

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1523

S.P. 491

In Senate, March 13, 1997

An Act to Make the Workers' Compensation System More Equitable.

Reference to the Committee on Labor 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 NUTTING of Androscoggin.
Cosponsored by Representative BUMPS of China and
Senator CLEVELAND of Androscoggin.

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

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4 **Sec. 1. 39-A MRSA §153, sub-§2**, as enacted by PL 1991, c. 885,
Pt. A, §8 and affected by §§9 to 11, is amended to read:

6 **2. Employee advocate.** The board shall establish a
7 ~~troubleshooter~~ an employee advocate program to provide
8 information and assistance to participants in the workers'
9 compensation system. The ~~troubleshooter~~ employee advocate may
10 meet or otherwise communicate with employees, employers,
11 insurance carriers and health care providers in order to prevent
12 or informally resolve disputes and assist employees through
13 mediation and hearings.

14 **Sec. 2. 39-A MRSA §154, sub-§6**, as amended by PL 1995, c. 59,
15 §4, is further amended to read:

18 **6. Assessment levied.** The assessments levied under this
19 section may not be designed to produce more than \$6,000,000 in
20 revenues annually beginning in the 1995-96 fiscal year or more
21 than \$6,700,000 annually beginning in the 1998-99 fiscal year.
22 Assessments collected that exceed \$6,000,000, beginning in the
23 1995-96 fiscal year or \$6,700,000 beginning in the 1998-99 fiscal
24 year, by a margin of more than 10% must be refunded to those who
25 paid the assessment. Any amount collected above the board's
26 allocated budget and within the 10% margin must be used to create
27 a reserve of up to 1/4 of the board's annual budget. Any
28 collected amounts or savings above the allowed reserve must be
29 used to reduce the assessment for the following fiscal year. The
30 board shall determine the assessments prior to May 1st and shall
31 assess each insurance company or association and self-insured
32 employer its pro rata share for expenditures during the fiscal
33 year beginning July 1st. Each self-insured employer shall pay
34 the assessment on or before June 1st. Each insurance company or
35 association shall pay the assessment in accordance with
36 subsection 3.

38 **Sec. 3. 39-A MRSA §309, sub-§3**, as enacted by PL 1991, c. 885,
39 Pt. A, §8 and affected by §§9 to 11, is amended to read:

40 **3. Witnesses; discovery.** All witnesses must be sworn.
41 Sworn Except as provided in subsection 3-A, sworn written
42 evidence may not be admitted unless the author is available for
43 cross-examination or subject to subpoena; ~~except that sworn~~
44 ~~statements by a medical doctor or osteopathic physician relating~~
45 ~~to medical questions, by a psychologist relating to psychological~~
46 ~~questions or by a chiropractor relating to chiropractic questions~~
47 ~~are admissible in workers' compensation hearings only if notice~~
48 ~~of the testimony to be used is given and service of a copy of the~~

letter-or-report-is-made-on-the-opposing-counsel-14-days-before
the-scheduled-hearing.

Depositions-or-subpoenas-of-health-care-practitioners-who-have
submitted-sworn-written-evidence-are-permitted-only-if-the
hearing-officer-finds-that-the-testimony-is-sufficiently
important-to-outweigh-the-delay-in-the-proceeding.

The board may establish procedures for the prefiling of summaries
of the testimony of any witness in written form. In all
proceedings before the board or its designee, discovery beyond
that specified in this section is available only upon application
to the board, which may approve the application in the exercise
of its discretion.

Sec. 4. 39-A MRSA §309, sub-§3-A is enacted to read:

3-A. Medical evidence. Sworn statements by an allopathic
doctor or osteopathic physician relating to medical questions, by
a psychologist relating to psychological questions or by a
chiropractor relating to chiropractic questions are admissible in
workers' compensation hearings. With respect to that evidence,
hearings must proceed on the basis of the sworn statements alone
and the authors of those sworn statements are not subject to
cross-examination at a hearing. Service of a copy of the letter
or report must be made on the opposing counsel 14 days before the
scheduled hearing.

Depositions or subpoenas of health care practitioners who have
submitted sworn written evidence are permitted only if the
hearing officer finds that the testimony is sufficiently
important to outweigh the delay in the proceeding.

Sec. 5. Allocation. The following funds are allocated from
Other Special Revenue to carry out the purposes of this Act.

1998-99

WORKERS' COMPENSATION BOARD

Positions - Legislative Count	(13,000)
Personal Services	\$564,889
All Other	130,000

Provides funds to hire 13 additional
employee advocates to assess employees
through mediation and hearing.

WORKERS' COMPENSATION BOARD

TOTAL	<hr/> \$694,889
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SUMMARY

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6 This bill makes the following changes to the laws governing
workers' compensation.

8 1. It renames the existing "troubleshooter" program as the
"employee advocate" program, directs employee advocates to assist
10 employees through mediation and hearings, raises the cap on
assessments and adds an allocation to fund 13 additional employee
12 advocates.

14 2. It specifies that, with respect to medical evidence,
hearings must proceed on the basis of sworn statements alone.
16 Under this bill, health care practitioners that submit sworn
statements in workers' compensation cases are not subject to
18 cross-examination at hearings.