

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

SECOND REGULAR SESSION-1998

Legislative Document

No. 2222

H.P. 1593

House of Representatives, February 19, 1998

**An Act to Revise and Update the Charter of the Maine Employers'
Mutual Insurance Company in Furtherance of its Mission.**

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

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative CARLETON of Wells. (GOVERNOR'S BILL)
Cosponsored by Senator LaFOUNTAIN of York and
Representatives: BRUNO of Raymond, DAVIDSON of Brunswick, HATCH of Skowhegan,
MAYO of Bath, SAXL of Bangor, STANLEY of Medway, Senator: NUTTING of
Androscoggin.

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

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

6 **§3701. Purpose**

8 The Maine Employers' Mutual Insurance Company is established
10 for the purposes of providing workers' compensation insurance and
12 employers' liability insurance incidental to and written in
14 connection with workers' compensation coverage to employers of
16 this State at the highest 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, advice, practice and
operating effectiveness.

18 **Sec. 2. 24-A MRSA §3702, sub-§3**, as enacted by PL 1991, c.
20 885, Pt. C, §2, is amended to read:

22 **3. Division.** "Division" means an industry or geographic
24 grouping as established under section ~~3712~~ 3712-A.

26 **Sec. 3. 24-A MRSA §3703, sub-§1**, as amended by PL 1995, c.
551, §4, is further amended to read:

28 **1. Workers' compensation.** The company shall provide
30 workers' compensation insurance and employers' liability
32 insurance incidental to and written in connection with workers'
34 compensation coverage to employers in this State. The company
36 may not write other lines of insurance. ~~The company may not~~
~~write reinsurance or excess insurance.~~ The company may reinsure
workers' compensation and employers' liability insurance written
by other insurers that are covering out-of-state employees of
Maine-based employers that are insured by the company. For the
purpose of providing insurance to Maine-based employers operating
in other states, the company may apply to appropriate regulatory
authorities in those states for authority to write workers'
compensation and employers' liability insurance for Maine-based
employers' operations in those states. ~~Until the company has~~
~~obtained the surplus otherwise required under this Title for~~
~~casualty insurance companies, the company must receive approval~~
~~from the superintendent before actually writing policies in each~~
~~other state.~~ The company may form or acquire subsidiary insurers
that write workers' compensation insurance and employers'
liability insurance only in other jurisdictions.

48 **Sec. 4. 24-A MRSA §3703, sub-§4**, as enacted by PL 1991, c.
50 885, Pt. C, §3, is repealed.

2 **Sec. 5. 24-A MRSA §3703, sub-§5**, as enacted by PL 1991, c.
885, Pt. C, §3, is amended to read:

4
6 **5. Composition of the board.** The board consists of up to
13 9 members. ~~Nine~~ Six members must be officers, directors,
8 employees, partners or members of policyholders who purchase
workers' compensation coverage from the Maine Employers' Mutual
10 ~~Insurance Company, except that the initial appointment may~~
~~include employers who have purchased coverage through the~~
~~workers' compensation residual market mechanism.~~ Three Two
12 members must be persons who represent the public interest of the
company and must be appointed by the Governor within 30 days
14 after a new board member is authorized or a vacancy occurs,
subject to review and approval comment by the joint standing
16 committee of the Legislature having jurisdiction over banking and
insurance matters. The designated committee shall complete its
18 ~~review and vote on approval of the appointments of the Governor~~
within 15 days of the Governor's written notice of appointment.
20 If the designated committee fails to act within the required 15
days, then the appointees put forward by the Governor become the
22 required board members. ~~Except for the initial selection of~~
~~board members under subsection 4, each division as established~~
24 ~~pursuant to section 3712 must have one member on the board.~~ One
member must be an at-large policyholder member elected by the
26 board. The remaining board member is the president and chief
executive officer who shall serve on the board of directors while
28 employed as president and chief executive officer.

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

36 **Sec. 6. 24-A MRSA §3703, sub-§§6, 7 and 9**, as enacted by PL
1991, c. 885, Pt. C, §3, are amended to read:

38
40 **6. Terms.** ~~The initial terms of the board of directors are~~
~~staggered at 3 years, 2 years and one year. Of the initial~~
42 ~~division policyholders, 3 serve 3-year terms, 3 serve 2-year~~
~~terms and 3 serve one-year terms. The initial public interest~~
44 ~~members serve one 3-year term, one 2-year term and one one-year~~
~~term.~~ A full term on the board of directors is 3 years. An
46 individual may not serve more than 2 consecutive full terms as a
director, except for the president and chief executive officer.
48 All members shall serve for the terms provided and until their
successors are appointed or elected and qualified.

50 **7. Corporate governance.** The initial board of directors

2 shall, ~~at the organizational meeting of the company to complete~~
3 ~~organization,~~ adopt bylaws consistent with section 3359. The
4 bylaws must provide a schedule of meetings and rules specifically
relating to the conduct of meetings and voting procedures.

6 **9. Nominating committee.** The board shall create a
7 nominating committee. The nominating committee shall present to
8 the board nominees for the at-large and the policyholder board
9 member position positions.

10 **Sec. 7. 24-A MRSA §3704-A,** as enacted by PL 1991, c. 885, Pt.
11 C, §5, is repealed.

12 **Sec. 8. 24-A MRSA §3707, sub-§1,** as enacted by PL 1991, c.
13 885, Pt. C, §8, is amended to read:

14 **1. General authority.** The board may perform all acts
15 necessary or convenient in the exercise of any power, authority
16 or jurisdiction over the company, either in the administration of
17 the company or in connection with the business of the company to
18 fulfill the purposes of this chapter, ~~except as otherwise~~
19 ~~provided to the divisions under section 3712.~~

20 **Sec. 9. 24-A MRSA §3710, sub-§1,** as enacted by PL 1991, c.
21 885, Pt. C, §8, is repealed.

22 **Sec. 10. 24-A MRSA §3712,** as amended by PL 1995, c. 560, Pt.
23 G, §9, is repealed.

24 **Sec. 11. 24-A MRSA §3712-A** is enacted to read:

25 **§3712-A. Divisions**

26 **1. Industry and geographic divisions.** The company shall
27 maintain industry or geographic divisions consisting of general
28 industry groupings. The industry or geographic divisions shall
29 advise the board on workers' compensation insurance issues of
30 importance to those industries or geographic areas. The
31 divisions may parallel industry groups identified by the State's
32 advisory organization as defined in section 2381-C. A separate
33 high-risk division must also be created and maintained as defined
34 in subsection 3.

35 Not more than 30 days after the assignment to a division, a
36 policyholder may in writing appeal to the bureau on that
37 assignment.

38 **2. Changes in divisions.** With the approval of the
39 superintendent, the board may change the configuration of the
40 divisions.

2 3. High-risk division. The high-risk division is subject
3 to the following provisions.

4
5 A. An employer must be placed in the high-risk division if
6 the employer has at least 2 lost-time claims, each greater
7 than \$10,000 and a loss ratio greater than 1.0, over the
8 last 3 years for which data is available.

10 B. The board, with the approval of the superintendent, may
11 modify the eligibility standards for the high-risk division,
12 if those standards limit those in the division to employers
13 who have measurably adverse loss experience, have a
14 relatively high claim frequency record or have demonstrated
15 an attitude or practice of noncompliance with reasonable
16 safety requirements or claims management standards.

18 C. Eligibility requirements must be applied annually at the
19 policy renewal date or, if the necessary claim history is
20 not available at that time, 30 days after notice to the
21 insured.

22 D. Deductibles in the high-risk division are subject to
23 this paragraph.

24
25 (1) A deductible applies to all coverage for
26 policyholders in the high-risk division that meet the
27 following qualifications:

28
29 (a) A net annual premium of \$20,000 or more
30 subject to adjustment, pursuant to this section,
31 in the State;

32
33 (b) A premium not subject to retrospective
34 rating; and

35
36 (c) The policyholder's threshold loss ratio is
37 1.0 or greater.

38
39 The deductible is \$1,000 a claim but applies only to
40 wage loss benefits paid on injuries occurring during
41 the year of coverage. The sum of all deductibles in
42 one year of coverage may not exceed the lesser of 15%
43 of net annual payment for coverage or \$25,000. Each
44 loss to which a deductible applies must be paid in full
45 by the company. After the year of coverage has
46 expired, the policyholder shall reimburse the company
47 the amount of the deductibles. This reimbursement is
48 considered as payment for coverage for purposes of
49 cancellation or nonrenewal.
50

2 Unless otherwise acted upon as provided for in
4 subsection 2, beginning October 1, 1996, the board
6 shall adjust, annually, the \$20,000 payment of coverage
8 level established in this subsection to reflect any
10 change in rates for the high-risk division and any
12 change in wage levels in the preceding calendar year.
14 Changes in wage levels are determined by reference to
16 changes in the state average weekly wage, as computed
18 by the Department of Labor. Any adjustment is rounded
20 off to the nearest \$1,000 increment.

22 (2) For policies effective on or after January 1,
24 1994, the board may modify, with the approval of the
26 superintendent, the mandatory deductible elements. Any
28 modification or elimination of this rating feature must
30 consider the incentive impact on an employer, the
32 reasonableness of the retained cost relative to the
34 claim history, safety record or claims management
36 practices of impacted employers and the ability of
38 employers of all sizes to absorb these costs.

40 E. The board may file, with the superintendent,
42 retrospective rating plans that, after hearing, may be
44 imposed on an employer with a demonstrated record of
46 repeated serious violations of workplace health and safety
48 rules and regulations such as those adopted under Title 26,
50 chapter 6 or 29 United States Code, Chapter 15, whichever is
applicable.

F. The board shall develop and file with the
superintendent, and, if not disapproved by the
superintendent, make available to policyholders on a
voluntary basis, retrospective rating plans.

4. Division advisory boards. Each division, except for the
high-risk division, has its own advisory board.

A. Each advisory board must be composed of representatives
of policyholders and employees of the policyholders of the
division.

B. There may be up to 9 advisory board members for each
division, with a ratio of 2 members selected by the
policyholders within the division to each member who is an
employee selected from employees of the policyholders within
the division. The president, with the approval of the
board, shall establish procedures for the initial and
subsequent selection of advisory board members, and
procedures for the filling of vacancies and replacements.
Terms are for 3 years on a staggered basis.

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C. Each advisory board shall elect a chair.

D. Each advisory board shall hold regular meetings and advise the board in the following areas:

- (1) Workplace safety training;
- (2) Claims administration and adjusting;
- (3) Compliance with advisory board performance standards;
- (4) Debit and credit plans reflecting member safety programs and experience;
- (5) Policyholder grievances;
- (6) Premium audits; and
- (7) Any other issues of concern to the advisory board.

Sec. 12. 24-A MRSA §3713, as enacted by PL 1991, c. 885, Pt. C, §8, is repealed.

Sec. 13. 24-A MRSA §3714, sub-§§1, 2 and 5, as enacted by PL 1991, c. 885, Pt. C, §8, are amended to read:

1. **Separate accounting.** In addition to the financial reporting requirements applicable to the company, there must be a separate accounting of each division by fiscal year to the extent practicable. These financial statements must be based on the premiums collected and earned, claims paid and incurred, expenses accrued or allocated, investment income allocated to and any other financial items that are associated with or allowable to each division.

2. **Rates.** Rates developed and filed by the company, ~~and the supporting actuarial analysis, must consider, to the extent credible, the experience of each division based on sound actuarial principles~~ must be in accordance with chapter 25, subchapter II-B.

Rates filed within the rate band are considered voluntary for purposes of chapter 25, subchapter II-B. If a rate is filed outside the rate band, the superintendent may disapprove the rate if it is excessive, inadequate or unfairly discriminatory, using the standards set forth in section 2382.

"Rate band" means the range of rates from 85% to 145% of the

2 Finally, MEMIC is granted the ability to file and use rates,
the same practice allowed for other insurance companies, if it
4 files within the established rate band. Rates that are higher or
lower than the rate band must receive prior approval by the
6 Superintendent of Insurance.