

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 205

S.P. 108

Received by the Secretary, January 28, 1991

Reference to the Committee on Banking and Insurance 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 Senator ESTY of Cumberland, Representative RUHLIN of Brewer and Senator BUSTIN of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

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



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

39 MRSA §104-C is enacted to read:

§104-C. Apportionment Disability Fund

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

A. In 1991 an assessment is levied on each insurer at the rate of 1/4% of its actual paid losses during the previous calendar year.

(1) The State Tax Assessor shall base this assessment on the quarterly reports required under section 57-C and collect this assessment as provided in that section, provided that all bills and funds are kept separate from any bills incurred or funds received under section 57-C. The State Tax Assessor shall pay all receipts from this assessment to the Treasurer of State. The Treasurer of State shall deposit all receipts as received in the Apportionment Disability Fund.

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

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

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

(2) The Treasurer of State may invest the money of the fund in accordance with law. Interest, income and dividends from investments must 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 given priority over
4 later claims when an adequate fund balance is restored.

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

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

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

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

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27 **STATEMENT OF FACT**

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

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

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