

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-254)
109TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 605, L.D. 760, Bill, "AN ACT to Require the Disclosure of Relevant Information in Workers' Compensation Rate Filing Proceedings."

Amend the bill by striking out everything after subsection 1 and inserting in its place the following:

'2. Contents of Filing. In addition to any other information required by the Insurance Code or the Superintendent of Insurance, every workers' compensation rate filing shall indicate for each risk classification the following:

- A. The rate presently applicable to the classification;
- B. The rate proposed for the classification;
- C. Loss experience in this state for each of the three most recent years available, including, in each classification, payroll, number of serious workers' compensation cases, number of non serious cases, the losses including medical expenses incurred with respect to each type of case, loss adjustment expense and the total for all losses and expenses incurred; and

D. With respect to _____ paragraph C, if loss adjustment expense is determined by percentage factors, rather than actual expense, the filing shall include an explanation of the basis of the factors used.

The information required by this _____ subsection shall be presented in tabular form. The tables shall indicate, with respect to each classification, the relative weight given to experience in this state and to national experience in determining the applicable rate.

3. Burden of proof. Any rating organization or insurer presenting a workers' compensation rate filing shall have the burden of proving, by sworn testimony, that the proposed rates

are correct and proper and that they meet the requirements of Title 24-A, chapters 23 and 25.

A. In addition to all other requirements, the rating organization or insurer shall establish, for each of the 3 calendar years immediately preceding that in which the filing is made, the following:

- (1) The gross earned premiums allocable to the coverage of risks in this state;
- (2) The investment of unearned premium reserves and loss reserves allocable to the coverage of risks in this state and the annual income generated by that investment;
- (3) The aggregate annual expenses allocable to the coverage of risks in this state including acquisition and field supervision expense, taxes, licenses and fees other than federal income tax and general expense, each stated separately. safety engineering expense and loss control services expense shall be stated separately under general expense beginning with the 1980 calendar year; and
- (4) The aggregate annual losses and loss adjustment expense allocable to the coverage of risks in this state. If loss adjustment expense is determined by percentage factors, rather than actual expense, there shall be stated an explanation of the basis of the factors used.

B. The rating organization or insurer shall also establish:

- (1) That any profit factor used in the filing will

produce only a just and reasonable return on the investment allocable to the coverage of risks in this state; and

(2) That the loss reserves, including the discount rates applied to those reserves, are reasonable.

No workers' compensation rate filing shall be approved in the absence of evidence that the information or data relied upon is accurate.

4. Public record. Any rate filing submitted to the Bureau of Insurance pursuant to this section shall become a public record and shall be available for public review and inspection.

5. Information for parties and intervenors. Any party or intervenor may make written application to the Superintendent of Insurance for an order that any rating organization or insurer which has presented a workers' compensation filing produce any information relevant to whether the filing and rates meet the requirements of this Title and Title 24-A, except for information relating to a particular claim. If the rating organization or insurer fails to furnish the information within the time prescribed by the Superintendent, the party or intervenor making the request may make written application to the Superintendent of Insurance for an order disapproving the filing. If, after hearing, the Superintendent determines that the failure to furnish the information was without good cause, he shall issue an order for disapproval of the filing.

6. Public hearing. The Superintendent shall hold a public hearing, as provided in Title 24-A, sections 229 to 235, on each filing of rates for workers' compensation insurance. The public hearing shall be conducted within 60 days of the receipt of the rate filing by the Bureau of Insurance. The Superintendent shall approve or disapprove such filing and state his findings in a written order issued within 90 days from the receipt of such filing by the Bureau of Insurance. If the Superintendent denies a filing, any further filing shall be deemed to be a new filing subject to this public hearing requirement.

7. Superintendent's review of documents. Prior to approving a rate filing, the Superintendent shall review the annual operating expenses allocable to the coverage of risks in the state as provided pursuant to subsection 3, paragraph A, subparagraph (3), and the annual insurance expense exhibits filed by each carrier with the Bureau. The Superintendent shall make a finding as to whether the expense allowances in the filing are reasonably related to the aggregate amount of operating expenses reported by all carriers and if he determines that they are not, then he shall not approve the filing.

Statement of Fact

Subsection 2 requires that the filing present in tabular form, for each employment classification, the present rate, the proposed rate, the Maine experience and the relative weight given to Maine experience and ~~N~~ational experience. Recent rate filings have been incomprehensible to employers as well as the public who have wished to be informed about the proposals made.

Subsection 3 places the burden of proof on the rating organization or insurer to prove revenues, investment, return on capital, operating expenses and loss data. It requires sworn testimony and verification as to accuracy.

This proposal proceeds on the premise that the citizen who pays a workers' compensation premium under a rate determined by a state official is entitled to the same protection and standard of proof as the citizen who pays a utility bill.

Subsection 4 provides ^{that} a rate filing shall be a public record available for public review and inspection.

Subsection 5 requires that information be provided to parties and intervenors so that they can adequately prepare for participation in the hearing conducted by the Superintendent of Insurance to consider such rate filings.

Subsection 6 requires the ~~S~~uperintendent to hold a public hearing on each filing or refiling. This will prohibit the

current practice under which the Superintendent, after a public hearing and disapproval of a filing, later approves a lesser increase, at a point in time substantially after the filing in question, without the opportunity for cross-examination and public participation provided by a public hearing.

Subsection 7 requires the Superintendent to review operating expenses, such as safety engineering and loss control services, to determine whether they are reasonable.

Reported by the Committee on Labor
Reproduced and distributed under the direction of the
Clerk of the House.
4/23/79 (Filing No. H-254)