

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 806

S.P. 307

In Senate, March 16, 1989

Reference to the Committee on Labor suggested and ordered printed.

Joy J. O'Brien

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BUSTIN of Kennebec.

Cosponsored by Speaker MARTIN of Eagle Lake and Representative McHENRY of Madawaska.

STATE OF MAINE

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

An Act Relating to Vocational Rehabilitation under the Workers' Compensation Act.



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

3 **Sec. 1. 5 MRSA §953, sub-§1, ¶B,** as enacted by PL 1985, c. 601,
5 §1, is repealed and the following enacted in its place:

7 B. Director, Division of Workers' Rehabilitation.

9 **Sec. 2. 39 MRSA §57-B,** as amended by PL 1987, c. 560, §4, is
repealed.

11 **Sec. 3. 39 MRSA §57-C,** as amended by PL 1985, c. 691, §47, is
13 repealed.

15 **Sec. 4. 39 MRSA c. 1, sub-c. III-A,** as amended, is repealed.

17 **Sec. 5. 39 MRSA c. 1, sub-c. III-B** is enacted to read:

19 SUBCHAPTER III-B

21 REHABILITATION

23 §90-A. Division of workers' rehabilitation

25 There is established within the Workers' Compensation
27 Commission the Division of Workers' Rehabilitation to provide
29 rehabilitation programs for employees who suffer injuries which
are compensable under this Act and which disable them from
performing their customary or most recent work.

31 1. Director; assistants. The division shall be
33 administered by a full-time salaried director. The chair may
35 appoint and remove the director with the concurrence of the
commission. The chair may appoint and remove any necessary
assistants with the concurrence of the commission. Assistants to
the director are not subject to Title 5, chapter 372.

37 2. Rehabilitation programs. The director shall establish
39 rehabilitation programs which best suit the needs of the injured
41 employees and shall make these programs available in convenient
43 locations throughout the State. No employee who otherwise meets
45 the qualifications of this subsection may be denied
47 rehabilitation services solely due to the date on which the
employee suffered the injury. After consultation with the
Workers' Compensation Commission and the Commissioner of Labor,
the director may establish fees for these programs, so as to
provide the most effective rehabilitation programs at a minimum
rate.

49 3. Rulemaking. In order to carry out this subchapter, the
51 commission shall adopt rules by January 1, 1990, in accordance
with Title 5, chapter 375.

1 §90-B. Financing of division and programs

3 In order to finance the cost of the rehabilitation division
5 and the programs established by its director, each employer,
7 other than the State and any self-insured municipality, shall
9 annually, on or before July 1st, pay to the State Treasurer a sum
11 equal to 2% of the total amount of money expended by that
13 employer or by a private insurance carrier on behalf of that
15 employer in payment of the employer's liability under this Act
17 for the preceding calendar year. The sums received shall be
19 segregated from other state money into a separate nonlapsing fund
21 to be known as the Rehabilitation Fund. The treasurer is the
23 custodian of the fund and all disbursements from the fund shall
25 be made by the treasurer or the treasurer's deputies. The
27 treasurer shall invest the money of the fund in accordance with
29 law. Interest, income and dividends from these investments shall
31 be credited to the fund. Each employer and private insurance
33 carrier acting on behalf of any employer shall annually, by April
35 1st, report to the treasurer, in the form prescribed by the
37 treasurer, the amount of money expended by or on behalf of the
39 employer in payment of the employer's liability under this Act
41 for the preceding calendar year.

23 §90-C. Agreements with other state or federal agencies

25 The director, with the commission's approval, may:

27 1. Enter into agreements with other state or federal
29 agencies to accomplish the purposes of sections 90-A and
31 90-B;

33 2. Expend money for that purpose; and

35 3. On behalf of the State, develop matching programs or
37 activities to secure federal grants or funds for these
39 purposes, and for that purpose may pledge or use the funds
41 provided by section 90-B to finance the State's share of
43 these programs.

45 Sec. 6. Effective Date. This Act takes effect on January 1,
47 1990, except that those provisions related to the hiring or
49 appointment of personnel take effect 90 days after the end of
51 this legislative session.

45 Sec. 7. Transition. The following provisions govern the
47 transition to the rehabilitation system established by this Act.

49 1. All money in the Employment Rehabilitation Fund
51 established under the Maine Revised Statutes, Title 39, section
53 57-B, shall, on January 1, 1990, be transferred to the
55 Rehabilitation Fund established under this Act.

1 2. All obligations of the Employment Rehabilitation Fund
incurred before January 1, 1990, shall be transferred to the
3 Rehabilitation Fund established under this Act.

5 3.. All rules related to the Employment Rehabilitation Fund
shall remain in effect until amended or repealed by the Workers'
7 Compensation Commission.

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STATEMENT OF FACT

13 This bill replaces the current rehabilitation system under
the Workers' Compensation Act with a new system modeled on one in
15 operation in the state of Connecticut. The bill repeals the
current voluntary rehabilitation system under which both the
17 employee and the insurer may veto a proposed rehabilitation
plan. The bill establishes a new Division of Workers'
19 Rehabilitation within the Workers' Compensation Commission. This
division will be funded by an annual assessment upon insurers and
21 self-insured employers at the rate of 2% of workers' compensation
liability for the previous calendar year. The division will
23 select employees to receive rehabilitation and design the
rehabilitation plans. The bill applies to all employees who have
25 suffered compensable injuries that prevent them from resuming
their prior occupations. An employee who suffered an injury
27 before the effective date of this Act is still eligible to
receive rehabilitation services from the division.

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