

By: Representative Lane

To: Insurance; Judiciary A

HOUSE BILL NO. 1296

1 AN ACT TO AMEND SECTION 71-3-63, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE COUNSEL FOR EACH OF THE PARTIES IN A WORKERS' COMPENSATION
3 CASE TO FILE CERTAIN REPORTS OF INCOME AND EXPENDITURES WITH THE
4 WORKERS' COMPENSATION COMMISSION; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** Section 71-3-63, Mississippi Code of 1972, is
7 amended as follows:

8 71-3-63. (1) No claim for legal services or for any other
9 services rendered in respect of a claim or award for compensation,
10 to or on account of any person, shall be valid unless approved by
11 the commission or, if proceedings for review of the order of the
12 commission in respect of such claim or award are had before any
13 court, unless approved by such court. Any claim so approved
14 shall, in the manner and to the extent fixed by the commission or
15 such court, be a lien upon such compensation.

16 (2) Any person (a) who receives any fee, other
17 consideration, or any gratuity on account of services so rendered,
18 unless such consideration or gratuity is approved by the
19 commission or such court, or (b) who makes it a business to
20 solicit employment for a lawyer or for himself in respect of any
21 claim or award for compensation, shall be guilty of a misdemeanor
22 and, upon conviction thereof, shall for each offense be punished
23 by a fine of not more than One Thousand Dollars (\$1,000.00) or by
24 imprisonment not to exceed one (1) year, or by both such fine and
25 imprisonment.

26 (3) Representation of one other than himself or herself
27 before the commission shall be considered the practice of law, and
28 all statutes applying to and regulating the practice in all other

29 courts of law in this state shall likewise apply to practice
30 before the commission, insofar as the qualifications of those
31 practicing before the commission are concerned. This paragraph
32 shall not be construed as tightening the rules of evidence which
33 are otherwise relaxed in other sections of this chapter.

34 In no instance shall the amount recovered by an attorney for
35 an appearance before the commission exceed twenty-five percent
36 (25%) of the total award of compensation. Such limitations,
37 however, shall not be construed as applying to a fee awarded for
38 additional services by any superior court. Legal services
39 rendered where no motion to controvert has been filed by either
40 employer or employee shall be considered as consultation, and that
41 factor shall be taken into consideration in awarding a fee. In
42 all instances, fees shall be awarded on the basis of fairness to
43 both attorney and client. Although exceptions may be made in the
44 interest of justice, it shall be deemed conducive to the best
45 interest of all concerned for the commission to approve contracts
46 for attorneys' fees voluntarily entered into between attorney and
47 client, within the limitations hereinabove set out.

48 When an award of compensation becomes final and an attorney's
49 fee is outstanding, a partial lump sum settlement sufficient to
50 cover the attorney's fee approved therein by the commission shall
51 be made immediately, from payments last to become due, and the
52 deductions allowed by the law shall be borne equally by the
53 attorney and the client.

54 Counsel for each of the parties in a workers' compensation
55 case is required to file with the commission a report showing the
56 income that such counsel received and the total expenditures that
57 such counsel made on behalf of his/her client in the case. Upon
58 completion of each workers' compensation case, whether by
59 settlement, hearing or final appeal, a photocopy of the total
60 report including fees and total expenditures shall be made
61 available to counsel opposite upon request by said counsel.

62 **SECTION 2.** This act shall take effect and be in force from
63 and after July 1, 2006.