

HB 2799-2
(LC 2272)
3/31/25 (ASD/ps)

Requested by Representative RUIZ

**PROPOSED AMENDMENTS TO
HOUSE BILL 2799**

1 On page 1 of the printed bill, line 2, after the first semicolon delete the
2 rest of the line and delete line 3 and insert “amending ORS 656.386.”.

3 Delete lines 5 through 29 and delete pages 2 through 4 and insert:

4 **“SECTION 1.** ORS 656.386 is amended to read:

5 “656.386. (1)(a) In all cases involving denied claims where a claimant
6 finally prevails against the denial in an appeal to the Court of Appeals or
7 petition for review to the Supreme Court, the court shall allow a reasonable
8 attorney fee to the claimant’s attorney. In such cases involving denied claims
9 where the claimant prevails finally in a hearing before an Administrative
10 Law Judge or in a review by the Workers’ Compensation Board, then the
11 Administrative Law Judge or board shall allow a reasonable attorney fee. In
12 such cases involving denied claims where an attorney is instrumental in ob-
13 taining a rescission of the denial prior to a decision by the Administrative
14 Law Judge, a reasonable attorney fee shall be allowed.

15 “(b) For purposes of this section, a ‘denied claim’ is:

16 “(A) A claim for compensation which an insurer or self-insured employer
17 refuses to pay on the express ground that the injury or condition for which
18 compensation is claimed is not compensable or otherwise does not give rise
19 to an entitlement to any compensation;

20 “(B) A claim for compensation for a condition omitted from a notice of
21 acceptance, made pursuant to ORS 656.262 (6)(d), which the insurer or self-

1 insured employer does not respond to within 60 days;

2 “(C) A claim for an aggravation made pursuant to ORS 656.273 (2) or for
3 a new medical condition made pursuant to ORS 656.267, which the insurer
4 or self-insured employer does not respond to within 60 days; or

5 “(D) A claim for an initial injury or occupational disease to which the
6 insurer or self-insured employer does not respond within 60 days.

7 “(c) A denied claim shall not be presumed or implied from an insurer’s
8 or self-insured employer’s failure to pay compensation for a previously ac-
9 cepted injury or condition in timely fashion. Attorney fees provided for in
10 this subsection shall be paid by the insurer or self-insured employer.

11 “(2)(a) If a claimant finally prevails against a denial as provided in sub-
12 section (1) of this section, the court, board or Administrative Law Judge may
13 order payment of the claimant’s reasonable expenses and costs for records,
14 expert opinions and witness fees.

15 “(b) The court, board or Administrative Law Judge shall determine the
16 reasonableness of witness fees, expenses and costs for the purpose of para-
17 graph (a) of this subsection.

18 “(c) Payments for witness fees, expenses and costs ordered under this
19 subsection shall be made by the insurer or self-insured employer and are in
20 addition to compensation payable to the claimant.

21 “(d)(A) Payments for witness fees, expenses and costs ordered under this
22 subsection may not exceed [\$1,500] **\$3,500** unless the claimant demonstrates
23 extraordinary circumstances justifying payment of a greater amount.

24 **“(B) The amount that may not be exceeded under this paragraph**
25 **without demonstrating extraordinary circumstances shall be adjusted**
26 **annually on July 1 by the percentage increase, if any, in the average**
27 **weekly wage as most recently computed by the Employment Depart-**
28 **ment under ORS 656.211 and rounded to the nearest multiple of \$100.**

29 “(3) If a claimant requests claim reclassification as provided in ORS
30 656.277 and the insurer or self-insured employer does not respond within 14

1 days of the request, or if the claimant, insurer or self-insured employer re-
2 quests a hearing, review, appeal or cross-appeal to the Court of Appeals or
3 petition for review to the Supreme Court and the Director of the Department
4 of Consumer and Business Services, Administrative Law Judge, board or
5 court finally determines that the claim should be classified as disabling, the
6 director, Administrative Law Judge, board or court may assess a reasonable
7 attorney fee.

8 “(4) In disputes involving a claim for costs, if the claimant prevails on
9 the claim for any increase of costs, the Administrative Law Judge, board,
10 Court of Appeals or Supreme Court shall award a reasonable assessed at-
11 torney fee to the claimant’s attorney.

12 “(5) In all other cases, attorney fees shall be paid from the increase in the
13 claimant’s compensation, if any, except as otherwise expressly provided in
14 this chapter.”.

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