

MAINE STATE LEGISLATURE

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L.D. 2133

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STATE OF MAINE
SENATE
120TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 789, L.D. 2133, Bill, "An Act to Implement the Recommendations of the Workers' Compensation Board Governance Study"

Amend the bill by striking out all of sections 33 and 34 and inserting in their place the following:

Sec. 33. 39-A MRSA §102, sub-§11, ¶A, as amended by PL 2001, c. 518, §1, is further amended by amending subparagraphs (4) and (5) to read:

(4) Except-for-persons-engaged-in-harvesting-of-forest products,--any Any person, other than a person engaged in harvesting of forest products, who, in a written statement to the board executive director, waives all the benefits and privileges provided by the workers' compensation laws, provided-that as long as the board executive director has found that person to be a bona fide owner of at least 20% of the outstanding voting stock of the corporation by which that person is employed or a shareholder of the professional corporation by which that person is employed and that this waiver was not a prerequisite condition to employment. For the purposes of this subparagraph, the term "professional corporation" has the same meaning as found in Title 13, section 703, subsection 1.

(5) Except-for-persons-engaged-in-harvesting-of-forest products,--the The parent, spouse or child of a sole proprietor who is employed by that sole proprietor or

2 the parent, spouse or child of a partner who is
employed by the partnership of that partner or the
4 parent, spouse or child of a member of a limited
liability company may--state, who states in writing,
6 that the parent, spouse or child waives all the
benefits and privileges provided by the workers'
8 compensation laws if the board executive director finds
that the waiver is not a prerequisite condition to
10 employment. This subparagraph does not apply to
persons engaged in harvesting of forest products;

12 **Sec. 34. 39-A MRSA §102, sub-§11, ¶B**, as amended by PL 2001,
c. 518, §2, is further amended to read:

14 B. "Employee" includes, if the person elects to be
16 personally covered by this Title, any person who regularly
operates a business or practices a trade, profession or
18 occupation, whether individually or in partnership or
association with other persons or as a member of a limited
20 liability company, whether or not the person hires
employees. Such a person shall elect personal coverage by
22 insuring and keeping insured the payment of compensation and
other benefits under a workers' compensation insurance
24 policy. The insurance policy must clearly indicate the
intention of the parties to provide coverage for the person
26 electing to be personally covered. The insurance company
shall file with the board agency notice, in such form as the
28 board agency approves, of the issuance of any workers'
compensation policy to a person electing personal coverage.
30 That insurance may not be cancelled within the time limited
in that policy for its expiration until at least 30 days
32 after mailing a notice of the cancellation of that insurance
to the board agency and the person electing personal
34 coverage. In the event that the person electing personal
coverage has obtained a workers' compensation insurance
36 policy from another insurance company, and that insurance
becomes effective prior to the expiration of the 30 days,
38 cancellation is effective as of the effective date of the
other insurance. The Superintendent of Insurance is
40 authorized to review for approval, at the superintendent's
discretion, an appropriate classification for this class of
42 persons and a reasonable rate.'

44 Further amend the bill in section 47 in that part designated
"§151-C." by striking out all of the first paragraph (page 20
46 lines 1 to 3 in L.D.) and inserting in its place the following:

48 'The board is the governing body of the agency and has
general policy-making and oversight responsibilities for the
50 implementation of this Act. In carrying out its duties under

2 this Act, the board shall focus on efficiency, worker safety,
3 prompt resolution of disputes and reduction over time in costs of
4 the workers' compensation system in this State in relation to
5 other states.'

6 Further amend the bill in section 47 in that part designated
7 "§151-C." by striking out all of subsection 1 and inserting in
8 its place the following:

10 '1. Board established. Pursuant to Title 5, section
11 12004-G, subsection 35, the Workers' Compensation Board is
12 established as an independent board composed of 9 members
13 appointed by the Governor, subject to review by the joint
14 standing committee of the Legislature having jurisdiction over
15 state and local government matters and confirmation by the
16 Legislature. Notwithstanding the scheduling provisions of Title
17 3, chapter 6, the designated committee shall complete its review
18 of an appointment of the Governor within 15 days of the
19 Governor's written notice of appointment, and the vote of the
20 Legislature must be taken no later than 7 days after the vote of
21 the designated committee.

22 A. Three members of the board must be representatives of
23 the public, 3 members of the board must be representatives
24 of management and 3 members of the board must be
25 representatives of labor.

26 B. Public members are charged with representing the broad
27 public interests of the State in balancing management and
28 labor interests and in furthering the intent of the workers'
29 compensation law to reduce injuries, reduce costs and
30 improve efficiency.

31 C. All management representatives must be appointed from a
32 list provided by the Maine State Chamber of Commerce or
33 another bona fide organization or association of employers.
34 All labor representatives must be from a list provided by
35 the Executive Board of the Maine AFL-CIO or another bona
36 fide labor organization or association of employees
37 representing at least 10% of the Maine workforce. Any list
38 submitted to the Governor must have at least 4 times as many
39 names as there are vacancies for the group represented by
40 the vacancies. A person nominated for consideration as a
41 management or labor representative may not subsequently be
42 appointed as a public member of the board, and a public
43 member of the board may not subsequently be nominated for
44 consideration as a management or labor representative.

45 D. A member of the board may not be a lobbyist required to
46 be registered with the Secretary of State, a service
47 representative, or an agent of a lobbyist.

2 provider to the workers' compensation system or a
3 representative of a service provider to the workers'
4 compensation system.

5 E. A member of the board is not liable in a civil action
6 for any act performed in good faith in the execution of
7 duties as a board member.

8 F. Members of the board hold office for staggered terms of
9 4 years, except for members appointed to fill unexpired
10 terms. The term of one member representing each
11 constituency expires February 1st of each year that is not a
12 gubernatorial election year. A member may not serve for
13 more than 2 full terms.'

14
15 Further amend the bill in section 52 in that part designated
16 "**§154.**" by striking out all of subsections 7 and 7-A (page 36,
17 lines 18 to 33 in L.D.) and inserting in their place the
18 following:

19
20 **'7. Insurance company or association collections.**
21 Insurance companies or associations shall bill and collect
22 assessments under this section on insured employers through a
23 surcharge based on premium. The assessments premium surcharge
24 must be a separately stated amounts amount on all premium notices
25 and may not be reported as premiums. The surcharge is excluded
26 from the definition of "premium" for any tax or regulatory
27 purpose or for the purpose of any other law, except that a
28 workers' compensation policy may be canceled for nonpayment of
29 the premium surcharge, in accordance with the procedures
30 applicable to nonpayment of premium. All collected payments must
31 be submitted to the board with the next quarterly payment. The
32 Bureau of Insurance shall report to the board all newly
33 authorized workers' compensation carriers in order to facilitate
34 notification to the new carrier of its obligations under this
35 section.'

36
37 Further amend the bill by inserting at the end before the
38 summary the following:

39
40
41
42 **'FISCAL NOTE**
43
44 **2002-03**

45 **APPROPRIATIONS/ALLOCATIONS**

46
47 Other Funds \$1,415,108

COMMITTEE AMENDMENT "A" to S.P. 789, L.D. 2133

2 This bill implements the recommendations of the Workers'
3 Compensation Board Governance Study. It establishes the Workers'
4 Compensation Agency and retains the Workers' Compensation Board
5 as the agency's governing board. This bill also provides a
6 restructured assessment mechanism that establishes a fixed
7 assessment prior to the beginning of each fiscal year and
8 eliminates the need for the reserve fund.

9
10 This bill provides Other Special Revenue fund allocations
11 totalling \$1,410,859 in fiscal year 2002-03 for the Workers'
12 Compensation Agency. This includes \$1,145,765 for the
13 Administration program to meet the operational requirements
14 resulting from the reorganization, \$260,000 to establish the
15 Special Technology Fund program for technological improvement
16 projects, and \$5,094 for the Workers' Compensation Board for the
17 per diem and expenses associated with one additional member being
18 added to the board.

19
20 This bill authorizes the transfer of \$260,000 from the
21 reserve fund created pursuant to Title 39-A, section 154,
22 subsection 6 to the special technology fund program for
23 technological improvement projects. Any remaining funds in the
24 reserve account must be merged into the Workers' Compensation
25 Agency Administration Fund. Any funds anticipated by the
26 Executive Director to be remaining in the Administration fund as
27 of July 1, 2003 must be used to reduce assessments to insured and
28 self-insured employers in fiscal year 2003-04. Any funds
29 remaining in the special technology fund program upon completion
30 of the project revert to the administrative fund to be used to
31 reduce the next assessment.

32
33 This bill caps the amount that the Workers' Compensation
34 Agency can collect from insured and self-insured employers for
35 fiscal year 2002-03 at \$7,227,000 and \$8,600,000 for fiscal year
36 2003-04.

37
38 This bill also includes an Other Special Revenue funds
39 allocation of \$4,249 in fiscal year 2002-03 to support collective
40 costs within the Judicial Department.

41
42 The additional costs associated with appointing an executive
43 director to the Workers' Compensation Agency can be absorbed by
44 the Governor's Office in the Executive Department utilizing
45 existing budgeted resources.

46
47 The additional costs associated with working with the Agency
48 to develop a technology plan can be absorbed by the Department of
49 Administrative and Financial Services utilizing existing budgeted
50 resources.'

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SUMMARY

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This amendment specifies that the Workers' Compensation Board, in carrying out its duties, must focus on efficiency, worker safety, prompt dispute resolution and reduction in the cost of the workers' compensation system relative to other states. The amendment also charges public members with representing the broad public interests of the State. Finally, the amendment specifies that insurers must bill and collect assessments through a surcharge based on premium, which must be separately stated on premium notices.

14

16

This amendment also makes changes to the bill to incorporate changes in the law made by Public Law 2001, chapter 518.

The amendment also adds a fiscal note to the bill.