

MAINE STATE LEGISLATURE

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DATE: April 8, 2002

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STATE OF MAINE
SENATE
120TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "A" to HOUSE AMENDMENT "A" to S.P. 822, L.D. 2202, Bill, "An Act to Ensure that 25% of Workers' Compensation Cases with Permanent Impairment Remain Eligible for Duration-of-disability Benefits in Accordance With the Workers' Compensation Act"

Amend the amendment in section 2 by striking out all of subsection 1-A (page 2, lines 4 to 15 in amendment) and inserting in its place the following:

'1-A. Determination of permanent impairment. For purposes of this section, "permanent impairment" includes only permanent impairment resulting from:

A. The work injury at issue in the determination and any preexisting condition or injury that is aggravated or accelerated by the work injury at issue in the determination; or

B. For dates of injury on or after January 1, 2004, if the board adjusts the threshold as required in subsection 2 to be effective January 1, 2004, the work injury at issue in the determination and:

(1) Any prior compensable work injury for which a report of injury was completed pursuant to section 303 and the employee received a benefit or compensation under Title 39-A, which has not been denied by the board, and that combines with the work injury at issue in the determination to contribute to the employee's incapacity, except that a prior injury that was the subject of a lump sum settlement approved pursuant to section 352 that had a finding of permanent impairment equal to or in excess of the then applicable permanent impairment threshold may not be included; or

2 (2) Any preexisting condition or injury that is
3 aggravated or accelerated by the work injury at issue
4 in the determination.

6 Except as set forth in this subsection, "permanent impairment"
7 does not include conditions that are not caused, aggravated or
8 accelerated by the work injury.'

10 Further amend the amendment in section 3 in subsection 2 in
11 the last line (page 2, line 40 in amendment) by inserting after
12 the following: "adjustment." the following: 'For the threshold
13 adjustment effective January 1, 2004 and every other January 1st
14 thereafter, the data used by the board for the purpose described
15 in this subsection must also reflect or may be adjusted to
16 reflect the definition of "permanent impairment" provided in
17 subsection 1-A, paragraph B.'

18 Further amend the amendment by inserting after section 3 the
19 following:

21 '**Sec. 4. Data collection.** For the period from July 1, 2002 to
22 October 1, 2003, the Workers' Compensation Board must collect
23 data to reflect the definition of "permanent impairment" provided
24 in the Maine Revised Statutes, Title 39-A, section 213,
25 subsection 1-A, paragraph B, and adjust the impairment threshold
26 under section 213, subsection 2 in accordance with that data.
27 That adjustment must be effective January 1, 2004. The board
28 must report the appropriate adjustment to the joint standing
29 committee of the Legislature having jurisdiction over labor
30 matters by January 2, 2004 and report whether or not the
31 adjustment was made as required.'

33 Further amend the amendment in section 5 in the last 2 lines
34 (page 3, lines 11 and 12 in amendment) by striking out the
35 following: "and the line of cases relating to permanent
36 impairment that preceded the Churchill decision"

37 Further amend the amendment by inserting after section 5 the
38 following:

39 '**Sec. 6. Appropriations and allocations.** The following
40 appropriations and allocations are made.

41 **WORKERS' COMPENSATION BOARD**

42 **Administration - Workers' Compensation Board**

43 Initiative: Allocates funds for one Planning and Research
44 Associate position and related operating costs associated with

2 collecting data to adjust the impairment threshold and to
prepare the required report.

4	Other Special Revenue Funds	2001-02	2002-03
6	Positions - Legislative Count	(0.000)	(1.000)
6	Personal Services	\$0	\$60,000
8	All Other	0	5,000
10	Total	<u>\$0</u>	<u>\$65,000'</u>

12 Further amend the amendment by relettering or renumbering
any nonconsecutive Part letter or section number to read
consecutively.

14 **FISCAL NOTE**

16 **2002-03**

18 **APPROPRIATIONS/ALLOCATIONS**

20 Other Funds \$65,000

22 **REVENUES**

24 Other Funds \$65,000

26 This amendment eliminates the cost associated with combining
28 certain prior work-related injuries with current work injuries.
This amendment delays inclusion of such prior work injuries in
30 the permanent impairment assessment until January 1, 2004. Such
prior work injuries can be included beginning January 1, 2004
32 provided that the Workers' Compensation Board adjusts the
threshold to take such injuries into account to be effective
34 January 1, 2004.

36 This amendment increases the Other Special Revenue funds
cost of the bill by \$65,000 in fiscal year 2002-03. As amended,
38 this bill includes an Other Special Revenue funds allocation of
\$65,000 in fiscal year 2002-03 for one Planning and Research
40 Associate position and related operating costs associated with
the Workers' Compensation Board's collecting data to adjust the
42 impairment threshold and preparing the required report.


44 The Workers' Compensation Board will also require an
increase in the assessment cap of \$65,000 in fiscal year 2002-03
46 to cover the cost of the position. Increasing the assessment cap
beginning in fiscal year 2002-03 will result in an increase in
48 dedicated revenue of \$65,000 to the Workers' Compensation Board
Administrative Fund.

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SUMMARY

This amendment establishes a delayed effective date for including prior unrelated work injuries compensable under the Maine Revised Statutes, Title 39-A in determinations of permanent impairment in order to permit the "stacking" of prior work injuries to be implemented in a cost-neutral manner for injuries occurring on or after January 1, 2004. The amendment also requires the Workers' Compensation Board to collect data in accordance with the definition of "permanent impairment" provided in Title 39-A, section 213, subsection 1-A, paragraph B and to adjust the permanent impairment threshold accordingly, to be effective January 1, 2004. If the permanent impairment threshold is not adjusted as required, to be effective January 1, 2004, the definition of "permanent impairment" set forth in Title 39-A, section 213, subsection 1-A, paragraph A will continue to control. The Workers' Compensation Board is required to report the appropriate adjustment to the joint standing committee of the Legislature having jurisdiction over labor matters by January 2, 2004 and indicate whether the necessary adjustment has been made.

SPONSORED BY: 
(Senator KILKELLY)

COUNTY: Lincoln