

MAINE STATE LEGISLATURE

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STATE OF MAINE
 HOUSE OF REPRESENTATIVES (Filing No. H-513)
 110TH LEGISLATURE
 FIRST REGULAR SESSION

HOUSE AMENDMENT "A" to H.P. 565, L.D. 641, Bill, "AN ACT
 Relating to Attorney's Fees Under the Workers' Compensation Law."

Amend the Bill by striking out everything after the enacting
 clause and inserting in its place the following:

'Sec. 1. 39 MRSA §110, as last amended by PL 1979, c. 132,
 §2, is repealed and the following enacted in its place:

§110. Witness and attorney's fees

When an employee has prevailed in obtaining a first decree
 of compensability, or when payment of benefits or protection has
 been obtained through the services of an attorney under this Act,
 the commissioner shall assess the employer a reasonable attorney's
 fee and reasonable disbursements if the services of the attorney,
 disbursements and witnesses' fees were necessary to the proper
 and expeditious disposition of the claim. When an employee has

not prevailed in obtaining a first decree of compensability, or
 when payment of benefits or protection has not been obtained
 through the services of an attorney under this Act, the commis-
 sioner shall assess the employer reasonable disbursements and
 witnesses' fees.

When an employee whose claim has previously been established
 as compensable under this Act initiates further proceedings under
 this Act regarding the same claim in good faith and upon reasonable
 grounds, the commissioner shall assess the employer a reasonable
 attorney's fee and reasonable disbursements if the services of
 the attorney, disbursements and witnesses' fees were necessary to
 the proper and expeditious disposition of the claim.

When an employer has instituted proceedings under this Act, the commissioner shall assess the employer a reasonable attorney's fee and reasonable disbursements if the services of the attorney, disbursements and witnesses' fees were necessary to the proper and expeditious disposition of the claim.

No attorney representing or advising an employee under this Act may receive any fee from that client for an appearance before the commission, including preparation for that appearance. Any attorney who violates this paragraph shall lose his fee and shall be liable in a court suit to pay damages to the client equal to 2 times the fee charged for that client.

Statutes, Title 39

Sec. 2. Applicability. The provisions of the Revised/ section 110, shall /only be effective as to injuries occurring and occupational diseases causing disability on and after its effective date.'

Statement of Fact

This amendment provides that:

1. On the claim for compensation, the employer shall only be liable for the employee's attorney's fees if the employee prevails either by the litigation or negotiation. Once compensability is established the employee's attorney will receive a fee in subsequent proceedings regarding the employee's injury only if such proceedings are determined by the commissioner to have been brought in good faith, that is, honestly, and on reasonable grounds, that is, on reasonable factual and legal bases;
2. Since a claimant's attorney will receive a fee for successful negotiation, the initiations of needless litigation will be eliminated;

3. The provision of current law barring a fee to an attorney from a claimant is continued and expanded to preclude charging the employee any fee for litigation negotiation or advice; and

4. An effective date consistent with the constitutional requirement against retroactive repeal of existing benefits is provided.

Filed by Mr. Diamond of Windham.
Reproduced and distributed under the direction of the Clerk
of the House.

6/2/81

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