

3 Senate Bill No. 548

4 SENATE BILL NO. 548 - By: LASTER of the Senate and MORGAN (Fred) of  
5 the House.

6 An Act relating to workers' compensation; amending 85 O.S.  
7 2001, Sections 3.6 and 93, which relate to appellate  
8 procedures and collection and deposit of fees; modifying  
9 certain fees; creating new fee; providing for deposit fees;  
10 and providing an effective date.

11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. SECTION 1. AMENDATORY 85 O.S. 2001, Section  
13 3.6, is amended to read as follows:

14 Section 3.6 A. All the evidence pertaining to each case,  
15 except upon agreed orders, shall, insofar as may be possible, be  
16 heard by the judge initially assigned to the case. Upon the  
17 completion of such hearing or hearings, the judge hearing the cause  
18 shall make such order, decision or award as is proper, just and  
19 equitable in the matter. Either party feeling himself aggrieved by  
20 such order, decision or award shall, within ten (10) days, have the  
21 right to take an appeal from the order, decision or award of the  
22 Judge to the Workers' Compensation Court sitting en banc. Such  
23 appeal shall be allowed as a matter of right to either party upon  
24 filing with the Administrator a notice of such appeal. Such Court  
25 en banc shall consist of three (3) Judges of the Court, none of whom  
26 shall have presided over any of the previous hearings on the claim.

1 The Court en banc may reverse or modify the decision only if it  
2 determines that such decision was against the clear weight of the  
3 evidence or contrary to law. Upon completion of the appeal, the  
4 members of the Court sitting en banc shall issue such order,  
5 decision or award as is proper, just and equitable. Only those  
6 members participating in the hearing on appeal shall participate in  
7 the making of the order, decision or award. All orders, decisions  
8 or awards shall be approved by a majority of the members of the  
9 Court sitting en banc. Provided, there may be more than one Court  
10 en banc sitting at the same time for purposes of hearing the appeals  
11 provided for herein. Appeals shall be allowed on a question of law  
12 or a question of fact, or a mixed question of law and fact, and  
13 shall be determined on the record made before the Judge. Provided,  
14 when the order of the Judge of the Court making an award to a  
15 claimant is appealed by the employer or the insurance carrier,  
16 interest shall be allowed on the accrued amounts of the award due  
17 from the date the award was filed, if the award is not modified or  
18 vacated on appeal.

19 B. In each case filed in the Court en banc, and at the time of  
20 filing same, the appellant shall deposit with the clerk as costs ~~One~~  
21 ~~Hundred Twenty-five Dollars (\$125.00)~~ Two Hundred Dollars (\$200.00)  
22 of which no rebate of any part thereof shall be made. The fee  
23 collected under this subsection shall be deposited as follows: ~~One~~

1 ~~Hundred Dollars (\$100.00)~~ One Hundred Seventy-five Dollars (\$175.00)  
2 to the credit of the Administrator of Workers' Compensation  
3 Revolving Fund created by Section 95 of this title for the costs of  
4 administering the Workers' Compensation Act; and Twenty-five Dollars  
5 (\$25.00) to the credit of the Administrator of Workers' Compensation  
6 Revolving Fund for purposes of implementing the provisions of this  
7 act, including strengthening and providing additional funding for  
8 the Attorney General's Workers' Compensation Fraud Unit, providing  
9 counseling services pursuant to the workers' compensation counselor  
10 program and safety in the workplace.

11 C. The order, decision or award of the Court shall be final and  
12 conclusive upon all questions within its jurisdiction between the  
13 parties, unless, within twenty (20) days after a copy of such order,  
14 decision or award has been sent by the Administrator to the parties  
15 affected, an action is commenced in the Supreme Court of the state,  
16 to review such order, decision or award. Any order, decision or  
17 award made by a judge of the Court shall be considered as final  
18 under the provisions of this section unless appealed to the Workers'  
19 Compensation Court sitting en banc as provided for in subsection A  
20 of this section. The order, decision or award of a judge of the  
21 Court shall be final and conclusive upon all questions within his  
22 jurisdiction between the parties unless appealed directly to the  
23 Supreme Court or to the Workers' Compensation Court sitting en banc

1 as hereinbefore provided. Any party litigant desiring to appeal  
2 directly from such order, decision or award to the Supreme Court,  
3 shall, within twenty (20) days after a copy of the order, decision  
4 or award has been sent by the Administrator to the parties affected,  
5 commence an action in the Supreme Court of the state to review such  
6 order, decision or award. The Supreme Court shall have original  
7 jurisdiction of such action, and shall prescribe rules for the  
8 commencement and trial of the same. Such action shall be commenced  
9 by filing with the Clerk of the Supreme Court a certified copy of  
10 the order, decision or award of the Workers' Compensation Court  
11 sitting en banc or the judge attached to the petition by the  
12 complaint wherein the complainant or petitioner shall make his  
13 assignments or specifications as to wherein said order, decision or  
14 award is erroneous or illegal. Provided, however, no proceeding to  
15 reverse, vacate or modify any order, decision or award of the  
16 Workers' Compensation Court sitting en banc or judge of the Court  
17 wherein compensation has been awarded an injured employee shall be  
18 entertained by the Supreme Court unless the Administrator shall take  
19 a written undertaking to the claimant executed on the part of the  
20 respondent or insurance carrier, or both, with one or more sureties  
21 to be approved by the Administrator, to the effect that the  
22 appellant will pay the amount of the award rendered therein,  
23 together with interest thereon from the date of the award by the

1 judge of the Court and all costs of the proceeding, or on the  
2 further order of the Workers' Compensation Court sitting en banc or  
3 judge of the Court after the appeal has been decided by the Supreme  
4 Court, except that municipalities and other political subdivisions  
5 of the State of Oklahoma are exempt from making such written  
6 undertakings. Before the Clerk of the Supreme Court shall accept  
7 the action for filing, a certificate from the Administrator shall be  
8 required, showing that this provision has been complied with. Said  
9 proceedings shall be heard in a summary manner and shall have  
10 precedence over all other civil cases in the Supreme Court, except  
11 preferred Corporation Commission appeals. The Supreme Court shall  
12 require the appealing party to file within forty-five (45) days from  
13 the date of the filing of an appeal or an order appealed from, a  
14 transcript of the record of the proceedings before the Workers'  
15 Compensation Court, or upon application and for good cause shown,  
16 the Supreme Court may extend the time for filing said transcript of  
17 the record for a period of time not to exceed ninety (90) days from  
18 said date, and such action shall be subject to the law and practice  
19 applicable to other civil actions cognizable in said Supreme Court.  
20 The Court whose action was appealed shall enter any order directed  
21 by the Supreme Court under the final determination. A fee of One  
22 Hundred Dollars (\$100.00) for preparing, assembling, indexing and  
23 transmitting the record for appellate review shall be collected by

1 the Administrator and taxed as costs to be paid by the party taking  
2 the appeal. If more than one party to the action shall prosecute an  
3 appeal to the Supreme Court from the same order, decision or award,  
4 the fee shall be paid by the party whose petition in error is  
5 determined by the Workers' Compensation Court or by the appellate  
6 court to commence the principal appeal. The fees collected under  
7 this subsection shall be deposited to the credit of the  
8 Administrator of Workers' Compensation Revolving Fund.

9 D. When the only controverted issue in a death claim is the  
10 determination of proper beneficiaries entitled to receive death  
11 benefits, and the parties-beneficiary appeal the decision of the  
12 Court, the employer or insurance carrier may pay the proceeds, as  
13 they accrue, to the Administrator. The Administrator shall hold the  
14 proceeds in trust in an interest-bearing account during the appeal  
15 period and shall distribute the proceeds and interest to the proper  
16 beneficiaries upon written direction of the Court. The employer or  
17 insurance carrier shall not be taxed interest or cost on the order  
18 of the death claim if payments have been made to the Administrator  
19 as they accrue.

20 E. An action to reopen any case under the provisions of the  
21 Workers' Compensation Act shall be assigned in the same manner as  
22 original assignments made hereunder.

1 F. Benefits for an injury shall be determined by the law in  
2 effect at the time of injury; benefits for death shall be determined  
3 by the law in effect at the time of death.

4 G. For purposes of this section, interest shall be computed  
5 pursuant to Section 727 of Title 12 of the Oklahoma Statutes.

6 SECTION 2. AMENDATORY 85 O.S. 2001, Section 93, is  
7 amended to read as follows:

8 Section 93. A. The following fee shall be collected by the  
9 Administrator and taxed as costs to be paid by the party against  
10 whom any award becomes final:

11 A fee of ~~Seventy-five Dollars (\$75.00)~~ One Hundred Dollars  
12 (\$100.00) per case to be deposited as follows:

13 1. ~~Forty Dollars (\$40.00)~~ Sixty-five Dollars (\$65.00) to the  
14 credit of the Administrator of Workers' Compensation Revolving Fund  
15 created by Section 95 of this title;

16 2. Ten Dollars (\$10.00) to the credit of the Office of the  
17 Attorney General's Workers' Compensation Fraud Unit Revolving Fund  
18 created by Section 19.2 of Title 74 of the Oklahoma Statutes; and

19 3. Twenty-five Dollars (\$25.00) to the credit of the  
20 Administrator of Workers' Compensation Revolving Fund, created by  
21 Section 95 of this title, for purposes of implementing the  
22 provisions of this act, including strengthening and providing  
23 additional funding for the Attorney General's Workers' Compensation

1 Fraud Unit, providing counseling services pursuant to the workers'  
2 compensation counselor program and safety in the workplace.

3 B. A fee of ~~Seventy-five Dollars (\$75.00)~~ One Hundred Dollars  
4 (\$100.00) per action to reopen any case pursuant to Section 28 of  
5 this title shall be collected by the Administrator and taxed as  
6 costs to be paid by the party that reopens the case. The fee  
7 collected pursuant to this subsection shall be deposited to the  
8 credit of the Administrator of Workers' Compensation Revolving Fund,  
9 created by Section 95 of this title, for purposes of implementing  
10 the provisions of this act, including strengthening and providing  
11 additional funding for the Attorney General's Workers' Compensation  
12 Fraud Unit, providing counseling services pursuant to the workers'  
13 compensation counselor program and safety in the workplace.

14 SECTION 3. This act shall become effective November 1, 2005.

15 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-15-05 - DO  
16 PASS, As Coauthored.