



# SENATE BILL No. 1226

September 14, 1994, Introduced by Senator HONIGMAN and  
referred to the Committee on Labor

A bill to amend sections 858 and 861b of Act No 317 of the  
Public Acts of 1969, entitled as amended

"Worker's disability compensation act of 1969,"

section 858 as amended by Act No 271 of the Public Acts of 1994  
and section 861b as added by Act No 103 of the Public Acts of  
1985, being sections 418 858 and 418 861b of the Michigan  
Compiled Laws

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 858 and 861b of Act No 317 of the  
2 Public Acts of 1969, section 858 as amended by Act No 271 of the  
3 Public Acts of 1994 and section 861b as added by Act No 103 of  
4 the Public Acts of 1985, being sections 418 858 and 418 861b of  
5 the Michigan Compiled Laws, are amended to read as follows

6 Sec 858 (1) The cost of a hearing, including the cost of  
7 taking stenographic notes of the testimony presented at the

1 hearing, not exceeding the taxable costs allowed in actions at  
2 law in the circuit courts of this state, shall be fixed by the  
3 board of magistrates and paid by the state as other expenses of  
4 the state are paid. The payment of fees for all attorneys and  
5 physicians for services under this act shall be subject to the  
6 approval of a worker's compensation magistrate. ~~In the event~~  
7 ~~of~~ IF THERE IS disagreement as to ~~such~~ THESE fees, an inter-  
8 ested party may apply to the bureau for a hearing. After an  
9 order by the worker's compensation magistrate, review may be had  
10 by the director if a request is filed within 15 days. Thereafter  
11 the director's order may be reviewed by the appellate commission  
12 on request of an interested party, if a request is filed within  
13 15 days.

14 (2) The director, by rule, may prescribe maximum attorney  
15 fees and the manner in which the amount may be determined or paid  
16 by the employee but the maximum attorney fees prescribed by the  
17 director shall not be based upon a weekly benefit amount after  
18 coordination which is higher than  $\frac{2}{3}$  of the state average weekly  
19 wage at the time of the injury. For claims in which an applica-  
20 tion under section 847 is filed after March 31, 1986, the maximum  
21 attorney fee shall be based upon the coordinated worker's compen-  
22 sation benefit amount according to a contingency fee schedule, as  
23 provided for under rules promulgated pursuant to this act, but if  
24 this would result in a fee of less than \$500.00, the claimant may  
25 agree to pay a sum, as specified in a written agreement between  
26 the claimant and the attorney prior to the filing of an  
27 application for hearing, so that the total fee received by the

1 attorney would be not more than \$500 00 When fees are requested  
2 in excess of that provided by rule, the director may award the  
3 fees by special order In the computation of attorney fees for a  
4 case in which an application under section 847 is filed after  
5 March 31, 1986 and decided by the worker's compensation appellate  
6 commission, the fees shall be assessed on not more than 104 weeks  
7 of the period the matter was pending before the commission This  
8 limitation on fees applies only to weekly compensation and does  
9 not apply to the period of time the matter was pending review  
10 before the court of appeals or supreme court

11 (3) The director is authorized to promulgate rules calling  
12 for reductions in attorney fees in cases where applications for  
13 hearing have been dismissed, or where, in the discretion of the  
14 worker's compensation magistrate, such action is appropriate

15 (4) A WORKER'S COMPENSATION MAGISTRATE, UPON HIS OR HER OWN  
16 MOTION OR THE MOTION OF ANY PARTY, MAY ASSESS COSTS OR AWARD  
17 ATTORNEY FEES IF THE MAGISTRATE DETERMINES THAT A CLAIM OR ANY  
18 PROCEEDING REGARDING THE CLAIM WAS FRIVOLOUS

19 Sec 861b (1) The commission, upon its own motion, or the  
20 motion of any party, may dismiss a claim for review, assess  
21 costs, or take other disciplinary action when it has been deter-  
22 mined that the claim or any of the proceedings with regard to the  
23 claim was vexatious by reason of either of the following

24 (a) That the claim was taken for purposes of hindrance or  
25 delay or without any reasonable basis for belief that there was  
26 meritorious issue to be determined on appeal

1       (b) That any pleading, motion, argument, petition, brief,  
2 document, or appendix filed in the cause or any testimony  
3 presented in the cause was grossly lacking in the requirements of  
4 propriety or grossly disregarded the requirements of a fair pre-  
5 sentation of the issues

6       (2) THE COMMISSION, UPON ITS OWN MOTION OR THE MOTION OF ANY  
7 PARTY, MAY ASSESS COSTS OR AWARD ATTORNEY FEES IF THE COMMISSION  
8 DETERMINES THAT A CLAIM OR ANY PROCEEDING REGARDING THE CLAIM WAS  
9 FRIVOLOUS