

MAINE STATE LEGISLATURE

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L.D. 1634

(Filing No. S- 217)

STATE OF MAINE
SENATE
112TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "B " to H.P. 1127, L.D. 1634,
Bill, "AN ACT to Improve the Workers' Compensation
System and Reform the Rate-making Process."

Amend the Bill in section 26 in that part design-
ated "§62-B." by striking out all of subsection 3
and inserting in its place the following:

'3. Coordination of benefits. Benefit payments
subject to this section shall be reduced in accord-
ance with the following provisions.

A. The employer's obligation to pay weekly com-
pensation under section 54-A or 55-A shall be re-
duced by:

(1) Not more than 50% of the amount of old
age insurance benefits received or being re-
ceived under the United States Social Secu-
rity Act;

(2) The after tax amount of the payments
received or being received under an employee
benefit plan provided by the same employer
by whom benefits under section 54-A or 55-A
are payable if the employee did not contrib-
ute directly to the plan; and

(3) The proportional amount, based upon the
ratio of the employer's contributions to the
total contributions, of the after tax amount
of the payments received or being received
by the employee under an employee benefit
plan provided by the same employer by whom
benefits under section 54-A or 55-A are pay-
able if the employee did contribute directly
to the plan.

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1 B. No reduction in weekly compensation may be
2 made if benefits received under an employee bene-
3 fit plan are required to be reduced to reflect
4 the receipt of benefits under this Act.

5 C. No reduction in weekly compensation may be
6 made as a result of any increase granted by the
7 United States Social Security Administration as a
8 cost-of-living adjustment.

9 D. Any reduction because of the receipt of old
10 age income benefits under the United States So-
11 cial Security Act in weekly compensation shall be
12 reduced on a pro rata basis to the extent that
13 the employee is less than totally incapacitated.

14 E. No reduction may be made under this section
15 in regard to workers' compensation benefits on
16 account of the received Social Security and old
17 age benefits where the employee is 70 years old
18 or older.

19 F. No reduction may be made in weekly compensa-
20 tion because of the receipt of old age income
21 benefits under the United States Social Security
22 Act, except to the extent the weekly compensation
23 on an annual basis exceeds the permissible earn-
24 ings for persons under 70 receiving old age in-
25 come benefits.

26 G. No reductions should be made in weekly com-
27 ensation because of the receipt of old age in-
28 come benefits under the United States Social Se-
29 curity Act by the spouse or a dependent of an em-
30 ployee.'

31 STATEMENT OF FACT

32 This amendment, like L.D. 1634, provides for the

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1 coordination of benefits received under the Social
2 Security retirement and private pension plans with
3 those received under workers' compensation. Coordina-
4 tion of benefits, which really means a reduction of
5 workers' compensation and a savings to workers' com-
6 pensation insurance companies at the expense of the
7 injured worker, are more equitable under the amend-
8 ment than under the bill. The bill, as opposed to
9 the amendment, reduces the workers' compensation ben-
10 efit by 100% of the employer's contribution to the
11 pension or Social Security regardless of the level of
12 workers' compensation disability, whereas the amend-
13 ment reduces workers' compensation based on that por-
14 tion of the employer's contribution to the pension or
15 its Social Security which is related to the
16 employee's disability.

17 For example, an injured worker receiving an aver-
18 age weekly wage of \$300 a week who is injured at work
19 and as a result of his injury after a period of total
20 disability suffers a 25% continuing disability and
21 was unable to perform his job, would receive workers'
22 compensation at \$50 a week. If the same worker decid-
23 ed to take retirement because of his work injury and
24 received \$400 a month in Social Security benefits, he
25 would have 50% of that, or \$200 a month, attributable
26 to his employer's contributions to Social Security.
27 This \$200 a month would amount to approximately \$47 a
28 week. Thus, under the bill, the partially disabled
29 worker would lose and the insurance company would
30 gain almost all of the employer's Social Security
31 contributions because the workers' compensation pay-
32 ment for 25% disability would be reduced to a minimum
33 payment of \$7 a week.

34 The purpose of coordination of benefits is to
35 preclude anyone from receiving a greater income be-
36 cause of the receipt of Social Security or retirement
37 benefits along with workers' compensation than they
38 would have received had they continued to work. Both
39 the bill and this amendment achieves this purpose but
40 the amendment achieves it in a more equitable fashion

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1 making the reduction proportionate to disability
2 rather than total in amount. Under the same circum-
3 stances described, the injured worker would receive a
4 reduction in his workers' compensation because of the
5 receipt of the Social Security benefits, but that re-
6 duction instead of exceeding and wiping out his work-
7 ers' compensation benefit would rather reduce it from
8 \$50 a week to approximately \$35 a week.

9 It should be noted that workers who do not re-
10 ceive work injuries and continue to work after age 70
11 are entitled in spite of their level of earnings to
12 receive their full Social Security check and that
13 substantial earnings may be made by workers between
14 65 and 70 years of age in particular months without
15 the loss of their entire Social Security check.

16 The amendment, unlike the redraft, also tracks
17 the provision of Social Security which allows the
18 worker of age 70 to collect full Social Security re-
19 gardless of his earning level. The amendment provides
20 that there shall be no reduction of Social Security
21 to a disabled worker after age 70 and that workers'
22 compensation benefits exceed permissible earnings un-
23 der Social Security.

24 The amendment, unlike the new draft, makes it
25 clear that a spouse's Social Security benefit is not
26 to be considered in determining reductions to an in-
27 jured worker's weekly compensation benefit.

28 4099060385

29 (Sen. Bustin)
30 SPONSORED BY: *Beverly Miner Bustin*
31 COUNTY: Kennebec