

# MAINE STATE LEGISLATURE

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L.D. 943

DATE: 5-25-01

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
120TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 723, L.D. 943, Bill, "An Act to Ensure that the Annual Inflation Adjustment for Partial Compensation for Injuries occurring Prior to November 20, 1987 is Fully Recognized and Paid"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 39-A MRSA §224 is enacted to read:

§224. Adjustment to partial incapacity benefit payments for injuries prior to November 20, 1987

The annual adjustment made pursuant to former Title 39, sections 55 and 55-A must be made as follows. The preinjury average weekly wage must first be adjusted to reflect the annual inflation or deflation factors as computed by the Maine Unemployment Insurance Commission for each year from the date of injury to the date of calculation. Once this weekly benefit amount is calculated, the amount must continue to be adjusted annually so that it continues to bear the same percentage relationship to the average weekly wage in the State as computed by the Maine Unemployment Insurance Commission as it did at the time of the injury. This section clarifies the method of calculating the annual adjustment to benefits under former Title 39, sections 55 and 55-A and applies to all benefit calculations pursuant to those sections.

Sec. 2. Application; retroactivity. This Act applies retroactively to benefit calculations made under the Maine Revised Statutes, former Title 39, sections 55 and 55-A at any

COMMITTEE AMENDMENT

time after January 1, 1972, and applies notwithstanding any adverse order or decree.'

Further amend the bill by inserting at the end before the summary the following:

#### FISCAL NOTE

The bill changes the method for computing the cost-of-living adjustments for partial incapacity workers' compensation benefits for injuries prior to November 20, 1987. This change is expected to increase the cost of benefits to approximately 25 state employees. That cost will be reflected in a minimal increase in the workers' compensation rates paid by all state agencies.

The additional costs associated with computing and administering the cost-of-living adjustments for partial incapacity workers' compensation benefits for certain injuries can be absorbed by the Workers' Compensation Unit of the Department of Administrative and Financial Services utilizing existing budgeted resources.'

#### SUMMARY

This amendment replaces the bill. Rather than requiring that the Workers' Compensation Board audit insurers to ensure compliance with the law requiring annual adjustment of benefits for injuries prior to November 20, 1987, the amendment clarifies how the adjustment is to be calculated. This amendment clarifies legislative intent with regard to computation of the cost of living adjustments for partial incapacity benefits for injuries prior to November 20, 1987 and overturns the decision of the Maine Supreme Judicial Court in Bernard v. Mead Publishing Paper Division, 2001 ME 15, which interpreted the Maine Revised Statutes, Title 39, sections 55 and 55-A in a manner contrary to prior decisions of the Workers' Compensation Board and long-standing practice.

The amendment also adds a fiscal note to the bill.