

# MAINE STATE LEGISLATURE

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L.D. 2051

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DATE: April 4, 2002

(Filing No. S-583)

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**STATE OF MAINE  
SENATE  
120TH LEGISLATURE  
SECOND REGULAR SESSION**

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P.  
1548, L.D. 2051, Bill, "An Act to Increase the Workers'  
Compensation Insurance Assessment to Fund a Hearing Officer  
Position"

Amend the amendment by striking out everything after the  
substitute title and inserting in its place the following:

'Further 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 §154, as amended by PL 2001, c. 393, §1,  
is further amended to read:

**§154. Dedicated fund; assessment on workers' compensation  
insurers and self-insurers**

The Workers' Compensation Board Administrative Fund is  
established to accomplish the purposes of this Act. All income  
generated pursuant to this section must be recorded on the books  
of the State in a separate account and deposited with the  
Treasurer of State and be credited to the Workers' Compensation  
Board Administrative Fund.

**1. Use of fund.** All money credited to the Workers'  
Compensation Board Administrative Fund must be used to support  
the activities of the board through duly approved expenditures  
within the board's budget and for no other purpose. Any balance  
remaining continues from year to year as a fund available for the  
purposes set out in this section and for no other purpose.

**SENATE AMENDMENT**

2           **2. Expenditures.** Expenditures from the Workers'  
 4           Compensation Board Administrative Fund are subject to legislative  
 6           approval and allocation in the same manner as appropriations are  
 8           made from the General Fund. The State Controller shall authorize  
 10           expenditures from the Worker's Compensation Board Administrative  
 12           Fund upon the basis of allotments recommended by the State Budget  
 14           Officer and approved by the Governor that do not exceed the  
 16           legislatively approved allocations of the Workers' Compensation  
 18           Board Administrative Fund and not on any other basis. The joint  
 20           standing committee of the Legislature having jurisdiction over  
 22           appropriations and financial affairs shall approve the allocation.

14           **3. Assessment on workers' compensation insurance.** The  
 16           following provisions apply regarding the Workers' Compensation  
 18           Board assessment on workers' compensation insurance.

18           A. Every insurance company ~~or--association~~ that writes  
 20           workers' compensation insurance in the State and that does  
 22           business or collects premiums or assessments in the State,  
 24           ~~including---newly---licensed---insurance---companies---and~~  
 26           ~~associations~~ and every self-insured employer approved  
 28           pursuant to section 403, shall pay to the board the  
 30           assessment determined pursuant to this section for the  
 32           purpose of providing partial support and maintenance of the  
 34           board. An insurance company or self-insurer whose  
 36           authority terminates remains responsible for the assessment  
 38           that is due in the year following the termination of its  
 40           certificate of authority.

32           B. The assessment must be stated ~~as a percentage of each~~  
 34           ~~employer's premium base~~ a dollar amount determined by the  
 36           executive director in accordance with subsection 5. In  
 38           determining the assessment percentage level, consideration  
 40           must be given to the balance in the Workers' Compensation  
 42           Board Administrative Fund.

38           ~~B-1.--An employer's premium base for assessment purposes is~~  
 40           ~~defined as payroll times the filed manual rate applicable to~~  
 42           ~~the-- employer--times--the--employer's--current--experience~~  
 44           ~~modification factor,--if applicable.--The calculation may not~~  
 46           ~~include any deductible credit,--other than credits for the~~  
 48           ~~\$1,000--and--\$5,000--indemnity deductibles--and--the--\$250--and~~  
               ~~\$500--medical deductibles established pursuant to Title 24-A,~~  
               ~~sections--2385--and--2385 A.--For--policies--written--using~~  
               ~~retrospective rating,--the premium base must be calculated in~~  
               ~~accordance--with--this--paragraph--regardless--of--the--actual~~  
               ~~retrospective premium calculation.~~

2 The employer's premium base is subject to the final audit  
requirements of the Bureau of Insurance Rule, Chapter 470.  
4 If the audit results in a change in premium base, the amount  
of the assessment must be adjusted accordingly.

6 G. For each fiscal year, the initial assessment percentage  
must be determined by the board by May 1st of the prior  
8 fiscal year. Insurance companies or associations must begin  
collecting the initial assessment from all employers on July  
10 1st of each year. In establishing the assessment  
percentage, the board shall estimate the expected premium  
12 base for the upcoming fiscal year based on the returns filed  
under paragraph D and anticipated trends in the insurance  
14 marketplace. The board shall consult with the Bureau of  
Insurance and other knowledgeable sources to help determine  
16 the trends. The board may adjust the assessment percentage  
at any time but shall provide written notice to the affected  
18 companies and associations at least 45 days prior to the  
effective date of the adjustment. The board may not adjust  
20 the assessment percentage more than 3 times in a fiscal  
year. The adjusted assessment percentage must be applied  
22 prospectively on policies with an effective date on or after  
the effective date of the adjustment.

24  
26 D. Every All assessments under this section are due and  
payable by June 1st, except that an insurance company or  
28 association subject to the assessment imposed by this  
section or individual or group self-insurer with an  
estimated annual payment of \$50,000 or more based on  
30 previous assessment returns may make payments in equal  
quarterly installments on the first day of each June,  
32 September, December and March. Each insurance company or  
association electing quarterly payments must on or before  
34 the last day of each January, each April, the 25th day of  
each June and the last day of each October file with the  
36 board on forms prescribed by the board a return for the  
quarter ending the last day of the preceding month, except  
38 the month of June, which is for the quarter ending June 30th  
and remit payment of the assessment based upon the results  
40 for the quarter reported. A final reconciled annual return  
must be filed on or before September 15th covering the prior  
42 fiscal year in which the previous assessment was levied.  
The final return must be certified by the company's or  
44 association's chief financial officer. Insurance companies  
or associations with an annual assessment estimate of under  
46 \$50,000 shall pay the assessment on or before June 1st and  
shall also file a quarterly and an annual return on forms  
48 prescribed by the board. Each insurer and individual or  
group self-insurer subject to assessment shall file a return  
50 with the board, on a form prescribed by the board, on or

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SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1548,  
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2 before the date the annual or quarterly payment is due and  
3 remit payment of the assessment. Affiliated insurers may  
4 aggregate their collection volume in order to meet the  
5 \$50,000 assessment threshold as long as the affiliation is  
6 consistent with the standards defined in Title 24-A, section  
7 222. Those qualifying insurance companies ~~or associations~~  
8 that opt to consolidate their quarterly payments and reports  
9 may do so only if each individually licensed company ~~or~~  
10 ~~association~~ is individually reported within each  
11 consolidated return.

12 E. The Department of Professional and Financial Regulation,  
13 Bureau of Insurance shall report to the board all newly  
14 authorized workers' compensation insurers or individual or  
15 group self-insurers in order to facilitate notification to  
16 the new insurer or self-insurer of its obligations under  
17 this section.

18 ~~4. Assessment on self-insured employers. Every~~  
19 ~~self-insured employer approved pursuant to section 403 shall, for~~  
20 ~~the purpose of providing partial support and maintenance of the~~  
21 ~~board, pay an assessment on aggregate benefits paid by each~~  
22 ~~member pursuant to section 404, subsection 4. This assessment~~  
23 ~~must be a dollar amount.~~

24  
25 **5. Amounts of premiums and losses; distribution of**  
26 **assessment.** The Department of Professional and Financial  
27 Regulation, Bureau of Insurance shall provide to the board the  
28 amounts of gross direct workers' compensation premiums written by  
29 each insurance carrier company and the amounts of aggregate  
30 benefits paid by each self-insurer individual and group  
31 self-insurer in each calendar year on or before April 1st of each  
32 the following year. Beginning with the assessment for the fiscal  
33 year beginning July 1, 1995 and thereafter, the total assessment  
34 must be distributed between insurance companies ~~or associations~~  
35 and self-insured employers in direct proportion to the pro rata  
36 share of disabling cases attributable to each group for the most  
37 recent calendar year for which data is are available. This  
38 distribution of the assessment must be determined on a basis  
39 consistent with the information reported by the Department of  
40 Labor, Bureau of Labor Standards, Research and Statistics  
41 Division in its annual Characteristics of Work-Related Injuries  
42 and Illnesses in Maine publication, provided that any segment of  
43 the market identified as "not-insured" be excluded from the  
44 calculation of proportionate shares. In consultation with the  
45 Director of Labor Standards, the board executive director shall  
46 determine a date prior to the required assessment to establish  
47 the distribution. Within each group, insurance companies must be  
48 assessed in proportion to their gross direct workers'  
49 compensation premium in the preceding calendar year, and  
50

# SENATE AMENDMENT

individual and group self-insurers must be assessed in proportion  
to their aggregate benefits paid in the preceding calendar year.  
For the purposes of this subsection, aggregate benefits paid by a  
self-insurer include all benefits paid by any related entity that  
is recognized as a predecessor self-insurer for purposes of  
membership in the Maine Self-Insurance Guarantee Association  
pursuant to section 404, subsection 2, paragraphs D and E.

~~6.-- Assessment levied.-- The assessments levied under this  
section may not be designed to produce more than \$6,000,000 in  
revenues annually beginning in the 1995-96 fiscal year, more than  
\$6,600,000 annually beginning in the 1997-98 fiscal year or more  
than \$6,735,000 beginning in the 1999-00 fiscal year, except that  
in the 2001-02 fiscal year the assessment may not be designed to  
produce more than \$7,035,000.-- Assessments collected that exceed  
\$6,000,000 beginning in the 1995-96 fiscal year, \$6,600,000  
beginning in the 1997-98 fiscal year or \$6,735,000 beginning in  
the 1999-00 fiscal year or \$7,035,000 in fiscal year 2001-02 by a  
margin of more than 10% must be refunded to those who paid the  
assessment.-- Any amount collected above the board's allocated  
budget and within the 10% margin must be used to create a reserve  
of up to 1/4 of the board's annual budget.-- Any collected amounts  
or savings above the allowed reserve must be used to reduce the  
assessment for the following fiscal year.-- The board shall  
determine the assessments prior to May 1st and shall assess each  
insurance company or association and self-insured employer its  
pro-rata share for expenditures during the fiscal year beginning  
July 1st.-- Each self-insured employer shall pay the assessment on  
or before June 1st.-- Each insurance company or association shall  
pay the assessment in accordance with subsection 3.~~

6-A. Calculation of assessment. Beginning with the  
assessment levied in 2003 for fiscal year 2003-04, on or before  
May 1st of each year, the executive director shall determine the  
aggregate assessment to be levied under this section for the  
coming fiscal year and shall send an invoice to each insurance  
company and each individual and group self-insurer for its share  
of the assessment. The annual aggregate assessment may not  
exceed \$8,600,000 and when added to the projected fund balance as  
of the beginning of the fiscal year may not exceed the board's  
allocated budget for the fiscal year, or the Governor's  
recommended budget in the event that there is not a legislatively  
approved budget by April 20th, by more than 10%.

~~7.-- Insurance company or association collections.-- Insurance  
companies or associations shall bill and collect assessments  
under this section on insured employers.-- The assessments must be  
separately stated amounts on all premium notices and may not be  
reported as premiums for any tax or regulatory purpose or for the  
purpose of any other law.-- All collected payments must be~~

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~~submitted to the board with the next quarterly payment. The Bureau of Insurance shall report to the board all newly authorized workers' compensation carriers in order to facilitate notification to the new carrier of its obligations under this section.~~

7-A. Insurance premiums. An insurer may include within its rates and premiums charged for workers' compensation insurance policies an amount sufficient to cover the assessment the insurer reasonably expects to be assessed pursuant to this section.

**8. Violations.** Any insurance company, association or self-insured employer subject to this section that willfully fails to pay an assessment in accordance with this section commits a civil violation for which a forfeiture of not more than \$500 may be adjudged for each day following the due date for which payment is not made.

**9. Deposit of funds; investment.** All revenues derived from assessments levied against insurance companies, associations and self-insured employers described in this section must be reported and paid to the Treasurer of State and credited to the Workers' Compensation Board Administrative Fund. The Treasurer of State may invest the funds in accordance with state law. All interest must be paid to the fund.

**10. Deposit of funds in Workers' Compensation Board Administrative Fund.** The Treasurer of State shall deposit in the Workers' Compensation Board Administrative Fund funds collected pursuant to section 152, subsection 14.

**12. Audit.** In consultation with the Bureau of Insurance, the board may audit all returns and investigate any issues relevant to the collection and payment of any assessment under this section.

**Sec. 2. P&SL 2001, c. 24, §1** is amended to read:

**Sec. 1. Workers' Compensation Board; full-time hearing officer.**

The Workers' Compensation Board shall permanently assign a full-time administrative hearing officer to the Caribou office of the Workers' Compensation Board no later than 30 days after the effective date of this Act. ~~This assignment must be implemented within the board's existing budgeted resources.~~

**Sec. 3. Transition.**

**1. Workers' Compensation Board Administrative Fund; use of reserve.** Any balance in the reserve fund created pursuant to the former Maine Revised Statutes, Title 39-A, section 154,

subsection 6 is transferred upon the effective date of this Act  
from the Workers' Compensation Board Administrative Fund and any  
balance anticipated by the Executive Director of the Workers'  
Compensation Board to be remaining as of July 1, 2003 is to be  
applied for purposes of reducing the assessment for fiscal year  
2003-04 in accordance with Title 39-A, section 154, subsection  
6-A.

**2. Assessment for fiscal year 2002-03.** Notwithstanding the  
Maine Revised Statutes, Title 39-A, section 154, subsection 6-A,  
the Executive Director of the Workers' Compensation Board shall  
calculate assessment percentages for the assessment that must be  
collected from insured and self-insured employers for fiscal year  
2002-03 in the same manner as in the former Title 39-A, section  
154, subsection 6. Insurers shall file annual and quarterly  
returns for fiscal years 2001-02 and 2002-03 under the former  
provisions of Title 39-A, section 154, subsection 3, paragraph  
D. The executive director shall calculate assessments designed  
to produce an aggregate assessment not to exceed \$7,227,000 for  
fiscal year 2002-03 unless the executive director determines that  
those assessment levels do not differ materially from the  
assessment levels previously established for that fiscal year.  
This assessment level applies retroactively to all of fiscal year  
2002-03 and is not subject to further adjustment. Assessments on  
insured employers must be paid for the full year  
of coverage on all policies issued or renewed with effective  
dates between July 1, 2002 and June 30, 2003. The assessment on  
a midterm replacement for any such policy must be paid on a pro  
rata basis for the period of coverage up to the anniversary date  
of the policy. If the assessment level determined pursuant to  
this subsection is different from the assessment level determined  
before the effective date of this Act, the executive director  
shall notify all insurers and self-insurers of the adjustment  
within 30 days after the effective date of this Act. For  
employers whose assessments are affected by this adjustment, the  
adjustment must be implemented as a credit or charge in an  
insured employer's next premium bill or a self-insurer's next  
assessment.

**3. Assessment for fiscal year 2003-04.** For the Workers'  
Compensation Board Administration Fund assessment payment due  
June 1, 2003 for fiscal year 2003-04, the Workers' Compensation  
Board shall levy the assessment directly on insurance companies.  
Except for midterm policy replacements as provided in subsection  
2, policies issued or renewed after July 1, 2003 may not be  
surcharged. Insurers choosing to adjust their premiums for  
policies issued on or after July 1, 2003 to reflect the new  
assessment mechanism shall promptly file notice of the rate  
revision with the Superintendent of Insurance. For each policy  
that is in force on or after July 1, 2003 and subject to



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2 surcharge pursuant to subsection 10, the insurer is entitled to  
3 credit against its assessment for fiscal year 2003-04 the pro  
4 rata share of the surcharge that is attributable to the period of  
5 coverage beginning on July 1, 2003.

6 **Sec. 4. Appropriations and allocations.** The following  
7 appropriations and allocations are made.

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9  
10 **WORKERS' COMPENSATION BOARD**

11  
12 **Administration - Workers' Compensation Board**

13 Initiative: Provides funds to support the activities of the  
14 Workers' Compensation Board including funding the  
15 Administrative Hearing Officer position in the Caribou office  
16 of the Workers' Compensation Board.

18	<b>Other Special Revenue Funds</b>	<b>2001-02</b>	<b>2002-03</b>
19	Positions - Legislative Count	(0.000)	(1.000)
20	Personal Services	\$0	\$768,533
21	All Other	0	541,481
22	Capital Expenditures	0	100,000
23			
24	Total	\$0	\$1,410,014

25  
26 **Workers' Compensation Board**

27 Initiative: Provides funds for the increased per diem and All  
28 Other expenses for the Workers' Compensation Board.

29	<b>Other Special Revenue Funds</b>	<b>2001-02</b>	<b>2002-03</b>
30	Personal Services	\$0	\$5,000
31	All Other	0	94
32			
33	Total	\$0	\$5,094

34  
35  
36 **WORKERS' COMPENSATION BOARD**

37	<b>DEPARTMENT TOTAL</b>	<b>2001-02</b>	<b>2002-03</b>
38			
39	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$1,415,108</b>
40			
41	<b>DEPARTMENT TOTALS - ALL FUNDS</b>	<b>\$0</b>	<b>\$1,415,108'</b>

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44 **FISCAL NOTE**

45 This amendment reduces the assessment cap to fund the  
46 Workers' Compensation Board from \$8,300,000 to \$7,227,000 in  
47 fiscal year 2002-03, and authorizes the cap for fiscal year  
48 2003-04 at \$8,600,000.  
49  
50

**SENATE AMENDMENT**

2 This amendment provides a restructured assessment mechanism  
4 that establishes a fixed assessment prior to the beginning of  
each fiscal year and eliminates the need for a reserve fund.

6 This amendment also provides that the annual aggregate  
8 assessment may not exceed the board's allocated budget for the  
fiscal year by more than 10%.

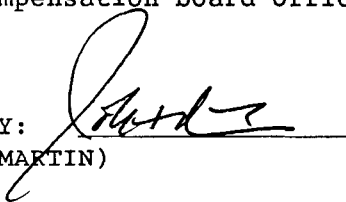
10 This amendment removes the provision that gave the board  
12 discretion in using the funds in the reserve to support the  
activities of the board.

14 This amendment retains the provision that authorizes the  
16 board to use funds remaining in its reserve fund at the end of  
fiscal year 2001-02 to fund expenses as needed in fiscal year  
18 2002-03. However, this amendment removes the provision that  
authorizes funds remaining in the reserve at the end of 2002-03  
20 to carry into fiscal year 2003-04, and instead, requires those  
funds to be used to reduce assessments in fiscal year 2003-04.

22 Finally, this amendment adds one Legislative position count  
24 for the Administrative Hearing Officer position in the Caribou  
office of the Workers' Compensation Board.

26  
28 **SUMMARY**

30 This amendment adopts the assessment process and limits  
32 proposed by the Governor in L.D. 2133, eliminates the reserve  
fund and provides funding for a hearing officer for the regional  
workers' compensation board office in Caribou.

34  
36 SPONSORED BY:   
38 (Senator MARTIN)

40 COUNTY: Aroostook