

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

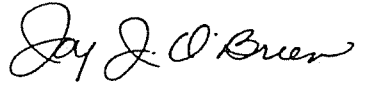
No. 188

S.P. 122

In Senate, February 15, 1989

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

Reference to the Committee on Banking and Insurance suggested and ordered printed.


JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator COLLINS of Aroostook.
Cosponsored by Senator THERIAULT of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act Relating to Workers' Compensation Insurance.



1 **Be it enacted by the People of the State of Maine as follows:**

3 **Sec. 1. 24-A MRSA §2363, sub-§4, as enacted by PL 1987, c.**
5 **559, Pt. A, §4, is repealed and the following enacted in its**
6 **place:**

7 **4. Contents of filing. A rate filing shall include:**

9 **A. Maine premium, loss and loss adjustment experience.**
11 **Maine premium, loss and loss adjustment experience shall**
12 **show:**

13 **(1) Data from all companies writing workers'**
14 **compensation insurance in this State. If a company is**
15 **excluded from the rate level, trend, loss development,**
16 **expense determination, classification differentials or**
17 **investment income calculations, that company and its**
18 **market share shall be identified and an explanation**
19 **provided for its exclusion;**

21 **(2) Premiums calculated at current rate level.**
22 **Whenever on-level factors are used, their derivation**
23 **shall be shown. The derivation of the percentages of**
24 **total premium written and earned at various rate levels**
25 **shall also be shown;**

27 **(3) The amount of premium collected from the expense**
28 **constant. This premium shall be provided in dollars**
29 **and as a percentage of the standard earned premium and**
30 **as a percentage of net earned premium. If the**
31 **percentage of premium collected in this manner is**
32 **expected to change, the extent of the change shall be**
33 **estimated and the details of this estimation provided;**

35 **(4) The amount of premium collected by the minimum**
36 **premium. This premium shall be provided in dollars and**
37 **as a percentage of standard earned premium and as a**
38 **percentage of earned premium. If the percentage of**
39 **premium collected in this manner is expected to change,**
40 **the extent of the change shall be estimated and the**
41 **details of this estimation provided;**

43 **(5) Earned premiums which shall include premium**
44 **collected from the specific disease loading. If**
45 **disease loadings have been excluded, a justification**
46 **shall be provided;**

47 **(6) The latest earned premiums and market shares for**
48 **the 10 largest workers' compensation insurers, by**
49 **group, in this State;**

51 **(7) The following information on companies deviating**

1 from bureau workers' compensation rates for each of the
3 last 3 years:

5 (a) A list of all deviating companies;

7 (b) The total standard premium written at
9 deviated rates;

11 (c) The percentage of the entire statewide
13 standard premium written at deviated rates;

15 (d) The total amount of deviations in dollars;

17 (e) The average percentage deviation for
19 deviating companies; and

21 (f) The average percentage deviation for all
23 companies;

25 (8) The following information on company workers'
27 compensation dividend practices for each of the last 3
29 years:

31 (a) A list of all companies issuing dividends;

33 (b) The total amount of dividends in dollars;

35 (c) The average percentage dividend issued by
37 companies issuing dividends; and

39 (d) The average percentage dividend issued by all
41 companies;

43 (9) All policy year and accident year incurred loss
45 data used in the filing, provided in the aggregate and
47 also separated into paid losses, case-incurred and
49 incurred but not reported losses; and

51 (10) The related incurred losses for all incurred loss
adjustment expense data contained in the filing;

B. Credibility factor development and application. All
information relating to the selection of the credibility
factors contained in the filing shall be provided, which
shall include:

(1) A complete description of the methodology used to
derive the factors;

(2) A description of the criteria used to select the
methodology for inclusion in the filing;

1 (3) Details on the application of the methodology to
2 this filing; and

3 (4) A listing of alternative methodologies used in
4 other states in filings made during the last 2 years;

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6 C. Loss development factor development and application.

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8 (1) The following loss data at successive evaluation
9 dates shall be provided:

10 (a) At least the latest available 12 years of
11 data for matching companies for all pairs of
12 successive evaluation dates, except that for a
13 rate filing made in 1989 and 1990 the data periods
14 shall be 10 and 11 years, respectively;

15 (b) Data on both a policy year and an accident
16 year basis;

17 (c) Data separated into indemnity and medical
18 losses as well as combined data;

19 (d) Data separated into paid, case-incurred,
20 including incurred but not reported losses and
21 case-incurred excluding incurred but not reported
22 portions as well as total losses;

23 (e) Reported indemnity, medical, and total claims
24 for all years and evaluation dates for which loss
25 information is provided;

26 (f) The latest available 5-unit statistical
27 policy years of loss data for matching companies
28 for all pairs of successive evaluation dates;

29 (g) Case-incurred losses, number of claims,
30 standard earned premium and earned exposures;

31 (h) Losses separated into indemnity and medical
32 losses;

33 (i) Compensable claim experience separated into
34 deaths, permanent totals, major permanent
35 partials, minor permanent partials and temporary
36 totals;

37 (j) Current on-level benefit factors for each
38 injury type split between indemnity and medical;
39 and

40 (k) For each policy year, the actual average wage
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1 and the average wage after the application of any
2 payroll limitation.

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4 (2) All information relating to the selection of the
5 loss development factors contained in the filing shall
6 be provided. This information shall consist of:

7 (a) A complete description of the methodology
8 used to arrive at the selected factors;

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10 (b) A description of alternative methodologies
11 used or considered for use by the rating bureau in
12 other states during the last 2 years; and

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14 (c) Specific details regarding the application of
15 the criteria used in the selection of a
16 methodology for this filing;

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18 D. Trending factor development and application, which shall
19 include:

20 (1) The following trend information:

21 (a) Indemnity and medical trend factor
22 calculations based upon both policy year data and
23 accident year data from this State;

24 (b) Indemnity and medical trend factor
25 calculations based upon countrywide policy year
26 data;

27 (c) For the medical trend, separate compilations
28 for fee schedule and nonfee schedule states on
29 both a policy year and an accident year basis; and

30 (d) Any econometric projections done of claim
31 severity, claim frequency and average weekly wages
32 based on models used by or in the possession of
33 the rating bureau; and

34 (2) All information relating to the selection of the
35 trend factors contained in the filings. This
36 information shall include:

37 (a) A complete description of the methodology
38 used to derive the selected factors;

39 (b) A description of alternative methodologies
40 used or considered for use by the rating bureau in
41 other states; and

42 (c) Specific details regarding the application of

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the criteria used in the selection of a methodology of this filing;

E. Changes in premium base and exposures. The following information shall be provided with any filing proposing a change in premium discounts, expense constants or minimum premiums:

(1) Information on the distribution by size of policy shall be provided so that the effects of premium discount, the expense constant and the minimum premium rule can be calculated. This information shall include the number of policies and the dollar amount of premium in this State for the latest available 3 years separately for stock and nonstock companies, and combined using the following premium size distribution: \$0-\$199; \$200-\$299; \$300-\$499; \$500-\$999; \$1,000-\$2,999; \$3,000-\$4,999; \$5,000-\$9,999; \$10,000-\$24,999; \$25,000-\$49,999; \$50,000-\$99,999; \$100,000-\$249,999; and over \$249,999. Information shall be provided for the premium bands affected by the proposed changes; and

(2) Any countrywide distributions of number of policies or premium by layer that is used in the filing shall be described. Details shall be provided concerning how these distributions have been used in the rate filing, the sources and dates of the information used to produce the distributions and a description of any adjustments that have been made to the distributions;

F. Limiting factor development and application, which shall include the following information:

- (1) Limitations on losses included in the statistical data used in the filing;
- (2) Limitations on the extent of the rate level change;
- (3) Limitations on the extent of classification rate changes; and
- (4) Any other limitations applied;

G. Overhead expenses. The part of the filing pertaining to overhead expenses shall include the following:

(1) The expense provisions used in the filing and an explanation of the derivation of the expense provisions which shall include the following information:

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(a) A complete description of the methodology used to derive the selected provisions;

(b) A description of alternative methodologies used or considered for use by the rating bureau in other states; and

(c) Specific details regarding the application of the criteria used in the selection of a methodology for this filing;

(2) Support for all the expense, tax and profit provisions for the proposed rates, under both the current and proposed expense provisions. An explanation shall be provided concerning why these provisions are appropriate for stock and nonstock insurance companies;

(3) Expense experience allocable to the coverage of risks in this State, including acquisition and field supervision expenses; taxes, licenses and fees; general expenses; and loss adjustment expenses. Safety engineering expense and loss control services expense shall be stated separately under general expense;

(4) A description of any adjustments of countrywide data to reflect conditions within this State and the details of the underlying calculations. If the proposed expense provisions differ from those indicated by the data, an explanation shall be provided;

(5) A description of how proposed allowances for expenses are reviewed each year by committees of the rating bureau;

(6) The dollar amount, if any, of taxes and assessments included in the collected loss data;

(7) The details of the derivations of the tax multiplier;

(8) Expense data required by this subsection, reported in the aggregate for all insurers. The expense data shall be reported separately for each of the 10 largest insurers, based on written premium in the prior calendar year;

(9) For each of the 10 largest writers of workers' compensation insurance in this State, a statement regarding any expense reduction activities undertaken in the last 3 years; and

1 (10) The changes and improvements instituted in loss
3 control and employee safety engineering for the 10
 largest carriers, based on written premium in the prior
 calendar year.

5 If the superintendent finds that state expense data is not
7 fully credible, the superintendent may consider expense data
 from outside this State;

9 H. Law amendment valuation. For any law changes becoming
11 effective during that period in which rates will be in
13 effect, or in effect but not evaluated in prior rate
 filings, the following information shall be provided:

15 (1) A complete description of the methodology used to
17 evaluate the law change;

19 (2) Identification of assumptions made and supporting
21 information for those assumptions, both as to
 information before and after the law change; and

23 (3) Identification of the source and timeliness of
25 data, including identification of data from experience
 within this State and data from countrywide or other
 states;

27 I. A showing of the overall statewide rate change as well
29 as the amount of the change attributable to each of the
31 following: Loss experience; a modification of the trend
33 factor; a change in expense provisions; law amendments; a
 change in the tax provision; a change in the assessment
 provision; and any other factors. The rate changes for each
 industry group and each classification shall also be shown;

35 J. The proposed rates for each classification;

37 K. Investment earnings. The following information related
39 to anticipated investment income shall be provided:

41 (1) Information on the amount of investment income
43 earned on loss, loss expense and unearned premium
45 reserves in relation to both net and standard earned
47 premium for workers' compensation in this State,
49 calculated for the latest 5 years and estimated for the
 current year and all years during which the proposed
 rates will be in effect. The derivation of such
 calculations shall be provided in detail, including the
 amount of the composite reserves of each type at the
 beginning and end of each of the specified years;

51 (2) The estimated pay-out pattern of compensable
 injuries and illnesses in this State, adjusted to

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current law; and

(3) Composite information from the annual statement for all workers' compensation insurers in this State. The following information from the latest 2 annual statements shall be provided in the same format and detail as the exhibits in individual company statements:

(a) Page 2, Assets, line one through the line identified "Totals.";

(b) Page 3, Liabilities, Surplus and Other Funds, line one through the line identified "Totals.";

(c) Page 4, Underwriting and Investment Exhibit, line one through the line identified as "Surplus as regards policyholders, December 31 current year.";

(d) Exhibit one, Analysis of Assets, line one through the line identified "Totals."; and

(e) Schedule P sections dealing with workers' compensation;

L. An identification of all statistical plans used or consulted in preparing this filing. A description of the data compiled by each plan shall also be provided;

M. The resulting rates of return on equity capital resulting from the selected underwriting profit and contingency factor. The derivation of all factors used in producing the calculations and justification that the rate of return on equity is just and reasonable shall be provided;

N. The level of capital and surplus needed. The following information relating to the level of capital and surplus shall be provided:

(1) Aggregate premium to surplus ratios and reserve to surplus ratios for the latest 5 calendar years for all companies writing workers' compensation insurance in this State; and

(2) Estimates of comparable ratios for the years during which the rates will be in effect; and

O. The following miscellaneous information:

(1) For the following items, an explanation of the purpose for and a detailed description of the derivation shall be included:

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- (a) Expected loss rate;
- (b) D-ratio;
- (c) Excess loss factors;
- (d) Excess loss adjustment amounts; and
- (e) Table of weighting and ballast values;

(2) The following information relating to the derivation of the profit and contingency loading contained in the filing shall be provided:

- (a) A complete description of the methodology used to arrive at the selected loading;
- (b) A description of alternative methodologies used or considered for use by the rating bureau in other states; and
- (c) Specific details regarding the application of the criteria used in the selection of a methodology for this filing; and

(3) Information shall also be provided on all filings by the rating bureau that have been submitted with an underwriting profit and contingency loading other than the provision used in this filing. The following information shall be listed for all such filings in the last 3 years: The State; the underwriting profit and contingency loading submitted; the loading approved; and the effective date of the rate.

For a filing made on or after July 1st in any year, the data and information required in paragraphs A, C, D, G, K and N shall be for the period ending with the immediately preceding calendar year. For a filing made prior to July 1st, the data and information required in paragraphs A, C, D, G, K and N shall be for the period ending with the second preceding calendar year.

Sec. 2. 24-A MRSA §2363, sub-§5, as enacted by PL 1987, c. 559, Pt. A, §4, is repealed.

Sec. 3. 24-A MRSA §2363, sub-§5-A is enacted to read:

5-A. Voluntary and residual market rates. If rates and rating factors for the voluntary market and the residual market are submitted concurrently, the following information shall be included in the filing:

1 A. An explanation of the derivation of the rate
3 differential, or differentials, among the voluntary market
5 rates, the safety pool rates and the accident prevention
7 account rates; and

9 B. For a filing made on or after July 1st in any year, for
11 the 3 calendar years immediately preceding the date of
13 filing, the actual written premium, earned premium, incurred
15 losses, incurred loss adjustment expenses, paid losses and
17 paid loss adjustment expenses. For a filing made prior to
19 July 1st, the premium loss and expense information required
21 by this paragraph shall be for the 2nd, 3rd and 4th
23 preceding calendar years.

25 **Sec. 4. 24-A MRSA §2371, sub-§2, ¶C,** as repealed and replaced
27 by PL 1987, c. 769, Pt. A, §99 is amended to read:

29 C. Information concerning Workers' Compensation Commission
31 proceedings, including:

33 (1) As to each informal conference, the date,
35 commissioner, involvement of attorney or other
37 designated representative, ~~employer's offer,~~ ~~insurer's~~
39 ~~offer,~~ ~~employee's expectation~~ and resolution; and

41 (2) As to each hearing, the date, commissioner,
43 involvement of attorney or other designated
45 representative, ~~employer's offer,~~ ~~insurer's offer,~~
47 ~~employee's demand~~ and commissioner's decision. If a
49 disputed claim results in multiple hearing dates, the
51 commissioner's decision shall be reported for the last
hearing date.

53 **Sec. 5. 24-A MRSA §2371, sub-§2, ¶D,** as enacted by PL 1987, c.
55 559, Pt. A, §4, is amended to read:

57 D. Cost of payment information on each claim, identified as
59 open or closed, including:

61 (1) Payments to date to any physician, hospital,
63 medical rehabilitation provider or other medical
65 provider, together with a description of the services,
67 name of the provider and, amount of payment and date of
69 service;

71 (2) Payments made to date for weekly compensation,
73 impairment benefits, death benefit, funeral expense,
75 employee legal expense, employer legal expense, lump
77 sum, witness fees, penalties, vocational rehabilitation
79 services with a description of services and name of
81 rehabilitation provider and any other type of payments
under Title 39;

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3 (3) With respect to open claims, an estimate of
5 outstanding liability, including anticipated payments,
7 separately stated, for physician, hospital, other
9 medical, weekly compensation, impairment benefits,
11 vocational rehabilitation, employee legal expense,
13 employer legal expense, witness fees and any other type
15 of payment; and

17 (4) Identification, both on payments and outstanding
19 liabilities, of benefit offsets for Social Security,
21 unemployment insurance, employer provided pension and
23 any other source; and

25 (5) For medical only claims the superintendent may
27 establish a claim threshold for which detailed claim
29 reporting requirements of this section shall not apply
31 if the cumulative payments are less than the threshold.

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35 Sec. 6. 24-A MRSA §2371, sub-§3 as enacted by PL 1987, c.
37 559, Pt. A, §4, is repealed.

39 Sec. 7. 24-A MRSA §2371, sub-§3-A is enacted to read:

41 3-A. Special data calls. The superintendent may, with
43 prior notice, require the insurer and self-insurer statistical
45 advisory organizations to conduct special data calls to collect
47 information usable to evaluate the costs or workings of the
49 workers' compensation system. Any special data call imposed by
51 the superintendent under this provision shall give due
consideration to the information collected and maintained by
insurers and self-insurers. Requests for information not
currently being collected shall be prospective.

53 Sec. 8. 24-A MRSA §2371, sub-§10, as enacted by PL 1987, c.
55 559, Pt. A, §4, is amended to read:

57 10. Claims covered. This section shall apply to all claims
59 occurring on or after ~~January 1, 1987~~ January 1, 1989; to all
61 death, permanent total and major permanent partial claims
63 occurring between January 1, 1987 and December 31, 1988; and to a
65 reasonable sample, as approved by the superintendent, of all
67 other indemnity claims occurring between January 1, 1987 and
69 December 31, 1988. The superintendent may suspend the reporting
71 requirements of specific items for periods when information which
is to be obtained from the Workers' Compensation Commission is
temporarily not available from that commission.

73 Sec. 9. 24-A MRSA §2372, sub-§1, as enacted by PL 1987, c.
75 559, Pt. A, §4, is amended to read:

77 1. Applicability. Each insurer with direct written premium

1 of 1% or more of the total workers' compensation market shall
submit a quarterly report, as described in this section, to the
3 superintendent. The superintendent may amend the reporting to an
annual basis as the policy year experience matures.

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7 **Sec. 10. 39 MRSA §52**, as amended by PL 1987, c. 559, Pt. B,
§19, is further amended by adding at the end a new paragraph to
read:

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11 The Superintendent of Insurance shall prescribe medical and
health care expense forms for the purpose of collecting
information as required by Title 24-A, section 2371. An insurer
13 or self-insurer may withhold payment of medical and health care
fees to any provider who fails to complete and submit the
15 prescribed form. No claimant may incur liability for the cost of
any provided medical or health care services resulting from a
17 provider's failure to comply with this section.

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21 **STATEMENT OF FACT**

23 Section 1 of the bill would enact new requirements
specifying that information needed to evaluate a workers'
25 compensation rate filing be made part of the original filing.
Information currently required to be filed which is unnecessary
27 and not used will be deleted.

29 Sections 2 and 3 of the bill specify that if the filing
proposes rates for the voluntary market and the residual market,
31 supporting information shall be provided justifying the rate
level of each market.

33 Sections 4 through 9 amend provisions of Title 24-A,
35 sections 2371 and 2372, to accommodate data collection directly
by the Workers' Compensation Commission for the workers'
37 compensation data base, to modify some of the current reporting
requirements and to eliminate unnecessary data items.

39 Section 10 requires that medical providers complete forms
41 designed to supply certain medical data before being paid for
services reimbursable under the Workers' Compensation Act. This
43 change is needed to ensure the compilation of data concerning the
sources of costs of the workers' compensation system, one of the
45 provisions of the 1987 workers' compensation law reform.