

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 641

H. P. 565

House of Representatives, February 4, 1981

Referred to the Committee on Labor. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Cunningham of New Gloucester.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT Relating to Attorney's Fees Under the Workers' Compensation Law.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 39 MRSA § 103, last ¶, first sentence, as enacted by PL 1979, c. 132, § 1, is amended to read:

No attorney who represents an employee **who prevails in a proceeding** before the commission ~~shall~~ **may** receive any fee from that client for that representation.

Sec. 2. 39 MRSA § 110, as last amended by PL 1979, c. 132, § 2, is repealed and the following enacted in its place: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

If an employee prevails in any proceeding, instituted by either the employee or the employer, which involves a dispute as to the compensability of an injury, the employee's entitlement to compensation or the amount of compensation payable under this Act, the commission or commissioner may assess the employer costs of a reasonable attorney's fee and witness fees whenever the witness was necessary for the proper and expeditious disposition of the case.

No attorney representing an employee who prevails in a proceeding 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.

STATEMENT OF FACT

The purpose of this bill is to implement one of the recommendations of the Blaine House Conference on Small Business.

Unlike the workers' compensation laws of other states, Maine law presently requires an employer to pay a claimant's legal expenses regardless of whether the claimant wins or loses the case.

This bill eliminates that unfairness by limiting assessments of attorney's fees to those proceedings in which the claimant prevails.