

HOUSE BILL NO. HB0071

Workers' compensation appeals.

Sponsored by: Representative(s) Zwonitzer, Dn., Bonner,
Davison, Harvey, Kimble, Millin and
Shepperson and Senator(s) Landen

A BILL

for

1 AN ACT relating to workers' compensation; providing for
2 direct appeal of worker's compensation small claims and
3 contested case decisions to the supreme court; specifying
4 applicability; and providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 27-14-602(b)(iii), 27-14-607,
9 27-14-608(a) and 27-14-612 through 27-14-615 are amended to
10 read:

11

12 **27-14-602. Contested cases generally.**

13

14 (b) Upon receipt of a request for hearing from the
15 division as provided in W.S. 27-14-601(k)(v), the case
16 shall be determined by a hearing examiner in accordance

1 with the law in effect at the time of the injury as a small
2 claims hearing or as a contested case hearing subject to
3 the following:

4
5 (iii) Notwithstanding the Wyoming Administrative
6 Procedure Act, appeals may be taken from the decision
7 rendered in any small claims hearing or contested case
8 hearing by any affected party directly to the ~~district~~
9 supreme court; ~~as provided by the Wyoming Administrative~~
10 ~~Procedure Act,~~

11
12 **27-14-607. Rights of director to defend against**
13 **claim; no waiver.**

14
15 The director or his designee may for any reason appear
16 before the hearing examiner or in the ~~district~~supreme
17 court and defend against any claim and shall in all
18 respects have the same rights of defense as the employer.
19 Failure to contest a claim does not constitute waiver by
20 the director of his right to participate in further
21 proceedings concerning the award where he does not appear
22 and defend at the original hearing or trial.

23
24 **27-14-608. Attorney fees; penalty for violation.**

1

2 (a) If the hearing examiner under W.S. 27-14-602(d)
3 ~~or the district court~~ or supreme court under W.S. 27-14-615
4 ~~set~~ sets a fee for any person for representing a claimant
5 under this act excluding a health care provider, the person
6 shall not receive any additional fee from the claimant.

7

8 **27-14-612. Appeal by employee; costs.**

9

10 If an appeal to the ~~district~~ supreme court is prosecuted on
11 behalf of the employee, the employee or attorney
12 representing the employee shall order a record of the
13 proceedings at the hearing to be supplied by the hearing
14 examiner without cost to the employee. An electronic
15 recording of the proceedings may serve as the official
16 transcript but upon appeal, the ~~district~~ supreme court may
17 request a written transcript of the proceedings or any
18 portion of the proceedings. The employee or attorney shall
19 also order the papers on file with the division to be
20 prepared, transcribed, certified and forwarded to the
21 ~~district~~ supreme court without cost to the employee. Docket
22 fees in the ~~district~~ supreme court shall be paid for
23 directly out of the worker's compensation account.

24

1 **27-14-613. Appeal by employer; stay of award.**

2

3 If an appeal is prosecuted on behalf of the employer, the
4 record of the proceedings at the original hearing shall be
5 supplied without cost to the employer. An electronic
6 recording of the proceedings may serve as the official
7 transcript but upon appeal, the ~~district~~supreme court may
8 request a written transcript of the proceedings or any
9 portion of the proceedings. The employer may employ counsel
10 to conduct the appeal on his behalf. Upon request and on
11 appeal by an employer or the division from an order of
12 award, the hearing examiner may stay the payment of the
13 award or that portion appealed from upon any terms as the
14 hearing examiner deems proper.

15

16 **27-14-614. Direct appeal by director from any order;**
17 **stay of execution; costs.**

18

19 The director may appeal to the ~~district~~supreme court from
20 any order or judgment of the hearing examiner awarding
21 compensation or declining to award compensation although he
22 was not a party to the proceedings before the hearing
23 examiner, without the necessity of presenting any petition
24 for reopening of a case to the hearing examiner. After the

1 appeal is perfected, the hearing examiner may stay the
2 execution of the order or judgment appealed from without
3 requiring any bond. The attorney general or his assistant
4 shall represent the director in all cases. All the costs of
5 the new hearings granted upon petition of the director and
6 all costs of appeals conducted by the director shall be
7 paid by the worker's compensation account except such costs
8 as the court in its discretion shall assess against any of
9 the other parties to the cause.

10
11 **27-14-615. Appointment of attorneys for court**
12 **proceedings; fees.**

13
14 The ~~district~~^{supreme} court may appoint an attorney to
15 represent the employee during ~~proceedings in the district~~
16 ~~court and~~ appeal to the supreme court. The ~~district court~~
17 ~~may allow the attorney a reasonable fee for his services at~~
18 ~~the conclusion of the proceedings in district court and the~~
19 supreme court may allow for reasonable fees for services at
20 the conclusion of the proceedings in the supreme court. In
21 any appeal where the issue is the compensability of an
22 injury, a prevailing employer's attorney fees shall also be
23 paid according to the order of the ~~district court or~~
24 supreme court from the worker's compensation account, not

1 to affect the employer's experience rating. An award of
2 attorney's fees shall be for a reasonable number of hours
3 and shall not exceed the benefits at issue in the appeal.
4 In all other cases, if the employer or division prevails in
5 the ~~district court or~~ supreme court, ~~as the case may be,~~
6 the fees allowed an employee's attorney shall not affect
7 the employer's experience rating.

8

9 **Section 2.** This act shall apply to cases involving
10 injuries to workers occurring on or after the effective
11 date of this act.

12

13 **Section 3.** This act is effective July 1, 2010.

14

15 (END)