

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 361

S.P. 123

In Senate, February 9, 1993

An Act Relating to Workers' Compensation Insurance.

Reference to the Committee on Banking and Insurance suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BUSTIN of Kennebec.
Cosponsored by Senator: O'DEA of Penobscot.

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

2
4 **Sec. 1. 24-A MRSA §2386, sub-§15**, as enacted by PL 1991, c. 885, Pt. B, §12 and affected by §13, is amended to read:

6 **15. Loan.** The workers' compensation residual market pool
8 is authorized to and shall, upon written request pursuant to
10 section 3704, loan to the Maine Employers'--Mutual Workers' Compensation Insurance Company, initial funding of up to \$5,000,000.

12 **Sec. 2. 24-A MRSA §3701**, as amended by PL 1991, c. 885, Pt. C, §1, is further amended to read:

14 **§3701. Purpose**

16 The Maine Employers'--Mutual Workers' Compensation Insurance
18 Company is established for the purposes of providing workers'
20 compensation insurance and employers' liability insurance
22 incidental to and written in connection with workers'
24 compensation coverage to employers of this State at the highest
26 level of service and savings consistent with reasonable
applicable actuarial standards and the sound financial integrity
of the company. It is also the purpose of the company to
encourage employer involvement and to be responsive to each
division's experience, practice and operating effectiveness.

28 **Sec. 3. 24-A MRSA §3702, sub-§§1 and 2**, as enacted by PL 1991,
30 c. 615, Pt. D, §1, are amended to read:

32 **1. Board.** "Board" means the Board of Directors of the
Maine Employers'--Mutual Workers' Compensation Insurance Company.

34 **2. Company.** "Company" means the Maine Employers'--Mutual-Workers' Compensation Insurance Company created in section 3703.

36 **Sec. 4. 24-A MRSA §3702, sub-§6**, as enacted by PL 1991, c.
38 885, Pt. C, §2, is amended to read:

40 **6. Workers' compensation residual market mechanism.**
42 "Workers' compensation residual market mechanism" means the
instrument to provide coverage to employers not able to obtain
44 coverage in the voluntary market that immediately preceded the
former Maine Workers'--Compensation Employers' Mutual Insurance
46 Company.

48 **Sec. 5. 24-A MRSA §3703, first ¶**, as amended by PL 1991, c. 885, Pt. C, §3, is further amended to read:

2 The Maine Employers'-Mutual Workers' Compensation Insurance
3 Company is established as an assessable domestic mutual insurance
4 company subject to all the requirements and standards of this
5 Title that are applicable to cash plan insurers unless
6 specifically exempted from or which are clearly inconsistent with
7 the provisions contained in this chapter. Notwithstanding any
8 other law to the contrary, the company's authority to operate is
9 limited as follows.

10 Sec. 6. 24-A MRS §3703, sub-§5, as enacted by PL 1991, c.
11 885, Pt. C, §3, is amended to read:

12
13 5. **Composition of the board.** The board consists of up to
14 13 members. Nine members must be policyholders who purchase
15 workers' compensation coverage from the Maine Employers'-Mutual
16 Workers' Compensation Insurance Company, except that the initial
17 appointment may include employers who have purchased coverage
18 through the workers' compensation residual market mechanism.
19 Three members must be persons who represent the public interest
20 of the company and must be appointed by the Governor within 30
21 days after a new board member is authorized or a vacancy occurs,
22 subject to review and approval by the joint standing committee of
23 the Legislature having jurisdiction over banking and insurance
24 matters. The designated committee shall complete its review and
25 vote on approval of the appointments of the Governor within 15
26 days of the Governor's written notice of appointment. If the
27 designated committee fails to act within the required 15 days,
28 then the appointees put forward by the Governor become the
29 required board members. Except for the initial selection of
30 board members under subsection 4, each division as established
31 pursuant to section 3712 must have one member on the board. One
32 member must be an at-large policyholder member elected by the
33 board. The remaining board member is the president and chief
34 executive officer who shall serve on the board of directors while
35 employed as president and chief executive officer.

36
37 A member of the board who is not elected by one of the divisions
38 as specified in section 3712 may not be a lobbyist required to be
39 registered with the Secretary of State, a service provider to the
40 workers' compensation system or a representative of a service
41 provider to the workers' compensation system.

42 Sec. 7. 24-A MRS §3703, sub-§§5-A and 5-B are enacted to read:

43
44 5-A. Composition of the board beginning January 1, 1994.
45 Vacancies on the board beginning January 1, 1994 must be filled
46 in accordance with this subsection.
47
48

2 A. Beginning January 1, 1994, the board consists of 8
4 members. Four members must be employers who are
 policyholders of the company. Four members must be
 employees of employers who are policyholders of the company.

6 5-B. Terms of office of the board members beginning January
8 1, 1994. One employer and one employee member of the board who
 take office on January 1, 1994 serve for terms of one year. One
10 employer and one employee member of the board who take office on
 January 1, 1994 serve for terms of 2 years each. Two employer
12 and 2 employee members of the board who take office on January 1,
 1994 serve for 3 years each. Members of the board who take
14 office after January 1, 1994 serve for staggered terms of 3 years.

16 Sec. 8. 24-A MRSA §3703, sub-§9, as enacted by PL 1991, c.
 885, Pt. C, §3, is repealed.

18 Sec. 9. 24-A MRSA §3712, first ¶, as enacted by PL 1991, c.
 885, Pt. C, §8, is amended to read:

20 The Maine ~~Employers'-Mutual~~ Workers' Compensation Insurance
22 Company consists of industry or geographic divisions and a
 high-risk division.

24 Sec. 10. 24-A MRSA §3712, sub-§4, ¶¶B and C, as enacted by PL
26 1991, c. 885, Pt. C, §8, are amended to read:

28 B. There must be 9 governing board members for each
30 division, 6 employers selected by the policyholders within
 the division and 3 employees selected from employees of the
32 policyholders within the division. For the initial
 selection, members may be chosen from the workers'
34 compensation residual market mechanism policyholders and
 their employees. The president, with the approval of the
36 Maine ~~Employers'--Mutual~~ Workers' Compensation Insurance
 Company board of directors, shall establish procedures for
38 the initial and subsequent selection of governing board
 members, and procedures for the ~~filing~~ filling of vacancies
40 and replacements. Terms are for 3 years on a staggered
 basis.

42 C. Each division governing board shall elect a chair, who
 shall serve as the representative of the division on the
44 board of the company in accordance with the provisions of
 section 3703. On January 1st of each year the president of
46 the company shall designate for each division whether the
 chair of the governing board of the division must be an
48 employer or an employee of a policyholder of the division.
 In electing the chair of the division board pursuant to this
50 section, each division is bound by the designation of

2 the president. If the chair is unwilling or unable to serve
3 as the representative of the division on the board of the
4 company, the division governing board shall elect a member
5 to represent the division on the board of the company.

6 **Sec. 11. 32 MRSA §14055, sub-§2, ¶A,** as amended by PL 1991, c.
7 885, Pt. E, §43 and affected by §47, is further amended to read:

8
9
10 A. Under rules adopted pursuant to subsection 1, paragraph
11 B, the superintendent may provide a determination of the
12 circumstances and conditions, if any, under which an
13 employee leasing company may be the policyholder of a
14 workers' compensation insurance policy providing coverage to
15 employees leased to client companies. Additionally or
16 alternatively, the superintendent may require by rule that:

17 (1) The employee leasing company purchase separate
18 policies through the Maine Employers'--Mutual Workers'
19 Compensation Insurance Company, established pursuant to
20 Title 24-A, section 3703, for client companies subject
21 to Title 39-A; and

22 (2) The policies be assigned to one servicing carrier
23 and, to the extent practical, administered on a unified
24 basis. The superintendent also may provide by rule
25 that the employee leasing company or the President of
26 the Maine Employers'--Mutual Workers' Compensation
27 Insurance Company request from the superintendent a
28 waiver of a rule adopted pursuant to this subparagraph
29 if it is impractical for one servicing carrier to
30 service all the client companies of an employee leasing
31 company.

32
33 **Sec. 12. 39-A MRSA §102, sub-§14,** as enacted by PL 1991, c.
34 885, Pt. A, §8 and affected by §§9-11, is amended to read:

35
36 **14. Insurance company.** "Insurance company" means any
37 casualty insurance company or association authorized to do
38 business in this State that may issue policies conforming to
39 subsection 19 and includes the Maine Employers'--Mutual Workers'
40 Compensation Insurance Company. Whenever in this Act relating to
41 procedure the words "insurance company" or "insurer" are used,
42 they apply only to cases in which the employer has secured the
43 payment of compensation and other benefits by insuring such
44 payment under a workers' compensation insurance policy, instead
45 of furnishing satisfactory proof of the employer's ability to pay
46 compensation and benefits directly to the employer's employees.
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2 An insurance carrier may not be qualified to issue a workers'
3 compensation insurance policy covering any employees working in
4 this State unless it has and continuously maintains an employee
5 or claims agent within this State empowered to investigate claims
6 arising under this chapter; sign agreements for the payment of
7 compensation as provided by this chapter; and issue drafts or
8 checks in payment of obligations arising under this chapter in
9 amounts of at least \$1,000.

10 **Sec. 13. Repeal.** The Maine Revised Statutes, Title 24-A,
11 section 3703, subsections 5 and 6 are repealed on January 1, 1994.
12

13
14 **STATEMENT OF FACT**

15 This bill changes the name of the Maine Employers' Mutual
16 Insurance Company to the Maine Workers' Compensation Insurance
17 Company. As of January 1, 1994, it changes the composition of
18 the board of directors of the company from 12 policyholders and
19 the president to 4 employers who are policyholders and 4
20 employees of employers who are policyholders.