## MAINE STATE LEGISLATURE

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1	L.D. 1501
2	(Filing No. H-458
3	STATE OF MAINE

HOUSE OF REPRESENTATIVES

112TH LEGISLATURE

FIRST REGULAR SESSION

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7 HOUSE AMENDMENT "C" to COMMITTEE AMENDMENT "A"
8 to S.P. 555, L.D. 1501, Bill, "AN ACT Establishing
9 Assessments to Defray the Expense of Maintaining the

9 Assessments to Defray the Expense of Maintaining the Bureau of Insurance."

11 Amend the amendment by inserting after the 4th 12 line after the title the following:

'Further amend the bill by inserting after section 3 the following:'

'Sec. 4. 39 MRSA §23, sub-§2, as amended by PL 1983, c. 668, §1, is further amended to read:

By furnishing satisfactory proof to the perintendent of Insurance of his solvency and financial ability to pay the compensation and benefits, and deposit cash, satisfactory securities or a security bond, with the Workers' Compensation Commission, in such sum as the superintendent may determine pursuant to subsection 6; such bond to run to the Treasurer of State and his successor in office, and to be conditional upon the faithful performance of this Act relating to the payment of compensation and benefits to any injured employee. In case of cash being deposited, it shall be placed at interest by the Treasurer State, and the accumulation of interest on said cash or securities so deposited shall be paid to the employer depositing the same. The superintendent may at any time in his diseretion, upon not less than days notice and following hearing, for cause deny to an employer the right to continue in the exercise of the option granted by this section.

As an alternative to the method described in the first paragraph of this subsection, an eligible employer may establish an actuarially funded trust,

HOUSE AMENDMENT " $\mathcal{C}$ " to COMMITTEE AMENDMENT "A" to S.P. 555 L.D. 1501

- funded at a level sufficient to discharge those obli-2 gations incurred by the employer pursuant to this Act 3 as they become due and payable from time to time, provided that the value of trust assets shall be at 4 least equal to the present value of such incurred claims. The trust asset shall consist of cash or 5 6 claims. marketable securities of a type and risk character as 7 specified in subsection 7, and shall have a situs in the United States. In all other respects, the trust 8 9 10 instrument, including terms for certification, fund-11 ing, designation of trustee and pay out shall be as 12 approved by the superintendent; provided, that the 13 value of the trust account shall be actuarially calculated at least annually and adjusted to the required level of funding. For purposes of this paragraph, an "eligible employer" is one who is found by 14 15 16 17 the superintendent to be capable of paying compensa-18 tion and benefits required by this Act and:
  - A. Has positive net earnings; or

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- 20 B. Can demonstrate a level of working capital 21 adequate to its operating needs.
  - Notwithstanding any provision of this section or chapter, any bond or security deposit required of a public employer which is a self-insurer shall not exceed \$50,000, provided that such public employer has a net worth equal to or in excess of \$25,000,000 and a state-assessed valuation equal to or in excess of \$300,000,000. "Public employer" includes the State, the University of Maine, counties, cities and towns.
- In his consideration of a self-insuring entity's application for authorization to operate a plan of self-insurance, the superintendent may require or permit an applicant to employ valid risk transfer by the utilization of primary excess insurance. Standards respecting the application of primary excess insurance shall be contained in a regulation promulgated by the superintendent pursuant to the Maine Ad-

HOUSE AMENDMENT " $\mathcal{C}$ " to COMMITTEE AMENDMENT "A" to S.P. 555 L.D. 1501

- ministrative Procedure Act, Title 5, chapter 375. Primary excess insurance shall be defined as insurance covering workers' compensation exposures in ex-3 4 cess of risk retained by a self-insurer. 5 Further amend the amendment in section 5, in sub-6 section 3, by striking out all of the 2nd paragraph 7 (page 1, lines 32 to 34 and page 2, lines 1 and 2 in 8 the amendment) 9 Further amend the amendment by inserting before 10 the fiscal note the following: 'Further amend the bill by renumbering the sec-11 12 tions to read consecutively.' 13 STATEMENT OF FACT This amendment removes a sentence referring to
- This amendment removes a sentence referring to annual legislation to clarify that allocations from the Insurance Regulatory Fund should go through the usual biennial budget process.
- The amendment also adds a provision to the law detailing how workers' compensation self-insurers provide insurance or other funding for payment of employees' claims. In certain cases the Superintendent of Insurance will be able to accept an actuarially funded trust account as adequate assurance of a self-insurer's ability to pay claims.

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Filed by Rep. Brannigan of Portland Reproduced and distributed under the direction of the Clerk of the House