# STATE OF MAINE
# 121st LEGISLATURE
# FIRST REGULAR SESSION

## Final Report
## of the
## COMMISSION TO REVIEW THE BUDGET PROCESS OF THE WORKERS' COMPENSATION BOARD

**February 2004**

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## Executive Summary

The Commission to Review the Budget Process of the Workers' Compensation Board was created by Public Law 2003, chapter 425, section 3. The Commission, composed of 4 legislators and 2 members of the Workers' Compensation Board, was directed to review the process used by the Board to establish, approve and monitor its budget. The Commission was also specifically directed to review the Board's progress in making changes recommended in recent reports on the siness processes.

Commission members met 4 times between August, 2003 and December 2003, and received informational briefings on how the Board develops its budget, how it assesses insurers and employers to fund Board activities, and how the Legislature and the Bureau of the Budget (Department of Administrative and Financial Services) play roles in reviewing and approving the Board's budget. Workers' Compensation Board staff also described steps taken by the Board in response to recommendations of the 2001 Berry Dunn McNeil and Parker study of Workers' Compensation Board governance.

The Commission did not make any formal findings or recommendations. However, members reached consensus on the following issues.

### A. Budget Development within the Workers' Compensation Board

Commission members agree that the Board has taken steps to improve internal and external accountability for its budget by (1) allocating expenses to specific activities, or "cost centers" and (2) by creating performance standards or benchmarks. The Commission urged the Board to continue monitoring costs and developing benchmarks, especially through its revision of the Board's business plan.

Oversight of the budget process and budgeting results by the Legislature is an important part of accountability to the public. The Joint Standing Committee on Labor is directed by statute to review the Board's budget, but has not always done so at the time of the biennial budget request. The Commission urges the Labor Committee to meet that responsibility more rigorously, and urges the Board and its Executive Director to develop a more understandable way to present budget information to the Legislature as well as a way to seek input in development of the budget.

### B. Revenue Stream

Although the current method of collecting revenue for Board operations (an assessment of insurers and self-insuring employers and groups) is somewhat unpredictable and generally results in collection of more revenue than anticipated, it appears to members of the Commission that the current law is adequate for the needs of the Board, especially with the availability of the reserve fund to cover cash flow problems.

Other methods of collecting revenue have advantages and disadvantages over the current system. However, no consensus emerged from commission discussion that the current system needed to be changed. The Commissioner of Professional and Financial Regulation urged the Commission to change the assessment process. He submitted proposed legislation to alter the method of assessment, but the proposal was not provided in time for the Commission members to discuss it. That proposal is included in Appendix H without a recommendation from the Commission.

## I. Introduction

The Commission to Review the Budget Process of the Workers' Compensation Board was created by Public Law 2003, chapter 425, section 3. The Commission was composed of 6 members – 2 Senators, 2 members of the House of Representatives and 2 members of the Workers' Compensation Board, one representing the Board's labor members and one representing its management members.

The Commission was directed to review the process used by the Workers' Compensation Board to establish, approve and monitor its budget and to determine whether improvements are needed. The Commission was also directed to review the Board's progress on implementing budget-related recommendations resulting from 2 recent studies of Board administration and governance: the 1997 Coopers and Lybrand study[1] and the 2001 Berry, Dunn, McNeil and Parker (BDMP) study.[2]

The Commission met 4 times during the interim between the 1st and 2nd Regular Sessions of the 121st Legislature – August 20, October 6, November 3 and November 17, 2003.

At its first meeting, the Commission received information on the role of the Workers' Compensation Board, the Bureau of the Budget and the Legislature in developing and reviewing the Board's budget. The Commission also heard a presentation from the Workers' Compensation Board staff regarding the progress of the Board in implementing recommendations of the BDMP report.

At its 2nd meeting, Commission members focused on the process used within the Board to predict future expenditures and future revenue from the Board's assessment on insurers and self-insurers, and the process for bringing expenditures in line with projected revenues. The Commission also discussed the Board's use of "performance measures" to increase accountability.

At its 3rd meeting, the Commission looked at how other states fund their workers' compensation administrative agencies, especially at their processes for collecting revenue through assessments. The Commission reviewed the Board's Long Term Business Plan and the Board's progress in meeting the goals of that plan. Commission members discussed the level of Board expenditures and the allocation of Board resources among its various programs.

At their final meeting, Commission members discussed the concept of applying additional benchmarks in the audit program, e.g., examining the frequency with which insurers or employers contest the payment of benefits to an employee. The members also had additional discussions on the allocation of Board resources. Finally, members reviewed a list of issues and summed up their

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[1] Workers' Compensation Board Business Assessment, prepared by Coopers and Lybrand Consulting (December 1997)

[2] Report of the Workers' Compensation Board Governance Study, performed by Berry Dunn McNeil and Parker under contract to the Department of Administrative and Financial Services pursuant to PL 2001 chapter 49 (December 2001)

conclusions.  No formal recommendations or findings were voted upon by the Commission, but a summary of consensus items as well as areas of disagreement is included as Part III of the report.

## II.  Background

### A.  Budget Development, Review And Approval  -- The Process

The Workers' Compensation Board is an independent board within State Government, funded by a dedicated account known as the "Workers' Compensation Board
3 The Administrative Fund is composed primarily of money collected
through an assessment on workers' compensation insurers and self-insured employers and employer groups.  In order to spend money from that dedicated account, the Board must submit a budget and receive permission from the Legislature and the Governor to make expenditures.  That permission comes in the form of an "allocation" that is generally included in legislation enacted in the Legislature and signed by the Governor.[3]

The Workers' Compensation Board budget goes through several steps before an allocation request to fund the budget is submitted to the Legislature.

#### 1.  Workers' Compensation Board Develops Budget

First, the Board must estimate the amount of funds needed to cover the current level of services and any new programs for the next 2 fiscal years. Approximately 80% of the Board's budget is spent on salaries and benefits for staff.  The rest is spent on capital expenses and all other expenses, such as rent, equipment and supplies. Once the total need is calculated, the Board must ensure that it will have sufficient revenue to cover the costs.  If anticipated expenditures are likely to exceed anticipated revenue, the Board must review and reduce its budget so that revenues and expenditures match.[4]

#### 2.  Bureau of the Budget Reviews; Governor Decision

The Board then submits its proposed budget to the Bureau of the Budget, within the Department of Administrative and Financial Services.  As it does with other self-funded agencies (e.g., the Public Utilities Commission), the Bureau of the Budget reviews the Board's proposal primarily for the purpose of ensuring that the expenditure plan can be supported by sufficient revenue.  If the Bureau of the Budget concludes that sufficient revenues will be available to meet the budget, the budget is then submitted to the Governor, for review and inclusion in the Governor's biennial budget legislation presented to the Legislature in the beginning of each biennium.  Although the Governor has authority to revise the Board's

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[3] The other way for the Board to obtain an allocation is through the Financial Order process described later in this report.

[4] Appendix D contains a more detailed description of the budget development process for the 2004-05 fiscal biennium, which required moving some of the expenses into a separate bill that contained an increased assessment cap.

budget before including it in his bill[6], the Governor generally submits the proposal as he receives it from the Bureau of the Budget

**3. Legislature Reviews and Approves Allocation**
The Governor's biennial budget bill is referred to the Joint Standing Committee on Appropriations and Financial Affairs for review. However, since the Board does not receive General Fund dollars, that committee does not generally conduct a public hearing on the proposed allocation to the Board. The Joint Standing Committee on Labor is directed by Title 3, section 522-B to review the Board's budget and make a written recommendation to the Appropriations Committee. In recent years, the Labor Committee has heard budget presentations from the Board on various occasions, but the presentations are not always a regular part of the biennial budget review process.

Once the Legislature approves the Board's allocation, the Board has authority to spend up to the amount of the allocation. Without an allocation, the Board may not spend funds even if the funds are in the Board's hands. Unlike most state agencie
legislative allocation is not broken down into specific programs, such as worker advocate, general office administration, etc. It is simply broken down into 3 categories – Personal Services, Capital and All Other. This form of allocation gives the Board flexibility to move staff and funds among programs as needed without having to seek legislative approval. The Board does, however, need approval to move funds among the 3 categories of expenditures.

## B. Budget Development, Approval and Monitoring – Issues

Commission members raised a number of concerns about the budgeting process during this interim study, some of which were highlighted in the 2001 Berry Dunn McNeil and Parker (BDMP) report. Those issues included:

- The insufficiency of budget information provided to Board members
- The lack of accountability for expenditures
- The sufficiency of Legislative review of the budget
- The relationship between the Board and the Bureau of the Budget

The BDMP report found that the "fiscal reports reviewed by the Board are not sufficient to enable the Board members to evaluate management or overall fiscal performance[7]." Among other things, the report recommended that Board members increase the level of financial detail they evaluate and that members conduct more frequent reviews of Board finances.

[6] Title 5, section 1666.
[7] BDMP Report, page 16

**1. Cost Center Reporting**

The Workers Compensation Board staff reported to the Commission that the Board has recently made 2 significant changes in its accounting and financial management, partly in response to the BDMP report. First, the Board now tracks and reviews spending on the basis of 5 "cost centers" (1) Board Central Office and Administration; (2) The Worker Advocate program; (3) Monitoring, Auditing and Enforcement; (4) Dispute Resolution (including costs of the regional offices); and (5) Computer Services. Allocation of staff positions and funding to the various cost centers will improve the Board's understanding of program expenses, trends in spending, and needs within and among programs. The Board allows the Executive Director to move funds around within each cost center, but a shift of funds from one cost center to another would require approval of the Board.

The Board provided examples of cost center reporting to Commission members, and members agreed that the cost center approach improves communication and understanding about expenditures. Appendix E provides an example of cost center budgeting.

**2. Performance Measures**

The second significant change adopted by the Board was development of "performance measures," to help the Board evaluate the effectiveness and efficiency of programs. Paul Dionne, Executive Director of the Board, explained that he is in the process of developing a new business plan for the Board that will include performance measures or standard operating procedures for each cost center. Commission members expressed approval of the Board's use of performance measures, and some urged the Board to expand the use of objective criteria in evaluating performance of staff and management. Executive Director Dionne provided the Commission with a draft of the 2004 Long-Term Business Plan, which the Board will address at future meetings. Executive Director Dionne was asked to provide legislators with a copy of the final plan.

**3. Legislative Review**

Legislative review of the Board's budget may be easier in the future. Some members felt that Commission meetings had helped them gain a better understanding of the Board's budgeting and revenue processes. In addition, the use of cost center reporting will provide information in a clearer format and performance measures will provide additional information.

The Commission urged the Board to involve the Legislature's Labor Committee early in the process of developing a budget, and to ensure that Board members representing labor and management are available to answer committee questions. Executive Director Dionne suggested that one way to inform the Labor Committee early in the process might be for the Board to brief the committee in January, which is the middle of a fiscal year, on Board expenditures to date and to get committee input for future fiscal year spending.

### C. Current Law on Funding the Board

The Workers' Compensation Board is a self-funded agency; it is not supported by the state's General Fund. Instead, it is primarily funded by an assessment on workers' compensation insurers and self-insured employers and employer groups. Other sources of revenue consist of investment income,[8] fines,[9] and sales of publications.

#### 1. Calculation of the Assessment[10]

To begin the assessment process for a fiscal year, the Workers' Compensation Board first determines the total amount to be collected by assessment. That number is governed by two factors.

First, the assessment target may not exceed the statutory "cap" set forth in Title 39-A, section 154, subsection 6.[11] This is not quite as straightforward as taking the dollar amount from the statute. The law requires the Board to assess an amount lower than the statutory figure if, in the prior year, assessment collections exceeded the prior year's statutory dollar amount. In some years, the maximum target assessment calculated under the statutory formula is significantly less than the dollar amount set forth in statute.[12] Second, the Board looks at its planned budget, and determines what amount must be collected by assessment after subtracting anticipated revenue from other sources.

Once the aggregate assessment is determined, the Board divides the total between insurers and self-insurers, based on the proportion of disabling cases attributable to each group in the most recently completed calendar year.[13]

The total to be collected from self-insured employers and employer groups is divided among the employers and groups, based on the proportion of aggregate

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[8] Investment income to the Board has dropped from $339,893 in FY 99 and $352,742 in FY 00 to $155,959 in FY '02

[9] Not all fines go to the Administrative Fund. Most are deposited in the General Fund pursuant to Title 39-A, section 360 (penalties for violation of reporting requirements, willful violations of the Act, fraud or intentional misrepresentation). Most fines for late payment of incapacity benefits go to the injured employee pursuant to section 205 and 324. Fines for employers operating without mandatory workers' compensation insurance go to the Employment Rehabilitation Fund under section 324.

[10] Further detail about the calculation of the assessment for FY 2004 can be found in the Appendix

[11] That cap was set at $6 million for FY96, and was increased to $6.6 million by Public Law 1997, c. 486; to $6.735 by PL 1999, c. 359; to $6.860 million by PL 2001, c. 692; and to $8.39 in FY 04, $8.565m in FY 05, and $8.525m after FY05 by PL 2003, c. 425. The cap was increased temporarily by $300,000 by PL 2001, c. 393. Some of the increases were attributable to additional programs. For example, PL 1997, c. 486 created the Worker Advocate and MAE programs and increased the cap by $600,000.

[12] For example, for fiscal year '01, the statutory dollar limit was $6.735 million, but after reduction for the prior year's excess collection, the assessment was limited to $5 million

[13] Title 39-A, section 154, subsection 5

benefits paid by each employer or group. Self-insurer assessments must be sent to the Board by June 1 to fund the fiscal year beginning July 1.

Insurers are not given a specific dollar amount to remit to the Board.[14] They are directed to add to each premium bill sent to insureds a specific percentage of premium for payment to the Board. The surcharge is separately stated on the premium invoice. The Board must estimate what percentage, when applied to premiums, will result in the dollar amount targeted to be collected from insurers. The Bureau of Insurance assists the Board is estimating premium levels. The Board estimates the percentage by May 1st and insurers begin collecting them from insureds on July 1.[15] The percentage to be collected is determined on the basis of anticipated premiums, so it is impossible to determine precisely.

**2. Problems with the Assessment Process -- Lack of Predictability**

The assessment process is not precise, especially with respect to assessments of insurers. Because the assessment rate is applied to premiums collected from employers on an ongoing basis during the fiscal year, the amount of total assessments collected is not known until the end of the fiscal year. In each year since FY98, the amount collected exceeds the target assessment amount (from $350,000 to $1.4 million)[16]. Another reason for assessment totals to exceed the amount anticipated is that audits of insurers or employers in later years may turn up additional amounts due to the Board, and those amounts are credited to the year in which they should have been paid, rather than the year in which they are collected.

The unpredictability causes 2 problems. First, in order to avoid a revenue shortfall, the Board may estimate the premium percentage high and end up collecting too much from insured employers. The use of the excess collections is limited in 2 ways. First, the Board may not spend money in excess of its allocation, even if it has excess funds on hand.[17]

Second, Title 39-A provides a formula for use of the excess collections. Amounts collected that exceed the statutory dollar cap for that fiscal year by more than 10% must be "returned to employers." Amounts collected that exceed that cap, within

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[14] In the Maine Law Court decision, Hanover Ins. Co. v. Workers' Compensation Board, 1997 ME 104, 695 A.2d 556 (1997), the assessment law was interpreted to require that the assessment for insurers be stated as a percentage of premium, rather than a dollar amount.

[15] Insurers remit collections quarterly, unless the total due is less than $50,000. Those smaller sums must be paid by June 1.

[16] See Appendix F for information on expenditures and assessments

[17] The primary allocation, or permission to spend, comes from the biennial budget bill. However, allocations may be increased in 2 ways. Legislation can be enacted to specifically authorize an additional allocation. (See, e.g., PL 2001, chapter 393) If the Legislature is not in session, the Governor, through the Bureau of the Budget, can issue a "Financial Order" authorizing the Board to spend additional money, as long as money is on hand and can legally be spent for the intended purpose. Financial Orders are reported to the Joint Standing Committee on Appropriations and Financial Affairs during the interim, but generally review occurs after the Order takes effect.

the first 10%, must first be used to fund the Board's allocation, then deposited in a reserve account until the maximum reserve is achieved,[18] then used to reduce the next year's assessment. Because of this formula, the Board has in recent years been forced to appear before the Legislature seeking access to reserve funds to cover its budget, even though its assessment for the year is well below the statutory dollar limit. This has created confusion on the part of those trying to understand the Board's finances.

### 3. Alternative Methods of Funding

The Commission examined other possible funding methods to determine whether there is a more predictable revenue source. Appendix G summarizes the methods used in other states to fund their workers' compensation administrative agencies. A few are funded by General Fund dollars or by fees.

Most state workers' compensation agencies, like Maine's Workers' Compensation Board, are funded by assessments. Many other states, however, allocate the assessment among insurers on the basis of prior year premiums, rather than trying to predict premiums for the upcoming year. This makes the assessment collection more predictable. However, insurer representatives told the Commission that such a system shifts the unpredictability to the insurer since, without a specific rate to apply to premiums, the insurer has to estimate the likely premium and somehow account to employers for overcollections or turn over more to the Board than they collected as a pass-through to employers. Also, since premium levels change from year to year, insurers with little market share in the current fiscal year, may owe a sizeable assessment, but have no premium base from which to collect it.

Given that each potential funding method has advantages and disadvantages, and that the disadvantages of the current system did not appear critical, Commission members did not conclude that a change in the assessment process was necessary. Commissioner Murray, of the Department of Professional and Financial Regulation, told the commission that he believes the assessment process needs to be made more predictable. With more predictable assessment collections, he believes that the Board would not need a reserve account. Executive Director Dionne commented that the reserve account would still be needed to cover unexpected expenses, such as salary increases, unless the assessment cap was indexed to take those increases into account. Without an increase in the assessment cap, or the ability to access the State's salary plan, the Board will bump up against limits again within the next few years.

Commissioner Murray's proposal, to base insurer assessments on prior year premiums, is included as Appendix H. The proposal was submitted after the Commission's final meeting, so the Commission did not take a position on the specific proposal.

[18] The maximum reserve amount is ¼ of the board's annual budget. Title 39-A, section 154, subsection 6.

### 4. Complexity of Relationship between the Assessment, the Cap and the Budget

A second problem with the assessment process is the complicated relationship between the assessment cap and the Board's budget. This has caused misunderstanding. For example, the BDMP report concluded that the Workers Compensation Board was not operating with a balanced budget and recommended that the Board's budget not exceed its assessment cap. The assessment cap, however, is not an expenditure limit as currently provided in statute.

The total amount that the Board may spend is determined through the Legislative process; without an "allocation" contained in legislation and approved by the Legislature and the Governor, the Board may not spend money even if it has it on hand. The allocation is permission to spend money. The assessment, on the other hand, is just one of the sources of revenue that the Board may use. The statutory assessment cap is a limit on the amount that the Board can send out assessment bills to collect. The assessment cap, as many appear to believe, is not an expenditure limit. So, for example, in FY99, the Board could legally budget for $6.855 million even though the assessment cap was set as $6.6 million. The additional funding is provided by investment income, certain fines collected by the Board, and sales of publications. As long as the expenditure does not exceed the allocation, the Board operates within legal limits.

As a result of the thorough discussion of this issue, Commission members expressed the belief that they have improved their level of understanding of the relationship between the assessment cap, the allocation, and the budget.

### 5. Reserve Account

A second confusing element of the Board's funding is the reserve account created by Title 39-A, section 154, subsection 6. When assessment collections exceed the Board's budget, the excess goes into a reserve account[19] until the reserve account reaches ¼ of the budget. The Board has always believed that it could use the Reserve Fund to cover costs that were not budgeted for, such as increases in salary and benefits costs, especially health insurance costs. Without access to a salary plan[20], or to increases in its assessment, the Board had difficulty covering staff cost increases. The Bureau of the Budget, which determines whether the Board has available resources to fund a particular cost, believed that the statute did not authorize the use of the reserve fund for ongoing basic costs. This disagreement over interpretation of the law led to tension between the Board and the Bureau of

[19] Account is not a separate pot of money, but is accounted for in records

[20] Most state agencies have access to a State Salary Plan, which provides funds to cover salary and benefit increases during a biennium. The Workers' Compensation Board does not have a salary plan.

the Budget, as well as several appeals directly to the Legislature for permission to use the reserve fund to cover budget deficits or special projects.[21]

In 2003, the Board sought and won approval of legislation that amends Title 39-A to allow the Board to use the reserve account as a source of revenue to cover any legitimate costs related to its administration of the workers' compensation system.[22]Therefore, the Board could potentially count the reserve fund as available revenue, in addition to its assessment, investment income and other sources, in determining how much they can request for an allocation. This could occur in the initial budgeting process or in an off-session request for a financial order from the Governor. For this reason, the Board was required by the new law to report to the Joint Standing Committee on Labor whenever they sought permission from the Bureau of the Budget for a Financial Order to use reserve funds to increase their allocation.

## D. Expenditures – Amount and Allocation

Although the study focus was directed to the budgeting process, not the budget itself, commission members also discussed the level of Board expenditures and the allocation of funds within the Board.

The Board's total budget has risen from $6.06 million in FY98 to $6.99 million in FY01 and $8.69 million in FY03. Some of the increases are attributable to added programs or staff. For example, 10 positions were added and the budget was increased by $600,000 when the Worker Advocate and the Monitoring Auditing and Enforcement (MAE) program were created in FY98. Those programs have both been expanded since their creation to include additional staff and resources.

With regard to the level of funding for the MAE program, some members argued that additional funding is needed. They argued that expanded auditing of insurers would allow the program to audit for additional matters, e.g., unwarranted refusal to pay benefits. Reducing unnecessary disputes would, in turn, reduce costs of the system. Other Commission members argued that the program is sufficiently funded, but could probably be made more efficient.

No specific recommendations were made relating to expenditure amounts or allocation among programs.

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[21] PL 2001, c. 393 (request for $40,000 to fund technology for the Monitoring, Auditing and Enforcement (MAE) program), Res. 2001, c. 49 ($700,000 for FY '02 expenses), Res. 2001, c. 126 ($1,341,750 to balance the FY 03 budget)

[22] PL 2003, c. 93

## III. Commission Conclusions

### A. Budget Development within the Workers' Compensation Board

Commission members agree that the Board has taken steps to improve internal and external accountability for its budget by (1) allocating expenses to specific activities, or "cost centers" and (2) by creating performance standards or benchmarks. The Commission urged the Board to continue monitoring costs and developing benchmarks, especially through its revision of the Board's business plan.

Oversight of the budget process and budgeting results by the Legislature is an important part of accountability to the public. The Joint Standing Committee on Labor is directed by statute[23] to review the Board's budget, but has not always done so at the time of the biennial budget request. The Commission urges the Labor Committee to meet that responsibility more rigorously, and urges the Board and its Executive Director to develop a more understandable way to present budget information to the Legislature as well as a way to seek input in development of the budget.

### B. Revenue Stream

Although the current revenue collection method is somewhat unpredictable and generally results in overcollection, it appears to members of the Commission that the current law is adequate for the needs of the Board, especially with the availability of the reserve fund to cover cash flow problems. Other methods of collecting revenue have advantages and disadvantages over the current system. However, no consensus emerged from commission discussion that the current system needed to be changed. The Commissioner of Professional and Financial Regulation urged the Commission to change the assessment process. He submitted proposed legislation to alter the method of assessment, but the proposal was not provided in time for the Commission members to discuss it. That proposal is included in Appendix H without a recommendation from the Commission.

### C. Allocation of Board Resources

Commission members agreed that reducing the number of unreasonable disputes would benefit participants in the system as well as reducing costs. Some members felt that allocating more resources to the MAE program would enhance efforts to reduce unreasonable disputes. Others felt that the program could accomplish its goals by focusing its efforts and becoming more efficient, and did not need additional funds.

[23] Title 3, section 522-B

# APPENDIX A

## Authorizing Legislation

| APPROVED | CHAPTER |
|---|---|
| JUN 05 '03 | 425 |
| BY GOVERNOR | PUBLIC LAW |

# STATE OF MAINE

## IN THE YEAR OF OUR LORD TWO THOUSAND AND THREE

S.P. 21 - L.D. 35

## An Act To Increase the Assessment on Workers' Compensation Insurance To Fund the Workers' Compensation Board Administrative Fund

**Emergency preamble. Whereas,** Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the operating expenses necessary for the Workers' Compensation Board to provide adequate services to the employers and workers of this State have increased to a level beyond that contemplated by the current assessment limit; and

**Whereas,** if additional funding is not available before the 90-day period has expired, it may become necessary for the Workers' Compensation Board to suspend the employee advocate program and lay off the advocate staff; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 39-A MRSA §152, sub-§2-A** is enacted to read:

<u>2-A. Electronic filing rulemaking. The board shall adopt rules requiring the electronic filing of information required by</u>

this Act and by board rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

A. The rules must be developed through the consensus-based rule development process set forth in Title 5, section 8051-B and must include as participants representatives of employers, insurers and 3rd-party administrators.

B. The rules must include written standards and procedures for implementation of the standards, which may include definition of the applicable programming interface for in-state and out-of-state entities required to submit reports. The rules must relate specific forms required to be filed with data points in the standards.

Before adopting the rules, the board shall test the applicable application programming interfaces and standards to ensure that the program operates successfully.

**Sec. 2. 39-A MRSA §154, sub-§6,** as amended by PL 2003, c. 93, §1, is further amended to read:

**6. Assessment levied.** The assessments levied under this section may not be designed to produce more than $6,000,000 in revenues annually beginning in the 1995-96 fiscal year, more than $6,600,000 annually beginning in the 1997-98 fiscal year, more than $6,735,000 beginning in the 1999-00 fiscal year, more than $7,035,000 in the 2001-02 fiscal year ~~or~~, more than $6,860,000 beginning in the 2002-03 fiscal year, more than $8,390,000 beginning in the 2003-04 fiscal year, more than $8,565,000 beginning in the 2004-05 fiscal year or more than $8,525,000 beginning in the 2005-06 fiscal year. Assessments collected that exceed $6,000,000 beginning in the 1995-96 fiscal year, $6,600,000 beginning in the 1997-98 fiscal year, $6,735,000 beginning in the 1999-00 fiscal year, $7,035,000 in fiscal year 2001-02 ~~or~~, $6,860,000 beginning in the 2002-03 fiscal year, $8,390,000 beginning in the 2003-04 fiscal year, $8,565,000 beginning in the 2004-05 fiscal year or $8,525,000 beginning in the 2005-06 fiscal year by a margin of more than 10% must be refunded to those who paid the assessment. Any amount collected above the board's allocated budget and within the 10% margin must be used to create a reserve of up to 1/4 of the board's annual budget. The board, by a majority vote of its membership, may use its reserve to assist in funding its Personal Services account expenditures and All Other account expenditures and to help defray the costs incurred by the board pursuant to this Act including administrative expenses, consulting fees and all other reasonable costs incurred to administer this Act. The board shall notify the chairs and members of the joint standing committee of the Legislature having jurisdiction over labor matters whenever the board receives approval from the State Budget Officer and the Governor to use reserve funds to increase its allotment above the allocation authorized by the Legislature. Any collected amounts or savings above the allowed reserve must be used to reduce the assessment for the following fiscal year. The board shall determine the assessments prior to May 1st and shall assess each insurance company or association and self-insured employer its pro rata share for expenditures during the fiscal year beginning July 1st. Each self-insured employer shall pay the assessment on or before June 1st. Each insurance company or association shall pay the assessment in accordance with subsection 3.

**Sec. 3. Review.** A commission is established to review the budget process of the Workers' Compensation Board.

**1. Members.** The commission consists of 2 Senators appointed by the President of the Senate, one representing each of the 2 political parties in the Legislature with the greatest number of members, 2 members of the House of Representatives appointed by the Speaker of the House of Representatives, one representing each of the 2 political parties in the Legislature with the greatest number of members, and 2 members of the Workers' Compensation Board, one representing and appointed by the labor members of the board and one representing and appointed by the management members of the board.

**2. Chairs.** The first-named Senator and the first-named member of the House of Representatives are the chairs of the commission.

**3. Appointments; convening of commission.** All appointments must be made no later than 30 days following the effective date of this Act. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. Within 15 days after appointment of all members, the chairs shall call and convene the first meeting of the commission.

**4. Duties.** The commission shall review the process used by the Workers' Compensation Board to establish, approve and monitor its budget and determine whether improvements are needed. The commission shall determine whether recommendations regarding the budget process contained in the 1997 Coopers and Lybrand report and the 2001 Berry, Dunn, McNeil and Parker report have been implemented and, if not, whether and how they should be implemented.

**5. Report.** The commission shall report its findings and recommendations, along with any recommended legislation, to the Joint Standing Committee on Labor not later than December 3, 2003. The Joint Standing Committee on Labor is authorized to submit legislation to the Second Regular Session of the 121st Legislature in response to the report.

**6. Expenses and per diem.** Commission members who are Legislators are entitled to receive legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses related to their attendance at meetings of the commission. Commission members who are members of the Workers' Compensation Board are entitled to per diem and expenses as provided in Title 39-A, section 151, subsection 6. The Workers' Compensation Board shall transfer sufficient funds from its reserve fund to the Legislature to cover the costs of legislative per diem and expenses for commission meetings.

**7. Staff.** The Workers' Compensation Board shall provide staffing to the commission. Upon approval by the Legislative Council, the Office of Policy and Legal Analysis and the Office of Fiscal and Program Review shall also provide staff assistance to the commission.

**8. Extension.** If the commission requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council, which may grant an extension.

**9. Commission budget.** The chairs of the commission, with assistance from the commission staff, shall administer the commission's budget. Within 10 days after its first meeting, the commission shall present a work plan and proposed budget to the Legislative Council for its approval. The commission may not incur expenses that would result in the commission's exceeding its approved budget. Upon request from the commission, the Executive Director of the Legislative Council shall promptly provide the commission chairs and staff with a status report on the commission budget, expenditures incurred and paid and available funds.

**Sec. 4. Appropriations and allocations.** The following appropriations and allocations are made.

**WORKERS' COMPENSATION BOARD**

**Administration - Workers' Compensation Board 0183**

Initiative: Allocates funds for the board to contract with the Department of Labor for programming services to implement electronic filing by insurers and self-insurers.

| Other Special Revenue Funds | 2003-04 | 2004-05 |
|---|---|---|
| All Other | $40,000 | $40,000 |
| Other Special Revenue Funds Total | $40,000 | $40,000 |

**Administration - Workers' Compensation Board 0183**

Initiative: Provides for increased revenue allocation, restoration of positions and All Other costs for the central office, dispute resolution and the worker advocate programs to continue program operations. It also restores fiscal year 2004-05 funding for the law clerk at the administrative office of the courts.

| Other Special Revenue Funds | 2003-04 | 2004-05 |
|---|---|---|
| Positions - Legislative Count | (23.000) | (24.000) |
| Personal Services | $1,363,043 | $1,431,589 |
| All Other | 242,711 | 247,794 |
| Other Special Revenue Funds Total | $1,605,754 | $1,679,383 |

**Administration - Workers' Compensation Board 0183**

Initiative: Allocates funds for Department of Labor programming services.

| Other Special Revenue Funds | 2003-04 | 2004-05 |
|---|---|---|
| All Other | $70,000 | $70,000 |
| Other Special Revenue Funds Total | $70,000 | $70,000 |

**Administration - Workers' Compensation Board 0183**

Initiative: Provides for the reduction in All Other funds for the purpose of staying within the assessment level recommended by the board.

| Other Special Revenue Funds | 2003-04 | 2004-05 |
|---|---|---|
| All Other | ($20,004) | ($25,413) |
| Other Special Revenue Funds Total | ($20,004) | ($25,413) |

**Administration - Workers' Compensation**

Board 0183

Initiative: Provides for the elimination of one Hearing Officer position for the purpose of staying within recommended available resources.

| **Other Special Revenue Funds** | **2003-04** | **2004-05** |
|---|---|---|
| Positions - Legislative Count | (-1.000) | (-1.000) |
| Personal Services | ($140,512) | ($140,244) |
| Other Special Revenue Funds Total | ($140,512) | ($140,244) |

**Administration - Workers' Compensation Board 0183**

Initiative: Allocates funds to contract for temporary worker advocate and clerical support services and associated overtime for the Worker Advocate Program offices in Portland and Augusta. Recent changes by the Bureau of Accounts and Controls prohibit the encumbering of a contract in fiscal year 2002-03 for services to be provided in fiscal year 2003-04. Funding is available for these expenditures in fiscal year 2003-04 from the unexpended cash in fiscal year 2002-03.

| **Other Special Revenue Funds** | **2003-04** | **2004-05** |
|---|---|---|
| Personal Services | $30,000 | $0 |
| All Other | 140,000 | 0 |
| Other Special Revenue Funds Total | $170,000 | $0 |

| **WORKERS' COMPENSATION BOARD DEPARTMENT TOTALS** | **2003-04** | **2004-05** |
|---|---|---|
| **OTHER SPECIAL REVENUE FUNDS** | **$1,725,238** | **$1,623,726** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **$1,725,238** | **$1,623,726** |

**LEGISLATURE**

**Commission to Review the Budget Process of the Workers' Compensation Board**

Initiative: Allocates funds to reflect the reimbursement to be received from the Workers' Compensation Board reserve fund to cover the costs of legislative per diem and expenses.

| **Other Special Revenue Funds** | **2003-04** | **2004-05** |
|---|---|---|
| Personal Services | $880 | $0 |
| All Other | 830 | 0 |

| | | |
|---|---|---|
| Other Special Revenue Funds Total | $1,710 | $0 |
| **LEGISLATURE** | **2003-04** | **2004-05** |
| **OTHER SPECIAL REVENUE FUNDS** | **$1,710** | **$0** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **$1,710** | **$0** |
| **SECTION TOTALS** | **2003-04** | **2004-05** |
| **OTHER SPECIAL REVENUE FUNDS** | **$1,726,948** | **$1,623,726** |
| **SECTION TOTAL - ALL FUNDS** | **$1,726,948** | **$1,623,726** |

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect July 1, 2003.

# APPENDIX B

## Membership list
## COMMISSION TO REVIEW THE BUDGET PROCESS OF THE WORKERS' COMPENSATION BOARD

# COMMISSION TO REVIEW THE BUDGET PROCESS OF THE WORKERS' COMPENSATION BOARD

## PL 2003, Ch 425

**As Of** Tuesday, August 12, 2003

**Appointment(s) by the President**

Sen. Betheda G. Edmonds **Chair**
122 Hunter Road
Freeport, ME. 04032
(207)-865-3869

Sen. Kenneth Blais
107 Pine Tree Road
Litchfield, ME 04350

**Appointment(s) by the Speaker**

Rep. William J. Smith **Chair**
P.O. Box 7
Van Buren, ME. 04785
(207)-868-3418

Rep. Russell P. Treadwell
Damascus Road
RR 2 Box 1570
Carmel, ME 04419
(207)-848-5123

**Workers Comp Board**

John Cooney — Representing Management Members
12 Baxter Lane
Brunswick, ME 04011

Anthony Monfiletto — Representing Labor Members
121 Deepwood Drive
Portland, ME 04103

Staff: Deb Friedman, OPLA, 287-1670

## APPENDIX C

**Budget Process Recommendations from the Berry Dunn McNeil and Parker Report; Workers' Compensation Board Report on Implementation of Recommendations**

# State of Maine
# Department of Administrative and Financial Services

## Workers' Compensation Board Governance Study

**December 15, 2001**

BERRY.DUNN.MCNEIL & PARKER

B D M P

CERTIFIED PUBLIC ACCOUNTANTS
MANAGEMENT CONSULTANTS

**12. Fiscal accountability at the WCB Board of Directors' level should be improved.**

**Issue:** WCB Board of Directors lack direction with regard to their roles and responsibilities. Fiscal reports reviewed by board members are not sufficient to enable board members to evaluate management or overall WCB fiscal performance. Management is not held accountable for budget shortfalls.

**Recommendation:** Accountability at the WCB Board of Directors level should be improved. Duties and responsibilities of WCB Board of Directors should be defined through formal policies to guide their actions. Financial reporting to the WCB Board of Directors should be improved by increasing the level of financial detail evaluated by board members and the frequency at which the detail is monitored.

Implementation: Short-term
Responsibility: Management and Board

**13. A formal policy regarding the use and maintenance of accumulated reserves should be developed. Legislation should be submitted to memorialize that policy in statute.**

**Issue:** Assessments received above the Board's allocated budget and with a 10% margin must be used to create a reserve. The WCB desires to use the accumulated reserve funds to cover budget shortfalls. Clarity surrounding the appropriate use of board reserves appears to be missing within the current statute.

**Recommendation:** A reserve is important and enables the WCB to maintain a prudent level of financial resources and protect against reducing service levels or reallocating resources due to temporary budget shortfalls. A formal policy for the creation, use, and maintenance of accumulated reserves should be developed and enacted into Legislation.

Implementation: Short-term
Responsibility: Board and Legislature

**14. A more predictable revenue model should be developed and implemented.**

**Issue:** Projection of the revenue stream has not been adequate. Revenues continually change because the method used to predict revenues is unreliable. This has resulted in significant differences between initial budgeted revenue and actual revenue.

**Recommendation:** The WCB should formulate and implement a new revenue model. Use indemnity claims paid as a basis for determining assessments levied on employers and self-insured employers. This will enhance the predictability of the revenue stream. This model should be documented in a manual to promote a better understanding of the revenue determination process.

Implementation: Long-term
Responsibility: Board and Management

**15. An in-depth understanding of revenue should be maintained by the WCB Board of Directors.**

**Issue:** Excess assessments have been accruing and do not appear to be returned to employers in accordance with the Statute.

**Recommendation:** The WCB Board of Directors needs to gain and maintain an in-depth understanding of its revenue model. For example, training on this topic could be part of a new board member orientation process. WCB Board of Directors should monitor the accumulation of excess assessment revenue collected to ensure the Board is in compliance with the Statute.

Implementation: Long-term
Responsibility: Board

**16. A balanced budget should be developed.**

**Issue:** The WCB is not operating within a balanced budget. A balanced budget is a basic budgetary constraint intended to ensure the WCB does not spend beyond the maximum assessment.

**Recommendation:** Biennial budgets submitted to the Bureau of Budget should not exceed the maximum assessment levied per Subsection 154 of the Statute. WCB should operate within a balanced budget. Management should monitor budget-to-actual performance monthly. Compliance with the budget policy should be reviewed periodically and during the budget process.

Implementation: Short-term
Responsibility: Board and Management

**17. Program expenditures, over time, should be evaluated.**

**Issue:** Budgeted expenditures within discretionary areas have been reallocated to cover budget shortfalls in the Monitoring, Audit and Enforcement and Worker Advocate Programs. Budgeted expenditures for these two programs appear to be based upon high-level estimates and have not been predictable. Without performing adequate program expenditure analysis regularly, decisions regarding additional revenue needs will not be substantiated.

**Recommendation:** Program expenditures need to be monitored and evaluated as to how they change over time. This will help identify recurring and non-recurring costs, best enable management to control program costs in an ongoing and proactive manner, and substantiate decisions that will require additional funding for WCB or changes to imposed funding limits.

Implementation: Short-term
Responsibility: Board and Management



4

## 3.5 Budgeting Roles and Responsibilities

| Findings | Analysis | Conclusions |
|---|---|---|
| The board does not appear to hold management accountable for budget shortfalls. | Effective board policies provide direction for the WCB Board of Directors. Without a written policy, duties and responsibilities of board members are not defined, communicated, or discharged. | Duties and responsibilities of WCB Board of Directors should be defined through formal policies to guide their actions.<br>Recommendation 12 |
| | The WCB Board of Directors should be responsible for establishing performance standards for the ED and the Deputy Directors. Without such standards, the WCB Board of Directors cannot adequately assess management's performance. | Financial performance standards for the ED and management team members should be developed and implemented by the WCB Board of Directors to enhance accountability of management and to serve as a tool to assess management and the agency's performance in comparison to the budget.<br>Recommendation 12 |

5

| Findings | Analysis | Conclusions |
|---|---|---|
| Summary year-to-date, monthly, and quarterly budget-to-actual performance reports are generated by the Deputy Director of Business Services, but are not reviewed by the WCB Board of Directors. Fiscal reports reviewed by board members consist of a high level summary as opposed to a detailed budget analysis. | WCB Board of Directors have general supervision over the administration of the statute and responsibility for the efficient and effective management of the WCB and its employees. General supervision necessitates that WCB Board of Directors become involved to ensure that issues are thoroughly analyzed before corrective actions are approved, and to see that these actions are implemented by the ED. Without sufficient usable fiscal information, WCB Board of Directors are not equipped to evaluate management or overall board performance. | A formal board policy should be developed and implemented that reflects the mission of the WCB. WCB Board of Directors should receive orientation and training in responsibilities and policies. Recommendation 12 |
| | Monitoring the WCB operations and performance on a regular basis is implicit in the duty of reasonably supervising WCB management and employees. Generally, monitoring should occur through management reporting at regular board meetings. | The WCB should evaluate its financial performance relative to the budget on a monthly, quarterly, and yearly basis to supervise the administration of the statute, increase accountability of management, and monitor changes in operations as they occur. By increasing the level of detail evaluated as well as the frequency, board decisions relative to financial performance will be more timely and appropriate. Recommendation 12 |
| Budget information made available to the WCB Board of Directors does not enable them to adequately monitor board performance. | Best practices suggest that key fiscal data presented should emphasize performance accompanied by summary comments. Key fiscal data will enable the WCB Board of Directors to easily compare WCB performance against its fiscal goals. | Each month, the WCB Board of Directors should review the budget. Budget performance reports should be concise, accurate, and timely. Budget reports should help directors assess the financial condition of the WCB and identify adverse trends. Financial data for board review should include comparisons of the prior period's actual results-to-current period budget. Budget-to-actual performance results and variances should be reported and explained by the ED, including corrective actions that are required. Recommendation 12 |
| WCB Board of Directors do not appear to monitor their own expenditures in comparison to the budget. | Without accountability, WCB Board of Directors do not appear to meet their implicit duty of responsibility for the efficient and effective management of the WCB and its employees. | WCB Board of Directors should lead by example. Recommendation 12 |

## 3.6 Budget Process

| Findings | Analysis | Conclusions |
|---|---|---|
| Biennial budgets submitted to the Bureau of Budget have exceeded the maximum assessment levied per Subsection 154.6 of the statute. The budgets submitted take into consideration investment income, fees, and other miscellaneous revenues. The board does not currently budget for annual contractual personnel increases. The Bureau of Budget has experienced untimely budget information in the form of additional Financial Orders from the board. | A balanced budget is a basic budgetary constraint intended to ensure the WCB does not spend beyond the maximum assessment. | The WCB should develop a written budget policy. This policy should define a balanced operating budget, commitment to budget, and provide for disclosure when a deviation from a balanced budget occurs. Compliance with the policy should be reviewed periodically and disclosed during the budget process.<br>Recommendation 16 |
| The WCB Board of Directors believes the accumulated board reserves are available to them to cover increasing expenditures and any potential budget shortfalls. Clarity of the current statute wording regarding the appropriate use of board reserves appears to be subject to interpretation. | A formal policy developed to guide the creation, maintenance, and use of accumulated reserves will enable the WCB to maintain a prudent level of financial resources to protect against reduced service levels or reallocating resources because of temporary budget shortfalls. | A policy for the creation, use, and maintenance of accumulated reserves should be established and the purpose for which they may be used should be identified. Legislation should be submitted to memorialize that policy in statute. Development of maximum and minimum accumulated reserve amounts may be advisable.<br>Recommendation 13 |
| Budgets for the MAE and WA programs consist of high level estimates, which are not quantifiable. This has resulted in budget shortfalls and the need to re-allocate expenditures. A detailed expenditure analysis of both programs appears not to have been undertaken. Board members, the ED, and the Deputy Director believe the reserve account is available to cover these shortfalls. | Expenditure analysis and projections provide critical information to WCB Board of Directors and stakeholders about whether projected expenditure levels can be sustained, and whether a program's current and future costs are acceptable as compared to benefits and future revenues. Without performing adequate expenditure analysis, decisions regarding future program revenue and overall board revenue needs will not be substantiated. | Expenditure projections should be developed and prepared on a multi-year basis for each program. Costs need to be evaluated on how they change over time, to isolate non-recurring costs or savings, and to understand the implications of all costs once the program is implemented. Expenditure estimates should identify service level assumptions and key issues that may affect actual expenditures. Projections should be made available to stakeholders and WCB Board of Directors prior to making budget decisions.<br>Recommendation 17 |

## 3.7 Revenue Stream

| Findings | Analysis | Conclusions |
|---|---|---|
| Revenues continually change for prior fiscal years, which has resulted in significant differences between initial budgeted revenue and actual surcharge revenue received. Predictability of the final revenue amount for any given fiscal year has not been accurate. | State research conducted indicates that assessments for similar state boards or workers' compensation administrative programs are based upon indemnity claims paid in the prior year. The amount assessed employers and self-insured employers in the current year is a function of total indemnity claims paid in the prior year rather than using a percentage of estimated premiums. For each state that utilized this formula, the revenue stream was found to be predictable. | The WCB should formulate a revenue model for assessment determination, projection, and budgeting that incorporates indemnity claims paid as an assessment base for both employers and self-insured employers. Indemnity claims paid by insurance companies is a determinable amount, which would not be subject to future adjustment, unlike premium audit adjustments. Assessments based upon indemnity claims paid would enhance the predictability of the forecasted revenue for a given fiscal year.<br><br>This model should be documented in a manual to promote a better understanding of the revenue determination process. By enhancing the predictability of the estimated revenues, stakeholders will have increased confidence in overall revenue projections.<br>Recommendation 15 |
| Excess assessments revenue has accumulated and resulted in the corresponding significant reduction in an assessment rate in recent fiscal years. Excess assessments for fiscal year 1997 appeared not to be returned to employers of the State of Maine until fiscal year 1999 and into 2000. | Assessments collected above the allowed reserve must be used to reduce the assessment for the following fiscal year. | The accumulation of revenues collected above the WCB's allowed reserve for a given fiscal year must be monitored by WCB Board of Directors and management in order to ensure the WCB is in compliance with provisions of the Act.<br><br>Analyzing forecasted revenue variances should be performed by WCB Board of Directors and management on a regular basis to enable the WCB to improve projections for the future.<br>Recommendation 15 |
| The reduction of fiscal year 1999, 2000, 2001, and 2002 assessments by $250,000, $1,500,000, $1,735,000, and $2,000,000 is not quantifiable. The basis for the reduction in the assessments is an estimate and appears to exceed excess assessments received from prior fiscal years. | Without WCB Board of Directors maintaining a full understanding of the revenue projection process and the inherent variability in the projection of revenues, issues may not be uncovered in a timely manner. This can impede WCB Board of Directors from developing options and taking actions in an effective manner. | WCB Board of Directors and management should maintain an in-depth understanding of board revenue. An analysis of revenue projection and variances will increase the WCB Board of Directors' ability to predict changes which will be less disruptive to the fiscal budget going forward.<br>Recommendation 15 |

| Findings | Analysis | Conclusions |
|---|---|---|
| The breakdown of total excess assessments revenue received and the total board accumulated reserve dollars is not easily identifiable. | Documentation surrounding assessments received for any given fiscal year used to create a reserve and amounts above the reserve are important to the administration function of the WCB and the overall predictability of revenue projections. | Develop and maintain a revenue manual that documents revenue sources and factors relevant to present and future revenue sources. The document will promote a better understanding of resources and will assist with the administration of the budget process. Recommendation 15 |

## 3.8 Expenditures

| Findings | Analysis | Conclusions |
|---|---|---|
| Budgeted expenditures have been re-allocated amongst individual line items within discretionary budget areas to cover shortfalls in the MAE and WA programs. As a result, additional Financial Orders for previously budgeted expenditures have been requested of the Bureau of Budget. | WCB Board of Directors and management should periodically evaluate the performance of the programs and services the board provides. Programs and activities should be reviewed to determine whether they are accomplishing intended program goals and making efficient use of resources. A performance evaluation provides both accountability and information on which to base improvements. Program performance information should be available during the budget process. | Performance measures, including efficiency and effectiveness measures, should be presented in basic budget materials. Measures should document progress toward achievement of goals and objectives. Recommendation 10 |
| Board expenditures paid include costs associated with a law clerk position which does not appear to be a WCB position. Expenditures for this position have not been allowed to be built into the Biennial budget at the State level. | Budgetary results should be analyzed by the WCB Board of Directors on a monthly, quarterly, and yearly basis to monitor expenditure results and make appropriate planning decisions. | WCB Board of Directors should regularly monitor detailed expenditures. This provides an early warning of potential problems and enables the WCB Board of Directors to take action in a timely manner. Recommendation 17 |

# BERRY, DUNN MCNEIL & PARKER MATRIX

| RECOMMENDATION | IMPLEMENTATION | FUTURE PLANS |
|---|---|---|
| 12. Fiscal accountability at the WCB Board of Directors should be improved. | The Board has implemented cost center budgeting. The Board will be responsible for setting and monitoring the budget on a policy level. Individual managers will be responsible for budget and performance in individual cost centers. | The Board will monitor the implementation of cost center budgeting. |
| | The Board will receive monthly reports showing the amount of money that was allocated and the amount that was spent. | Variances will be identified and explained. |
| 13. A formal policy regarding the use and maintenance of the accumulated reserves should be developed. Legislation should be submitted to memorialize that policy in statute. | The Board proposed L.D. 9 to clarify the use of reserves.<br><br>L.D. 9 was ultimately enacted as P.L. Ch. 93. | Use of reserves has been clarified. |
| 14. A more predictable revenue model should be developed and implemented. | The Board is considering statutory amendments that would require insurers as well as self-insurers to be assessed a dollar amount. | The Board will obtain more input regarding this recommendation. |
| 15. An in-depth understanding of revenue should be maintained by the WCB Board of Directors. | The Board currently receives a monthly report showing revenue received on a monthly and year-to-date basis. | The Board will continue to receive monthly reports concerning revenue. |
| | The Board tracks revenues and forecasts collections when calculating the assessment. | The Board will continue to track revenue and forecast collections to determine if a surplus exists when calculating the assessment. |
| 16. A balanced budget should be developed. | The Board has always submitted balanced budgets. Requests that exceed anticipated revenue are always accompanied by a proposal to generate the | The Board will continue to submit balanced budgets. |

| | | |
|---|---|---|
| | necessary revenue. | |
| 17. Program expenditures, over time, should be evaluated. | The Board receives monthly reports from managers relating to performance of the various units. | Managers will continue to report to the Board on a monthly basis. |
| | The Board has continually monitored the workload of the Worker Advocates as it relates to the Standard Operating Procedures (SOPs) for dispute resolution. Resources have been shifted to the Worker Advocate program to ensure that the dispute resolution SOPs can be met while still providing quality representation for injured workers. | The Board will continue to monitor the activity of the Worker Advocates, the MAE program as well as the other cost centers. |

Prepared by the Maine Workers' Compensation Board
September 2003

# APPENDIX D

## Outline of the Process for Developing the Workers' Compensation Board Budget

# OUTLINE OF WCB BUDGET PROCESS

To illustrate the Board's budget process, the following outline uses the FY 2004-2005 biennial budget as an example.

## I. Projected Expenditures.

The Board began the biennial budget process during the summer of 2002, one year before the beginning of the FY 2004-2005 biennium.

The first step was for the Board's Budget Subcommittee (the "Subcommittee") to review the projected personal services cost information received from the Bureau of the Budget. Personal services expenditures make up approximately 80% of the Board's expenditures.

The Subcommittee then reviewed the projected All Other expenditures for the coming biennium. The budget instructions permit Other Special Revenue Fund Agencies, such as the Board, to build in an inflation factor determined by the Revenue Forecasting Committee. Typically, this number is around 2% to 3%. In building its All Other budget, the Board tries to reduce All Other expenditures where possible, and to flat fund otherwise. The Board does not simply build in the inflation adjustment.

## II. Projected Revenue.

Next, the Subcommittee determined its total anticipated revenue for the coming biennium. Total anticipated revenue consists of the assessment, income from interest, fines and penalties and miscellaneous income from the sale of publications, copying charges, etc.

## III. Compare Projected Expenditures With Projected Revenues.

The Subcommittee compared its projected expenditures and revenues. For the FY 2004-2005 biennium, expenditures were projected to exceed revenues by approximately $1,300,000. The Subcommittee determined that it could not further reduce its All Other expenditures and still pay rent, utilities, etc. The Subcommittee agreed that it could cut its personal services expenditures by $135,000 without having too great an impact on the provision of services.

Revenues were still going to be inadequate so the Subcommittee agreed, as part of its budget submission, to propose legislation to raise the assessment cap by approximately $1,400,000.

## IV. Presentation of Budget to Full Board.

The Subcommittee presented its recommendations to the full Board in August of 2002. The full Board accepted the Subcommittee's recommendations and instructed the

Board's Budget Officer to submit the approved budget to the Bureau of the Budget by September 1, 2002, as required.

### V. Last Minute Changes.

At the end of August, the Board was informed by the Bureau of the Budget that costs associated with retiree health had increased statewide. This amounted to an additional expenditure of $300,000 for the Board. The Subcommittee reconvened to address this additional expense. In order to meet this obligation, the Subcommittee recommended, and the full Board approved, a plan to cut personal services by an additional $150,000 and to increase the assessment cap by an additional $150,000.

### VI. Spending Authority.

Ultimately, the Part I budget and L.D. 35 were enacted. Together, they increased the assessment cap and authorized the Board to spend approximately $8,900,000 in FY 2004.

### VII. Assessment.

The Board calculated and issued its assessment as detailed in the attached calculation sheets. (n.b. – The Board normally determines and issues the assessment by May 1. The process was delayed this year to avoid having to issue two assessments.)

Prepared by the Maine Workers' Compensation Board
September 2003

# APPENDIX E

## Example of Cost Center Accounting

PROJECTED ALLOTMENTS, REVISIONS AND ACTUAL EXPENDITURES
FY 2003 - PILOT
Work Program - 0183

2.8% Attrition Rate

| | C & O | 2001 Total Expend | FY 2002 Total Expended | FY 03 Allotment | FY 03 Expended YTD | First Quarter Allotment | First Quarter Expended | Second Quarter Allotment | Second Quarter Expended | Third Quarter Allotment | Third Quarter Expended | Fourth Quarter Allotment | Fourth Quarter Expended |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Personal Services** | | 5,891,940 | 6,181,440 | 6,625,453 | 6,427,728 | 1,658,318 | 1,658,318 | 1,704,823 | 1,704,822 | 1,567,737 | 1,507,297 | 1,694,575 | 1,557,290 |
| Savings/Shortfall (after allotments and revisions) | | | | 197,725 | | | 0 | | 1 | | 60,440 | | 137,285 |
| **All Other** | | | | | | | | | | | | | |
| Prof Serv by State | 4000 | 68,133 | 193,465 | 363,441 | 275,021 | 112,373 | 47,861 | 33,421 | 82,158 | 25,821 | 83,599 | 191,826 | 61,403 |
| Prof Serv not by state | 4100 | 1,255 | 1,459 | 4,879 | 3,107 | 1,167 | 360 | 1,202 | 1,507 | 1,325 | 740 | 1,185 | 500 |
| In state travel | 4200 | 57,900 | 69,743 | 65,989 | 62,387 | 17,911 | 17,506 | 17,182 | 13,998 | 16,259 | 13,652 | 14,638 | 17,232 |
| Out state travel | 4300 | 15,427 | 8,055 | 9,018 | 4,281 | 0 | 0 | 4,871 | 133 | 3,044 | 3,044 | 1,104 | 1,104 |
| Utilities | 4500 | 19,158 | 19,212 | 15,181 | 17,971 | 3,799 | 4,534 | 3,794 | 4,462 | 3,794 | 5,077 | 3,794 | 3,897 |
| Rents | 4600 | 302,270 | 321,170 | 327,813 | 339,749 | 80,930 | 79,539 | 82,320 | 86,419 | 82,718 | 86,906 | 81,845 | 86,885 |
| Repairs | 4700 | 11,036 | 10,772 | 11,927 | 9,994 | 1,399 | 1,717 | 1,425 | 1,507 | 5,091 | 2,528 | 4,012 | 4,243 |
| Insurance | 4800 | 8,446 | 9,877 | 10,255 | 8,815 | 7,122 | 6,724 | 1,837 | 697 | 1,296 | 730 | 0 | 664 |
| General Office | 4900 | 256,853 | 243,498 | 268,954 | 273,560 | 76,900 | 62,366 | 67,576 | 79,135 | 66,882 | 74,988 | 57,596 | 57,071 |
| Commodities | 5200 | 2,990 | 2,131 | 3,068 | 0 | 200 | 0 | 400 | 0 | 1,868 | 0 | 600 | 0 |
| Technology | 5300 | 277,781 | 358,116 | 635,330 | 530,883 | 159,900 | 92,084 | 160,400 | 94,946 | 157,760 | 220,212 | 157,269 | 123,642 |
| Minor Equipment | 5500 | | 21,204 | | | | | | | | | | 0 |
| Supplies | 5600 | 92,160 | 72,978 | 71,430 | 90,820 | 17,020 | 21,494 | 13,090 | 16,190 | 29,657 | 33,333 | 11,664 | 19,803 |
| | 6900 | 11,184 | 0 | 0 | 0 | | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Sta Cap | 8511 | 100,582 | 128,836 | 143,697 | 202,882 | 38,659 | 50,273 | 34,224 | 52,583 | 34,583 | 51,257 | 36,230 | 48,768 |
| Total AO | | 1,225,175 | 1,460,516 | 1,924,904 | 1,819,470 | 517,380 | 384,458 | 421,742 | 433,735 | 430,098 | 576,066 | 561,763 | 425,211 |
| Actual Quarterly Reserves after allotments and revisions | | | | 248,481 | | 81 | | 10,189 | | 57,245 | | 180,967 | ** |
| Capital | | | 14,847 | 115,000 | 114,955 | 25,000 | 14,955 | 90,000 | 100,000 | 0 | 0 | 0 | 0 |
| **Total Expenditures** | | **7,117,115** | **7,656,803** | **8,665,357** | **8,362,153** | **2,200,698** | **2,057,731** | **2,216,565** | **2,238,557** | **1,997,835** | **2,083,364** | **2,256,338** | **1,982,502** |
| Board Account | | 54,235 | 64,897 | 64,906 | 44,462 | 16,215 | 11,406 | 16,215 | 12,090 | 16,238 | 9,390 | 16,238 | 11,577 |
| Law Court Clerk | | 63,990 | 65,887 | 72,669 | 72,669 | | 16,790 | | 19,550 | | 16,790 | | 19,539 |
| Total | | 7,235,340 | 7,787,587 | 8,802,932 | 8,479,284 | | | | | | | | |

WA Ch 126 added $200,000
$30,000 for overtime and $170,000 for a new clerical/paralegal contract to be established in the fourth quarter
**Funds originally allotted during FY 03 for the FY 04 contract were carried for encumbrance during FY 04 per Ch 425

MAE Ch 712 added one position $60,000 P/S and $5,000 all other

Admin Ch 712 added $70,000 for actuarial study

Ch 692 Added one HO position $110,561 P/S and $14,439 all other
Personal Services Shortfall FY 03 $109,150

CARRIED ENCUMBRANCES ARE NOT BUILT INTO ALLOTMENTS
*Personal Services Allotment on the cover sheet represents the amount allotted by quarter for payroll costs. This includes all allotments and revisions.
The amounts shown on the cost center breakdown represents the actual amount needed to fund all positions in that cost center.
$30,000 added for WA overtime
$55,818 ws transferred to the General Fund from salary savings for shutdown days
Attached are copies of the allotment inquiry screens from MFASIS

## PROJECTED ALLOTMENTS AND ACTUAL EXPENDITURES

**FY 2003 - PILOT**

**Work Program - Central Office**

2.8% Attrition Rate

| | | | 2001 Total Expend | FY 2002 Total Expended | FY 03 Allotment | FY 03 Expended YTD | First Quarter Allotment | First Quarter Expended | Second Quarter Allotment | Second Quarter Expended | Third Quarter Allotment | Third Quarter Expended | Fourth Quarter Allotment | Fourth Quarter Expended |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Personal Services | | 1,928,599 | 1,944,434 | 1,987,835 | 1,859,327 | 523,266 | 484,592 | 523,595 | 500,856 | 469,689 | 433,554 | 471,285 | 440,325 |
| | Savings/Shortfall | | | | 128,508 | | | 38,674 | | 22,739 | | 36,135 | | 30,960 |
| **2001** | **Central Office** | | | | | | | | | | | | | |
| All Other | Prof Serv by State | 4000 | 13,724 | 26,327 | 91,214 | 75,682 | 65,000 | 4,975 | 15,500 | 37,115 | 5,500 | 29,748 | 5,214 | 3,844 |
| | Prof Serv not by state | 4100 | 655 | 324 | 383 | 857 | 75 | | 100 | 287 | 75 | 150 | 133 | 420 |
| | In state travel | 4200 | 6,241 | 7,616 | 7,844 | 2,881 | 1,961 | 1,399 | 1,961 | 516 | 1,961 | 298 | 1,961 | 668 |
| | Out state travel | 4300 | 6,546 | | 3,026 | 0 | | | 3,026 | | | | | |
| | Utilities | 4500 | | | 0 | 0 | | | | | | | | |
| | Rents | 4600 | 9,851 | 5,563 | 5,840 | 6,675 | 900 | 1,131 | 2,290 | 1,706 | 1,750 | 1,966 | 900 | 1,872 |
| | Repairs | 4700 | 5,183 | 1,568 | 5,274 | 3,535 | 474 | 611 | 600 | 350 | 2,600 | 1,821 | 1,600 | 753 |
| | Insurance | 4800 | 7,619 | 8,315 | 8,681 | 7,643 | 6,800 | 6,649 | 1,200 | 345 | 681 | 315 | | 334 |
| | General Office | 4900 | 171,619 | 143,052 | 177,478 | 105,876 | 56,000 | 23,069 | 45,000 | 34,234 | 40,000 | 29,598 | 36,478 | 18,975 |
| | Commodities | 5200 | | | 0 | 0 | | | | | | | | |
| | Technology | 5300 | 39,948 | 29,860 | 30,216 | 24,062 | 7,500 | 4,735 | 7,500 | 5,855 | 7,500 | 7,624 | 7,716 | 5,848 |
| | Minor Equipment | 5500 | | | 0 | 0 | | | | | | | | |
| | Supplies | 5600 | 30,778 | 35,467 | 33,215 | 24,185 | 8,000 | 4,574 | 5,215 | 5,759 | 15,000 | 7,530 | 5,000 | 6,322 |
| | | 6900 | 5,586 | | 0 | 0 | | | | | | | | |
| | Sta Cap | 8511 | 29,111 | 37,813 | 39,612 | 53,207 | 12,000 | 13,410 | 10,000 | 14,780 | 10,000 | 12,928 | 7,612 | 12,089 |
| | Total AO | | 326,861 | 295,905 | 402,783 | 304,603 | 158,710 | 60,553 | 92,392 | 100,947 | 85,067 | 91,978 | 66,614 | 51,125 |
| | **Savings/Shortfall** | | | | | | | **98,157** | | **(8,555)** | | **(6,911)** | | **15,489** |
| | **Total Expenditures** | | **2,255,460** | **2,240,339** | **2,390,618** | **2,163,930** | **681,976** | **545,145** | **615,987** | **601,803** | **554,756** | **525,532** | **537,899** | **491,450** |

41.5 Positions - All Positions Funded at 100%

Chapter 712 added $70,000 for actuarial study ($30,000 for each Labor and Management in the first quarter and $10,000 for actuarial study in the second quarter)

**CARRIED ENCUMBRANCES ARE NOT BUILT INTO ALLOTMENTS**

## PROJECTED ALLOTMENTS AND ACTUAL EXPENDITURES
### FY 2003 - PILOT
**Work Program - Computer Services**

2.8% Attrition Rate

| | | | 2001 Total Expend | FY 2002 Total Expended | FY 03 Allotment | FY 03 Expended YTD | First Quarter Allotment | First Quarter Expended | Second Quarter Allotment | Second Quarter Expended | Third Quarter Allotment | Third Quarter Expended | Fourth Quarter Allotment | Fourth Quarter Expended |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Personal Services ** | | | 32,203 | 93,942 | 95,894 | 24,878 | 24,869 | 24,878 | 25,753 | 22,093 | 22,413 | 22,093 | 22,859 |
| | Savings/Shortfall | | | | (1,952) | | | 9 | | (875) | | (320) | | (766) |
| **2002** | **Comp Serv** | | | | | | | | | | | | | |
| All Other | Prof Serv by State | 4000 | 4,800 | | 4,896 | 0 | 1,200 | | 1,248 | | 1,248 | | 1,200 | |
| | Prof Serv not by state | 4100 | | | 0 | 35 | | | | 35 | | | | |
| | In state travel | 4200 | 2,239 | 2,919 | 1,971 | 3,734 | 650 | 1,140 | 221 | 705 | 625 | 766 | 475 | 1,123 |
| | Out state travel | 4300 | 1,436 | | 0 | 0 | | | | | | | | |
| | Utilities | 4500 | | | 0 | 0 | | | | | | | | |
| | Rents | 4600 | 113 | 117 | 117 | 150 | 30 | 24 | 30 | 24 | 40 | 24 | 17 | 78 |
| | Repairs | 4700 | | | 0 | 0 | | | | | | | | |
| | Insurance | 4800 | | 85 | 87 | 0 | 87 | | | | | | | |
| | General Office | 4900 | 450 | 1,300 | 1,326 | 0 | | | 1,326 | | | | | |
| | Commodities | 5200 | | | 0 | 0 | | | | | | | | |
| | Technology | 5300 | 155,490 | 226,802 | 508,937 | 416,349 | 127,250 | 55,877 | 127,250 | 71,850 | 127,250 | 187,863 | 127,187 | 100,759 |
| | Minor Equipment | 5500 | | 6,735 | 0 | 0 | | | | | | | | |
| | Supplies | 5600 | | 75 | 20 | 112 | 20 | | | 4 | | 108 | | |
| | | | | | 0 | 0 | | | | | | | | |
| | Sta Cap | 8511 | 2,088 | 4,632 | 12,429 | 13,021 | 3,209 | 2,066 | 3,220 | 2,481 | 3,000 | 5,326 | 3,000 | 3,148 |
| | Total AO | | 161,816 | 242,665 | 529,783 | 433,401 | 132,446 | 59,107 | 133,295 | 75,099 | 132,163 | 194,087 | 131,879 | 105,108 |
| | Savings/Shortfall | | | | 96,382 | | | 73,339 | | 58,196 | | (61,924) | | 26,771 |
| | Total Capital | | | 14,847 | 115,000 | 114,955 | 25,000 | 14,955 | 90,000 | 100,000 | | | | |
| | **Savings/Shortfall** | | | | **45** | * | | **10,045** | | **(10,000)** | | **0** | | **0** |
| | **Total Expenditures** | | **161,816** | **289,715** | **738,725** | **529,295** | **157,324** | **98,931** | **158,173** | **100,852** | **154,256** | **216,500** | **153,972** | **127,967** |

1 Positions - All Positions funded at 100%
** FY 2001 and a portion of FY 2002 personal services was paid from Central Services

5300 allotted $126,500 quarterly for computer upgrade
$16,000 one time DOL programming charge added to FY 03. Request reduced to $16,736 – from $116,736
$275,000 added per year for computer leases (includes replacement & maintenance of 120 PC's, software & hardware)
Currently $75,000 built in for WAN and E-mail charges
Includes one-time expenditure of $25,000 to replace DOL?WCB databases
One time $75,000 for a Citrix server
Total Cost (240*120*12 = 345,600)
Added $3,000 from MAE position - MAII

Additional allocation for SLA recommended by the State's Chief Information Officer

* $100,000 transferred to BIS (as a cash transfer rather than expenditure)

**PROJECTED ALLOTMENTS AND ACTUAL EXPENDITURES**
**FY 2003 - PILOT**
**Work Program - Dispute Resolution**

2.8% Attrition Rate

| | | | 2001 Total Expend | FY 2002 Total Expended | FY 03 Allotment | FY 03 Expended YTD | First Quarter Allotment | First Quarter Expended | Second Quarter Allotment | Second Quarter Expended | Third Quarter Allotment | Third Quarter Expended | Fourth Quarter Allotment | Fourth Quarter Expended |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Personal Services | | 2,707,641 | 2,682,787 | 2,922,954 | 2,751,803 | 769,954 | 725,443 | 772,744 | 731,387 | 688,312 | 640,592 | 691,944 | 654,381 |
| | Savings/Shortfall | | | | 171,151 | | | 44,511 | | 41,357 | | 47,720 | | 37,563 |
| | **Dispute Resolution** | | | | | | | | | | | | | |
| All Other | Prof Serv by State | 4000 | 10,474 | 62,428 | 18,292 | 26,746 | 4,573 | 1,555 | 4,573 | 719 | 4,573 | 10,726 | 4,573 | 13,745 |
| | Prof Serv not by state | 4100 | 260 | 125 | 4,014 | 595 | 1,000 | | 1,000 | 225 | 1,000 | 295 | 1,014 | 75 |
| | In state travel | 4200 | 30,266 | 32,549 | 33,648 | 35,450 | 8,400 | 9,655 | 9,100 | 7,340 | 8,100 | 8,071 | 8,048 | 10,384 |
| | Out state travel | 4300 | 3,497 | 0 | 1,070 | 0 | | | 1,070 | | | | | |
| | Utilities | 4500 | 15,392 | 16,434 | 12,285 | 15,442 | 3,075 | 3,864 | 3,070 | 3,866 | 3,070 | 4,389 | 3,070 | 3,325 |
| | Rents | 4600 | 235,571 | 250,581 | 253,538 | 258,861 | 63,000 | 61,778 | 63,000 | 65,091 | 63,769 | 65,918 | 63,769 | 66,073 |
| | Repairs | 4700 | 5,169 | 7,417 | 5,887 | 5,421 | 800 | 952 | 700 | 1,013 | 2,100 | 370 | 2,287 | 3,087 |
| | Insurance | 4800 | 642 | 702 | 740 | 717 | 100 | 75 | 320 | 352 | 320 | 75 | | 215 |
| | General Office | 4900 | 51,087 | 58,764 | 50,040 | 107,930 | 12,000 | 26,901 | 12,000 | 27,258 | 12,500 | 27,882 | 13,540 | 25,890 |
| | Commodities | 5200 | 2,990 | 2,131 | 3,068 | 0 | 200 | | 400 | | 1,868 | | 600 | |
| | Technology | 5300 | 49,123 | 48,753 | 53,729 | 39,483 | 13,250 | 6,950 | 13,450 | 10,224 | 13,550 | 12,836 | 13,479 | 9,473 |
| | Minor Equipment | 5500 | | | | | | | | | | | | |
| | Supplies | 5600 | 37,851 | 18,904 | 19,220 | 51,217 | 4,000 | 14,351 | 4,000 | 8,972 | 7,500 | 18,784 | 3,720 | 9,110 |
| | | 6900 | 72 | | 0 | 0 | | | | | | | | |
| | Sta Cap | 8511 | 47,200 | 54,532 | 55,745 | 83,088 | 14,000 | 21,498 | 14,000 | 21,599 | 13,900 | 19,922 | 13,845 | 20,069 |
| | Total AO | | 489,594 | 553,320 | 511,276 | 624,949 | 124,398 | 147,578 | 126,683 | 146,658 | 132,250 | 169,268 | 127,945 | 161,445 |
| | **Savings/Shortfall** | | | | **(113,673)** | | | **(23,180)** | | **(19,975)** | | **(37,018)** | | **(33,500)** |
| | **Total Expenditures** | | **3,197,235** | **3,236,107** | **3,434,230** | **3,376,753** | **894,352** | **873,021** | **899,427** | **878,045** | **820,562** | **809,860** | **819,889** | **815,826** |

44.5 Positions - All Positions funded at 100%

Ch 692 Added one HO position $110,561 P/S and $14,439 all other

**CARRIED ENCUMBRANCES ARE NOT BUILT INTO ALLOTMENTS**

## PROJECTED ALLOTMENTS AND ACTUAL EXPENDITURES
## FY 2003 - PILOT
**Work Program - Worker Advocate Program**

2.8% Attrition Rate

| | | | 2001 Total Expend | FY 2002 Total Expended | FY 03 Allotment | FY 03 Expended YTD | First Quarter Allotment | First Quarter Expended | Second Quarter Allotment | Second Quarter Expended | Third Quarter Allotment | Third Quarter Expended | Fourth Quarter Allotment | Fourth Quarter Expended |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Personal Services | | 1,024,712 | 1,235,610 | 1,333,112 | 1,331,026 | 353,110 | 337,037 | 350,679 | 350,192 | 318,019 | 308,408 | 311,304 | 335,390 |
| | Savings/Shortfall | | | | 2,086 | | | 16,073 | | 487 | | 9,611 | | (24,086) |
| **2004** | **Worker Advocate** | | | | | | | | | | | | | |
| All Other | Prof Serv by State | 4000 | 33,301.00 | 95,501 | 242,339 | 165,593 | 40,000 | 37,831 | 10,500 | 44,324 | 11,000 | 39,625 | 180,839 | 43,813 |
| | Prof Serv not by state | 4100 | 160.00 | 685 | 138 | 515 | 30 | 285 | 40 | 150 | 30 | 75 | 38 | 5 |
| | In state travel | 4200 | 15,615.52 | 23,250 | 21,156 | 18,463 | 6,500 | 4,775 | 5,500 | 4,685 | 5,500 | 4,444 | 3,656 | 4,559 |
| | Out state travel | 4300 | | | 0 | 133 | | | | 133 | | | | |
| | Utilities | 4500 | 3,766.10 | 2,778 | 2,896 | 2,529 | 724 | 671 | 724 | 597 | 724 | 689 | 724 | 573 |
| | Rents | 4600 | 56,734.86 | 64,909 | 68,318 | 74,063 | 17,000 | 16,606 | 17,000 | 19,597 | 17,159 | 18,997 | 17,159 | 18,863 |
| | Repairs | 4700 | 684.00 | 1,787 | 766 | 1,038 | 125 | 154 | 125 | 144 | 391 | 337 | 125 | 403 |
| | Insurance | 4800 | 185.00 | 565 | 607 | 315 | 135 | | 317 | | 155 | 200 | | 115 |
| | General Office | 4900 | 30,841.24 | 32,645 | 31,907 | 48,451 | 8,000 | 11,885 | 8,000 | 12,905 | 10,000 | 13,126 | 5,907 | 10,535 |
| | Commodities | 5200 | | | 0 | 0 | | | | | | | | |
| | Technology | 5300 | 27,160.06 | 28,283 | 29,238 | 45,488 | 7,100 | 23,747 | 7,400 | 5,900 | 7,400 | 9,829 | 7,338 | 6,012 |
| | Minor Equipment | 5500 | | 4,806 | | | | | | | | | | |
| | Supplies | 5600 | 22,474.77 | 18,057 | 14,732 | 11,665 | 4,000 | 2,011 | 3,700 | 1,440 | 4,900 | 4,654 | 2,132 | 3,560 |
| | | | | | 0 | 0 | | | | | | | | |
| | Sta Cap | 8511 | 18,288.10 | 25,862 | 26,204 | 42,856 | 7,500 | 10,971 | 5,004 | 11,098 | 4,700 | 10,098 | 9,000 | 10,689 |
| | Total AO | | 209,210.65 | 299,128 | 438,301 | 411,109 | 91,114 | 108,935 | 58,310 | 100,974 | 61,959 | 102,074 | 226,918 | 99,126 |
| | **Savings/Shortfall** | | | | **27,192** | | | **(17,821)** | | **(42,664)** | | **(40,115)** | | **127,792** * |
| | **Total Expenditures** | | **1,233,922.63** | **1,534,738** | **1,771,413** | **1,742,135** | **444,224** | **445,972** | **408,989** | **451,165** | **379,978** | **410,482** | **538,222** | **434,516** |

24.5 Positions - all positions funded at 100%

WA Ch 126 added $200,000

$30,000 for overtime and $170,000 for a new clerical/paralegal contract to be established in the fourth quarter

* Ch 425 allowed $170,000 in WA unexpended cash reserves to be carried to FY 04 for overtime, $30,000 and clerical contract, $140,000

**CARRIED ENCUMBRANCES ARE NOT BUILT INTO ALLOTMENTS**

## PROJECTED ALLOTMENTS AND ACTUAL EXPENDITURES
## FY 2003 - PILOT
### Work Program - MAE Program

2.8% Attrition Rate

| | | | 2001 Total Expend | FY 2002 Total Expended | FY 03 Allotment | FY 03 Expended YTD | First Quarter Allotment | First Quarter Expended | Second Quarter Allotment | Second Quarter Expended | Third Quarter Allotment | Third Quarter Expended | Fourth Quarter Allotment | Fourth Quarter Expended |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Personal Services | | 230,989.73 | 283,751.00 | 445,075 | 389,677 | 117,102 | 86,377 | 118,153 | 96,634 | 104,409 | 102,330 | 105,411 | 104,336 |
| | Savings/Shortfall | | | | 55,398 | | | 30,725 | | 21,519 | | 2,079 | | 1,075 |
| 2005 | **MAE** | | | | | | | | | | | | | |
| All Other | Prof Serv by State | 4000 | | 6,625.00 | 6,758 | 7,000 | 1,600 | 3,500 | 1,600 | | 1,779 | 3,500 | 1,779 | |
| | Prof Serv not by state | 4100 | 180.00 | 325.00 | 184 | 1,105 | 62 | 75 | 62 | 810 | 60 | 220 | | |
| | In state travel | 4200 | 1,152.20 | 1,553.00 | 1,738 | 1,859 | 400 | 537 | 400 | 751 | 469 | 73 | 469 | 498 |
| | Out state travel | 4300 | 3,947.68 | 8,055.00 | 1,475 | 4,147 | | | 775 | | 700 | 3,044 | | 1,104 |
| | Utilities | 4500 | | | 0 | 0 | | | | | | | | |
| | Rents | 4600 | | | 0 | 0 | | | | | | | | |
| | Repairs | 4700 | | | 0 | 0 | | | | | | | | |
| | Insurance | 4800 | | 210.00 | 0 | 140 | | | | | | 140 | | |
| | General Office | 4900 | 2,372.27 | 7,737.00 | 4,636 | 11,303 | 900 | 511 | 1,250 | 4,739 | 1,250 | 4,382 | 1,236 | 1,671 |
| | Commodities | 5200 | | | 0 | 0 | | | | | | | | |
| | Technology | 5300 | 6,079.22 | 24,418.00 | 19,257 | 5,502 | 4,800 | 775 | 4,800 | 1,118 | 4,800 | 2,060 | 4,857 | 1,549 |
| | Minor Equipment | 5500 | | 9,663.00 | | | | | | | | 293 | | |
| | Supplies | 5600 | 1,000.43 | 438.00 | 1,515 | 3,642 | 1,000 | 558 | 175 | 15 | 175 | 2,257 | 165 | 812 |
| | | | | | 0 | 0 | | | | | | | | |
| | Sta Cap | 8511 | 3,679.24 | 5,875.00 | 7,198 | 10,710 | 1,950 | 2,329 | 2,000 | 2,625 | 1,648 | 2,983 | 1,600 | 2,773 |
| | Total AO | | 18,411.04 | 64,899 | 42,761 | 45,408 | 10,712 | 8,285 | 11,062 | 10,057 | 10,881 | 18,952 | 10,106 | 8,407 |
| | **Savings/Shortfall** | | | | **(2,940)** | | | **2,427** | | **1,005** | | **(8,071)** | | **1,699** |
| | **Total Expenditures** | | **249,400.77** | **348,650** | **487,836** | **435,085** | **127,814** | **94,662** | **129,215** | **106,692** | **115,290** | **121,282** | **115,517** | **112,742** |

7 Positions - All Positions funded at 100%

**CARRIED ENCUMBRANCES ARE NOT BUILT INTO ALLOTMENTS**

MAE Ch 712 added one position $60,000 P/S and $5,000 all other
$3,000 to CS for computer (250 per month)

**PROJECTED ALLOTMENTS AND ACTUAL EXPENDITURES**
**FY 2003 - PILOT**
**Work Program - Board Account - 0751**

2.8% Attrition Rate

| | | | 2001 Total Expend | FY 2002 Total Expended | FY 03 Allotment | FY 03 Expended YTD | First Quarter Allotment | First Quarter Expended | Second Quarter Allotment | Second Quarter Expended | Third Quarter Allotment | Third Quarter Expended | Fourth Quarter Allotment | Fourth Quarter Expended |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Personal Services | | 30,000.00 | 40,000.00 | 40,000 | 25,900 | 10,000 | 5,800 | 10,000 | 7,400 | 10,000 | 5,600 | 10,000 | 7,100 |
| | Savings/Shortfall | | | | 14,100 | | | 4,200 | | 2,600 | | 4,400 | | 2,900 |
| **0751** | **Board Account** | | | | | | | | | | | | | |
| All Other | Prof Serv by State | 4000 | | 118.45 | 0 | 446 | | 32 | | 193 | | 222 | | |
| | Prof Serv not by state | 4100 | | | 0 | 0 | | | | | | | | |
| | In state travel | 4200 | 864.00 | 1,224.00 | 500 | 1,744 | 125 | 1,744 | 125 | | 125 | | 125 | |
| | Out state travel | 4300 | | | 0 | 0 | | | | | | | | |
| | Utilities | 4500 | | | 0 | 0 | | | | | | | | |
| | Rents | 4600 | | | 1,200 | 0 | 300 | | 300 | | 300 | | 300 | |
| | Repairs | 4700 | | | 0 | 0 | | | | | | | | |
| | Insurance | 4800 | | | 0 | 0 | | | | | | | | |
| | General Office | 4900 | 22,069.84 | 21,418.71 | 20,500 | 14,340 | 5,125 | 3,475 | 5,125 | 3,921 | 5,125 | 2,977 | 5,125 | 3,968 |
| | Commodities | 5200 | | | 0 | 0 | | | | | | | | |
| | Technology | 5300 | 405.79 | 884.26 | 1,450 | 825 | 360 | 76 | 360 | 235 | 365 | 290 | 365 | 224 |
| | Minor Equipment | 5500 | | | 0 | 0 | | | | | | | | |
| | Supplies | 5600 | 147.03 | 182.12 | 350 | 113 | 80 | | 80 | 43 | 95 | 70 | 95 | |
| | | | | | 0 | 0 | | | | | | | | |
| | Sta Cap | 8511 | 748.59 | 1,069.82 | 906 | 1,094 | 225 | 281 | 225 | 297 | 228 | 231 | 228 | 285 |
| | Total AO | | 24,235.25 | 24,897 | 24,906 | 18,562 | 6,215 | 5,606 | 6,215 | 4,690 | 6,238 | 3,790 | 6,238 | 4,477 |
| | **Savings/Shortfall** | | | | **6,344** | | | **609** | | **1,525** | | **2,448** | | **1,761** |
| | **Total Expenditures** | | **54,235.25** | **64,897** | **64,906** | **44,462** | **16,215** | **11,406** | **16,215** | **12,090** | **16,238** | **9,390** | **16,238** | **11,577** |
| | Paid from Admin Fund | | 8,084.00 | 1,898.00 | | | | | | | | | | |

# APPENDIX F

## History of Board Assessments and Expenditures

# Summary of Assessments and Expenditures
# Workers Compensation Board Administrative Fund

| | FY98 | FY99 | FY00 | FY01 | FY02 | FY03 |
|---|---|---|---|---|---|---|
| **Statutory Cap on Assessment** | $6,600,000 | $6,600,000 | $6,735,000 | $6,735,000 | $7,035,000 | $6,860,000 |
| **Assessment Billed** | $6,600,000 | $6,350,000 | $5,100,000 | $5,000,000 | $4,735,000 | $5,640,000 |
| **Assessment Received** | $8,068,110 | $6,704,416 | $6,371,085 | $6,462,485 | $5,311,000 YTD | $4,356,011 YTD |
| | | | | | | |
| **Budget Allocation** | $6,060,687 | $6,855,515 | $6,827,879 | $6,999,165 | $8,094,777 | $8,691,175 |
| **Actual Expenditure** | $6,244,676 | $6,799,166 | $6,926,392 | $7,117,125 | $7,808,144 | $5,559,846 YTD |
| | | | | | | |
| **Excess of Receipts over Amount Billed** | $1,468,110 | $354,416 | $1,271,085 | $1,462,485 | $576,900 | |
| **Amount Allocated to Reserve** | $660,000 | $354,416 | 85,584 | ____ | | |
| **Amount Returned to Employers** (returned by reducing the total assessment) | $___ | $250,000 | $1,500,000 | $1,735,000 | $2,000,000 | $1,220,000 |

Note: FY98 = July 1, 1997 to June 30, 1998

Prepared by the Office of Policy and Legal Analysis, March 3, 2003
Source: Berry Dunn McNeil and Parker study report, 2001 and Workers' Compensation Board Staff

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# APPENDIX G

## Funding and Assessment Methods of Other States

**SUMMARY of FUNDING MECHANISMS for STATE WORKERS' COMPENSATION REGULATORY AGENCIES**

Except as otherwise specified, most states fund the operating cost of their workers' compensation agencies through an assessment or a tax on both insurers and self-insured employers.

In most cases, the assessment goes directly to the agency, but cannot be spent unless it is allocated by the Legislature and the Governor. In some states, the assessment or tax is deposited directly into the General Fund, and all or a portion of the amount is appropriated to the agency from the General Fund by the Legislature and Governor.

In one state (Maryland), a 12-member Advisory Committee advises the governor on the budget.

| State | Source of Funds | Basis for Assessment |
|---|---|---|
| ALABAMA | Assessment | Based on compensation paid |
| ALASKA | User fee | |
| ARIZONA | Premium tax | |
| ARKANSAS | Premium tax | |
| CALIFORNIA | General Fund<br><br>Plus supplemental funding of system improvements provided by user assessment | Amount appropriated from the General Fund = 1989 funding, adjusted for inflation and work force<br><br>User assessment is based on expected premium (ins) or indemnity benefits paid (SI) |
| COLORADO | Premium surcharge<br><br>(Deposited in General Fund; in 2002, 100% went to WC agency) | |
| CONNECTICUT | Assessment | Based on Benefits Paid |
| DELAWARE | Assessment on Insurers<br><br>Assessment of self-insured (goes to the General Fund) | Based on benefits paid (ins)<br><br>Based on covered payroll (SI) |
| | | |

| | | |
|---|---|---|
| FLORIDA | Assessment | Based on net premium collected (ins) or premium that would have been paid (SI) |
| GEORGIA | Assessment<br><br>(Deposited in the General Fund) | Based on premiums paid |
| HAWAII | General Fund | |
| IDAHO | Premium tax | |
| ILLINOIS | General Fund | |
| INDIANA | General Fund<br><br>Supplemented by fees paid by SI and independent contractors – Directly to agency | |
| IOWA | General Fund | |
| KANSAS | Assessment | Based on compensation benefits paid |
| KENTUCKY | Assessment | Based on premiums |
| LOUISIANA | Assessment<br><br>(Deposited in General Fund Dedicated Account) | Based on benefits paid in prior calendar year |
| MAINE | Assessment divided between insurers and self-insurers on basis of pro rata share of disabling cases attributable to each group | Based on premiums paid (Ins) and Benefits Paid (SI) |
| MARYLAND | Assessment<br><br>A 12-member Advisory Committee advises the Governor on the agency's budget | |
| MASS. | Assessment (plus special trust funds) | |
| MICHIGAN | General Fund and Assessment of parties | $100 on each party to a redemption case |
| MINNESOTA | Assessment collected semi-annually | Based on premiums collected (ins) or indemnity benefits paid (SI) |
| MISS. | Assessment (plus $250 per insurer) | Based on gross claims paid |

| | | |
|---|---|---|
| MISSOURI | Premium tax | |
| MONTANA | Assessment | Percentage of compensation and medical benefits paid |
| NEBRASKA | Assessment | 1% of premium (ins) or 1.25% of prospective loss costs (SI) |
| NEW HAMPSHIRE | Assessment | Based on pro rata share of total benefits paid in prior year |
| NEW JERSEY | Annual Assessment | |
| NEW MEXICO | Assessment collected by Tax Department (which gets administrative fee). A portion goes to pay off bond for construction of WC office | Quarterly fee of $4 per covered employee (1/2 paid by employee, ½ paid by employer) |
| NEW YORK | Assessment | In proportion to indemnity benefits paid in fiscal year |
| NO. CAR. | General Fund | |
| NO. DAKOTA | Employer premium (ND has an exclusive state fund) | |
| OHIO | Premiums and assessment (Ohio has exclusive state fund)<br><br>Administrative assessment on self-insured employers | Based on payroll (employers)<br><br>Based on benefits paid (self-insurers) |
| OKLAHOMA | General Fund primarily; also revenue from premium taxes, application fees, etc. | |
| OREGON | Assessment | Based on direct earned premium (ins) and simulated earned premium (SI) |
| PENN. | Assessment | |
| RHODE ISLAND | Assessment | Based on gross premium |
| So. CAR. | General Fund | |

Prepared by the Office of Policy & Legal Analysis
From Information Provided by the Workers' Compensation Board
September 18, 2003

| | | |
|---|---|---|
| | Premium tax is deposited in General Fund; Comp agency gets about 25% of tax collected | |
| SO. DAK. | General Fund | |
| TENN. | General Fund<br><br>Premium tax goes to General Fund; ½ is used for Second Injury Fund | |
| TEXAS | Assessment deposited in General Fund | Based on unmodified premium |
| UTAH | General Fund | Assessment based on premiums |
| VERMONT | Premium tax | |
| VIRGINIA | Premium tax | |
| WASHINGTON | Premium<br>(State Fund?) | |
| WEST VIRGINIA | Premium<br>(W.Va. has exclusive state fund) | |
| WISCONSIN | Assessment<br><br>(Deposited in General Fund; 100% goes to agency) | Based on indemnity benefits paid in prior year |
| WYOMING | Premium tax<br><br>(Wy. has exclusive state fund) | |

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Prepared by the Office of Policy & Legal Analysis
From Information Provided by the Workers' Compensation Board
September 18, 2003

# METHODS of FUNDING WORKERS' COMPENSATION ADMINISTRATIVE AGENCIES, BY STATE

**CALIFORNIA**
**(LABOR CODE §62.5)**

Administrative Structure:
Labor & Workforce Development Agency
Department of Industrial Relations
Division of Workers' Compensation

Funding Mechanism: Pursuant to AB 227 (2003 law chapter 635), the Division will be 100% funded by an employer assessment in the future. Prior to passage of that law, the Division was 80% funded by the General Fund; 20% by Employer Assessment.

The employer assessment is determined as follows: the amount needed is allocated between insured and self-insured employers in proportion to payroll in the most recent year available. Among insured employers, the assessment is allocated in proportion to premium. Among self-insured employers, the assessment is allocated on the basis of indemnity benefits paid in the most recent year.

Contact: Bob Wong, Manager of the Information and Assistance Unit, (415) 703-4600. www.leginfo.ca.gov. According to Mr. Wong, it had gotten too difficult to obtain funding from the General Fund. The employer community seemed to be comfortable with shifting to 100% assessment funding, realizing the need for efficient, effective service from the WC Division. Division is generally acknowledged to be under-staffed. Budget of $100 million; 1 million claims annually; 850 employees.

**MASSACHUSETTS**
**(C. 152, §65)**

Administrative Structure
Department of Labor and Workforce Development
Division/Department of Industrial Accidents

Funding Mechanism: The Division has 3 sources of revenue: an employer assessment, fines ($100 a day for failure to timely file a First Report) and a referral fee (currently $574 paid by insurers for each case that goes to formal hearing). The Division gets a General Fund appropriation and pays back the General Fund from its revenues.

The assessment rate is determined by dividing the total amount to be raised by the total amount of losses paid in the prior year by that particular category of employers (i.e., private insured, self-insured, group self-insured, public). The assessment rate for insured employers is applied to current manual premium, times an experience modification, and is separately stated on premium notices. The assessment rate for self-insureds is applied to imputed premium times an experience modification factor.

The balance in the fund at the end of the fiscal year in excess of 35% of prior year expenditures must be used to reduce the next year's assessment. The Commission of the Industrial Accident Department/Division may make additional assessments during the year if necessary to gain sufficient revenue – the additional assessment is subject to approval of an advisory council and the Commissioner of the Department of Labor and Workforce Development.

Contact: Joan Endres, Accounting Division, 617-727-4900 x 232. www.state.ma.us/dia. According to Ms. Endres, the Division has not had trouble getting the necessary funds appropriated from the General Fund. The Division maintains up to a 35% reserve fund in case collections are too low. She said she doesn't think the insurers protest the referral fee; it gives incentive to settle at conciliation. The assessment is collected quarterly.

## IOWA
## (CHAPTER 86)

Administrative Structure
Department of Workforce Development
Division of Workers' Compensation

Funding Mechanism
General Fund

## NEW HAMPSHIRE
## (NH STAT. 281-A: 59)

Contact
Kathryn Barger, Director, Division of Workers' Comp
(603) 271-3599

Administrative Structure
Department of Labor
Division of Workers' Compensation

Funding Mechanism
Assessment of each insurer and self-insured employer on the basis of total workers comp benefits (including medical) paid in the FY ending in the prior calendar year.
Total assessment cannot exceed the amount appropriated for the budget of the Division for the FY in which the assessment is made. The assessment must be reduced by the balance in the fund at the beginning of the new FY.

Kathryn Barger says that they have not had difficulty with assessment collections, and insurers do not appear to have complaints about collections based on prior year's benefits paid. The only problem is when figures about past benefits are incorrect and the assessment amount has to be adjusted. Insurers that stop writing business in NH still have to pay on the basis of benefits payments, unless they are insolvent.

## OREGON (SECTION 656.612, .614)

Administrative Structure
Department of Consumer and Business Services
Workers' Compensation Division

Funding Mechanism
Assessment is collected from insurers on the basis of current direct earned premium and from self-insurers on the basis of direct earned premium that would have been paid had they been insured employers. Division director determines manner and interval for payments.

## NEVADA (SECTION 232.680)

Administrative Structure
Department of Business and Industry
Division of Industrial Relations

Funding Mechanism
Administrator divides the cost of programs among groups of employers (self-insured employers, self-insured groups, insured employers, etc.) who benefit from the program on the basis of expected annual claims expenditures.
Within each group, the administrator determines an assessment rate that:

(a) For insurers: Reflects the relative hazard of the jobs covered by the insurers, results in an equitable distribution of costs, and is based on expected annual premium;

(b) For self-insured employers and self-insured groups: Results in an equitable distribution of costs among self-insured employers and is based on expected annual expenditures for claims. Pursuant to rules adopted by the Administrator, "Expected annual expenditures" are generally calculated as the average of expenditures in prior 3 years.

The administrator adopts rules to implement the law.

## MINNESOTA (MINN. STAT. SECTION 176.129)

Administrative Structure
Department of Labor and Industry
Division of Workers' Compensation

Funding Mechanism
Amount needed is allocated among insureds and self-insured on the basis of paid indemnity losses in the prior calendar year. Among self-insureds, the assessment is allocated based on paid indemnity losses; Among insured employers, assessment is allocated on the basis of premium and collected through a policyholder surcharge
State agencies pay on a separate basis?
Half due by August 1; half by February 1.

## WISCONSIN
## (WIS. STAT. SECTION 102.75)

Administrative Structure
Department of Workforce Development
Workers' Compensation Division

Funding Mechanism

Funds are provided by insureds and self-insureds in proportion that the total indemnity benefits paid or payable in cases closed in the prior calendar year by that employer bears to the total indemnity benefits paid in cases closed in that calendar year.

Robert Conlin, Senior Staff Attorney for the Wisconsin Legislative Council, (608) 266-2298, says that the assessment and costs of administering the workers' comp system have not been a matter of controversy in recent years.

## RHODE ISLAND
## (RI STAT. SECTION 28-37-13)

Administrative Structure
Department of Labor and Training

Funding Mechanism
Assessment is 4-1/4% of gross premium paid during the preceding calendar year ( insurers) or gross premium that would have been paid by self-insureds in preceding calendar year (or a different amount if certified by the Department). If the assessment rate for the current year is lower than the rate for the prior year, the insurer must reduce the employer's premium payment in a like amount or refund the difference to the employer.

## TEXAS

**CIVIL STATUTES, SECS. 8306-8309**

Administrative Structure
Workers' Compensation Commission – 6 members, appointed by the Governor; Staffed by Executive Director and staff

Funding Mechanism
Commission sets an assessment rate taking into account expenses, prior-year surplus or deficit, other revenue sources. Insurers apply the assessment rate to modified annual premium; self-insurers apply the same assessment rate to their "tax base" which equals the sum of liabilities incurred in the prior year and administrative costs in the prior year.

Any deficit in collections is covered by the General Fund; any excess collections go to the General Fund.

## VERMONT
## (TITLE 21, CHAPTER 9, §601 ET SEQ.)

Administrative Structure
Department of Labor and Industry

Funding Mechanism
The assessment rate applicable to insurers is set annually by the General Assembly (the Legislature). The rate is the budget approved by the General Assembly (in the prior year?) adjusted by the Department's projection for salary and benefits, minus the amount collected in the prior calendar year from self-insureds, adjusted by the surplus/deficit from the prior calendar year, divided by the total direct calendar year premium for the prior year.

(Amounts are currently set at .85% of direct calendar year premium for insureds, and 1% of losses for self-insureds)

## Pros and Cons of Various Funding Mechanisms

**Some Issues to Consider in Determining How to Fund the Workers' Compensation Board**
Practical Issues

- Predictable revenue to the Board
- Sufficient revenue to the Board
- Predictable recovery from employers
- Administrative ease

Policy Issue: Who <u>should</u> bear the costs of administering the system?

- All taxpayers? (General Fund)
- All covered employees and their employers? (See New Mexico)
- All employers with covered employees? (Assessment based on premium)
- All employers whose workers suffered compensable injuries? (Assessment based on premium or benefits paid)

| Funding Method | Pros | Cons | State Examples | Comments |
|---|---|---|---|---|
| GENERAL FUND | Revenue is somewhat predictable, once appropriation is approved, but subject to budget cuts<br><br>Spreads the cost to taxpayers, generally<br><br>Easy to administer | Need to compete with other programs needing GF dollars<br><br>No link to amount of size or usage of the system | California (before 2003, was 80% General Fund)<br><br>Iowa<br><br>Illinois<br><br>No. & So. Carolina<br>So. Dakota | WC agencies funded through the General Fund are usually located within a larger department<br><br>Special tax/assessment may still apply to wc entities, but funds are not dedicated |

| | | | | |
|---|---|---|---|---|
| **ALL COVERED EMPLOYEES and THEIR EMPLOYERS** | All potential users of the services of the administrative agency share the cost | Not based on amount of usage of the system<br><br>Somewhat unpredictable | New Mexico ($4 per covered e'ee quarterly, ½ pd by employer; ½ by employee) | Collected by the state tax entity, which takes a percentage of collections to cover collection costs |
| **ASSESSMENT**<br><br>Specific dollar amount based on prior year premium | Predictable revenue to the Workers' Comp Board, b/c it's a specific dollar amount<br><br>Easy to divide among insurers because prior-year premium levels are known<br><br>Premiums presumably have some relationship to the number of employees, risk and injury rate | Insurers can't **accurately** spread the cost to employers, b/c it's not expressed as a percent of premium<br><br>Insurers want assessment to show as a separate item on premium bills<br><br>Changes in market can make current year payments unfair – insurer can have significant business one year, and less business in the year the assessment is collected | Rhode Island | Some states appear to allocate costs based on prior year premium, but allow insurers to collect it from current year policyholders. |
| **ASSESSMENT**<br><br>Specific dollar amount based on prior year benefits paid (indemnity, medical, both) | Predictable revenue to the Workers' Comp Board (b/c it's a specific dollar amount)<br><br>Easy to divide among insurers because prior-year benefits paid are known<br><br>Makes employers/insurers with frequent losses pay for administration of system to deal | Same as for specific dollar amount based on premium (above)<br><br>May impact an insurer's settlement process<br><br>Payment of benefits does not necessarily equate with cost to the WCB (if employer pays without contesting | Minn (SI) – Indemnity benefits paid<br><br>NH – All benefits<br><br>Wisc. – Indemnity benefits paid or payable in cases closed in the prior year<br><br>Maine (SI) – "aggregate | |

| | | | | |
|---|---|---|---|---|
| | with the losses | claims, less work for WCB) | benefits" | |
| **ASSESSMENT**<br><br>Percentage of anticipated premium (or assumed premium for self-insureds) | Insurers can pass assessment directly to employers | Unpredictable revenue to the WCB | Minn (I)<br>Oregon<br>Vermont<br>Texas<br>Nevada<br>Mass? | |
| **USER FEE** | Parties that use the system pay for it | Unpredictable revenue<br><br>Unfair to impose costs on parties who have not intentionally chosen to become involved with the system | Massachusetts: insurers pay a referral fee for each case that doesn't settle at the conciliation stage); pays for a portion of the costs of the system | |

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## Appendix H

**Proposal to Change Assessment Process, submitted by Department of Professional and Financial Regulation Commissioner Robert E. Murray, Jr.**

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
35 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0035

JOHN ELIAS BALDACCI
GOVERNOR

ROBERT E. MURRAY, JR.
COMMISSIONER

December 2, 2003

RECEIVED
DEC 04 2003

Senator Bethada Edmonds
122 Hunter Road
Freeport, ME 04032

Dear Senator Edmonds:

Enclosed is proposed language regarding the Workers' Compensation Board's assessment drafted at the request of Senator Edmonds. The draft deals with one of the issues the committee has been addressing and has three main components.

- The board will assess insurers a fixed dollar amount based upon their prior year's premium writings. The allocation between insurers and self-insureds remains unchanged as is the self-insureds method for distributing their share of the assessment among their members. Insurers will be allowed to recoup this assessment from employers (the current assessment is a direct pass through to employers) and the Bureau of Insurance will be required to monitor insurer assessments to protect against over collection.

- Since the risk of over or under collection no longer exists for the board, the uncertainty as to the revenue flow into the Workers Comp Board is virtually eliminated. Because this approach would create a more stable and certain source of revenue, the need for a "reserve fund" is eliminated and the proposed draft includes provisions which would accomplish that.

- The proposal provides for a transition from the current assessment method to the proposed method. The transition language provides that insurer's rates reflect the need for lower assessments as the "old" assessment method winds down.

The administration looks forward to working with this subcommittee and the Labor Committee on this issue, and would welcome further comments or discussions.

Sincerely,

Buddy Murray

Robert E. Murray, Jr.
Commissioner

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PHONE: (207) 624-8511 (Voice) TDD: 207-624-8563 FAX: (207) 624-8595
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**§ 154. Dedicated fund; assessment on workers' compensation insurers and self-insured employers**

The Workers' Compensation Board Administrative Fund is established to accomplish the purposes of this Act. All income generated pursuant to this section must be recorded on the books of the State in a separate account and deposited with the Treasurer of State and be credited to the Workers' Compensation Board Administrative Fund.

**1. Use of fund.** All money credited to the Workers' Compensation Board Administrative Fund must be used to support the activities of the board and for no other purpose. Any balance remaining continues from year to year as a fund available for the purposes set out in this section and for no other purpose.

**2. Expenditures.** Expenditures from the Workers' Compensation Board Administrative Fund are subject to legislative approval and allocation in the same manner as appropriations are made from the General Fund. The joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs shall approve the allocation.

**3. Assessment on workers' compensation coverage.** The following provisions apply regarding the Workers' Compensation Board assessment on workers' compensation ~~insurance~~ coverage.

A. Every insurance company, as defined in section 102, ~~or association~~ that writes workers' compensation insurance in the State and that does business or collects premiums or assessments in the State, ~~including newly licensed insurance companies and associations,~~ and every self-insured employer approved pursuant to section 403, shall pay to the board the assessment determined pursuant to this section for the purpose of providing partial support and maintenance of the board. The Bureau of Insurance shall report to the board all newly authorized workers' compensation insurers or individual or group self-insurers in order to facilitate notification to the new carrier of its obligations under this section. An insurance company or self-insurer whose authority terminates remains responsible for the assessment that is due in the year following the termination of its certificate of authority.

B. The assessment must be a dollar amount determined by the board in accordance with subsection 6-A ~~stated as a percentage of each employer's premium base~~. In determining the assessment ~~percentage~~ level, consideration must be given to the balance in the Workers' Compensation Board Administrative Fund.

~~B-1. An employer's premium base for assessment purposes is defined as payroll times the filed manual rate applicable to the employer times the employer's current experience modification factor, if applicable. The calculation may not include any deductible credit, other than credits for the $1,000 and $5,000 indemnity deductibles and the $250 and $500 medical deductibles established pursuant to Title 24-A, sections 2385 and 2385-A. For policies written using retrospective rating, the premium base must be calculated in~~

~~accordance with this paragraph regardless of the actual retrospective premium calculation.~~

~~The employer's premium base is subject to the final audit requirements of the Bureau of Insurance Rule, Chapter 470. If the audit results in a change in premium base, the amount of the assessment must be adjusted accordingly.~~

~~C. For each fiscal year, the initial assessment percentage must be determined by the board by May 1st of the prior fiscal year. Insurance companies or associations must begin collecting the initial assessment from all employers on July 1st of each year. In establishing the assessment percentage, the board shall estimate the expected premium base for the upcoming fiscal year based on the returns filed under paragraph D and anticipated trends in the insurance marketplace. The board shall consult with the Bureau of Insurance and other knowledgeable sources to help determine the trends. The board may adjust the assessment percentage at any time but shall provide written notice to the affected companies and associations at least 45 days prior to the effective date of the adjustment. The board may not adjust the assessment percentage more than 3 times in a fiscal year. The adjusted assessment percentage must be applied prospectively on policies with an effective date on or after the effective date of the adjustment.~~

D. All assessments under this section are due and payable by July 1st, except that an ~~Every~~ insurance company or individual or group self-insurer ~~association subject to the assessment imposed by this section~~ with an ~~estimated~~ annual payment of $50,000 or more ~~based on previous assessment returns~~ may make payments in equal quarterly installments on the 1st day of each July, October, January and April. ~~Each insurance company or association electing quarterly payments must on or before the last day of each January, each April, the 25th day of each June and the last day of each October file with the board, on forms prescribed by the board, a return for the quarter ending the last day of the preceding month, except the month of June, which is for the quarter ending June 30th, and remit payment of the assessment based upon the results for the quarter reported. A final reconciled annual return must be filed on or before September 15th covering the prior fiscal year in which the previous assessment was levied. The final return must be certified by the company's or association's chief financial officer. Insurance companies or associations with an annual assessment estimate of under $50,000 shall pay the assessment on or before June 1st and shall also file a quarterly and an annual return on forms prescribed by the board.~~ Each insurer and individual or group self-insurer subject to assessment shall file a return with the board, on a form prescribed by the board, on or before the date the annual or quarterly payment is due, and remit payment of the assessment. Affiliated insurers may aggregate their collection volume in order to meet the $50,000 assessment threshold as long as the affiliation is consistent with the standards defined in Title 24-A, section 222. Those qualifying insurance companies ~~or associations~~ that opt to consolidate their quarterly payments and reports may do so only if each individually licensed company ~~or association~~ is individually reported within each consolidated return.

~~**4. Assessment on self-insured employers.** Every self-insured employer approved pursuant to section 403 shall, for the purpose of providing partial support and maintenance of the board, pay an assessment on aggregate benefits paid by each member pursuant to section 404, subsection 4. This assessment must be a dollar amount.~~

**5. Amounts of premiums and losses; distribution of assessment.** The Bureau of Insurance shall provide to the board the amounts of gross direct workers' compensation premiums written by each insurance company ~~carrier~~ and the amounts of aggregate benefits paid by each individual ~~self-insurer~~ and group self-insurer in each calendar year on or before April 1st of ~~each~~ the following year. Beginning with the assessment for the fiscal year beginning July 1, 1995 and thereafter, the total assessment must be distributed between insurance companies ~~or associations~~ and self-insured employers in direct proportion to the pro rata share of disabling cases attributable to each group for the most recent calendar year for which data is available. This distribution of the assessment must be determined on a basis consistent with the information reported by the Department of Labor, Bureau of Labor Standards, Research and Statistics Division in its annual Characteristics of Work-Related Injuries and Illnesses in Maine publication, provided that any segment of the market identified as "not-insured" be excluded from the calculation of proportionate shares. In consultation with the Director of Labor Standards, the board shall determine a date prior to the required assessment to establish the distribution. Within each group, insurance companies must be assessed in proportion to their gross direct workers' compensation premium in the preceding calendar year, and individual and group self-insurers must be assessed in proportion to their aggregate benefits paid in the preceding calendar year.

~~**6. Assessment levied.** The assessments levied under this section may not be designed to produce more than \$6,000,000 in revenues annually beginning in the 1995-96 fiscal year, more than \$6,600,000 annually beginning in the 1997-98 fiscal year, more than \$6,735,000 beginning in the 1999-00 fiscal year, more than \$7,035,000 in the 2001-02 fiscal year, more than \$6,860,000 beginning in the 2002-03 fiscal year, more than \$8,390,000 beginning in the 2003-04 fiscal year, more than \$8,565,000 beginning in the 2004-05 fiscal year or more than \$8,525,000 beginning in the 2005-06 fiscal year. Assessments collected that exceed \$6,000,000 beginning in the 1995-96 fiscal year, \$6,600,000 beginning in the 1997-98 fiscal year, \$6,735,000 beginning in the 1999-00 fiscal year, \$7,035,000 in fiscal year 2001-02, \$6,860,000 beginning in the 2002-03 fiscal year, \$8,390,000 beginning in the 2003-04 fiscal year, \$8,565,000 beginning in the 2004-05 fiscal year or \$8,525,000 beginning in the 2005-06 fiscal year by a margin of more than 10% must be refunded to those who paid the assessment. Any amount collected above the board's allocated budget and within the 10% margin must be used to create a reserve of up to ¼ of the board's annual budget. The board, by a majority vote of its membership, may use its reserve to assist in funding its Personal Services account expenditures and All Other account expenditures and to help defray the costs incurred by the board pursuant to this Act including administrative expenses, consulting fees and all other reasonable costs incurred to administer this Act. The board shall notify the chairs and members of the joint standing committee of the Legislature having jurisdiction over labor matters whenever the board receives approval from the State Budget Officer and the Governor to use reserve funds to increase its allotment above the~~

~~allocation authorized by the Legislature. Any collected amounts or savings above the allowed reserve must be used to reduce the assessment for the following fiscal year. The board shall determine the assessments prior to May 1st and shall assess each insurance company or association and self-insured employer its pro rata share for expenditures during the fiscal year beginning July 1st. Each self-insured employer shall pay the assessment on or before June 1st. Each insurance company or association shall pay the assessment in accordance with subsection 3.~~

<u>**6-A. Calculation of assessment.** Each year, on or before May 1st, the board shall determine the aggregate assessment to be levied under this section for the coming fiscal year and shall send an invoice to each insurance company and each individual and group self-insurer for its share of the assessment. Beginning with the assessment for the fiscal year beginning July 1, 2005, the sum of the aggregate assessment for a fiscal year and the projected fund balance as of the beginning of that fiscal year may not exceed $8,525,000.</u>

~~**7. Insurance company or association collections.** Insurance companies or associations shall bill and collect assessments under this section on insured employers. The assessments must be separately stated amounts on all premium notices and may not be reported as premiums for any tax or regulatory purpose or for the purpose of any other law. All collected payments must be submitted to the board with the next quarterly payment. The Bureau of Insurance shall report to the board all newly authorized workers' compensation carriers in order to facilitate notification to the new carrier of its obligations under this section.~~

<u>**7-A. Insurance premiums.** An insurer may include within its rates and premiums charged for workers' compensation insurance policies an amount sufficient to cover the assessment the insurer reasonably expects to be assessed pursuant to this section. In order to provide for equitable treatment of policyholders with different anniversary dates, that rating factor may only be changed with an effective date of July 1st, and the portion of a policyholder's 12-month premium attributable to anticipated assessments may be treated as fully earned at policy issuance. That amount may be separately stated on all premium notices. The Bureau of Insurance shall monitor the premiums collected by each insurer for the purpose of recouping anticipated assessments and shall report annually the amount collected from employers and the assessment actually paid. For purposes of calculating an insurer's premium tax or its Workers' Compensation Board Administrative Fund Assessment for the following year, the amount of any assessment paid pursuant to this section must be deducted from the insurer's premium for the year in which the assessment is paid.</u>

**8. Violations.** Any insurance company~~, association~~ or self-insured employer subject to this section that willfully fails to pay an assessment in accordance with this section commits a civil violation for which a forfeiture of not more than $500 may be adjudged for each day following the due date for which payment is not made.

**9. Deposit of funds; investment.** All revenues derived from assessments levied against insurance companies~~, associations~~ and self-insured employers described in this section must be reported and paid to the Treasurer of State and credited to the Workers' Compensation Board

Administrative Fund. The Treasurer of State may invest the funds in accordance with state law. All interest must be paid to the fund.

**10. Deposit of funds in Workers' Compensation Board Administrative Fund.** The Treasurer of State shall deposit in the Workers' Compensation Board Administrative Fund funds collected pursuant to section 152, subsection 14.

**11.** Repealed. Laws 1995, c. 59, § 6, eff. May 3, 1995.

**12. Audit.** In consultation with the Bureau of Insurance, the board may audit all returns and investigate any issues relevant to the collection and payment of any assessment under this section.

## Transition Section of Bill

The reserve fund ceases to exist as a separate account within the Workers' Compensation Board Administrative Fund on July 1, 2005. The expected reserve fund balance as of July 1, 2005 must be included in the available balance of the Workers' Compensation Board Administrative Fund for purposes of reducing the assessment for the fiscal year beginning July 1, 2005 in accordance with Title 39-A, section 154, subsection 6-A.

Insurers choosing to adjust their premium rates to reflect the new assessment mechanism shall file notice of the rate revision with the Superintendent of Insurance as soon as possible after the insurer's assessment is determined. Such rate revisions may not apply to policies issued or renewed before July 1, 2005.

The amendments to Title 39-A, section 154 apply to all assessments due from insurers and self-insurers on and after July 1, 2005 for the fiscal years beginning on that date and thereafter. The assessment on insurers for coverage in force between the effective date of this Act and July 1, 2005 is governed by the law in effect immediately before the effective date of this Act, as modified by the following transition provisions:

**A.** The board may not adjust the assessment percentage for insurance policies on or after the effective date of this Act. Insurers shall pay assessments at the percentage in force on the effective date of this Act on all policies issued or renewed between the effective date of this Act and June 30, 2005.

**B.** Assessments on policies in force before July 1, 2005 must be based on the audited premium for the full term of coverage, with the exception of multiyear policies, which must be assessed on a *pro rata* basis for the period of coverage ending on the first anniversary date on or after July 1, 2005. Policies issued or renewed on or after July 1, 2005 are not subject to percentage surcharges pursuant to this section, with the exception of policies issued as midterm replacement coverage for surchargeable policies, which must be assessed on a *pro rata* basis for the period of coverage ending on the anniversary date of the prior policy.

**C.** Collection of aggregate assessments in excess of the limit established by Title 39-A, section 154, subsection 6 does not make those assessments subject to refund. All otherwise valid assessments collected in excess of that limit must be retained in the Workers' Compensation Board Administrative Fund and applied to reduce subsequent assessments.

**D.** Quarterly returns and assessment payments due from insurers on or before April 30, 2005 are governed by the law in effect immediately before the effective date of this Act. The board shall develop transitional quarterly return forms for use on and after July 1, 2005 by insurers that have not yet filed a final reconciliation of all policy surcharges and refunds on coverage issued or renewed before July 1, 2005. With each transitional return, the insurer shall remit to the board its current quarterly assessment installment, plus all surcharges collected from employers more than one month before the due date of the return and not already reported on a prior return, minus all surcharge refunds paid to employers more than one month before the due date of the return and not already reported on a prior return.

**E.** In establishing its assessment levels for insurance companies for the fiscal years beginning July 1, 2005 and July 1, 2006, the board shall first allocate the aggregate assessment revenue required between insurance companies and self-insurers, as provided in Title 39-A, section 154, subsection 5. The board shall then determine the aggregate assessment to be levied on insurance companies on a current basis, by deducting, from the total amount to be collected from insurance companies, the anticipated net revenues from all surcharges remitted during the fiscal year pursuant to subsection D on coverage issued or renewed before July 1, 2005, including premium audit adjustments on those policies.

## Appendix I

## Description of the Assessment Calculation for FY 04

* WORKERS' COMPENSATION BOARD
INSURANCE COMPANIES ASSESSMENT CALCULATIONS
FY' 2004

1. Estimated Total Market
From 39-A MRSA 154 (3)

The assessment must be stated as a percentage of each employer's premium base. In establishing the assessment percentage, the board shall estimate the expected premium base for the upcoming fiscal year based on returns filed...and anticipated trends in the insurance marketplace. The premium base for assessment purposes is the payroll times the filed manual rate times the employer's current experience modification factor, if applicable. The only deductible credits that may be included in the calculation are for the $1,000 and $5,000 indemnity deductible and the $250 and $500 medical deductible per 24-A M.R.S.A. §2385 and 2385-A. For policies written using retrospective rating, the premium base must be calculated in accordance with this paragraph regardless of the actual retrospective premium calculation.

Estimated Total Market: $240,000,000

2. Pro Rata Share of Disabling Cases
From 39-A MRSA 154 (5)

The assessment must be distributed between insurance companies or associations and self-insured employers in direct proportion to the pro rata share of disabling cases attributable to each group for the most recent calendar year for which data is available.

Pro rata share of disabling cases:

| | |
|---|---|
| Insurance Companies | 8,983 (60.5119568878%) |
| Self-Insured Employers | 5,862 (39.4880431122%) |
| TOTAL | 14,845 (100.00%) |

3. Amount of Assessment.
39-A MRSA 154 (6)

Total FY' 2004 Assessment: $7,830,000

Note that the Board has voted to reduce the amount of this assessment by $560,000. This reduced the assessment that employers ultimately have to pay to $7,830,000.

4. Assessment Distribution. (Pro rata share x total assessment = assessment distribution)

| | |
|---|---|
| Insurance Companies: | 60.5119568878% x $7,830,000 = $4,738,086.22 |
| Self-Insured Employers: | 39.4880431122% x $7,830,000 = $3,091,913.78 |

5. Individual Assessment
39-A MRSA 154 (3)

Total Assessed Amount for Insurance Companies / Estimated Total Market = FY' 2004 Assessment Rate

$4 ,738,086.22 / $240,000,000 = 1.97%

August 2003

# WORKERS' COMPENSATION BOARD
## * SELF-INSUREDS ASSESSMENT CALCULATIONS
## FY'2004

1. Assessment on Self-Insured Employers:
From 39-A MRSA 154 (4). Every self-insured employer must pay an assessment on aggregate benefits paid. This assessment must be a dollar amount.

2. Pro Rata Share of Disabling Cases
From 39-A MRSA 154 (5)

The assessment must be distributed between insurance companies or associations and self-insured employers in direct proportion to the pro rata share of disabling cases attributable to each group for the most recent calendar year for which data is available.

Pro rata share of disabling cases:

| | |
|---|---|
| Insurance Companies | 8,983 (60.5119568878%) |
| Self-Insured Employers | 5,862 (39.4880431122%) |
| TOTAL | 14,845 (100.00%) |

3. Amount of Assessment.

Total FY'2004 Assessment: $7,830,000

Note that the Board has voted to reduce the amount of this assessment by $560,000. This reduced the assessment that employers ultimately have to pay to $7,830,000.

4. Assessment Distribution.
(Pro rata share x total assessment = assessment distribution)

Insurance Companies: 60.5119568878% x $7,830,000 = $4,738,086.22

Self-Insured Employers: 39.4880431122% x $7,830,000 = $3,091,913.78

5. Individual Assessment.
From 39-A MRSA 154 (4)

Each member shall pay an assessment on aggregate benefits paid.

Total Assessed Amount / Total Aggregate Benefits Paid = Individual Percentage

$3,091,913.78 / $86,585,803.09 = 3.5709246382%

This percentage is multiplied by the aggregate benefits paid as reported by each self-insured employer to determine the individual self-insured assessment dollar amount due.

Payments are due June 1 from all self-insured employers.

Prepared by the Maine Workers' Compensation Board
September 2003

August 2003