

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.

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:

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39 MRSA §104-C is enacted to read:

4
§104-C. Apportionment Disability Fund

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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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