

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
116TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 292, L.D. 379, Bill, "An Act to Require an Employer Majority on the Board of Governors of the Workers' Compensation Residual Market Mechanism"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** employers and insurers have been surcharged for deficits in the residual market mechanism, and both are at risk of being surcharged and assessed further for future deficits; and

**Whereas,** employers and insurers face potential responsibility for deficits in the residual market mechanism that could amount to hundreds of millions of dollars; and

**Whereas,** in the current board of governors of the residual market mechanism, employer representatives are a minority of 3 compared to an insurer majority of up to 12; and

**Whereas,** it is the judgment of the Legislature that a change in the composition of the board of governors of the residual market mechanism will assist the mechanism in taking stronger hold of the affairs and business of the residual market mechanism and minimizing the amounts of future surcharges; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**COMMITTEE AMENDMENT**

P. of S.

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

4 Sec. 1. 24-A MRSa §2386, sub-§5, ¶G is enacted to read:

6 G. Beginning July 1, 1993, the plan must provide for a  
8 board of governors, which shall control the affairs and  
10 business of the residual market mechanism. The board of  
12 governors must be composed of 9 members, 5 of whom are  
14 individuals who represent the business community of the  
State and 4 of whom are individuals who represent insurers  
that are members of the residual market mechanism. The  
superintendent shall adopt rules to carry out the purposes  
of this paragraph.

16 (1) The representatives of insurers on the board of  
18 governors are elected by the membership at the annual  
20 meeting of the residual market mechanism for staggered  
22 terms of 3 years, with the first appointments of one  
24 member for one year, one member for 2 years and 2  
members for 3 years. An insurer or a group of insurers  
under common ownership, management or control may not  
be represented by more than one person on the board of  
governors.

26 (2) The business community members of the board of  
28 governors are appointed by the superintendent for  
30 staggered terms of 3 years, with the first appointments  
of one member for one year, 2 members for 2 years and 2  
members for 3 years.

32 Sec. 2. 24-A MRSa §2386, sub-§5-A is enacted to read:

34 5-A. Immunity. Individuals who serve on the board of  
36 governors are immune from personal civil liability for performing  
or failing to perform any discretionary function or duty under  
the Maine Tort Claims Act.

38 **Emergency clause.** In view of the emergency cited in the  
40 preamble, this Act takes effect when approved.

42 **FISCAL NOTE**

44 The Bureau of Insurance will incur some minor additional  
46 costs to adopt rules pertaining to the composition of the board  
48 of governors for the residual market mechanism. These costs can  
be absorbed within the bureau's existing budgeted resources.

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STATEMENT OF FACT

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This amendment does the following.

1. It replaces the emergency preamble.

2. It sets the membership on the board of governors of the residual market mechanism at 9: five individuals representing employers and 4 individuals representing insurers who are members of the residual market mechanism. The representatives of the insurers are elected by the insurers themselves when they meet at the annual meeting of the residual market mechanism. The representatives of the employers are appointed by the Superintendent of Insurance.

3. It grants Maine Tort Claims Act immunity to all members of the board of governors of the residual market mechanism.

4. It adds a fiscal note to the bill.

Reported by the Committee on Banking and Insurance  
produced and distributed under the direction of the Clerk of the  
House.  
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