

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1368

S.P. 436

In Senate, April 29, 1993

An Act to Establish a New Method of Workers' Compensation.

Reference to the Committee on Labor 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 VOSE of Washington.
Cosponsored by Representative: TOWNSEND of Eastport.

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

Sec. 1. 39-A MRSA §155 is enacted to read:

§155. Shared responsibility; workers' compensation system

Notwithstanding any other section of this Title, Title 24-A, chapter 25, subchapter II-B or rules adopted under those provisions, the Workers' Compensation Board may consider the following areas and may by rule adopt one or more of the approaches suggested in this section. In deciding whether to adopt a rule under this section, the board shall first determine that the rule will help establish a system that promotes shared responsibility for workplace safety, medical cost containment and overall system cost reduction while protecting injured employees' incomes and facilitating prompt return to appropriate employment. A rule adopted under this section may not be applied to an individual who was injured before the effective date of that rule.

1. Shared responsibility for safety. In its consideration of workplace safety, the board may decide to establish a safe workplace commission to oversee joint employer and employee safety inspections and remediation plans. The safe workplace commission must consist of members who have expertise in industrial accident and disease prevention, workplace ergonomics, technology investment strategy, operations management and human and engineering tolerance under stress. The board may decide to establish a mechanism by which employer and employee representatives inspect each workplace and submit a report on conditions, agreed-upon remedies and timelines to the safe workplace commission, which is required to certify satisfactory progress toward timely completion of the agreed-upon remedies. Failure to institute agreed-upon remedies may be penalized by removing the employer's immunity from civil liability to an injured employee granted by section 104.

2. Shared responsibility for overall system cost reduction. In its consideration of overall system cost reduction, the board may decide to develop a system in which all employers share responsibility for the State's industrial structure by standardizing workers' compensation insurance premium levels at a statewide average for all industries and employers and by eliminating self-insurance. The board may decide to reduce the standardized premium levels from the current 5% of payroll average as safe workplace objectives are achieved statewide and to establish a high-risk pool with higher premium rates for only those employers that fail to receive certification from a safe workplace commission.

2 3. Shared responsibility for medical costs. In its
3 consideration of medical cost containment, the board may decide
4 to create incentives for employers and employees to achieve
5 medical cost containment by establishing reasonable treatment
6 levels and by requiring that employees pay 10% of the premium
7 costs and that employer and employee representatives select a
8 list of mutually agreeable diagnostic physicians and treatment
9 providers whose medical findings, including diagnosis,
10 determination of the need for specialist care and determination
11 of ability to return to work, are binding on both parties. The
12 board may also require that the representatives of the employer,
13 the employee and the treatment provider establish a fee schedule
14 and reimbursement policy comparable to the employer-provided
15 health insurance or, when health benefits are not provided,
16 comparable to public insurance programs available to employees.
17 Fee schedules may be adjusted annually by no more than a weighted
18 average of the statewide cost-of-living index and the Consumer
19 Price Index medical component. Prepayment contracts may be
20 established in which costs are deducted from standardized
21 compensation premium rates.

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23 4. Shared responsibility for return to work. In its
24 consideration of facilitating prompt return to employment, the
25 board may decide to create a system in which employers and
26 employees have incentives for the employee to return to work that
27 is approved by the treatment provider by ensuring that the
28 injured employee maintains full take-home pay and benefits and by
29 requiring that the employer provide and the employee accept light
30 duty work or training for an appropriate alternative work
31 assignment, including technical, professional and managerial
32 assignments, approved by the treatment provider. The board may
33 decide that if the alternative work assignment entails a loss in
34 wage, the disability payments must continue in the amount of the
35 wage loss, but if the work assignment results in a higher wage,
36 the preinjury wage must be maintained until the employer recovers
37 the training costs. The board may decide to require the
38 continuation of life insurance and health and hospitalization
39 plans, seniority rights, scheduled raises, overtime, premium pay
40 and bonuses during the disability period or until normal
41 retirement age and the payment of normal pension benefits based
42 on full compensation and normal worklife. The board may decide
43 to require the deduction from disability payments of any outside
44 income from supplemental employment and private or social
45 insurance benefits but not from private investment income. The
46 board may decide that a finding of fraud must result in a written
47 warning for the first offense, imposition of a fine to be
48 deducted from the disability pay for the 2nd offense and
 termination of benefits and rights to participate in the system

2 for the 3rd offense. The board may decide that unreported paid
3 or unpaid employment or physical recreation exceeding the limits
4 certified by the treatment provider constitutes evidence of
5 fraud, appealable to the Workers' Compensation Board.

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8 **STATEMENT OF FACT**

10 This bill gives the Workers' Compensation Board the
11 authority to adopt rules for the workers' compensation system,
12 including workers' compensation insurance, notwithstanding any
13 other provision of the Maine Revised Statutes, Title 39-A or any
14 provision of the Workers' Compensation Rating Act. Any rules
15 adopted must be consistent with the stated standards for a shared
16 responsibility workers' compensation system.