

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2015

S. P. 655

Office of the Secretary of the Senate

Filed by the Joint Select Committee on Workmen's Compensation under Joint Rule 17.

MAY M. ROSS, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

AN ACT to Improve the Administration of the Industrial Accident Commission.

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

Sec. 1. 2 MRSA § 7, sub-§ 2, as enacted by P&SL 1975, c. 147, Part C, § 4, is amended to read:

2. Regulatory boards. Notwithstanding section 6 or any other provision of law, the salaries of the listed chairmen and of members of the following regulatory boards shall be:

Employment Security Commission

Members other than Chairman..... \$20,475;

Industrial Accident Commission

Chairman ~~20,475~~ 24,475;

Members other than ~~Chairman~~
with more than 4 years' experience ~~18,900~~ 22,900;

All other Commissioners 18,900;

Public Utilities Commission

Chairman 22,050;

Members other than Chairman..... 18,900;

Sec. 2. 39 MRSA § 91, 1st ¶, 1st sentence, as amended by PL 1965, c. 508, § 1, is further amended to read:

The Industrial Accident Commission, as heretofore established, shall consist of ~~6~~ 8 members, 4-6 of whom shall be ~~men~~ persons learned in the law and members in good standing of the bar of this State.

Sec. 3. 39 MRSA § 94, 1st ¶, 2nd sentence, as amended by PL 1973, c. 537, § 47, is further amended to read:

If the ~~Director of the Bureau of Labor~~ commission finds that such agreement is in conformity with the Act, ~~he~~ it shall approve the same.

Sec. 4. 39 MRSA §101, 1st sentence, as last amended by PL 1975, c. 59, § 3, is further amended to read:

If after any petition, except for lump sum settlement under section 71, has been filed the parties themselves reach an agreement as to payment of compensation, the memorandum of which is approved by the ~~Director of the Bureau of Labor~~ commission, or as to payment of medical benefits under section 52, the pending petition shall thereupon be dismissed by the commission.

Sec. 5. 39 MRSA § 102, 1st sentence, as last amended by PL 1975, c. 59, § 3, is further amended to read:

Upon the petition of either party at any time the commission may annul any agreement which has been approved by the ~~Director of the Bureau of Labor~~ commission provided it finds that such agreement was entered into through mistake of fact by said petitioner or through fraud.

Sec. 6. 39 MRSA § 103, 1st ¶, 1st and 3rd sentences, as last amended by PL 1975, c. 59, § 3, are further amended to read:

Any party in interest may present copies, certified by the clerk of the commission, of any order or decision of the commission or of any commissioner, or of any memorandum of agreement approved by the ~~Director of the Bureau of Labor~~ commission, together with all papers in connection therewith, to the clerk of courts for the county in which the injury occurred; or if the injury occurred without the State, to the clerk of courts for the County of Kennebec.

Such decree shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though rendered in an action in which equitable relief is sought, duly heard and determined by said court, except that there shall be no appeal therefrom upon questions of fact found by said commission or by any commissioner, or where the decree is based upon a memorandum of agreement approved by the ~~Director of the Bureau of Labor~~ commission.

Sec. 7. 39 MRSA § 104, 2nd sentence, as last amended by PL 1975, c. 59, § 3, is further amended to read:

Upon the presentation to it of a certified copy of any subsequent order or decision of the commission or of any commissioner increasing, diminishing, terminating or commuting to a lump sum any payments of compensation on account of said injury, or of any agreement for modification of such compensation approved by the ~~Director of the Bureau of Labor~~ commission, the court shall revoke or modify any such pro forma decree based upon such prior order or decision of the commission or of any commissioner, or upon any agreement so approved, to conform to such subsequent order or decision or such approved agreement.

Sec. 8. Appropriation. The following funds shall be appropriated from the General Fund to carry out the purposes of this Act:

1978-79

INDEPENDENT AGENCIES — REGULATORY

| | | |
|--------------------------------|------|-----------|
| Industrial Accident Commission | | |
| Personal Services | (10) | \$143,635 |
| All Other | | 10,520 |
| Capital Expenditures | | 4,650 |
| | | <hr/> |
| Total | | \$158,805 |

MANPOWER AFFAIRS, DEPARTMENT OF

| | | |
|-------------------|------|------------|
| Personal Services | (-1) | (\$ 9,945) |
|-------------------|------|------------|

Fiscal Note

This bill appropriates money for the following changes in the Industrial Accident Commission:

1. 2 clerk typist II's;
2. 2 clerk typist III's;
3. 1 clerk III;
4. 2 court reporters, to be paid at a salary equivalent to a Superior Court reporter;
5. Increase in salaries for the commissioners (\$4,000 each);
6. 2 additional part-time commissioners (at present salary of an Industrial Accident Commission commissioner); and
7. Purchase of dictating recorders for the Industrial Accident Commission commissioners and other office equipment needed for new personnel.

STATEMENT OF FACT

This bill, the product of the 1977 Joint Select Committee on Workmen's Compensation, restructures the Industrial Accident Commission for 2 main reasons, so that:

1. An already overworked and understaffed commission can respond to even the minimal needs of Maine's injured workers; and
2. The necessary framework can be provided for the future evolution of the Industrial Accident Commission into a judicial agency, staffed by full-time commissioners.

The report of the Joint Select Committee on Workmen's Compensation clearly explained the justification for this restructuring of the Industrial Accident Commission;

“Industrial Accident Commission’s ever larger workload. As the coverage of the Workmen’s Compensation system has expanded and injured workers have become more knowledgeable of their rights, the administrative burdens of the Industrial Accident Commission have increased at an alarming pace. This has resulted not only in sorely pressed staff and commissioners, but more importantly, in the progressively slower delivery of compensation to Maine’s injured workers.

The committee received extensive evidence of this dramatically growing workload of the Industrial Accident Commission. The Industrial Accident Commission commissioners, which are considered to be only part-time state employees, described their increasingly hectic schedules of 40 to 45 hours work a week, caresloads of more than 350, 60 to 70 decrees waiting to be written. Practitioners before the commission (representing employer and employee alike) sharply questioned the increasingly slowness of commission decrees. A member of the insurance industry identified as the “first and foremost problem” the length of time it takes to get a decree rendered: “approximately 8 to 12 months from the date of a petition is filed until a decree is rendered and in many cases even longer.” While this delay cannot be attributed only to the continuing crush of cases (often delays are caused by attorneys requesting continuances, the unavailability of doctors to testify or complex issues which demand legal briefs be written) it does indicate the growing pressures of commissioners. And nowhere was the Industrial Accident Commission’s burgeoning workload better illustrated to the committee than in a statistical analysis of the last 2 decades:

| | 3 Part-time commissioners | | 4 Part-time commissioners | | |
|---------------|---------------------------|--------|---------------------------|--------|--------|
| | 1960 | 1970 | 1973 | 1975 | 1976 |
| First reports | 27,038 | 30,866 | 33,655 | 34,235 | 42,364 |
| Agreements | 4,146 | 4,598 | 5,755 | 8,052 | 11,217 |
| Petitions | 1,808 | 1,563 | 1,937 | 2,115 | 2,443 |
| Hearings held | 1,810 | 2,779 | 3,189 | 3,870 | 4,390 |

Cost of Industrial Accident Commission structural reforms. While the recommended changes are not inexpensive, the committee emphasizes that the workmen’s compensation system produces more than 3 times as much General Fund revenues as it spends administratively. Employees must pay a state tax on insurance premiums and last year, 1976, the General Fund received \$903,040 in revenues, yet the Industrial Accident Commission administrative costs were only \$253,250. And this is the same pattern historically:

| | Premium tax paid to the General Fund | Industrial Accident Commission General Fund Appropriation |
|------|---|--|
| 1974 | \$597,653 | \$244,444 |
| 1975 | 796,644 | 254,580 |
| 1976 | 903,040 | 253,250 |

And it must be emphasized again that this relatively small Industrial Accident Commission expenditure is proving more and more unable to cope with the greatly escalating burdens forced on the Industrial Accident Commission. Indeed, there would seem to be a serious injustice done to workers and employers alike if the Industrial Accident Commission is forced to unnecessarily delay crucially needed benefits to injured workers while at the same time the State realizes a General Fund profit of more than \$3 for every \$1 it sees fit to spend on the system that administers these benefits.”