

MAINE STATE LEGISLATURE

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L.D. 1460

STATE OF MAINE
HOUSE OF REPRESENTATIVES
110TH LEGISLATURE
FIRST REGULAR SESSION

(Filing No. H-477)

COMMITTEE AMENDMENT "A" to H.P. 1235, L.D. 1460, Bill,
"AN ACT Concerning Attorney's Fees Under the Workers' Compensation
Laws."

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

'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repealed and the following enacted in its place: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

1. Generally. Except for petitions for award of compensation
under section 94, when the commission or commissioner finds that
an employee has instituted proceedings under this chapter on
reasonable grounds and in good faith or that the employer through
or under his insurance carrier has instituted proceedings under
this chapter, the commission or commissioner may assess the
employer costs of witness fees and a reasonable attorney's fee,
when in the commission's/ ~~commissioner's~~ ^{judgment or the} commissioner's judgment the
witness and the services of the attorney were necessary to the
proper and expeditious disposition of the case.

2. Petitions for award of compensation. When the commission
or commissioner finds that a party has instituted proceedings
under section 94 and that the employee has been awarded compensa-
tion pursuant to the petition, the commission or commissioner
may assess the employer costs of witness fees and a reasonable

attorney's fee, when in the commission's judgment or the commissioner's judgment the witness and the services of the attorney were necessary to the proper and expeditious disposition of the case.

3. Attorney fees; payment by employee. No attorney representing an employee in a proceeding under this Title 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 is liable in a court suit to pay damages to the client equal to 2 times the fee charged for that client.

4. Frivolous proceedings; penalty. When the commission or commissioner finds that a party has instituted proceedings under this Act without reasonable grounds and in bad faith, the attorney for that party shall forfeit any fee to which he would otherwise be entitled, including such portion of salary or other remuneration which is attributable to his participation in instituting or pursuing the proceedings. In addition, the commission or commissioner may assess against the attorney a forfeiture, not to exceed \$500.'

Statement of Fact

This amendment alters the manner of assessing attorney fees to the employer on petitions for award. Under the amendment, an employee's attorney would be paid for his work on the petition for award only if the employee prevailed. All other proceedings would be in accordance with present law.

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The amendment also adds a penalty for frivolous litigation, assessed against the professionals, who are in a position to prevent this needless and expensive process.

Reported by the Majority of the Committee on Labor.
Reproduced and distributed under the direction of the Clerk
of the House.

5/26/81

(Filing No. H-477)