

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 513

S.P. 186

In Senate, February 24, 1987

Reference to the Committee on Labor suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate
Presented by President PRAY of Penobscot.

Cosponsored by Senator DUTREMBLE of York, Representative
CONLEY of Portland, Speaker MARTIN of Eagle Lake.

STATE OF MAINE

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

1. AN ACT Relating to Medical Evidence and Costs
2 in Workers' Compensation Cases.
3

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

6 39 MRSA §110, sub-§3 is enacted to read:

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

1

STATEMENT OF FACT

2 This bill provides that the injured worker's
3 costs of providing medical or other expert evidence
4 are to be paid by the employer or insurer if the case
5 is brought in good faith and if the costs are reason-
6 able and necessary to the determination of the case.

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

15 The insurer guarantees payment to its experts.
16 Consequently, the insurer will always have experts,
17 but the disabled worker will often be unable to af-
18 ford matching experts. Thus, balance will be lost.
19 This bill provides that the experts, but not the law-
20 yer, may be paid if the case is brought or defended
21 on an honest and reasonable basis even if the employ-
22 ee does not prevail.

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