker
3 Atkey

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW AN AWARD OF A
5 REASONABLE ATTORNEY FEE TO A WORKERS' COMPENSATION CLAIMANT
6 WHO SECURES A JUDGMENT EQUAL TO OR GREATER THAN THE AMOUNT
7 OFFERED OR PAID BY THE INSURER OR EMPLOYER PRIOR TO THE
8 FILING OF A PETITION; AMENDING SECTION 39-71-612, MCA; AND
9 PROVIDING AN APPLICABILITY DATE."

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

12 Section 1. Section 39-71-612, MCA, is amended to read:
13 "39-71-612. Costs and attorneys' fees that may be
14 assessed against an employer or insurer by workers'
15 compensation judge. (1) ~~If an employer or insurer pays or~~
16 ~~tenders payment of compensation under chapter 71 or 72 of~~
17 ~~this title but controversy relates to the amount of~~
18 ~~compensation due, the case is brought before the workers'~~
19 ~~compensation judge for adjudication of the controversy, and~~
20 ~~the award granted by the judge is greater than the amount~~
21 ~~paid or tendered by the employer or insurer, a reasonable~~
22 ~~attorney's fee as established by the workers' compensation~~
23 ~~judge if the case has gone to a hearing may be awarded by~~
24 ~~the judge in addition to the amount of compensation. In a~~
25 proceeding before the workers' compensation judge for

1 recovery of any benefit entitlement under the Workers'
2 Compensation Act in which the claimant secures a judgment
3 equal to or greater than the amount offered, tendered, or
4 paid by the employer or insurer prior to the filing of a
5 petition, the court shall award to the claimant a reasonable
6 attorney fee, to be fixed by the court, in addition to the
7 amount of compensation.

8 (2) When an attorney's fee is awarded against an
9 employer or insurer under this section there may be further
10 assessed against the employer or insurer reasonable costs,
11 fees, and mileage for necessary witnesses attending a
12 hearing on the claimant's behalf. Both the necessity for the
13 witness and the reasonableness of the fees must be approved
14 by the workers' compensation judge."

15 NEW SECTION. Section 2. Extension of authority. Any
16 existing authority of the division of workers' compensation
17 to make rules on the subject of the provisions of this act
18 is extended to the provisions of this act.

19 NEW SECTION. Section 3. Applicability. This act
20 applies to proceedings begun on and after October 1, 1987.

-End-



-2- INTRODUCED BILL
HB 673