

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1729

H. P. 1454

House of Representatives, April 8, 1975

Referred to the Committee on Labor. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Usher of Westbrook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Provide Workmen's Compensation Benefits for Injured Employees with Insolvent, Inadequately Insured or Uninsured Employers.

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

39 MRSA § 57 as last amended by PL 1973, c. 788, § 226, is repealed and the following enacted in place thereof:

§ 57. Payment for insolvent, inadequately insured or uninsured employer; permanent total incapacity due partly to prior injury; Workmen's Compensation Special Fund

1. Fund; financing. There is established with the Treasurer of State a special fund to be known as the "Workmen's Compensation Special Fund." All funds credited to the "Second Injury Fund" shall be transferred to the Workmen's Compensation Special Fund. Further payments into the special fund shall be made as follows:

A. In every case of the death of an employee under this section, where there is no person entitled to compensation, the employer shall pay to the Industrial Accident Commission a sum equal to 100 times the average weekly wage in the State of Maine as computed by the Employment Security Commission, to be deposited with the Treasurer of State for the benefit of such fund; and

B. All amounts collected as fines and penalties under this Title shall be paid into such fund.

2. Employee compensation. Any employee, representative or dependent eligible for compensation, benefits or reimbursement for costs or expenses

under this Title who does not receive any or all of such compensation, benefits or reimbursement because of the insolvency or insufficiency or absence of insurance of the employer, shall be paid, after the completion of any payments from the employer, the remainder of the compensation, benefits or reimbursement that would be due if the employer was able to pay, by order of the commission, out of the special fund. Any compensation, benefits or reimbursement so paid out of the special fund shall be a claim of the State against the employer and shall be entitled to a preference in the same manner as a claim for compensation under this Title. The commission may bring civil suit to collect such a claim and any such collection shall be paid into the special fund.

3. Second injury. If an employee who has previously incurred a permanent incapacity by injury, disease or congenital causes sustains an industrial injury which, in combination with the earlier preexisting impairment, shall result in total and permanent impairment, the employer shall be liable only for the compensation payable for such second injury. In addition to such compensation and after the completion of the payments therefor, the employee shall be paid the remainder of the compensation that would be due for permanent total incapacity, by order of the commission, out of the special fund.

FISCAL NOTE

There will be a loss of revenue to the State because of the provision to pay all fines and penalties to the special fund. However, the amount is undeterminable.

STATEMENT OF FACT

The purpose of this bill is to extend the coverage of the Second Injury Fund in the Workmen's Compensation Act by creating a new benefit pool, known as the Workmen's Compensation Special Fund, that includes the payment of benefits to employees whose employers are insolvent, insufficiently insured or uninsured. The Second Injury Fund provisions are retained intact. The funding is raised by requiring deposit of 100 times the State of Maine's average weekly wage on the death of an employee without beneficiaries under the Act, instead of the current provisions requiring a \$1,500 deposit on such death. In addition, all fines and penalties collected under this Title will also be deposited in the special fund. This fund will also be available for identical payments under the Occupational Diseases Act.