

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
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3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 626

6
7 S.P. 204

In Senate, February 7, 1983

8 Received by the Secretary of the Senate on February 7, 1983. Referred to
9 the Committee on Labor, and ordered printed pursuant to Joint Rule 14.

10 JOY J. O'BRIEN, Secretary of the Senate

11 Presented by Senator Twitchell of Oxford.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT Relating to Attorney's Fees
18 under the Workers' Compensation Law.
19

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

22 Sec. 1. 39 MRSA §103-B, sub-§4, as enacted by PL
23 1981, c. 514, §6, is amended to read:

24 4. Costs. ~~Costs~~ In cases of appeal in which the
25 employee prevails, costs of appeal shall be allowed,
26 including the record, and including reasonable attor-
27 neys' fees as provided for under section 110. No
28 attorney who represents an employee who prevails in a
29 proceeding before the division may recover any fee
30 from that client for that representation. Any attor-
31 ney who violates this paragraph shall lose his fee
32 and is liable in a court suit to pay damages to the
33 client equal to 2 times the fee charged that client.

1 Sec. 2. 39 MRSA §103-C, sub-§4, as enacted by PL
2 1981, c. 514, §6, is amended to read:

3 4. Costs. In all cases of appeal to the Law
4 Court in which the employee prevails, it may order a
5 reasonable allowance to be paid to the employee by
6 the employer for expenses incurred in the proceedings
7 of the appeal, including the record, but not includ-
8 ing expenses incurred in other proceedings in the
9 case. Reasonable attorneys' fees shall be allowed as
10 provided for under section 110. No attorney who
11 represents an employee who prevails in an appeal
12 before the court may recover any fee from that client
13 for that representation. Any attorney who violates
14 this paragraph shall lose his fee and is liable in a
15 court suit to pay damages to the client equal to 2
16 times the fee charged that client.

17 Sec. 3. 39 MRSA §110, as amended by PL 1979, c.
18 132, §2, is repealed and the following enacted in its
19 place:

20 §110. Witness and attorney's fees allowable:

21 If an employee prevails in any proceeding, insti-
22 tuted by either the employee or the employer, which
23 involves a dispute as to the compensability of an
24 injury, the employee's entitlement to compensation or
25 the amount of compensation payable under this Act,
26 the commission or commissioner may assess the
27 employer costs of a reasonable attorney's fee and
28 witness fees whenever the services of the attorney
29 and witness were necessary for the proper and expedi-
30 tious disposition of the case.

31 No attorney representing an employee who prevails
32 in a proceeding under this Act may receive any fee
33 from that client for an appearance before the commis-
34 sion, including preparation for that appearance. Any
35 attorney who violates this paragraph shall lose his
36 fee and shall be liable in a court suit to pay dam-
37 ages to the client equal to 2 times the fee charged
38 for that client.

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STATEMENT OF FACT

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This bill changes the procedures for awarding attorney's fees in workers' compensation cases.

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Unlike the workers' compensation laws in all 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.

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

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