

MAINE STATE LEGISLATURE

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L.D. 1322
(Filing No. H- 217)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
111TH LEGISLATURE
FIRST REGULAR SESSION

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COMMITTEE AMENDMENT "B" to H.P. 1019,
L.D. 1322, Bill, "AN ACT to Reform the Workers' Com-
pensation System."

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Amend the Bill in section 4 in that part desig-
nated "§2523." in the next to the last paragraph in
the last line (page 4, line 34 in L.D.) by inserting
after the underlined word "Fund" the following: 'on
June 30th of any fiscal year'

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Further amend the Bill in section 8 in that part
designated "§51-B." by striking out all of subsec-
tions 3, 6, 7 and 8 and inserting in their place the
following:

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'3. First payment due. The first payment of
compensation, other than compensation for impairment
under section 56 or 56-A, is due within 14 days after
the employer has notice or knowledge of the injury or
death. In cases where the employee did not lose time
from work within 5 scheduled work days following the
injury, compensation is due and payable within 14
days of the date the employee asserts to the employer
that that lost time is related to the injury or from
the date a request is made for medical expenses or
other benefits payable under the Act, whichever
occurs first. On or before the 14th day, all compen-
sation then due shall be paid. Subsequent incapacity
compensation benefit payments shall be made weekly
and in a timely fashion.

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6. Information. If the employer is making com-
pensation payments under this section, the employer
shall file with the commission a statement of the
employee's average weekly wage, as defined in section
2, within 30 days after the initial payment, together
with a wage statement or wage statements in the case

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1 of multiple employment. A copy of this information
2 shall be mailed to the person receiving payments.

3 7. Notice of controversy. If the employer,
4 prior to making payments under subsection 3, contro-
5 verts the claim to compensation, he shall file with
6 the commission, within 14 days after an event which
7 gives rise to an obligation to make payments under
8 subsection 3, a notice of controversy in a form pre-
9 scribed by the commission. The notice shall indicate
10 the name of the claimant, name of the employer, date
11 of the alleged injury or death and the grounds upon
12 which the claim to compensation is controverted. The
13 employer shall promptly furnish the employee with a
14 copy of the notice.

15 If, at the end of the 14-day period, the employer has
16 not filed the notice required by this subsection, he
17 shall begin payments as required under subsection 3.
18 He may cease payments and file with the commission a
19 notice of controversy, only as provided in this sub-
20 section, no later than 44 days after an event which
21 gives rise to an obligation to make payments under
22 subsection 3. Failure to file the required notice of
23 controversy prior to the expiration of the 44-day
24 period constitutes acceptance by the employer of the
25 compensability of the injury or death.

26 If, at the end of the 44-day period, the employer has
27 not filed a notice of controversy, or if pursuant to
28 a proceeding before the commission, the employer is
29 required to make payments, the payments may not be
30 decreased or suspended, except as provided in section
31 100.

32 8. Effect of payment. If, within the 44-day
33 period established in subsection 7 and after the pay-
34 ment of compensation without an award, the employer
35 elects to controvert the claim to compensation, the
36 payment of compensation shall not be considered to be
37 an acceptance of the claim or an admission of liabil-
38 ity. Notwithstanding the provisions of section 99-C,

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1 the acceptance of compensation in any case, except by
2 decision or agreement, by the injured employee or his
3 dependents shall not be considered an admission by
4 the employee or his dependents as to the nature and
5 scope of the employer's liability or a waiver of the
6 right to question the amount of compensation or the
7 duration of the same or the nature of the injury and
8 its consequences.'

9 Further amend the Bill in section 8 in that part
10 designated "§51-B." in subsection 10 in the first
11 paragraph by striking out all of the last underlined
12 sentence.

13 Further amend the Bill in section 8 in that part
14 designated "§51-B." in subsection 11 in the first,
15 2nd and last lines (page 8, lines 30, 31 and 34 in
16 L.D.) by striking out the underlined word "disabili-
17 ty" (3 times) and replacing it with the underlined
18 word 'incapacity' (3 times).

19 Further amend the Bill in section 15 in that part
20 designated "§91." in subsection 2 in the 6th line
21 (page 12, line 19 in L.D.) by inserting after the
22 underlined word "Governor" the following: 'only
23 with the review and concurrence of the joint standing
24 committee of the Legislature having jurisdiction over
25 judiciary upon hearing in executive session.'

26 Further amend the Bill in section 17 in that part
27 designated "§92." in subsection 1 in the 7th line
28 (page 13, line 31 in L.D.) by inserting after the
29 underlined figure and punctuation "375," the follow-
30 ing: 'after obtaining the advice of the commission-
31 ers.'

32 Further amend the Bill in section 17 in that part
33 designated "§92." in subsection 6 in the first para-
34 graph, next to the last line (page 15, line 10 in
35 L.D.) by inserting after the underlined words
36 "employees in" the underlined words 'preparing for
37 and assisting at'

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1 Further amend the Bill in section 17 in that part
2 designated "§92." in subsection 6 by adding at the
3 end the following:

4 'The chairman shall appoint 6 employee assistants.
5 After January 1, 1984, the chairman may appoint up to
6 4 additional assistants if, in the chairman's judg-
7 ment, the additional assistants are necessary to
8 effectuate the purposes of this subsection.

9 Employee assistants shall be paid a salary equal to
10 that paid to state employees in professional and
11 technical range 21.'

12 Further amend the Bill in section 17 in that part
13 designated "§92." in subsection 7 in the last line
14 (page 15, line 23 in L.D.) by inserting after the
15 underlined word "affairs" the following: ', starting
16 with the fiscal year beginning July 1, 1985'

17 Further amend the Bill in section 20 in that part
18 designated "§94-A." in subsection 2 by striking out
19 all of paragraph A and inserting in its place the
20 following:

21 'A. Either payments are initiated or notice of
22 controversy is filed by the end of 14 days after
23 an event which gives rise to an obligation to
24 make payments under section 51-B, subsection 3;
25 and'

26 Further amend the Bill in section 20 in that part
27 designated "§94-A." in subsection 4 in the first line
28 (page 17, line 1 in L.D.) by striking out the under-
29 lined word "may" and inserting in its place the
30 underlined word 'shall'

31 Further amend the Bill in section 30 in that part
32 designated "§106-A." in the 9th line (page 21, line
33 40 in L.D.) by striking out the underlined words
34 "notice of the injury" and inserting in their place

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1 the following: ', an event which gives rise to an
 2 obligation to make payments under section 51-B, sub-
 3 section 3'

4 Further amend the Bill by inserting at the end
 5 before the emergency clause the following:

6 'Sec. 34. Allocation. The following funds are
 7 allocated from the Workers' Compensation Fund to
 8 carry out the functions and activities of the Work-
 9 ers' Compensation Commission provided under the
 10 Revised Statutes, Title 39. If, in the judgment of
 11 the chairman of the commission, 4 additional assis-
 12 tants are not required, funds otherwise allocated in
 13 this section for that purpose shall lapse proportion-
 14 ately. No additional funds shall be expended from
 15 this fund until allocated by the Legislature.

	<u>1983-84</u>	<u>1984-85</u>
16		
17	<u>WORKERS' COMPENSATION COMMISSION</u>	
18	Positions (57)	(57)
19	Personal Services \$1,251,794	\$1,325,330
20	All Other 311,850	332,775
21	Capital Expenditures 78,910	28,620
22	Total \$1,642,554	\$1,686,725

23 Sec. 35. Appropriation. The following funds are
 24 appropriated from the General Fund to implement this
 25 program.

	<u>1983-84</u>	<u>1984-85</u>
26		
27	<u>WORKERS' COMPENSATION COMMISSION</u>	
28	Positions (-35)	(-35)
29	Personal Services (\$849,914)	(\$866,135)
30	All Other (191,350)	(202,875)
31	Capital Expenditures (8,680)	(9,620)

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1 1. Amends Title 39, section 51-B, subsection 3
2 to deal with employees who do not lose time from work
3 within 5 scheduled work days following the injury. In
4 these cases, the obligation to begin compensation
5 payments arises within 14 days of the date the
6 employee asserts to the employer that the lost time
7 is related to the injury or the date a request is
8 made for benefits, whichever occurs first, rather
9 than 14 days after the employer has notice or knowl-
10 edge of the injury or death, which remains the provi-
11 sion in other cases. This revision in the events that
12 start the running of time periods under the Act is
13 also reflected in amendments to Title 39, section
14 51-B, subsection 7 on filing a notice of controversy,
15 to Title 39, section 94-A, subsection 2 on the com-
16 mission's duty to monitor cases and to Title 39,
17 section 106-A on the commission's obligation to
18 notify employees of their rights. Title 39, section
19 51-B, subsection 6 is similarly amended to clarify
20 when an employer must file a wage statement;

21 2. Amends Title 39, section 51-B, subsection 8
22 to clarify that an employee's acceptance of compensa-
23 tion, except by decision or agreement, shall not be
24 considered an admission to or waiver of an employer's
25 liability, notwithstanding Title 39, section 99-C on
26 petitions for reopening;

27 3. Amends Title 39, section 51-B, subsection 10
28 by striking the last sentence since other penalty
29 provisions deal with this situation;

30 4. Changes the word "disability" to "incapacity"
31 in Title 39, section 51-B to be consistent with the
32 rest of Title 39;

33 5. Amends Title 39, section 91, subsection 2 to
34 provide that commissioners may be removed by the Gov-
35 ernor only with the review and concurrence of the
36 Joint Standing Committee on Judiciary upon hearing
37 and executive session;

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1 6. Amends Title 39, section 92, subsection 1 to
2 provide that the chairman of the commission may make
3 rules and policies after obtaining the advice of the
4 commissioners;

5 7. Clarifies the duties of employee assistants
6 in Title 39, section 92, subsection 6;

7 8. Amends Title 39, section 94-A, subsection 4
8 by changing "may" to "shall;"

9 9. Provides for the appointment of 6 employee
10 assistants by the chairman and for the possible addi-
11 tion of 4 more assistants after January 1, 1984, if
12 the chairman determines this to be necessary. If the
13 funds allocated for the 4 additional assistants are
14 not necessary in the judgment of the chairman, a pro-
15 portional amount attributable to each unfilled posi-
16 tion shall lapse to the General Fund;

17 10. Incorporates the allocation of funds from
18 the Workers' Compensation Fund for the next 2 fiscal
19 years. The responsibility for submitting an alloca-
20 tion bill is delayed to reflect this addition. No ad-
21 ditional funds shall be expended from this fund until
22 allocated by the Legislature;

23 11. Adds section 35 which deappropriates General
24 Fund money that was previously appropriated and,
25 along with section 4 and section 34, correctly
26 reflects the creation of the dedicated Workers' Com-
27 pensation Fund;

28 12. Clarifies that funds previously appropriated
29 for the development of a data system at the commis-
30 sion are still authorized for that use and shall not
31 lapse to the General Fund; and

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1 13. Finally, the emergency clause is amended to
2 reflect the addition of the 3 new sections, which
3 will become effective upon approval.

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Reported by the Majority of the Committee on Labor
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5/9/83 (Filing No. H-217)