

**HOUSE BILL NO.**

Introduced by

Representative Amerman

1 A BILL for an Act to amend and reenact section 65-02-08 of the North Dakota Century Code,  
2 relating to payment of attorney's fees by workforce safety and insurance.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 65-02-08 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **65-02-08. Rulemaking power of the organization - Fees prescribed by**  
7 **organization.**

8 1. The organization shall adopt rules necessary to carry out this title. All fees on  
9 claims for medical and hospital goods and services provided under this title to an  
10 injured employee must be in accordance with schedules of fees adopted by the  
11 organization. Before the effective date of any adoption of, or change to, a fee  
12 schedule, the organization shall hold a public hearing, which is not subject to  
13 chapter 28-32. The organization shall establish, by administrative rule, costs  
14 payable, maximum costs, a reasonable maximum hourly rate, and a maximum fee  
15 to compensate an injured employee's attorney for legal services following issuance  
16 of an administrative order reducing or denying benefits. The organization shall  
17 issue a decision within sixty days of the date when all elements of initial filing or  
18 notice of reapplication of claim have been satisfied or a claim for additional benefits  
19 over and above benefits previously awarded has been made. Satisfaction of  
20 elements of filing must be defined by administrative rule. The organization shall  
21 pay an injured employee's attorney's fees and costs from the organization's  
22 general fund. Except for an initial determination of compensability, an attorney's  
23 fee may not exceed twenty percent of the amount awarded, subject to a maximum

- 1 fee set by administrative rule. The organization shall pay an attorney's fees and  
2 costs when:
- 3 ~~4.~~ a. The employee has prevailed in binding dispute resolution under section  
4 65-02-20.
- 5 ~~2.~~ b. The employee has prevailed after an administrative hearing under chapter  
6 28-32.
- 7 2. An injured employee has prevailed only when an additional benefit, previously  
8 denied, is paid. An injured employee does not prevail on a remand for further  
9 action or proceedings unless that employee ultimately receives an additional  
10 benefit as a result of the remand. This section does not prevent an injured  
11 employee or an employer from hiring or paying an attorney; however, the  
12 employee's attorney may not seek or obtain costs or attorney's fees from both the  
13 organization and the employee relative to the same claim. All disputes relating to  
14 payment or denial of an attorney's fees or costs must be submitted to the hearing  
15 officer or arbitrator for decision, but a hearing officer or arbitrator may not order that  
16 the maximum fees be exceeded.
- 17 3. The organization shall adopt administrative rules regarding payment of attorney's  
18 fees and costs for an attorney who contracts with the organization to provide legal  
19 services on behalf of the organization in connection with a dispute regarding a  
20 claim under this title. The rules must provide that the organization may not pay nor  
21 reimburse the contract attorney for any services or costs if the organization does  
22 not prevail in the proceeding for which the attorney provided legal services.