

# ASSEMBLY LABOR COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 5659

with committee amendments

# STATE OF NEW JERSEY

DATED: NOVEMBER 30, 2023

The Assembly Labor Committee reports favorably and with committee amendments Assembly Bill No. 5659.

As amended, this bill establishes the 21st Century Injured Workers' Access to Justice Act. This bill revises the workers' compensation law to revise the cap on contingency fees to a prevailing party in workers' compensation matters from 20 percent to 25 percent, and it expands the application of the fee to orders for payment of medical and temporary disability benefits on motion and orders approving settlement of any kind.

The bill provides that no awarded counsel fee will be allocated by a judge of workers' compensation against the petitioner's recovery for medical treatment or temporary total disability benefits secured by way of motion or plenary trial. The bill will not preclude a judge of workers' compensation from considering an hourly rate and hours expended when awarding a counsel fee pursuant to section 1 of P.L.2008, c.93 (C.34:15-28.2) or section 1 of P.L.1998, c.74 (C.34:15-57.4). Cases resolved pursuant to section 8 of P.L.1979, c.282 (C.34:15-20) will also carry a contingency fee of not exceeding 25 percent, subject to the discretion of the judge of workers' compensation.

The bill is intended to address the ruling in the unpublished case of Garzon v. Morris County Golf Club, App. Div. Docket #A-1100-21, concerning the basis for the award of counsel fees in the workers' compensation system.

Attorneys for injured workers are compensated on a contingency fee basis, to encourage the vindication of the rights of injured workers to medical treatment, temporary total disability, permanent disability, and dependency benefits under a beneficent and remedial system. The cost of denying these benefits to injured workers poorly situated to paying hourly counsel fees is to be borne by the employer when appropriate and to the extent appropriate, as determined by a workers' compensation judge.

Since the original contingency cap of 20 percent was passed by the Legislature, attorneys for injured workers have been given additional duties by changes in the statutory and regulatory structures on both State and federal levels. The bill's revision of the contingency fee cap takes into account increased duties of attorneys for injured workers. A

prevailing party should receive up to 25 percent as the counsel fee for securing these essential benefits for the injured worker if the court determines the efforts of counsel resulted in the payment of these benefits.

COMMITTEE AMENDMENTS:

The committee amended the bill to update the underlying statutory law.