

MAINE STATE LEGISLATURE

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1 (EMERGENCY)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 2033

7
8 H.P. 1441

House of Representatives, February 18, 1986

9 Referred to the Committee on Labor. Sent up for concurrence and
10 ordered printed. Ordered sent forthwith.

EDWIN H. PERT, Clerk

11 Presented by Speaker Martin of Eagle Lake.

Cosponsored by Representative Begley of Waldoboro, President Pray of
12 Penobscot and Senator Dutremble of York.

13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-SIX
17

18 AN ACT to Make Clarifications in the
19 Laws of Maine Relating to the Workers'
20 Compensation Act.
21

22 **Emergency preamble.** Whereas, Acts of the Legis-
23 lature do not become effective until 90 days after
24 adjournment unless enacted as emergencies; and

25 Whereas, legislation was passed at the First Reg-
26 ular Session of the 112th Legislature relating to
27 workers' compensation which resulted in certain con-
28 flicts, duplication and omissions in the laws of
29 Maine; and

30 Whereas, it is necessary that these conflicts,
31 duplications and omissions be resolved in order to
32 facilitate the interpretation of legislative intent
33 and the implementation of reform legislation regard-
34 ing vocational rehabilitation revisions in the Work-
35 ers' Compensation Act; and

1 Whereas, the reform legislation regarding vocational rehabilitation revisions in the Workers' Compensation Act was passed on an emergency basis at the
2
3 First Regular Session of the 112th Legislature; and
4

5 Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of
6 the Constitution of Maine and require the following
7 legislation as immediately necessary for the preservation of the public peace, health and safety; now,
8 therefore,
9
10

11 Be it enacted by the People of the State of Maine as
12 follows:

13 Sec. 1. 2 MRSA §6, sub-§8, as repealed and replaced by PL 1981, c. 705, Pt. L, §§1 to 3, is
14 amended to read:
15

16 8. Range 81. The salaries of the following
17 state officials and employees shall be within salary
18 range 81:

19 Assistant Adjutant General-; and

20 Assistant Rehabilitation Administrators, Office
21 of Employment Rehabilitation.

22 Sec. 2. 5 MRSA §953, as enacted by PL 1985, c.
23 65, §1 and by PL 1985, c. 372, Pt. A, §2, is repealed
24 and the following enacted in its place:

25 §953. Workers' Compensation Commission

26 1. Major policy-influencing positions. The fol-
27 lowing positions are major policy-influencing posi-
28 tions within the Workers' Compensation Commission.
29 Notwithstanding any other law, these positions and
30 their successor positions shall be subject to this
31 chapter:

32 A. Assistant to the chairman; and

33 B. Rehabilitation Administrator and Assistant
34 Rehabilitation Administrators, Office of Employ-
35 ment Rehabilitation.

1 Sec. 3. 39 MRSA §54-A, sub-§1, as enacted by PL
2 1985, c. 372, Pt. A, §17, is repealed and the fol-
3 lowing enacted in its place:

4 1. Sheltered workshops. The \$25 weekly minimum
5 compensation limitation under this section does not
6 apply to a handicapped individual who is employed by
7 a sheltered workshop and who claims compensation un-
8 der this section. "Sheltered workshop" means a fa-
9 cility, certified by the United States Department of
10 Labor regulations covering employment of handicapped
11 clients, engaged in production or service operation
12 for the primary purpose of providing gainful employ-
13 ment for those who cannot be readily absorbed in the
14 competitive labor market, or of providing interim em-
15 ployment during such time as employment opportunities
16 for them in the competitive labor market do not ex-
17 ist.

18 Sec. 4. 39 MRSA §58-A, sub-§1, as enacted by PL
19 1985, c. 372, Pt. A, §25, is repealed and the fol-
20 lowing enacted in its place:

21 1. Sheltered workshops. The \$25 weekly minimum
22 compensation limitation under this section does not
23 apply to a handicapped individual who is employed by
24 a sheltered workshop and who claims compensation un-
25 der this section. "Sheltered workshop" means a fa-
26 cility, certified by the United States Department of
27 Labor regulations covering employment of handicapped
28 clients, engaged in production or service operation
29 for the primary purpose of providing gainful employ-
30 ment for those who cannot be readily absorbed in the
31 competitive labor market, or of providing interim em-
32 ployment during such time as employment opportunities
33 for them in the competitive labor market do not ex-
34 ist.

35 Sec. 5. 39 MRSA §92, sub-§2, as repealed and re-
36 placed by PL 1985, c. 63, Pt. G, and c. 65, §2, is
37 repealed and the following enacted in its place:

38 2. Employees. The chairman shall appoint an as-
39 stant to the chairman, who shall serve at his plea-
40 sure. Subject to the Personnel Law, the chairman
41 shall appoint a Director of Administrative Services,
42 full-time or part-time reporters and such legal, pro-

1 professional and clerical assistants as may be neces-
2 sary.

3 Sec. 6. 39 MRSA §92, sub-§6, as amended by PL
4 1985, c. 65, §3 and c. 372, Pt. A, §30, is repealed
5 and the following enacted in its place:

6 6. Office of Employee Assistants. The chairman
7 shall provide adequate funding for an Office of Em-
8 ployee Assistants and shall, subject to the Personnel
9 Law, appoint the assistants to staff the Augusta of-
10 fice and district offices. Assistants are not attor-
11 neys, but should demonstrate a level of expertise
12 roughly equivalent to that of insurance claims' ana-
13 lysts. The purpose of employee assistants is to pro-
14 vide advice and assistance to employees under this
15 Act and particularly to assist employees in preparing
16 for and assisting at informal conferences under sec-
17 tion 94-B. In addition, if an employer appeals a de-
18 cision of the commission or institutes any proceeding
19 against an employee under this Act, the Office of Em-
20 ployee Assistants shall, upon request, advise an em-
21 ployee how to best prepare for and proceed with his
22 case.

23 No employee of the Office of Employee Assistants may
24 represent before the commission any insurer, self-
25 insurer, group self-insurer, adjusting company or
26 self-insurance company for a period of 2 years after
27 terminating employment with the office.

28 The chairman shall appoint 6 employee assistants. Af-
29 ter January 1, 1984, the chairman may appoint up to 4
30 additional assistants if, in the chairman's judgment,
31 the additional assistants are necessary to effectuate
32 the purposes of this subsection.

33 Sec. 7. 39 MRSA §92, sub-§8, as enacted by PL
34 1985, c. 372, Pt. A, §31, is amended to read:

35 8. Office of Employment Rehabilitation. The
36 chairman shall provide adequate funding for an Office
37 of Employment Rehabilitation and shall appoint a Re-
38 habilitation Administrator and Assistant Rehabilita-
39 tion Administrators under section 82. The chairman
40 shall, subject to the Personnel Law, appoint such
41 additional personnel as are necessary to carry out
42 the functions of the office.

1 reference to a portion of the Maine Revised Statutes
2 which has since been repealed.

3 Section 5 of the bill corrects the omission of a
4 repealing provision in Public Law 1985, chapter 65.
5 Both Public Law 1985, chapter 63, Part G, and Public
6 Law 1985, chapter 65, section 2, authorizes the
7 chairman to appoint an assistant; chapter 63, an As-
8 sistant Director of Administrative Services; chapter
9 65, an assistant to the chairman. Since Public Law
10 1985, chapter 65 was enacted into law creating a new
11 major policy-influencing position known as the as-
12 sistant to the chairman, it appears that the inten-
13 tion was to authorize the appointment of an assistant
14 to the chairman and not an Assistant Director of Ad-
15 ministrative Services. The lack of a repeal of chap-
16 ter 63, Part G, appears to be an oversight.

17 Section 6 of the bill corrects the conflicting
18 language of Public Law 1985, c. 372, Pt. A, section
19 30, which retains the last paragraph of section 92,
20 subsection 6, setting the salary range of employee
21 assistants at range 21, and Public Law 1985, chapter
22 65, section 3, which repealed the last paragraph.
23 Public Law 1985, chapter 372, Part A, section 30,
24 added a new sentence to the first paragraph of sec-
25 tion 92, subsection 6, and did not underline the last
26 paragraph as being the purpose of the amendment.
27 Therefore, it appears that it was an oversight in
28 Public Law 1985, c. 372, Part A, section 30 to rein-
29 state the last paragraph of the Maine Revised Stat-
30 utes, Title 39, section 92, subsection 6. Public Law
31 1985, chapter 372, Part A, section 30, failed to give
32 effect to Public Law 1985, chapter 65, section 3,
33 which recognized that, in fact, subject to the Per-
34 sonnel Law, employee assistants are paid at profes-
35 sional and technical range 22.

36 Section 7 of the bill corrects the omission of
37 Assistant Rehabilitation Administrators from the
38 first sentence of the Maine Revised Statutes, Title
39 39, section 92, subsection 8, as explained below.

40 The rehabilitation subchapter enacted by Public
41 Law 1985, chapter 372, Part A, section 29, created
42 the unclassified positions of Rehabilitation Adminis-
43 trator and Assistant Rehabilitation Administrators in

1 the Maine Revised Statutes, Title 39, section 82,
2 subsection 1, which expressly authorizes the chairman
3 to appoint and remove these positions, with the con-
4 currence of the commission:

5 "1. Office of Employment Rehabilitation; ap-
6 pointment. An Office of Employment Rehabilitation
7 shall be maintained under the direction of a rehabil-
8 itation administrator, in this subchapter referred to
9 as the "administrator." The chairman may appoint and
10 remove the administrator and assistant administrators
11 with the concurrence of the commission. The adminis-
12 trator shall report and be directed by the chairman
13 and shall carry out the duties assigned to the admin-
14 istrator in this Act."

15 The parallel section of the law in the Maine Re-
16 vised Statutes, Title 39, section 92, subsection 8,
17 which authorizes the chairman to appoint the Rehabil-
18 itation Administrator omits the Assistant Rehabilita-
19 tion Administrators' positions. This omission was an
20 oversight, in light of the Maine Revised Statutes,
21 Title 39, section 82, subsection 1.

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