

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
115TH LEGISLATURE  
THIRD SPECIAL SESSION

HOUSE AMENDMENT "E" to HOUSE AMENDMENT "C" to H.P. 1783,  
L.D. 2464, Bill, "An Act to Reform the Workers' Compensation Act  
and Workers' Compensation Insurance Laws"

Amend the amendment in the 3rd paragraph after the title in  
the 5th line from the end (page 1, line 36 in amendment) by  
inserting after the following: "section 151." the following:  
'for the initial appointments to the board,' and in the last line  
(page 1, line 40 in amendment) by inserting at the end the  
following: 'The confirmation procedure for all subsequent  
appointments to the board is governed by Title 3, section 151.'

Further amend the amendment in the 5th paragraph after the  
title in the last line (page 1, line 48 in amendment) by  
inserting after the following: "State" the following: 'or a  
service provider to the workers' compensation system or a  
representative of a service provider to the workers' compensation  
system'

Further amend the amendment on page 2 in the 4th paragraph  
in the last line (page 2, line 21 in amendment) by inserting  
after the following: "basis" the following: ', including  
legitimate academic public policy, social science or medical  
research purposes'

Further amend the amendment on page 2 by striking out all of  
the next to the last paragraph (page 2, lines 41 to 45 in  
amendment) and inserting in its place the following:

'Further amend the bill in Part A in section 8 in that part  
designated "§153." by striking out all of subsection 8 and  
inserting in its place the following:

2           '8. Impairment guidelines. The following provisions apply  
4           regarding impairment guidelines.

6           A. In order to reduce litigation and establish more  
8           certainty and uniformity in the rating of permanent  
10           impairment, the board shall establish by rule a schedule for  
12           determining the existence and degree of permanent impairment  
14           based upon medically or scientifically demonstrable  
16           findings. The schedule must be based on generally accepted  
18           medical standards for determining impairment and may  
20           incorporate all or part of any one or more generally  
22           accepted schedules used for that purpose, such as the  
24           American Medical Association's "Guides to the Evaluation of  
26           Permanent Impairment." Pending the adoption of a permanent  
28           schedule, "Guides to the Evaluation of Permanent  
30           Impairment," 3rd edition, copyright 1990, by the American  
32           Medical Association, is the temporary schedule and must be  
34           used for the purposes of this subsection.

36           B. The board shall collect and analyze data from Maine  
38           cases to examine the feasibility and desirability of  
40           establishing a functional capacity standard to be used for  
42           determining eligibility for benefits under this Act. The  
44           board shall report its findings and any recommended  
46           legislation by January 1, 1995 to the First Regular Session  
48           of the 117th Legislature. This paragraph does not preclude  
50           the establishment by rule of an impairment schedule that is  
52           based in whole or in part on functional capacity if that  
              impairment schedule complies with the requirements of  
              paragraph A.' '

              Further amend the amendment on page 4 by striking out all of  
the first indented paragraph (page 4, lines 16 to 21 in  
amendment).

              Further amend the amendment on page 6 by inserting after the  
4th indented paragraph the following:

'Further amend the bill in Part A in section 8 in that part  
designated "§325." by inserting at the end the following:

'6. Study and report. The board shall collect and analyze  
data to determine whether injured Maine employees are being  
denied due process as a de facto matter through an inability to  
retain legal representation under this Act. The board shall  
report its findings and any recommended legislation by January 1,  
1995 to the First Regular Session of the 117th Legislature.' '

              Further amend the amendment on page 8 by striking out all of  
the 3rd paragraph from the end (page 8, lines 30 to 43 in  
amendment) and inserting in its place the following:

2        '4. Incorporation. The company must be incorporated  
4        pursuant to provisions of sections 3306 to 3309. Nine  
6        incorporators representing the 8 industry divisions established  
8        pursuant to section 3712, subsection 1, paragraphs A to H, plus  
10       one at-large member must be appointed by the Governor subject to  
12       review by the joint standing committee of the Legislature having  
14       jurisdiction over banking and insurance matters and confirmation  
16       of the Legislature. The Governor shall make the appointments  
18       within 10 days after the effective date of this subsection. The  
20       designated committee shall complete its review of the  
22       appointments of the Governor within 10 days of the Governor's  
24       written notice of the appointments and the vote of the  
26       Legislature must be taken no later than 5 days after the vote of  
28       the designated committee.'

30       Further amend the amendment on page 8 in the next to the  
32       last paragraph in the last line (page 8, line 46 in amendment) by  
34       inserting after the following: "State" the following: 'or a  
36       service provider to the workers' compensation system or a  
38       representative of a service provider to the workers' compensation  
40       system'

42       Further amend the amendment on page 9 by striking out all of  
44       subsection 5 (page 9, lines 9 to 31 in amendment) and inserting  
46       in its place the following:

48       '5. Composition of the board. The board consists of up to  
50       13 members as follows.

1       A. Nine members must be policyholders who purchase workers'  
3       compensation coverage from the Maine Employers' Mutual  
5       Insurance Company, except that the initial appointment may  
7       include employers who have purchased coverage through the  
9       workers' compensation residual market mechanism. Within 10  
11       days of the confirmation of the incorporators as provided in  
13       subsection 4, the incorporators shall appoint the initial 9  
15       members of the board of directors. The appointment of the  
17       initial 9 board members as provided in subsection 4 is  
19       subject to review by the joint standing committee of the  
21       Legislature having jurisdiction over banking and insurance  
23       matters and confirmation by the Legislature. The designated  
25       committee shall complete its review within 10 days of the  
27       incorporator's written notice of appointment and the vote of  
29       the Legislature must be taken no later than 5 days after the  
31       vote of the designated committee. Except for the initial  
33       selection of board members under subsection 4, each division  
35       as established pursuant to section 3712 must have one member  
37       on the board and one member must be an at-large policyholder  
39       member elected by the board.

2 B. Three members must be persons who represent the public  
4 interest of the company and must be appointed by the  
6 Governor subject to review by the joint standing committee  
8 of the Legislature having jurisdiction over banking and  
10 insurance matters and confirmation by the Legislature. The  
12 initial 3 public interest members must be appointed by the  
14 Governor within 10 days of the confirmation of the  
16 incorporators. The designated committee shall complete its  
18 review of those appointments within 10 days of the  
20 Governor's written notice of appointment and the vote of the  
22 Legislature must be taken no later than 5 days after the  
vote of the designated committee. All subsequent  
appointments of public interest members of the board of  
directors must be made within 30 days after a new board  
member is authorized or a vacancy occurs. The confirmation  
procedure for the subsequent appointments of public interest  
members of the board is governed by Title 3, section 151.

20 C. The remaining board member is the president and chief  
22 executive officer who serves on the board of directors while  
employed as president and chief executive officer.

24 A member of the board who is not elected by one of the divisions  
26 as specified in section 3712 may not be a lobbyist required to be  
28 registered with the Secretary of State or a service provider to  
the workers' compensation system or a representative of a service  
provider to the workers' compensation system.'

### FISCAL NOTE

32 This amendment will increase costs to the Legislature as a  
34 result of the additional expedited review and confirmation of the  
36 incorporators and board members of the Maine Employers' Mutual  
38 Insurance Company. These additional costs can be absorbed within  
existing budgeted resources.

### STATEMENT OF FACT

42 This amendment amends House Amendment "C", which contains  
44 changes agreed to by the Blue Ribbon Commission, in the following  
ways.

46 1. It specifies that the expedited procedure for  
48 confirmation of Workers' Compensation Board members outlined  
applies only to initial appointees and provides that the  
50 confirmation procedure for subsequent appointees is governed by  
the Maine Revised Statutes, Title 3, section 151.

2           2. It specifies that a member of the board may not be a  
3 service provider to the workers' compensation system or a  
4 representative of a service provider to the workers' compensation  
5 system.

6  
7           3. It specifies that the confidentiality policy of the  
8 Workers' Compensation Board must make records available on a  
9 need-to-know basis, including legitimate academic, public policy,  
10 social science or medical research purposes.

11           4. It requires that the Workers' Compensation Board collect  
12 and analyze data to determine the advisability of establishing a  
13 functional capacity standard to be used for determining  
14 eligibility for benefits.

15           5. It eliminates the changes in language concerning maximum  
16 benefit levels contained in the amendment.

17           6. It provides for confirmation of Maine Employers' Mutual  
18 Insurance Company incorporators.

19           7. It provides for review and confirmation of initial Maine  
20 Employers' Mutual Insurance Company board members on an expedited  
21 basis and subsequent confirmation of 3 public interest  
22 representatives.

23           8. It requires the Workers' Compensation Board to study the  
24 provision of legal representation to injured workers under the  
25 Maine Workers' Compensation Act of 1992.

26

27  
28 Filed by Rep. Pineau of Jay  
29 Reproduced and distributed under the direction of the Clerk of the  
30 House  
31 10/1/92

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