

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2220

H.P. 1607

House of Representatives, January 24, 1990

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Reference to the Committee on Labor suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative CONLEY of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act Regarding Attorney's Fees in Workers' Compensation Cases.

of Section 101, which reads as follows:	52
1. The words "and the amount of the award shall be determined by the board of workers' compensation" shall be inserted in Section 101, which reads as follows:	53
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Be it enacted by the People of the State of Maine as follows:

2 Sec. 1. 39 MRSA §71-A, sub-§4 is enacted to read:

4 4. Attorney's fees. When a lump sum settlement is
6 approved, a commissioner may regulate the fees paid to the
8 employee's attorney, regardless of the source.

10 Sec. 2. 39 MRSA §110, sub-§2, as amended by PL 1985, c. 431,
§2, is further amended to read:

12 2. Injuries on or after June 30, 1985. If an employee
14 prevails in any proceeding involving a controversy under this
Act, the commission or commissioner may assess the employer costs
16 of a reasonable attorney's fee and witness fees whenever the
witness was necessary for the proper and expeditious disposition
of the case.

18 The employer may not be assessed costs of an attorney's fee
20 attributable to services rendered prior to one week after the
informal conference under section 94-B or, if the informal
22 conference is waived, services rendered prior to the date of that
waiver, unless a party adverse to the employee was so represented
24 at that stage.

26 No attorney representing an employee who prevails in a proceeding
involving a controversy under this Act may receive any fee from
28 that client for an appearance before the commission, including
preparation for that appearance, except as provided in section
30 83, subsection 7 and section 94-B, subsection 3. Any attorney
who violates this paragraph shall lose ~~his~~ the fee and be liable
32 in a court suit to pay damages to ~~his~~ the client equal to 2 times
the fee charged for that client.

34 This subsection applies only to employees injured on and after
36 ~~the effective date of this subsection~~ June 30, 1985.

38 A. For the purposes of this subsection, "prevail" means to
40 obtain or retain more compensation or benefits under the Act
than were offered to the employee by the employer in writing
42 before the proceeding was instituted. If no such offer was
made, "prevail" means to obtain or retain compensation or
benefits under the Act.

44 B. Any employee, employer or insurance carrier involved in
46 any proceeding involving a controversy under this Act shall
report to the commission, on forms provided by the
48 commission, any amounts ~~that--he--has~~ paid for legal
assistance in that proceeding, including any amount paid for
50 an employee's legal fees under this subsection.

2 The Workers' Compensation Commission may regulate claimant's
4 attorney's fees regardless of source.

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8
10 **STATEMENT OF FACT**

12 This bill clarifies the authority of the Workers'
14 Compensation Commission over claimant's attorney's fees in the
16 lump sum settlement situation and other situations. This bill is
18 not intended to change existing law but rather to reaffirm and
20 make specific the commission's authority to regulate claimant's
22 attorney's fees that exist under the "best interest" provision of
the Maine Revised Statutes, Title 39, section 71-A, the
commission's authority over legal fees under Title 39, section
110 and, although Title 39, section 92 is not amended in this
bill, the authority of the chairman to exercise supervision of
the administration of the Workers' Compensation Act under section
92.