

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

## SECOND REGULAR SESSION - 1990

Legislative Document

No. 2288

S.P. 898

In Senate, February 7, 1990

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator GAUVREAU of Androscoggin.

Cosponsored by Speaker MARTIN of Eagle Lake, Senator ESTY of Cumberland and Representative McHENRY of Madawaska.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY

An Act to Facilitate Workers' Compensation Payments to Injured Workers.



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

2  
39 MRSA §104-C is enacted to read:

4  
§104-C. Apportionment Disability Fund

6  
1. Apportionment Disability Fund. There is created the  
8 Apportionment Disability Fund for the purpose of making payments  
10 provided under subsection 2.

12 A. There is levied and imposed in 1990 an assessment on  
14 each insurer at the rate of 1/4% of its actual paid losses  
16 during the previous calendar year.

18 (1) The State Tax Assessor shall base this assessment  
20 upon the quarterly reports required under section 57-C  
22 and shall make and collect this assessment as provided  
24 in that section, provided that all bills and funds are  
26 kept separate from any bills made or funds received  
28 under section 57-C. The State Tax Assessor shall pay  
30 all receipts from this assessment to the Treasurer of  
32 State. The Treasurer of State shall deposit all  
34 receipts as received in the Apportionment Disability  
36 Fund.

38 (2) For the purposes of this paragraph, "insurer"  
40 means an insurance company or association that does  
42 business or collects premiums for workers' compensation  
44 insurance in this State or an individual or group  
46 self-insurer under this Title, including the State and  
48 other public or governmental authority.

50 B. The chair of the commission shall administer the  
52 Apportionment Disability Fund.

(1) The Treasurer of State is the custodian of the  
fund. The Treasurer of State shall hold all money and  
securities in the fund in trust for the purpose of  
making payments under subsection 2.

(2) The Treasurer of State shall invest the money of  
the fund in accordance with law. Interest, income and  
dividends from investments are credited to the fund.

(3) All money and securities in the fund are not money  
or property for the general use of the State. The fund  
does not lapse.

(4) The Treasurer of State may disburse money from the  
fund only upon written order of the chair. The State  
is not liable for any claim against the fund that is in  
excess of the fund's balance. If any employee's claim

2                   against the fund is denied due to an inadequate fund  
3                   balance, that employee's claim is entitled to priority  
4                   over later claims when an adequate fund balance is  
5                   restored.

6                   (5) The Attorney General shall provide legal  
7                   representation for the Apportionment Disability Fund.

8                   **2. Interim compensation.** If the commission finds that an  
9                   employee has suffered a compensable injury and is currently  
10                   totally incapacitated or has died as a result of the injury, the  
11                   commission shall order compensation to be paid to that employee  
12                   or the employee's dependents from the Apportionment Disability  
13                   Fund while litigation is pending under section 104-B.

14                   A. Compensation payable from the fund includes any benefits  
15                   or compensation due under this Title other than subchapter  
16                   III-A.

17                   B. Compensation from the fund ceases when the commission  
18                   determines the insurers' apportioned liability under section  
19                   104-B. Upon this determination, the insurer or insurers  
20                   responsible for payment under section 104-B shall reimburse  
21                   the Apportionment Disability Fund for their respective  
22                   shares of payments made to the employee from the fund.

23

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## STATEMENT OF FACT

25                   This bill establishes the Apportionment Disability Fund to  
26                   pay workers' compensation benefits to injured employees when no  
27                   dispute exists over the compensability of the employee's injury  
28                   but 2 or more insurers are disputing their respective  
29                   responsibility to pay the benefits. This prevents an injured  
30                   worker from suffering financial ruin when the injury is clearly  
31                   compensable but no insurer is willing to pay the benefits because  
32                   it believes that another insurer is responsible.

33

34                   Under the bill, if an employee is totally incapacitated or  
35                   dies as a result of a work-related injury, the employee or the  
36                   employee's dependents receive benefits from the fund while the  
37                   insurers litigate the question of apportionment. When the  
38                   Workers' Compensation Commission finally resolves the  
39                   apportionment questions, the insurers are required to reimburse  
40                   the fund for their respective shares of benefits paid to the  
41                   employee from the fund. The Apportionment Disability Fund is  
42                   initially funded by a one-time assessment of 1/4% on actual paid  
43                   losses of all workers' compensation insurers and self-insurers.  
44                   No further assessments are necessary since the fund will be  
45                   reimbursed for expenditures by the insurers.

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