



2007 ASSEMBLY BILL 288

April 24, 2007 - Introduced by Representatives SHERMAN, TOWNSEND, ALBERS, BERCEAU, HAHN, MOLEPSKE and TURNER, cosponsored by Senator JAUCH. Referred to Committee on Labor and Industry.

1 **AN ACT to amend** 102.27 (2) (b); and **to create** 102.27 (2) (c) of the statutes;
2 **relating to:** an award to an injured employee's attorney who takes any action
3 to collect public assistance reimbursement in a worker's compensation
4 proceeding.

Analysis by the Legislative Reference Bureau

Under current law, if a governmental unit provides public assistance to pay medical costs or living expenses related to a claim for worker's compensation and if the governmental unit has given the parties to the claim written notice stating that it provided the assistance and the amount of the assistance provided, the employer or insurance carrier owing the worker's compensation is required to reimburse the governmental unit for the amount of the assistance provided or for two-thirds of the amount of the worker's compensation award remaining after deduction of attorney fees and other fees and costs payable under the worker's compensation law, whichever is less.

This bill requires the Department of Workforce Development (DWD) to award to the attorney or other representative of an injured employee not less than 15 percent nor more than 25 percent of the amount of reimbursement collected for a governmental unit that has provided public assistance, depending on the extent to which the attorney or representative substantially contributed to the collection of the reimbursement, if the attorney or other representative takes any action to collect the reimbursement and if the governmental unit takes any action to collect the reimbursement in addition to providing notice that it provided the assistance and the

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amount of the assistance. If the attorney or other representative takes any action to collect the reimbursement and if the governmental unit providing the public assistance takes no action to collect the reimbursement other than providing the notice, the bill requires DWD to award to the attorney or representative an amount that DWD determines is reasonable for collecting the reimbursement, but not less than 25 percent nor more than 30 percent of the amount of reimbursement collected. Finally, in addition to these percentage amounts awarded, the bill requires DWD to award to the attorney or representative an amount for reasonable expenses necessarily incurred in collecting the reimbursement.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 102.27 (2) (b) of the statutes is amended to read:

2 102.27 (2) (b) ~~If Subject to par. (c), if a governmental unit that provides public~~
3 assistance under ch. 49 to pay medical costs or living expenses related to a claim
4 under this chapter ~~provides the parties to the claim with written notice stating that~~
5 ~~the governmental unit has provided the assistance and the cost of the assistance~~
6 ~~provided, the employer or insurance carrier owing compensation or the department~~
7 ~~owing payments under s. 102.81 shall reimburse that governmental unit any~~
8 ~~compensation awarded or paid if the governmental unit has given the parties to the~~
9 ~~claim written notice stating that it provided the assistance and the cost of the~~
10 ~~assistance provided. Reimbursement shall equal the lesser of either for the amount~~
11 ~~of assistance the governmental unit provided or for two-thirds of the amount of the~~
12 ~~award or payment remaining after deduction of attorney fees and any other fees or~~
13 ~~costs chargeable under ch. 102. The department shall comply with this paragraph~~
14 ~~when making payments under s. 102.81 this chapter, whichever is less.~~

15 **SECTION 2.** 102.27 (2) (c) of the statutes is created to read:

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1 102.27 **(2)** (c) 1. If the attorney or other representative of an injured employee
2 takes any action to collect the reimbursement owed under par. (b) and if the
3 governmental unit providing the public assistance under ch. 49 takes any action to
4 collect that reimbursement in addition to providing the notice under par. (b), the
5 department shall award to the attorney or representative not less than 15 percent
6 nor more than 25 percent of the amount of reimbursement collected, depending on
7 the extent to which the attorney or representative substantially contributed to the
8 collection of the reimbursement. Any amount awarded under this subdivision shall
9 be paid out of the amount of reimbursement collected.

10 2. If the attorney or other representative of an injured employee takes any
11 action to collect the reimbursement owed under par. (b) and if the governmental unit
12 providing the public assistance under ch. 49 takes no action to collect that
13 reimbursement other than providing the notice under par. (b), the department shall
14 award to the attorney or representative an amount that the department determines
15 is reasonable for collecting the reimbursement, but not less than 25 percent nor more
16 than 30 percent of the amount of reimbursement collected. Any amount awarded
17 under this subdivision shall be paid out of the amount of reimbursement collected.

18 3. In addition to the amount awarded under subd. 1. or 2., the department shall
19 award the attorney or representative an amount for reasonable expenses necessarily
20 incurred in collecting the reimbursement, which expenses shall be awarded against
21 the employer, insurance carrier, or department.

22 **(END)**