

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1253

S.P. 470

In Senate, March 21, 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 CONLEY of Cumberland

Cosponsored by Representative GOULD of Greenville, Representative POWERS of Coplin Plantation and Representative PARADIS of Frenchville.

STATE OF MAINE

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

An Act to Create a Logging Fund to Provide Safety and Reasonably Priced Guaranteed Insurance for the State's Logging Industry.



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

2
39 MRSA §57-D is enacted to read:

4
§57-D. Logging Industry Fund

6
1. Definitions. As used in this section, unless the
8 context otherwise indicates, the following terms have the
following meanings.

10
A. "Employment in the logging industry" means employment in
12 the logging industry as described in the sections of the
workers' compensation and employers' liability insurance
14 manual filed with and approved by the Superintendent of
Insurance containing the logging and lumbering
16 classifications of "mechanized equipment operators," code
number 2709 and "all other employees and drivers," code
18 number 2702.

20
B. "Insurer" means an insurance company or association that
22 does business or collects premiums for workers' compensation
insurance in this State or an individual or group
24 self-insurer under this Act, including the State and other
public or governmental authority.

26
2. Fund administration and contributions. There is
28 established a special nonlapsing fund, known as the Logging
Industry Fund, for the sole purpose of making payments in
accordance with this section. The chair shall administer the
30 fund. The Treasurer of State is the custodian of the fund. All
money and securities in the fund are held in trust by the
32 Treasurer of State for the purpose of making payments under this
section and are not money or property for the general use of the
34 State.

36
The Treasurer of State may disburse money from the fund only upon
written order of the chair. The Treasurer of State shall invest
38 the money of the fund in accordance with law. Interest, income
and dividends from the investments must be credited to the fund.

40
3. Reimbursement. An employer must be reimbursed at least
42 quarterly from the Logging Industry Fund for any weekly
compensation in excess of \$25,000 paid to an employee or the
44 employee's survivors under section 54-B, 55-B or 58-A due to
death or injury arising out of and in the course of employment in
46 the logging industry.

48
A. An employer entitled to reimbursement under this section
50 remains liable to the employee for all payments otherwise
required from the employer by this Act and shall carry out
52 any rehabilitation efforts required by subchapter III-A as a
result of the injury.

2 B. The chair may agree to reimburse an employer otherwise
4 eligible for reimbursement under this section for that
6 portion of a lump sum payment under section 71-A related to
8 future compensation under section 54-B, 55-B or 58-A due to
 an employee or the employee's survivors if the chair finds
 that the settlement represents a reasonable economic
 determination of that future liability.

10 4. Jurisdiction. The commission has jurisdiction over all
12 claims brought against the Logging Industry Fund.

14 A. The fund is not bound as to any question of law or fact
16 by reason of any award or any adjudication to which it was
18 not a party or in relation to which it was not notified, at
 least 21 days before the award or adjudication, that it
 might be subject to liability for the injury or death.

20 B. An employer shall notify the commission of any possible
22 claim for reimbursement against the Logging Industry Fund as
24 soon as practicable, but in no event later than one year
 after the right to reimbursement first accrues. Failure to
 provide timely notice bars the claim.

26 5. Apportionment. Reimbursement under this section is
28 reduced by the amount of any contribution paid to the employer by
 any other employer for wage replacement benefits on the basis of
 apportioned liability under section 104-B.

30 A. If insurers disagree on the apportionment of liability
32 in a case under this section, the matter must be considered
34 by the Apportionment Review Panel established under section
36 57-B, subsection 1 before an insurer may file a petition
38 under section 104-B. The panel shall encourage agreement
 between the insurers and, if agreement can not be achieved,
 shall make a recommendation on the apportionment of
 liability.

40 6. Legal representation. The Attorney General shall
42 provide legal representation for any claim made under this
 section.

44 A. The reasonable expense of prosecution or defense by the
46 Attorney General of claims against the Logging Industry Fund
 is, subject to the approval of the commission, payable out
 of the Logging Industry Fund.

48 B. The Attorney General may not defend the Logging Industry
50 Fund against any claim brought by the State. The commission
52 may hire, using money from the Logging Industry Fund,
 private counsel for this purpose.

2 7. Freedom from liability. The State is not liable for any
3 claim against the Logging Industry Fund that is in excess of the
4 fund's current ability to pay. If any employer's claim against
5 the fund is denied due to an inadequate fund balance, that
6 employer's claim is entitled to priority over later claims when
7 an adequate balance is restored.

8 8. Rulemaking. The chair may adopt rules, subject to
9 section 92, subsection 1, to carry out the purposes of this
10 section.

11 9. Applicability. Reimbursement under this section is
12 available solely with respect to employees who are injured after
13 the effective date of this section. If reimbursement is
14 available from the Logging Industry Fund under this section,
15 reimbursement is not available from the Second Injury Fund under
16 section 57 or the Employment Rehabilitation Fund under section
17 57-B.

18 10. Assessment. There is levied and imposed an assessment
19 on each insurer at the rate of 1% of its actual paid losses
20 during the previous calendar quarter. The assessment is due on
21 or before the last day of the 2nd month after the close of the
22 calendar quarter. If, at the end of a calendar quarter, the
23 amount of deposit in the Logging Industry Fund is equal to or
24 exceeds the amount derived from the last assessment, the
25 assessment for that quarter is waived and not levied or imposed.
26 The Treasurer of State shall notify the State Tax Assessor on the
27 day after the end of the calendar quarter if the fund equals or
28 exceeds that amount. If so notified, the State Tax Assessor
29 shall immediately notify each insurer that the assessment is
30 waived for that quarter.

31 11. Payment of assessment. Assessments under this section
32 are based on and payment submitted with the report required under
33 section 57-C, subsection 4. The State Tax Assessor shall pay all
34 receipts from this assessment to the Treasurer of State daily.
35 The Treasurer of State shall deposit all receipts as received in
36 the Logging Industry Fund.

37 12. Inspections. The State Tax Assessor or the State Tax
38 Assessor's duly authorized agent, for the purpose of determining
39 the truth or falsity of any statement or return made by the
40 insurer, may:

41 A. Enter any place of business of an insurer to inspect any
42 books or records of the insurer;

43 B. Notwithstanding any other provision of law, inspect any
44 records or reports filed by an insurer with the
45 Superintendent of Insurance; and

