

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 497

6  
7 H.P. 414

House of Representatives, February 1, 1983

8 Received by the Clerk of the House on February 1, 1983. Referred to the  
9 Committee on Labor, and ordered printed pursuant to Joint Rule 14.

10 EDWIN H. PERT, Clerk

11 Presented by Representative McHenry of Madawaska.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-THREE  
16

17 AN ACT to Provide for Exclusive State  
18 Funding of Workers' Compensation.  
19

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

22 Sec. 1. 39 MRSA §22, sub-§1, as enacted by PL  
23 1979, c. 211, is amended to read:

24 1. Approval required. Every insurance company  
25 issuing workers' compensation insurance policies cover-  
26 ing the payment of compensation and benefits provided  
27 for in this Act and the Workers' Compensation  
28 Insurance Fund shall file with the Superintendent of  
29 Insurance a copy of the form of the policies and no  
30 policy ~~shall~~ may be issued until he has approved the  
31 form. It shall file its classification of risks and  
32 premium rates relating thereto, and any subsequent  
33 proposed classification thereof, none of which ~~shall~~  
34 may take effect until the Superintendent of Insurance  
35 has approved the same as adequate for the risks to

1 which they respectively apply. He may require the  
2 filing of specific rates for workers' compensation  
3 insurance including classifications of risks, experi-  
4 ence or any other rating information from insurance  
5 companies authorized to transact insurance in Maine  
6 and the Workers' Compensation Insurance Fund and may  
7 make or cause to be made such investigations as may  
8 be deemed necessary to satisfy himself that the rates  
9 are correct and proper before giving his approval and  
10 permitting the rates to be promulgated for the use of  
11 those companies or the fund. The Superintendent of  
12 Insurance may at any time withdraw his approval of  
13 any classification of risks or premium rates relating  
14 thereto and approve a revised classification thereof.

15 Sec. 2. 39 MRSA §23, sub-§1-A is enacted to  
16 read:

17 1-A. Fund. By insuring and keeping insured the  
18 payment of compensation and other benefits under an  
19 insurance policy with the Workers' Compensation  
20 Insurance Fund.

21 Sec. 3. 39 MRSA c. 7 is enacted to read:

22 CHAPTER 7

23 WORKERS' COMPENSATION INSURANCE FUND

24 §251. Workers' Compensation Insurance Fund

25 There is created and established a fund to be  
26 known as the "Workers' Compensation Insurance Fund,"  
27 in this chapter called the "fund," to be administered  
28 by the Workers' Compensation Insurance Fund Board, in  
29 this chapter called the "board," for the purpose of  
30 insuring employers against liability for injuries  
31 compensable under this chapter and for the purpose of  
32 insuring to employees and other persons the compensa-  
33 tion and benefits provided by this Act for employees  
34 and their dependents. Nothing in this Act prohibits  
35 an employer from becoming or remaining a self-insurer  
36 pursuant to section 23.

37 §252. Contents

38 The Workers' Compensation Insurance Fund shall  
39 consist of:

1       1. Premiums. All premiums received and paid into  
2 the fund for insurance issued by it;

3       2. Property. All property and securities acquired  
4 by and through the use of moneys belonging to the  
5 fund and acquired by gift or otherwise; and

6       3. Interest. All interest earned upon moneys  
7 belonging to the fund and deposited or invested as  
8 provided in this Act.

9       §253. Rates

10       For the purpose only of establishing premium  
11 rates, the fund shall be deemed to be subject to the  
12 provisions of Title 24-A, chapter 25.

13       §254. Liability

14       The fund may insure employers against their lia-  
15 bility for compensation or damages under this chapter  
16 and against liability for compensation or damages  
17 under the United States Longshoremen's and Harbor  
18 Workers' Compensation Act or any extension of that  
19 Act.

20       §255. Self-supporting

21       The fund shall, after a reasonable time during  
22 which to establish itself, become neither more nor  
23 less than self-supporting. For that purpose, loss  
24 experience and expense shall be ascertained and divi-  
25 dends or credits may be made as provided in this  
26 chapter. The fund is exempt from any financial or  
27 budgetary control or supervision by any state agency,  
28 except for the audit made by the Superintendent of  
29 Insurance.

30       §256. Dividends

31       The actual loss experience and expense of the  
32 fund shall be ascertained on or before July 1st in  
33 each year for the calendar year preceding. If it is  
34 then shown that there exists an excess of assets over  
35 liabilities, necessary reserves and a reasonable sur-  
36 plus for the catastrophe hazard, then a cash dividend  
37 may be declared to, or credit allowed on, the renewal

1 premium of each employer who has been insured with  
2 the fund. The cash dividend or credit is to be in an  
3 amount equivalent to the individual employer's pro-  
4 portion of divisible surplus.

5 §257. Application of assets

6 The assets of the fund are applicable to the pay-  
7 ment of losses sustained on account of insurance and  
8 to the payment of the salaries and all other adminis-  
9 trative expenses charged against it.

10 §258. Real estate

11 The fund may acquire, own, sell and repurchase  
12 real property for its offices when so determined by  
13 the board.

14 §259. Custodian

15 The Treasurer of State shall be the custodian of  
16 all moneys and securities belonging to the fund,  
17 except as provided in this chapter. He is liable on  
18 his official bond for their safekeeping.

19 §260. Deposits

20 All moneys which belong to the fund and are col-  
21 lected or received under this chapter shall be deliv-  
22 ered to the Treasurer of State or deposited to his  
23 credit in such bank or banks throughout the State as  
24 he designates, but these moneys are not state moneys.

25 §261. Securities

26 All securities belonging to the fund shall be  
27 delivered to the Treasurer of State and held by him  
28 until otherwise disposed of as provided by this chap-  
29 ter.

30 §262. Expenditures

31 Upon delivery or deposit, these moneys and  
32 securities shall be credited by the Treasurer of  
33 State to the fund. No moneys received or collected on  
34 account of the fund may be expended or paid out with-  
35 out first passing into the State Treasury and being  
36 drawn as provided in this chapter.

1     §263. Ledger account

2             The Treasurer of State shall keep a special  
3 ledger account showing all of the assets pertaining  
4 to the fund. In the Treasurer of State's general  
5 ledger, this account may appear as a cash account,  
6 like other accounts of funds in the State Treasury,  
7 and only the actual cash coming into the fund shall  
8 be entered in the account.

9     §264. Revolving fund

10            The board may withdraw from the fund in the State  
11 Treasury, without at the time presenting vouchers and  
12 itemized statements, a sum not to exceed in the  
13 aggregate \$100,000 to be used as a revolving fund.  
14 The revolving fund shall be deposited in such banks  
15 and under such conditions as the board shall decide.

16    §265. Expenditures

17            Expenditures made from the revolving fund in pay-  
18 ments made in connection with the insurance business  
19 transacted by the fund are exempted from the restric-  
20 tions imposed upon the expenditures of state moneys.  
21 Reimbursement of the revolving fund shall be made  
22 upon presentation to the Treasurer of State of an ab-  
23 stract or statement of these expenditures. The ab-  
24 stract shall be in the form required by the Treasurer  
25 of State.

26    §266. Investments

27            The board shall cause all moneys in the fund  
28 which are in excess of current requirements to be  
29 invested and reinvested, from time to time, in  
30 securities authorized by law for the investment of  
31 funds of savings banks.

32    §267. Deposits

33            All moneys in the fund, in excess of current re-  
34 quirements and not otherwise invested, may be depos-  
35 ited by the Treasurer of State, from time to time, in  
36 banks authorized by law to receive deposits of public  
37 moneys, under the same rules that govern the deposit  
38 of public funds. The interest accruing thereon shall  
39 be credited to the fund.

1     §268. Valuation

2             During the months of January and July of each  
3 year, the board shall cause a valuation to be made of  
4 the properties and securities acquired and held for  
5 the fund and shall report the results of the valuation  
6 to the Governor and Superintendent of Insurance.

7     §269. Acts

8             All business and affairs of the fund, including  
9 any litigation, shall be conducted in the name of the  
10 fund, and in that name, without any other name or  
11 title. The board or the executive director of the  
12 fund may perform the acts authorized by this chapter.

13     §270. Reimbursements

14             The fund shall annually reimburse the State  
15 Treasury for services performed as custodial of the  
16 moneys of the fund.

17     §271. Workers' Compensation Insurance Fund Board

18             The Workers' Compensation Insurance Fund Board  
19 shall be composed of 5 members appointed by the Gov-  
20 ernor. Two of the members shall be policyholders or  
21 representatives thereof and 2 shall be employees of a  
22 policyholder in the fund. With exception of appoint-  
23 ments in the first instance, at least 4 of the mem-  
24 bers, in order to qualify for membership on the  
25 board, shall have been policyholders or the employees  
26 of a policyholder in the fund for one year prior to  
27 appointment and shall continue in that status during  
28 the period of membership. The members shall be  
29 appointed for terms of 5 years each, except that of  
30 the members first appointed, one shall be appointed  
31 for a term of one year; one for a term of 2 years;  
32 one for a term of 3 years; one for a term of 4 years;  
33 and one for a term of 5 years. They shall serve until  
34 their successors are appointed and have qualified.  
35 Vacancies shall be filled for the unexpired terms.

36     §272. Chairman

37             The Governor shall appoint annually in January  
38 from its members a chairman, and a vice-chairman who

1 shall act as chairman in the absence of the chairman.

2 §273. Powers

3 The board is vested with full power, authority  
4 and jurisdiction over the fund. The board may perform  
5 all acts necessary or convenient in the exercise of  
6 any power, authority or jurisdiction over the fund,  
7 either in the administration or in connection with  
8 the insurance policies to be carried on by it under  
9 this chapter, subject to such regulation as provided.

10 §274. Rules

11 The board may adopt rules relating to the conduct  
12 of the business of the fund.

13 §275. Meetings; quorum

14 The board shall meet at least once in each month  
15 and at such other times as it may determine or the  
16 business of the fund may require. Three or more mem-  
17 bers present and voting at a meeting in the conduct  
18 of the affairs of the board shall constitute a quo-  
19 rum. The action of 3 or more members present is the  
20 action of the board.

21 §276. Compensation

22 The members of the board are entitled to receive  
23 as compensation \$30 for each day actually spent in  
24 attendance upon meetings of the board or on the busi-  
25 ness thereof, together with their actual and neces-  
26 sary traveling and other expenses incurred in connec-  
27 tion with attendance upon meetings or with the busi-  
28 ness of the board.

29 §277. Audit

30 The board shall have an annual audit of the books  
31 and records of the fund made by a duly qualified cer-  
32 tified public accountant and shall cause an abstract  
33 summary of this audit to be published.

34 §278. Powers of board

35 The board may:



1       1. Sue. Sue and be sued in all actions arising  
2 out of any act or omission in connection with its  
3 business or affairs. Service of process in suits  
4 affecting the fund shall be made upon the executive  
5 director of the fund and he shall be responsible for  
6 initiating all litigation necessary in the affairs of  
7 the fund. The board shall provide for its own legal  
8 services, by contract or otherwise, in respect to the  
9 litigation;

10       2. Contract. Enter into any contracts or obli-  
11 gation relating to the fund which are authorized or  
12 permitted by law;

13       3. Invest. Invest and reinvest the moneys belong-  
14 ing to the fund as provided by this chapter; and

15       4. Other business. Conduct all business and  
16 affairs and perform all acts relating to the fund  
17 whether or not specifically designated in this chap-  
18 ter.

19       §279. Reports of Superintendent of Insurance

20       The statistical and actuarial data compiled by  
21 the fund shall at all times be available to the  
22 Superintendent of Insurance for his use in judging  
23 the adequacy or inadequacy of rates and schedules  
24 filed. The executive director of the fund shall make  
25 reports to the Superintendent of Insurance required  
26 by law to be made to him.

27       §280. Executive director

28       The board shall appoint an executive director of  
29 the fund and fix his salary. The executive director  
30 shall manage and conduct the business and affairs of  
31 the fund under the general direction and subject to  
32 the approval of the board and shall perform such  
33 duties as the board shall prescribe.

34       §281. Bond

35       The executive director, before entering on the  
36 duties of his office, shall qualify by giving an  
37 official bond approved by the board, in such sum as  
38 the board may order and by taking and subscribing to

1 an official oath. The approval of the board shall be  
2 by written endorsement on the bond. The bond shall be  
3 filed in the office of the Secretary of State.

4 §282. Duties

5 The board may delegate to the executive director  
6 of the fund, under such rules and subject to such  
7 conditions as it may from time to time prescribe, any  
8 power, function or duty conferred by law on the board  
9 in connection with the fund or in connection with the  
10 administration, management and conduct of business  
11 and affairs of the fund. The executive director may  
12 exercise such powers and functions and perform such  
13 duties with the same force and effect as the board,  
14 but subject to its approval.

15 §283. Employees

16 Subject to approval of the board, the executive  
17 director shall appoint all employees.

18 §284. Additional powers

19 In conducting the business and affairs of the  
20 fund, the executive director may:

21 1. Contract. Enter into contracts of workers'  
22 compensation insurance and other liability insurance  
23 authorized under this Act, provided that no policies  
24 of insurance may be issued until the fund has been  
25 certified by the Chairman of the Workers' Compensa-  
26 tion Commission, the Superintendent of Insurance and  
27 the Commissioner of Manpower Affairs as being, in  
28 their view, of sufficient assets to conduct the  
29 affairs of the fund;

30 2. Annuities. Sell annuities covering compensa-  
31 tion benefits;

32 3. Decline to insure. Decline to insure any risk  
33 in which the minimum requirement of safety fixed by  
34 statute or regulation of the State with regard to a  
35 safe place of employment are not complied with, or  
36 which is beyond the safe carrying of the fund. Other-  
37 wise, he may not refuse to insure any workers' com-  
38 penensation risk under state law, tendered with premium  
39 therefor;

1       4. Reinsure. Reinsure any risk or any part  
2 thereof;

3       5. Insure. Insure against any loss deemed advisa-  
4 ble;

5       6. Inspect. Cause to be inspected and audited the  
6 payrolls of employers applying to the fund for insur-  
7 ance;

8       7. Treatment. Contract with physicians, surgeons,  
9 hospitals and rehabilitation facilities for medical,  
10 surgical and rehabilitation treatment and the care  
11 and nursing of injured persons entitled to benefits  
12 under this Act; and

13       8. Act for fund. Act for the fund in the collec-  
14 tion and disbursements of all moneys necessary for  
15 administration of the fund and the conduct of the  
16 business of the fund.

17       Each quarter the executive director of the fund  
18 shall make a report to the Governor of the business  
19 done by the fund during the previous quarter and a  
20 statement of the fund's resources and liabilities at  
21 the close of that previous quarter.

22       §285. Declaration of public purpose

23       It is declared that the establishment of the fund  
24 is a public purpose and use for which public money  
25 may be spent and private property acquired and that  
26 the establishment is a function of state concern.

27       §286. Power to issue revenue bonds

28       The Workers' Compensation Insurance Fund Board  
29 may issue revenue bonds and notes and refunding bonds  
30 and notes for the purpose of organizing, establishing  
31 an initial fund and continuing operations and exer-  
32 cising all powers of the board. In no event may any  
33 such bonds be issued or sold, unless approved by a  
34 majority vote of the Legislative Council.

35       §287. Credit of State not pledged

1       The bonds do not create a pledge of the faith or  
2 credit of the State, but are totally dependent for  
3 repayment upon receipt of premium dollars from  
4 employers.

5       §288. Bondholder's rights against fund

6       The board shall cause to be written one or more  
7 bond resolutions for the issuance of the revenue  
8 bonds authorized, which resolution shall clearly de-  
9 fine those assets of the fund upon which bondholders  
10 have first claim. In any case in which payments to  
11 claimants under the fund conflict with repayment of  
12 bondholder, the statement of priority found in the  
13 resolution controls. In any case, the board shall  
14 insure that the fund, as supported by employer pre-  
15 miums and as reinsured, is sufficient at all times to  
16 repay bondholders in accordance with the provisions  
17 of the bonds.

18       §289. Tax exemption

19       Bonds issued under this chapter, being for essen-  
20 tial and governmental purpose, are exempt from taxa-  
21 tion.

22       §290. No personal liability

23       No person connected with issuance of these bonds  
24 is personally liable on the bonds by reason of the  
25 issuance thereof.

26       §291. Negotiability of bonds

27       Whether or not the bonds are of such form and  
28 character as to be negotiable instruments under the  
29 Uniform Commercial Code, Title 11, Article 8, the  
30 bonds are made negotiable instruments within the  
31 meaning of and for all the purposes of the Uniform  
32 Commercial Code, Title 11, Article 8, subject only to  
33 the provisions of the bonds for registration.

34       §292. Payment of claims

35       In the case of employers securing insurance from  
36 the fund, the fund shall pay promptly all compensa-  
37 tion awarded or approved pursuant to this Act, pro-

1 vided that in the case of any settlement agreement or  
2 lump sum payment, the separate agreement of the  
3 employer and of the fund is first secured and the  
4 fund may in no manner condition its coverage on the  
5 agreement by the employer.

6 STATEMENT OF FACT

7 The purpose of this bill is to provide for work-  
8 ers' compensation insurance through a state fund,  
9 thereby reducing the cost of Maine employers of pro-  
10 viding workers' compensation coverage by approxi-  
11 mately 30%. The percentage of workers' compensation  
12 premiums paid by Maine employers and returned to  
13 Maine workers in the form of benefits has  
14 traditionally been in the range of 60%, whereas, in  
15 the 12 American states which provide for workers'  
16 compensation coverage through a state fund, the per-  
17 centage of premiums returned as benefits to injured  
18 workers is approximately 90%. An additional advantage  
19 of this state fund to the Maine economy would be the  
20 retention of both control and investment decisions on  
21 this fund in Maine hands, rather than sources outside  
22 the State.

23 This bill provides a competitive state fund. That  
24 is, a state fund which would compete with private  
25 insurance, giving Maine employers a choice to place  
26 their workers' compensation coverage with either pri-  
27 vate insurance carriers or through a state fund. Pre-  
28 sumably, Maine employers would place their coverage  
29 in the most cost-efficient fashion. An added advan-  
30 tage to Maine employers who choose to remain with  
31 private insurance coverage would be that the private  
32 insurance coverage would be competing with the state  
33 fund, and the desire of private insurance companies  
34 to increase their rates on workers' compensation  
35 would be diminished.

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