

BILL ANALYSIS

C.S.H.B. 2406
By: Stick
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Labor Code in Section 408.221 and 408.222 has given the Texas Workers' Compensation Commission (TWCC) rule-making authority to approve attorneys' fees for certain services performed in representing their clients before the TWCC. Both the number of hours and the hourly rate of the attorneys' fees must be approved by the TWCC for both the claimants' attorneys and the carriers' attorneys.

TWCC under Title 28, Part 2, Chapter 152.4 has fixed the maximum hourly rate for attorneys' fees at \$150 per hour and has fixed legal assistants' fees at \$50 per hour. These fees have not been adjusted in over twelve years. Current surveys of Texas attorneys' fees reveal that experienced attorneys' fees are considerably higher than the current maximum hourly rate allowed by TWCC. The same is true for legal assistants' fees.

C.S.H.B. 2406 adjusts the maximum hourly attorneys' and legal assistants' fees to the same percentage of the state average weekly wage as it was twelve years ago.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

This legislation amends Section 408.221 of the Labor Code by amending Subsection (f), Subsection (j) and adding subsection 408.223.

Subsection (f) is amended to make it subject to Section 408.223

Subsection (j) is amended to make it subject to Section 408.223

Section 408.223 explicitly sets the maximum hourly rate for attorneys' fees at thirty-five percent of the state average weekly wage.

Subsection (b) explicitly sets the maximum hourly rate for legal assistants' fees at twelve percent of the state average weekly wage.

Subsection (c) defines "state average weekly wage" as defined in Section 408.047

EFFECTIVE DATE

September 1, 2003

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original bill by adding an new Section 408.223 instead of adding a new Subsection (j).