

# MAINE STATE LEGISLATURE

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L.D. 1634  
(Filing No. S219)

STATE OF MAINE  
SENATE  
112TH LEGISLATURE  
FIRST REGULAR SESSION

SENATE AMENDMENT "C " to H.P. 1127, L.D. 1634,  
Bill, "AN ACT to Improve the Workers' Compensation  
System and Reform the Rate-making Process."

Amend the Bill in section 43 by inserting at the  
end the following:

'3. Costs. The commission or commissioner, in  
any proceeding brought or defended in good faith and  
upon reasonable grounds, may assess the employer  
costs, including transcript costs, medical evaluation  
costs or witness fees, when those costs, in the com-  
mission's judgment or commissioner's judgment, were  
necessary to the proper and expeditious disposition  
of the case.'

STATEMENT OF FACT

This amendment provides that the injured worker's  
attorney's fees and disbursements of the case are to  
be paid by the employer or insurer only if the worker  
wins his case.

A disabled worker usually has no money either to  
pay a lawyer or to obtain evaluations from physi-  
cians, specialists and other expert witnesses. A  
lawyer may be willing to take the case and invest his  
time if he thinks he can win, but physicians and oth-  
er expert witnesses do not provide services based on  
the possibility of winning. The experts must be  
guaranteed payment or they will not be available.

The insurer guarantees payment to its experts.  
Consequently, the insurer will always have experts,

SENATE AMENDMENT " C " to H.P. 1127, L.D. 1634

1 but the disabled worker will often be unable to af-  
2 ford matching experts. Thus, balance will be lost.  
3 This amendment provides that the experts, but not the  
4 lawyer, may be paid if the case is brought or de-  
5 fended on an honest and reasonable basis even if they  
6 do not prevail.

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(Sen. Chalmers)

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