Chapter 51.52 RCW
APPEALS

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RCW 51.52.010 Board of industrial insurance appeals. ***(Effective until June 30, 2027.)*** There shall be a "board of industrial insurance appeals," hereinafter called the "board," consisting of three members appointed by the governor, with the advice and consent of the senate, as hereinafter provided. One shall be a representative of the public and a lawyer, appointed from a mutually agreed to list of not less than three active or judicial members of the Washington state bar association, submitted to the governor by the two organizations

defined below, and such member shall be the chairperson of said board. The second member shall be a representative of the majority of workers engaged in employment under this title and selected from a list of not less than three names submitted to the governor by an organization, statewide in scope, which through its affiliates embraces a cross section and a majority of the organized labor of the state. The third member shall be a representative of employers under this title, and appointed from a list of at least three names submitted to the governor by a recognized statewide organization of employers, representing a majority of employers. The initial terms of office of the members of the board shall be for six, four, and two years respectively. Thereafter all terms shall be for a period of six years. Each member of the board shall be eligible for reappointment and shall hold office until his or her successor is appointed and qualified. In the event of a vacancy the governor is authorized to appoint a successor to fill the unexpired term of his or her predecessor. All appointments to the board shall be made in conformity with the foregoing plan. In the event a board member becomes incapacitated in excess of thirty days either due to his or her illness or that of an immediate family member as determined by a request for family leave or as certified by the affected member's treating physician or licensed *advanced registered nurse practitioner, the governor shall appoint an acting member to serve pro tem. Such an appointment shall be made in conformity with the foregoing plan, except that the list of candidates shall be submitted to the governor not more than fifteen days after the affected organizations are notified of the incapacity and the governor shall make the appointment within fifteen days after the list is submitted. The temporary member shall serve until such time as the affected member is able to reassume his or her duties by returning from requested family leave or as determined by the treating physician or licensed *advanced registered nurse practitioner or until the affected member's term expires, whichever occurs first. Whenever the workload of the board and its orderly and expeditious disposition shall necessitate, the governor may appoint two additional pro-tem members in addition to the regular members. Such appointments shall be for a definite period of time, and shall be made from lists submitted respectively by labor and industry as in the case of regular members. One pro-tem member shall be a representative of labor and one shall be a representative of industry. Members shall devote their entire time to the duties of the board and shall receive for their services a salary as fixed by the governor in accordance with the provisions of RCW 43.03.040 which shall be in addition to travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. Headquarters for the board shall be located in Olympia. The board shall adopt a seal which shall be judicially recognized. [2004 c 65 s 15; 2003 c 224 s 1; 1999 c 149 s 1; 1981 c 338 s 10; 1977 ex.s. c 350 s 74; 1975-'76 2nd ex.s. c 34 s 151; 1971 ex.s. c 289 s 68; 1965 ex.s. c 165 s 3; 1961 c 307 s 8; 1961 c 23 s 51.52.010. Prior: 1951 c 225 s 1; prior: 1949 c 219 s 2; Rem. Supp. 1949 s 10837-1.]

***Reviser's note:** The term "advanced registered nurse practitioner" was changed to "advanced practice registered nurse" by 2024 c 239 s 1, effective June 30, 2027.

Report to legislature—Effective date—Severability—2004 c 65: See notes following RCW 51.04.030.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

RCW 51.52.010 Board of industrial insurance appeals. ***(Effective June 30, 2027.)*** There shall be a "board of industrial insurance appeals," hereinafter called the "board," consisting of three members appointed by the governor, with the advice and consent of the senate, as hereinafter provided. One shall be a representative of the public and a lawyer, appointed from a mutually agreed to list of not less than three active or judicial members of the Washington state bar association, submitted to the governor by the two organizations defined below, and such member shall be the chairperson of said board. The second member shall be a representative of the majority of workers engaged in employment under this title and selected from a list of not less than three names submitted to the governor by an organization, statewide in scope, which through its affiliates embraces a cross section and a majority of the organized labor of the state. The third member shall be a representative of employers under this title, and appointed from a list of at least three names submitted to the governor by a recognized statewide organization of employers, representing a majority of employers. The initial terms of office of the members of the board shall be for six, four, and two years respectively. Thereafter all terms shall be for a period of six years. Each member of the board shall be eligible for reappointment and shall hold office until his or her successor is appointed and qualified. In the event of a vacancy the governor is authorized to appoint a successor to fill the unexpired term of his or her predecessor. All appointments to the board shall be made in conformity with the foregoing plan. In the event a board member becomes incapacitated in excess of thirty days either due to his or her illness or that of an immediate family member as determined by a request for family leave or as certified by the affected member's treating physician or licensed advanced practice registered nurse, the governor shall appoint an acting member to serve pro tem. Such an appointment shall be made in conformity with the foregoing plan, except that the list of candidates shall be submitted to the governor not more than fifteen days after the affected organizations are notified of the incapacity and the governor shall make the appointment within fifteen days after the list is submitted. The temporary member shall serve until such time as the affected member is able to reassume his or her duties by returning from requested family leave or as determined by the treating physician or licensed advanced practice registered nurse or until the affected member's term expires, whichever occurs first. Whenever the workload of the board and its orderly and expeditious disposition shall necessitate, the governor may appoint two additional pro-tem members in addition to the regular members. Such appointments shall be for a definite period of time, and shall be made from lists submitted respectively by labor and industry as in the case of regular members. One pro-tem member shall be a representative of labor and one shall be a representative of industry. Members shall devote their entire time to the duties of the board and shall receive for their services a salary as fixed by the governor in accordance with the provisions of

RCW 43.03.040 which shall be in addition to travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. Headquarters for the board shall be located in Olympia. The board shall adopt a seal which shall be judicially recognized. [2025 c 58 s 5120; 2004 c 65 s 15; 2003 c 224 s 1; 1999 c 149 s 1; 1981 c 338 s 10; 1977 ex.s. c 350 s 74; 1975-'76 2nd ex.s. c 34 s 151; 1971 ex.s. c 289 s 68; 1965 ex.s. c 165 s 3; 1961 c 307 s 8; 1961 c 23 s 51.52.010. Prior: 1951 c 225 s 1; prior: 1949 c 219 s 2; Rem. Supp. 1949 s 10837-1.]

Effective date—2025 c 58 ss 5058-5170: See note following RCW 7.68.030.

Explanatory note—2025 c 58: See note following RCW 1.16.050.

Report to legislature—Effective date—Severability—2004 c 65: See notes following RCW 51.04.030.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

RCW 51.52.020 Board—Rule-making power. The board may make rules and regulations concerning its functions and procedure, which shall have the force and effect of law until altered, repealed, or set aside by the board: PROVIDED, That the board may not delegate to any other person its duties of interpreting the testimony and making the final decision and order on appeal cases. All rules and regulations adopted by the board shall be printed and copies thereof shall be readily available to the public. [1961 c 23 s 51.52.020. Prior: 1951 c 225 s 2; prior: 1949 c 219 s 3, part; Rem. Supp. 1949 s 10837-2, part.]

RCW 51.52.030 Board—Expenses. The board may incur such expenses as are reasonably necessary to carry out its duties hereunder, which expenses shall be paid, one-half from the accident fund and one-half from the medical aid fund upon vouchers approved by the board. [1961 c 23 s 51.52.030. Prior: 1951 c 225 s 3; prior: 1949 c 219 s 3, part; Rem. Supp. 1949 s 10837-2, part.]

RCW 51.52.040 Board—Removal of member. Any member of the board may be removed for inefficiency, malfeasance or misfeasance in office, upon specific written charges filed by the governor, who shall transmit the original of such written charges to the chief justice of the supreme court and a copy thereof to the member accused. The chief justice shall thereupon designate a special tribunal composed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time, place and procedure for the hearing, and the hearing shall be public. The decision of such tribunal shall be final and not subject to review. [1961 c 23 s 51.52.040. Prior: 1951 c 225 s 4; prior: 1949 c 219 s 4; Rem. Supp. 1949 s 10837-3.]

RCW 51.52.050 Service of departmental action—Demand for repayment—Orders amending benefits—Reconsideration or appeal. (1)(a) Whenever the department has made any order, decision, or award, it shall promptly serve the worker, beneficiary, employer, or other person affected thereby, with a copy thereof by mail, or if the worker, beneficiary, employer, or other person affected thereby chooses, the department may send correspondence and other legal notices by secure electronic means.

(b) In the event the department has made an order communicating the closure of a claim of a self-insured employer, the self-insured employer may serve the department order provided the self-insured employer does so using a separate, secure, and verifiable means of delivery in accordance with the requirements for the department's service in (a) of this subsection and includes the department prescribed notice explaining the contents of the order and any protest or appeal rights. The service by the self-insured employer is a communication for the purposes of filing an appeal under RCW 51.52.060.

(c) Workers, beneficiaries, employers, or other persons affected thereby who receive correspondence and other legal notices electronically shall be provided information to assist them in ensuring all electronic documents and communications are received. Correspondence and notices must be addressed to workers, beneficiaries, employers, or other persons affected thereby addressed to the address as shown by the records of the department. Correspondence and notices sent electronically are considered received on the date sent by the department.

(d) When the department's order, decision, or award is a final order, decision, or award, the served copy shall bear on the same side of the same page on which is found the amount of the award, a statement, set in black faced type of at least 10 point body or size, that such final order, decision, or award shall become final within 60 days from the date the order is communicated through nonelectronic methods and 65 days from the date the order is communicated through electronic methods to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia. However, a department order or decision making demand, whether with or without penalty, for repayment of sums paid to a provider of medical, dental, vocational, or other health services rendered to an industrially injured worker, shall state that such order or decision shall become final within 20 days from the date the order or decision is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia.

(2)(a) Whenever the department has taken any action or made any decision relating to any phase of the administration of this title the worker, beneficiary, employer, or other person aggrieved thereby may request reconsideration of the department, or may appeal to the board. In an appeal before the board, the appellant shall have the burden of proceeding with the evidence to establish a prima facie case for the relief sought in such appeal.

(b) An order by the department awarding benefits shall become effective and benefits due on the date issued. Subject to (b)(i) and (ii) of this subsection, if the department order is appealed the order

shall not be stayed pending a final decision on the merits unless ordered by the board. Upon issuance of the order granting the appeal, the board will provide the worker with notice concerning the potential of an overpayment of benefits paid pending the outcome of the appeal and the requirements for interest on unpaid benefits pursuant to RCW 51.52.135. A worker may request that benefits cease pending appeal at any time following the employer's motion for stay or the board's order granting appeal. The request must be submitted in writing to the employer, the board, and the department. Any employer may move for a stay of the order on appeal, in whole or in part. The motion must be filed within 15 days of the order granting appeal. The board shall conduct an expedited review of the claim file provided by the department as it existed on the date of the department order. The board shall issue a final decision within 25 days of the filing of the motion for stay or the order granting appeal, whichever is later. The board's final decision may be appealed to superior court in accordance with RCW 51.52.110. The board shall grant a motion to stay if the moving party demonstrates that it is more likely than not to prevail on the facts as they existed at the time of the order on appeal. The board shall not consider the likelihood of recoupment of benefits as a basis to grant or deny a motion to stay. If a self-insured employer prevails on the merits, any benefits paid may be recouped pursuant to RCW 51.32.240.

(i) If upon reconsideration requested by a worker or medical provider, the department has ordered an increase in a permanent partial disability award from the amount reflected in an earlier order, the award reflected in the earlier order shall not be stayed pending a final decision on the merits. However, the increase is stayed without further action by the board pending a final decision on the merits.

(ii) If any party appeals an order establishing a worker's wages or the compensation rate at which a worker will be paid temporary or permanent total disability or loss of earning power benefits, the worker shall receive payment pending a final decision on the merits based on the following:

(A) When the employer is self-insured, the wage calculation or compensation rate the employer most recently submitted to the department; or

(B) When the employer is insured through the state fund, the highest wage amount or compensation rate uncontested by the parties.

Payment of benefits or consideration of wages at a rate that is higher than that specified in (b)(ii)(A) or (B) of this subsection is stayed without further action by the board pending a final decision on the merits.

(c) In an appeal from an order of the department that alleges willful misrepresentation, the department or self-insured employer shall initially introduce all evidence in its case in chief. Any such person aggrieved by the decision and order of the board may thereafter appeal to the superior court, as prescribed in this chapter. [2026 c 77 s 33; 2019 c 190 s 1; 2011 c 290 s 9; 2008 c 280 s 1; 2004 c 243 s 8; 1987 c 151 s 1; 1986 c 200 s 10; 1985 c 315 s 9; 1982 c 109 s 4; 1977 ex.s. c 350 s 75; 1975 1st ex.s. c 58 s 1; 1961 c 23 s 51.52.050. Prior: 1957 c 70 s 55; 1951 c 225 s 5; prior: (i) 1947 c 281 s 1, part; 1943 c 210 s 1, part; 1939 c 41 s 1, part; 1937 c 211 s 1, part; 1927 c 310 s 1, part; 1921 c 182 s 1, part; 1919 c 131 s 1, part; 1911 c 74 s 2, part; Rem. Supp. 1947 s 7674, part. (ii) 1947 c 247 s 1, part; 1911 c 74 s 20, part; Rem. Supp. 1947 s 7676e, part. (iii) 1949

c 219 s 6, part; 1943 c 280 s 1, part; 1931 c 90 s 1, part; 1929 c 132 s 6, part; 1927 c 310 s 8, part; 1911 c 74 s 20, part; Rem. Supp. 1949 s 7697, part. (iv) 1923 c 136 s 7, part; 1921 c 182 s 10, part; 1917 c 29 s 3, part; RRS s 7712, part. (v) 1917 c 29 s 11; RRS s 7720. (vi) 1939 c 50 s 1, part; 1927 c 310 s 9, part; 1921 c 182 s 12, part; 1919 c 129 s 5, part; 1917 c 28 s 15, part; RRS s 7724, part.]

Application—2008 c 280: "This act applies to orders issued on or after June 12, 2008." [2008 c 280 s 7.]

Adoption of rules—2004 c 243: See note following RCW 51.08.177.

RCW 51.52.060 Notice of appeal—Time—Cross-appeal—Departmental options. (1)(a) Except as otherwise specifically provided in this section, a worker, beneficiary, employer, health services provider, or other person aggrieved by an order, decision, or award of the department must, before he or she appeals to the courts, file with the board and the director, by mail or personally, within sixty days from the day on which a copy of the order, decision, or award was communicated to such person, a notice of appeal to the board. However, a health services provider or other person aggrieved by a department order or decision making demand, whether with or without penalty, solely for repayment of sums paid to a provider of medical, dental, vocational, or other health services rendered to an industrially injured worker must, before he or she appeals to the courts, file with the board and the director, by mail or personally, within twenty days from the day on which a copy of the order or decision was communicated to the health services provider upon whom the department order or decision was served, a notice of appeal to the board.

(b) Failure to file a notice of appeal with both the board and the department shall not be grounds for denying the appeal if the notice of appeal is filed with either the board or the department.

(2) Within ten days of the date on which an appeal has been granted by the board, the board shall notify the other interested parties to the appeal of the receipt of the appeal and shall forward a copy of the notice of appeal to the other interested parties. Within twenty days of the receipt of such notice of the board, the worker or the employer may file with the board a cross-appeal from the order of the department from which the original appeal was taken.

(3) If within the time limited for filing a notice of appeal to the board from an order, decision, or award of the department, the department directs the submission of further evidence or the investigation of any further fact, the time for filing the notice of appeal shall not commence to run until the person has been advised in writing of the final decision of the department in the matter. In the event the department directs the submission of further evidence or the investigation of any further fact, as provided in this section, the department shall render a final order, decision, or award within ninety days from the date further submission of evidence or investigation of further fact is ordered which time period may be extended by the department for good cause stated in writing to all interested parties for an additional ninety days.

(4) The department, either within the time limited for appeal, or within thirty days after receiving a notice of appeal, may:

(a) Modify, reverse, or change any order, decision, or award; or

(b)(i) Except as provided in (b)(ii) of this subsection, hold an order, decision, or award in abeyance for a period of ninety days which time period may be extended by the department for good cause stated in writing to all interested parties for an additional ninety days pending further investigation in light of the allegations of the notice of appeal; or

(ii) Hold an order, decision, or award issued under RCW 51.32.160 in abeyance for a period not to exceed ninety days from the date of receipt of an application under RCW 51.32.160. The department may extend the ninety-day time period for an additional sixty days for good cause.

For purposes of this subsection, good cause includes delay that results from conduct of the claimant that is subject to sanction under RCW 51.32.110.

The board shall deny the appeal upon the issuance of an order under (b)(i) or (ii) of this subsection holding an earlier order, decision, or award in abeyance, without prejudice to the appellant's right to appeal from any subsequent determinative order issued by the department.

This subsection (4)(b) does not apply to applications deemed granted under RCW 51.32.160.

(5) An employer shall have the right to appeal an application deemed granted under RCW 51.32.160 on the same basis as any other application adjudicated pursuant to that section.

(6) A provision of this section shall not be deemed to change, alter, or modify the practice or procedure of the department for the payment of awards pending appeal. [1995 c 253 s 1; 1995 c 199 s 7; 1986 c 200 s 11; 1977 ex.s. c 350 s 76; 1975 1st ex.s. c 58 s 2; 1963 c 148 s 1; 1961 c 274 s 8; 1961 c 23 s 51.52.060. Prior: 1957 c 70 s 56; 1951 c 225 s 6; prior: 1949 c 219 ss 1, part, 6, part; 1947 c 246 s 1, part; 1943 c 280 s 1, part; 1931 c 90 s 1, part; 1929 c 132 ss 2, part, 6, part; 1927 c 310 ss 4, part, 8, part; 1923 c 136 s 2, part; 1919 c 134 s 4, part; 1917 c 28 s 1, part; 1913 c 148 s 1, part; 1911 c 74 ss 5, part, 20, part; Rem Supp. 1949 ss 7679, part, 7697, part.]

Reviser's note: This section was amended by 1995 c 199 s 7 and by 1995 c 253 s 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1995 c 199: See note following RCW 51.12.120.

RCW 51.52.063 After notice of appeal—Contact with medical providers restricted—Rules. (1)(a) Except as provided in (b) through (d) of this subsection, after receipt of the notice of an appeal that has been filed under RCW 51.52.060(2), the employer and its representatives shall not have contact to discuss the issues in question in the appeal with any medical provider who has examined or treated the worker at the request of the worker or treating medical provider, unless written authorization for contact is given by the worker or the worker's representative. Written authorization is only valid if given after the date that the appeal is filed and expires ninety days after it is signed.

(b) Contact is permitted as necessary for the ongoing management of the claim, including but not limited to communication regarding the worker's treatment needs and the provider's treatment plan, vocational

and return-to-work issues and assistance, and certification of the worker's inability to work, unless these issues are in question in the appeal.

(c) If the employer or its representatives wish to communicate with the examining or treating medical providers concerning the issues in question in the appeal, and no written authorization from the worker or the worker's representative has been obtained, the communication must either be:

(i) In writing, including by email, sent contemporaneously to all parties with a distinct notice to the provider that any response must be in writing, including by email;

(ii) In person, by telephone, or by videoconference, at a date and time mutually agreed to by all parties, with the worker or the worker's representative given the opportunity to fully participate; or

(iii) Pursuant to a properly scheduled and noted deposition.

(d) Written authorization is not required if the worker fails to identify or confirm the examining or treating medical provider as a witness as required by the board.

(2)(a) Except as provided in (b) and (c) of this subsection, after receipt of the notice of an appeal under RCW 51.52.060(2), the worker and the representative for the worker, if any, shall not have contact to discuss the issues in question in the appeal with any medical provider who has examined the worker at the request of the employer pursuant to RCW 51.36.070, unless written authorization for contact is given by the employer or its representative. Written authorization is only valid if given after the date that the appeal is filed and expires ninety days after it is signed.

(b) If the worker or the worker's representative wishes to communicate with a medical provider who has examined the worker pursuant to RCW 51.36.070, and no written authorization from the employer or its representative has been obtained, the communication must either be:

(i) In writing, including by email, sent contemporaneously to all parties with a distinct notice to the provider that any response must be in writing, including by email;

(ii) In person, by telephone, or by videoconference, at a date and time mutually agreed to by all parties, with the department, employer, and their representatives given the opportunity to fully participate; or

(iii) Pursuant to a properly scheduled and noted deposition.

(c) Written authorization is not required if the employer fails to identify or confirm the examining medical provider as a witness as required by the board.

(3) Subsections (1) and (2) of this section do not apply to the department.

(a) Except as provided in (b) through (d) of this subsection, after an appeal has been filed under RCW 51.52.060(2), a conference has been held to schedule hearings, and the worker has named his or her witnesses, the department and its representatives shall not have contact to discuss the issues in question in the appeal with any medical provider who has examined or treated the worker at the request of the worker or treating medical provider and has been named as a witness by the worker or their representative unless written authorization for contact is given by the worker or the worker's representative. Written authorization is only valid if given after the date that the appeal is filed and expires ninety days after it is signed.

(b) Contact is permitted as necessary for the ongoing management of the claim, including but not limited to communication regarding the worker's treatment needs and the provider's treatment plan, vocational and return-to-work issues and assistance, and certification of the worker's inability to work, unless these issues are in question in the appeal.

(c) If the department or its representatives wish to communicate with the examining or treating medical providers concerning the issues in question in the appeal, and no written authorization from the worker or the worker's representative has been obtained, the communication must either be:

(i) In writing, including by email, sent contemporaneously to all parties with a distinct notice to the provider that any response must be in writing, including by email;

(ii) In person, by telephone, or by videoconference, at a date and time mutually agreed to by all parties, with the worker or the worker's representative given the opportunity to fully participate; or

(iii) Pursuant to a properly scheduled and noted deposition.

(d) Written authorization is not required if the worker fails to identify or confirm the examining or treating medical provider as a witness as required by the board.

(4)(a) Except as provided in (b) and (c) of this subsection, after an appeal has been filed under RCW 51.52.060(2), a conference has been held to schedule hearings, and the worker has named his or her witnesses, the worker and the representative for the worker, if any, shall not have contact to discuss the issues in question in the appeal with any medical provider who has examined the worker at the request of the department pursuant to RCW 51.36.070, unless written authorization for contact is given by the department or its representatives. Written authorization is only valid if given after the date that the appeal is filed and expires ninety days after it is signed.

(b) If the worker or the worker's representative wishes to communicate with a medical provider who has examined the worker pursuant to RCW 51.36.070, and no written authorization from the department or its representative has been obtained, the communication must either be:

(i) In writing, including by email, sent contemporaneously to all parties with a distinct notice to the provider that any response must be in writing, including by email;

(ii) In person, by telephone, or by videoconference, at a date and time mutually agreed to by all parties, with the department or its representatives given the opportunity to fully participate; or

(iii) Pursuant to a properly scheduled and noted deposition.

(c) Written authorization is not required if the department fails to identify or confirm the examining medical provider as a witness as required by the board.

(5) Upon motion by either party, the industrial appeals judge assigned to the case may determine whether a party has made itself reasonably available to participate in an in-person, telephone, or videoconference communication as provided in subsections (1)(c)(ii), (2)(b)(ii), (3)(c)(ii), and (4)(b)(ii) of this section. If the industrial appeals judge determines that a party has not made itself reasonably available, the judge may determine appropriate remedies including but not limited to setting a date and time for the contact being requested by a party, sanctioning the party who has not reasonably made itself available, or both.

(6) This section only applies to issues set forth in a notice of appeal under RCW 51.52.060(2).

(7) This section does not limit the reporting requirements under RCW 51.04.050 and 51.36.060 for issues not set forth in a notice of appeal.

(8) The department and board may adopt rules as necessary to implement the provisions of this section.

(9) A medical provider who discusses issues on appeal with the department or with any employer or worker or representative of any employer or worker in violation of this section shall not be held liable for such communication. [2009 c 391 s 1.]

Application—2009 c 391: "This act applies to orders entered on or after July 26, 2009." [2009 c 391 s 2.]

RCW 51.52.070 Contents of notice—Transmittal of record. The notice of appeal to the board shall set forth in full detail the grounds upon which the person appealing considers such order, decision, or award is unjust or unlawful, and shall include every issue to be considered by the board, and it must contain a detailed statement of facts upon which such worker, beneficiary, employer, or other person relies in support thereof. The worker, beneficiary, employer, or other person shall be deemed to have waived all objections or irregularities concerning the matter on which such appeal is taken other than those specifically set forth in such notice of appeal or appearing in the records of the department. The department shall promptly transmit its original record, or a legible copy thereof produced by mechanical, photographic, or electronic means, in such matter to the board. [1977 ex.s. c 350 s 77; 1975 1st ex.s. c 224 s 18; 1975 1st ex.s. c 58 s 3; 1961 c 23 s 51.52.070. Prior: 1957 c 70 s 57; 1951 c 225 s 7; prior: 1949 c 219 s 6, part; 1943 c 280 s 1, part; 1931 c 90 s 1, part; 1929 c 132 s 6, part; 1927 c 310 s 8, part; 1911 c 74 s 20, part; Rem. Supp. 1949 s 7697, part.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

RCW 51.52.075 Appeal from order terminating provider's authority to provide services—Department petition for order immediately suspending provider's eligibility to participate. When a provider files with the board an appeal from an order terminating the provider's authority to provide services related to the treatment of industrially injured workers, the department may petition the board for an order immediately suspending the provider's eligibility to participate as a provider of services to industrially injured workers under this title pending the final disposition of the appeal by the board. The board shall grant the petition if it determines that there is good cause to believe that workers covered under this title may suffer serious physical or mental harm if the petition is not granted. The board shall expedite the hearing of the department's petition under this section. [2004 c 259 s 1.]

RCW 51.52.080 Appeal to board denied, when. If the notice of appeal raises no issue or issues of fact and the board finds that the department properly and lawfully decided all matters raised by such appeal it may, without further hearing, deny the same and confirm the department's decision or award, or if the department's record sustains the contention of the person appealing to the board, it may, without further hearing, allow the relief asked in such appeal; otherwise, it shall grant the appeal. [1971 ex.s. c 289 s 69; 1963 c 148 s 2; 1961 c 23 s 51.52.080. Prior: 1957 c 70 s 58; 1951 c 225 s 8; prior: 1949 c 219 s 6, part; 1943 c 280 s 1, part; 1931 c 90 s 1, part; 1929 c 132 s 6, part; 1927 c 310 s 8, part; 1911 c 74 s 20, part; Rem. Supp. 1949 s 7697, part.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

RCW 51.52.090 Appeal to board deemed granted, when. If the appeal is not denied within thirty days after the notice is filed with the board, the appeal shall be deemed to have been granted: PROVIDED, That the board may extend the time within which it may act upon such appeal, not exceeding thirty days. [1971 ex.s. c 289 s 70; 1961 c 23 s 51.52.090. Prior: 1957 c 70 s 59; 1951 c 225 s 9; prior: 1949 c 219 s 6, part; 1943 c 280 s 1, part; 1931 c 90 s 1, part; 1929 c 132 s 6, part; 1927 c 310 s 8, part; 1911 c 74 s 20, part; Rem. Supp. 1949 s 7697, part.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

RCW 51.52.095 Conference for disposal of matters involved in appeal—Mediation of disputes. (1) The board, upon request of the worker, beneficiary, or employer, or upon its own motion, may direct all parties interested in an appeal, together with their attorneys, if any, to appear before it, a member of the board, or an authorized industrial appeals judge, for a conference for the purpose of determining the feasibility of settlement, the simplification of issues of law and fact, the necessity of amendments to the notice of appeal or other pleadings, the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, the limitation of the number of expert witnesses, and such other matters as may aid in the disposition of the appeal. Such conference may be held prior to the hearing, or it may be held during the hearing, at the discretion of the board member or industrial appeals judge conducting the same, in which case the hearing will be recessed for such conference. Following the conference, the board member or industrial appeals judge conducting the same, shall state on the record the results of such conference, and the parties present or their representatives shall state their concurrence on the record. Such agreement as stated on the record shall control the subsequent course of the proceedings, unless modified at a subsequent hearing to prevent manifest injustice. If agreement concerning final disposition of the appeal is reached by the parties present at the conference, or by the employer and worker or beneficiary, the board may enter a final

decision and order in accordance therewith, providing the board finds such agreement is in conformity with the law and the facts.

(2) In order to carry out subsection (1) of this section, the board shall develop expertise to mediate disputes informally. Where possible, industrial appeals judges with a demonstrated history of successfully resolving disputes or who have received training in dispute resolution techniques shall be appointed to perform mediation functions. No industrial appeals judge who mediates in a particular appeal may, without the consent of the parties, participate in writing the proposed decision and order in the appeal: PROVIDED, That this shall not prevent an industrial appeals judge from issuing a proposed decision and order responsive to a motion for summary disposition or similar motion. This section shall not operate to prevent the board from developing additional methods and procedures to encourage resolution of disputes by agreement or otherwise making efforts to reduce adjudication time. [1986 c 10 s 1; 1985 c 209 s 2; 1982 c 109 s 7; 1977 ex.s. c 350 s 78; 1963 c 148 s 3; 1963 c 6 s 1; 1961 c 23 s 51.52.095. Prior: 1951 c 225 s 10.]

RCW 51.52.100 Proceedings before board—Contempt. Hearings shall be held in the county of the residence of the worker or beneficiary, or in the county where the injury occurred, at a place designated by the board. Such hearing shall be de novo and summary, but no witness' testimony shall be received unless he or she shall first have been sworn to testify the truth, the whole truth and nothing but the truth in the matter being heard, or unless his or her testimony shall have been taken by deposition according to the statutes and rules relating to superior courts of this state. The department shall be entitled to appear in all proceedings before the board and introduce testimony in support of its order. The board shall cause all oral testimony to be stenographically reported and thereafter transcribed, and when transcribed, the same, with all depositions, shall be filed in, and remain a part of, the record on the appeal. Such hearings on appeal to the board may be conducted by one or more of its members, or a duly authorized industrial appeals judge, and depositions may be taken by a person duly commissioned for the purpose by the board.

Members of the board, its duly authorized industrial appeals judges, and all persons duly commissioned by it for the purpose of taking depositions, shall have power to administer oaths; to preserve and enforce order during such hearings; to issue subpoenas for, and to compel the attendance and testimony of, witnesses, or the production of books, papers, documents, and other evidence, or the taking of depositions before any designated individual competent to administer oaths, and it shall be their duty so to do to examine witnesses; and to do all things conformable to law which may be necessary to enable them, or any of them, effectively to discharge the duties of his or her office.

If any person in proceedings before the board disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, or neglects to produce, after having been ordered so to do, any pertinent book, paper or document, or refuses to appear after having been subpoenaed, or upon appearing refuses to take oath as a witness, or after having the oath refuses to be examined according to law, the board or any member or

duly authorized industrial appeals judge may certify the facts to the superior court having jurisdiction in the place in which said board or member or industrial appeals judge is sitting; the court shall thereupon, in a summary manner, hear the evidence as to the acts complained of, and, if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the proceedings, or in the presence, of the court. [1982 c 109 s 8; 1977 ex.s. c 350 s 79; 1963 c 148 s 4; 1961 c 23 s 51.52.100. Prior: 1957 c 70 s 60; 1951 c 225 s 11; prior: 1949 c 219 s 6, part; 1943 c 280 s 1, part; 1931 c 90 s 1, part; 1929 c 132 s 6, part; 1927 c 310 s 8, part; 1911 c 74 s 20, part; Rem. Supp. 1949 s 7697, part.]

RCW 51.52.102 Hearing the appeal—Dismissal—Evidence—Continuances. At the time and place fixed for hearing each party shall present all his or her evidence with respect to the issues raised in the notice of appeal, and if any party fails so to do, the board may determine the issues upon such evidence as may be presented to it at said hearing, or if an appealing party who has the burden of going forward with the evidence fails to present any evidence, the board may dismiss the appeal: PROVIDED, That for good cause shown in the record to prevent hardship, the board may grant continuances upon application of any party, but such continuances, when granted, shall be to a time and place certain within the county where the initial hearing was held unless it shall appear that a continuance elsewhere is required in justice to interested parties: AND PROVIDED FURTHER, That the board may continue hearings on its own motion to secure in an impartial manner such evidence, in addition to that presented by the parties, as the board, in its opinion, deems necessary to decide the appeal fairly and equitably, but such additional evidence shall be received subject to any objection as to its admissibility, and, if admitted in evidence all parties shall be given full opportunity for cross-examination and to present rebuttal evidence. [2010 c 8 s 14013; 1963 c 148 s 5; 1961 c 23 s 51.52.102. Prior: 1951 c 225 s 12.]

RCW 51.52.104 Industrial appeals judge—Recommended decision and order—Petition for review—Finality of order. After all evidence has been presented at hearings conducted by an industrial appeals judge, who shall be an active or judicial member of the Washington state bar association, the industrial appeals judge shall enter a proposed or recommended decision and order which shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law, as well as the order based thereon. The industrial appeals judge shall file the signed original of the proposed decision and order with the board, and copies thereof shall be mailed by the board to each party to the appeal and to each party's attorney or representative of record. Within twenty days, or such further time as the board may allow on written application of a party, filed within said twenty days from the date of communication of the proposed decision and order to the parties or their attorneys or representatives of record, any party may file with the board a written petition for review of the same. Filing of a petition for review is perfected by mailing or personally delivering the petition to the

board's offices in Olympia. Such petition for review shall set forth in detail the grounds therefor and the party or parties filing the same shall be deemed to have waived all objections or irregularities not specifically set forth therein.

In the event no petition for review is filed as provided herein by any party, the proposed decision and order of the industrial appeals judge shall be adopted by the board and become the decision and order of the board, and no appeal may be taken therefrom to the courts. If an order adopting the proposed decision and order is not formally signed by the board on the day following the date the petition for review of the proposed decision and order is due, said proposed decision and order shall be deemed adopted by the board and become the decision and order of the board, and no appeal may be taken therefrom to the courts. [2003 c 224 s 2; 1985 c 314 s 1; 1982 c 109 s 5; 1971 ex.s. c 289 s 22; 1963 c 148 s 6.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

RCW 51.52.106 Review of decision and order. After the filing of a petition or petitions for review as provided for in RCW 51.52.104, the proposed decision and order of the industrial appeals judge, petition or petitions for review and, in its discretion, the record or any part thereof, may be considered by the board and on agreement of at least two of the regular members thereof, the board may, within twenty days after the receipt of such petition or petitions, decline to review the proposed decision and order and thereupon deny the petition or petitions. In such event all parties shall forthwith be notified in writing of said denial: PROVIDED, That if a petition for review is not denied within said twenty days it shall be deemed to have been granted. If the petition for review is granted, the proposed decision and order, the petition or petitions for review and the record or any part thereof deemed necessary shall be considered by a panel of at least two of the members of the board, on which not more than one industry and one labor member serve. The chair may be a member of any panel. The decision and order of any such panel shall be the decision and order of the board. Every final decision and order rendered by the board shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law, as well as the board's order based thereon. The board shall, in all cases, render a final decision and order within one hundred and eighty days from the date a petition for review is filed. A copy of the decision and order, including the findings and conclusions, shall be mailed to each party to the appeal and to his or her attorney of record. [2010 c 8 s 14014; 1982 c 109 s 9; 1975 1st ex.s. c 58 s 4; 1971 ex.s. c 289 s 23; 1965 ex.s. c 165 s 4; 1963 c 148 s 7; 1961 c 23 s 51.52.106. Prior: 1951 c 225 s 13.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

RCW 51.52.110 Court appeal—Taking the appeal. Within thirty days after a decision of the board to deny the petition or petitions for review upon such appeal has been communicated to such worker,

beneficiary, employer or other person, or within thirty days after the final decision and order of the board upon such appeal has been communicated to such worker, beneficiary, employer or other person, or within thirty days after the appeal is denied as herein provided, such worker, beneficiary, employer or other person aggrieved by the decision and order of the board may appeal to the superior court. If such worker, beneficiary, employer, or other person fails to file with the superior court its appeal as provided in this section within said thirty days, the decision of the board to deny the petition or petitions for review or the final decision and order of the board shall become final.

In cases involving injured workers, an appeal to the superior court shall be to the superior court of the county of residence of the worker or beneficiary, as shown by the department's records, or to the superior court of the county wherein the injury occurred or where neither the county of residence nor the county wherein the injury occurred are in the state of Washington then the appeal may be directed to the superior court for Thurston county. In all other cases the appeal shall be to the superior court of Thurston county. Such appeal shall be perfected by filing with the clerk of the court a notice of appeal and by serving a copy thereof by mail, or personally, on the director and on the board. If the case is one involving a self-insurer, a copy of the notice of appeal shall also be served by mail, or personally, on such self-insurer. The department shall, in all cases not involving a self-insurer, within twenty days after the receipt of such notice of appeal, serve and file its notice of appearance and such appeal shall thereupon be deemed at issue. If the case is one involving a self-insurer, such self-insurer shall, within twenty days after receipt of such notice of appeal, serve and file its notice of appearance and such appeal shall thereupon be deemed to be at issue. In such cases the department may appear and take part in any proceedings. The board shall serve upon the appealing party, the director, the self-insurer if the case involves a self-insurer, and any other party appearing at the board's proceeding, and file with the clerk of the court before trial, a certified copy of the board's official record which shall include the notice of appeal and other pleadings, testimony and exhibits, and the board's decision and order, which shall become the record in such case. No bond shall be required on appeals to the superior court or on review by the supreme court or the court of appeals, except that an appeal by the employer from a decision and order of the board under *RCW 51.48.070, shall be ineffectual unless, within five days following the service of notice thereof, a bond, with surety satisfactory to the court, shall be filed, conditioned to perform the judgment of the court. Except in the case last named an appeal shall not be a stay: PROVIDED, HOWEVER, That whenever the board has made any decision and order reversing an order of the supervisor of industrial insurance on questions of law or mandatory administrative actions of the director, the department shall have the right of appeal to the superior court. [1988 c 202 s 49; 1982 c 109 s 6; 1977 ex.s. c 350 s 80; 1973 c 40 s 1. Prior: 1972 ex.s. c 50 s 1; 1972 ex.s. c 43 s 36; 1971 ex.s. c 289 s 24; 1971 c 81 s 122; 1961 c 23 s 51.52.110; prior: 1957 c 70 s 61; 1951 c 225 s 14; prior: 1949 c 219 s 6, part; 1943 c 280 s 1, part; 1931 c 90 s 1, part; 1929 c 132 s 6, part; 1927 c 310 s 8, part; 1911 c 74 s 20, part; Rem. Supp. 1949 s 7697, part.]

Rules of court: *Cf. Title 8 RAP, RAP 18.22.*

***Reviser's note:** RCW 51.48.070 was repealed by 1996 c 60 s 2.

Severability—1988 c 202: See note following RCW 2.24.050.

RCW 51.52.112 Court appeal—Payment of taxes, penalties, and interest required. All taxes, penalties, and interest shall be paid in full before any action may be instituted in any court to contest all or any part of such taxes, penalties, or interest unless the court determines that there would be an undue hardship to the employer. In the event an employer prevails in a court action, the employer shall be allowed interest on all taxes, penalties, and interest paid by the employer but determined by a final order of the court to not be due, from the date such taxes, penalties, and interest were paid. Interest shall be at the rate allowed by law as prejudgment interest. [1986 c 9 s 19.]

RCW 51.52.113 Collection of tax or penalty may not be enjoined. No restraining order or injunction may be granted or issued by any court to restrain or enjoin the collection of any tax or penalty or any part thereof, except upon the ground that the assessment thereof was in violation of the Constitution of the United States or that of the state. [1986 c 9 s 20.]

RCW 51.52.115 Court appeal—Procedure at trial—Burden of proof. Upon appeals to the superior court only such issues of law or fact may be raised as were properly included in the notice of appeal to the board, or in the complete record of the proceedings before the board. The hearing in the superior court shall be de novo, but the court shall not receive evidence or testimony other than, or in addition to, that offered before the board or included in the record filed by the board in the superior court as provided in RCW 51.52.110: PROVIDED, That in cases of alleged irregularities in procedure before the board, not shown in said record, testimony thereon may be taken in the superior court. The proceedings in every such appeal shall be informal and summary, but full opportunity to be heard shall be had before judgment is pronounced. In all court proceedings under or pursuant to this title the findings and decision of the board shall be prima facie correct and the burden of proof shall be upon the party attacking the same. If the court shall determine that the board has acted within its power and has correctly construed the law and found the facts, the decision of the board shall be confirmed; otherwise, it shall be reversed or modified. In case of a modification or reversal the superior court shall refer the same to the department with an order directing it to proceed in accordance with the findings of the court: PROVIDED, That any award shall be in accordance with the schedule of compensation set forth in this title. In appeals to the superior court hereunder, either party shall be entitled to a trial by jury upon demand, and the jury's verdict shall have the same force and effect as in actions at law. Where the court submits a case to the jury, the court shall by instruction advise the jury of the exact findings of the board on each material issue before the court. [1961 c 23 s 51.52.115. Prior: 1957 c 70 s 62; 1951 c 225 s 15; prior: (i) 1949 c 219 s 6, part; 1943 c 280 s 1, part; 1931 c 90 s 1, part; 1929 c 132 s

6, part; 1927 c 310 s 8, part; 1911 c 74 s 20, part; Rem. Supp. 1949 s 7697, part. (ii) 1949 c 219 s 6; 1939 c 184 s 1; Rem. Supp. 1949 s 7697-2.]

RCW 51.52.120 Attorney's fee before department or board—Unlawful attorneys' fees. (1) Except for claim resolution settlement agreements, it shall be unlawful for an attorney engaged in the representation of any worker or beneficiary to charge for services in the department any fee in excess of a reasonable fee, of not more than thirty percent of the increase in the award secured by the attorney's services. Such reasonable fee shall be fixed by the director or the director's designee for services performed by an attorney for such worker or beneficiary, if written application therefor is made by the attorney, worker, or beneficiary within one year from the date the final decision and order of the department is communicated to the party making the application.

(2) If, on appeal to the board, the order, decision, or award of the department is reversed or modified and additional relief is granted to a worker or beneficiary, or in cases where a party other than the worker or beneficiary is the appealing party and the worker's or beneficiary's right to relief is sustained by the board, the board shall fix a reasonable fee for the services of his or her attorney in proceedings before the board if written application therefor is made by the attorney, worker, or beneficiary within one year from the date the final decision and order of the board is communicated to the party making the application. In fixing the amount of such attorney's fee, the board shall take into consideration the fee allowed, if any, by the director, for services before the department, and the board may review the fee fixed by the director. Any attorney's fee set by the department or the board may be reviewed by the superior court upon application of such attorney, worker, or beneficiary. The department or self-insured employer, as the case may be, shall be served a copy of the application and shall be entitled to appear and take part in the proceedings. Where the board, pursuant to this section, fixes the attorney's fee, it shall be unlawful for an attorney to charge or receive any fee for services before the board in excess of that fee fixed by the board.

(3) For claim resolution settlement agreements, fees for attorney services are limited to fifteen percent of the total amount to be paid to the worker after the agreement becomes final. The board will also decide on any disputes as to attorneys' fees for services related to claim resolution settlement agreements consistent with the procedures in subsection (2) of this section.

(4) In an appeal to the board involving the presumption established under RCW 51.32.185, the attorney's fee shall be payable as set forth under RCW 51.32.185.

(5) Any person who violates this section is guilty of a misdemeanor. [2021 c 89 s 6; 2011 1st sp.s. c 37 s 304; 2007 c 490 s 3; 2003 c 53 s 285; 1990 c 15 s 1; 1982 c 63 s 22; 1977 ex.s. c 350 s 81; 1965 ex.s. c 63 s 1; 1961 c 23 s 51.52.120. Prior: 1951 c 225 s 16; prior: 1947 c 246 s 3; Rem. Supp. 1947 s 7679-3.]

Effective date—2021 c 89: See note following RCW 42.56.230.

Finding—Effective date—2011 1st sp.s. c 37: See notes following RCW 51.32.090.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Effective dates—Implementation—1982 c 63: See note following RCW 51.32.095.

RCW 51.52.130 Attorney and witness fees in court appeal. (1) If, on appeal to the superior or appellate court from the decision and order of the board, said decision and order is reversed or modified and additional relief is granted to a worker or beneficiary, or in cases where a party other than the worker or beneficiary is the appealing party and the worker's or beneficiary's right to relief is sustained, a reasonable fee for the services of the worker's or beneficiary's attorney shall be fixed by the court. In fixing the fee the court shall take into consideration the fee or fees, if any, fixed by the director and the board for such attorney's services before the department and the board. If the court finds that the fee fixed by the director or by the board is inadequate for services performed before the department or board, or if the director or the board has fixed no fee for such services, then the court shall fix a fee for the attorney's services before the department, or the board, as the case may be, in addition to the fee fixed for the services in the court. If in a worker or beneficiary appeal the decision and order of the board is reversed or modified and if the accident fund or medical aid fund is affected by the litigation, or if in an appeal by the department or employer the worker or beneficiary's right to relief is sustained, or in an appeal by a worker involving a state fund employer with twenty-five employees or less, in which the department does not appear and defend, and the board order in favor of the employer is sustained, the attorney's fee fixed by the court, for services before the court only, and the fees of medical and other witnesses and the costs shall be payable out of the administrative fund of the department. In the case of self-insured employers, the attorney fees fixed by the court, for services before the court only, and the fees of medical and other witnesses and the costs shall be payable directly by the self-insured employer.

(2) In an appeal to the superior or appellate court involving the presumption established under RCW 51.32.185, the attorney's fee shall be payable as set forth under RCW 51.32.185. [2007 c 490 s 4; 1993 c 122 s 1; 1982 c 63 s 23; 1977 ex.s. c 350 s 82; 1961 c 23 s 51.52.130. Prior: 1957 c 70 s 63; 1951 c 225 s 17; prior: 1949 c 219 s 6, part; 1943 c 280 s 1, part; 1931 c 90 s 1, part; 1929 c 132 s 6, part; 1927 c 310 s 8, part; 1911 c 74 s 20, part; Rem. Supp. 1949 s 7697, part.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.32.095.

RCW 51.52.132 Unlawful attorney's fees. Where the department, the board or the court, pursuant to RCW 51.52.120 or 51.52.130 fixes the attorney's fee, it shall be unlawful for an attorney to charge or receive any fee in excess of that fixed by the department, board or

the court. Any person who violates any provision of this section shall be guilty of a misdemeanor. [1965 ex.s. c 63 s 2; 1961 c 23 s 51.52.132. Prior: 1951 c 225 s 18.]

RCW 51.52.135 Worker or beneficiary entitled to interest on award—Rate. (1) When a worker or beneficiary prevails in an appeal by the employer to the board or in an appeal by the employer to the court from the decision and order of the board, the worker or beneficiary shall be entitled to interest at the rate of twelve percent per annum on the unpaid amount of the award after deducting the amount of attorney fees.

(2) When a worker or beneficiary prevails in an appeal by the worker or beneficiary to the board or the court regarding a claim for temporary total disability, the worker or beneficiary shall be entitled to interest at the rate of twelve percent per annum on the unpaid amount of the award after deducting the amount of attorney fees.

(3) The interest provided for in subsections (1) and (2) of this section shall accrue from the date of the department's order granting the award or denying payment of the award. The interest shall be paid by the party having the obligation to pay the award. The amount of interest to be paid shall be fixed by the board or court, as the case may be. [1983 c 301 s 1.]

RCW 51.52.140 Rules of practice—Duties of attorney general—Supreme court appeal. Except as otherwise provided in this chapter, the practice in civil cases shall apply to appeals prescribed in this chapter. Appeal shall lie from the judgment of the superior court as in other civil cases. The attorney general shall be the legal advisor of the department and the board. [1961 c 23 s 51.52.140. Prior: 1957 c 70 s 64; 1951 c 225 s 19; prior: 1949 c 219 s 6, part; 1943 c 280 s 1, part; 1931 c 90 s 1, part; 1929 c 132 s 6, part; 1927 c 310 s 8, part; 1911 c 74 s 20, part; Rem. Supp. 1949 s 7697, part.]

Rules of court: *Method of appellate review superseded by RAP 2.1, 2.2.*

RCW 51.52.150 Costs on appeals. All expenses and costs incurred by the department for board and court appeals, including fees for medical and other witnesses, court reporter costs and attorney's fees, and all costs taxed against the department, shall be paid one-half out of the medical aid fund and one-half out of the accident fund. [1961 c 23 s 51.52.150. Prior: 1951 c 225 s 20; prior: 1931 c 116 s 1; RRS s 7697-1.]

RCW 51.52.160 Publication and indexing of significant decisions. The board shall publish and index its significant decisions and make them available to the public at reasonable cost. [1985 c 209 s 1.]

RCW 51.52.200 Exception—Employers as parties to actions relating to compensation or assistance for victims of crimes. This chapter shall not apply to matters concerning employers as parties to

any settlement, appeal, or other action in accordance with chapter 7.68 RCW. [1997 c 102 s 2.]

RCW 51.52.800 Workers' compensation study. (1) The department shall study appeals of workers' compensation cases and collect information on the impacts of chapter 280, Laws of 2008 on state fund and self-insured workers and employers. The study shall consider the types of benefits that may be paid pending an appeal, and shall include, but not be limited to:

(a) The frequency and outcomes of appeals;

(b) The duration of appeals and any procedural or process changes made by the board to implement chapter 280, Laws of 2008 and expedite the process;

(c) The number of and amount of overpayments resulting from decisions of the board or court; and

(d) The processes used and efforts made to recoup overpayments and the results of those efforts.

(2) State fund and self-insured employers shall provide the information requested by the department to conduct the study.

(3) The department shall report to the workers' compensation advisory committee by July 1, 2009, on the preliminary results of the study. By December 1, 2009, and annually thereafter, with the final report due by December 1, 2011, the department shall report to the workers' compensation advisory committee and the appropriate committees of the legislature on the results of the study. The workers' compensation advisory committee shall provide its recommendations for addressing overpayments resulting from chapter 280, Laws of 2008, including the need for and ability to fund a permanent method to reimburse employer and state fund overpayment costs. [2008 c 280 s 5.]

Application—2008 c 280: See note following RCW 51.52.050.