

MAINE STATE LEGISLATURE

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L.D. 35

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DATE: 6-2-03

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STATE OF MAINE
SENATE
121ST LEGISLATURE
FIRST REGULAR SESSION

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SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 21, L.D. 35, Bill, "An Act To Increase the Assessment on Workers' Compensation Insurance To Fund the Workers' Compensation Board Administrative Fund"

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

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'Amend the bill by inserting after the title and before the enacting clause the following:

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'**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

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Whereas, the operating expenses necessary for the Workers' Compensation Board to provide adequate services to the employers and workers of this State have increased to a level beyond that contemplated by the current assessment limit; and

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Whereas, if additional funding is not available before the 90-day period has expired, it may become necessary for the Workers' Compensation Board to suspend the employee advocate program and lay off the advocate staff; and

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Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

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1 of 8

2 Further amend the bill by striking out everything after the
enacting clause and before the summary and inserting in its place
4 the following:

6 'Sec. 1. 39-A MRSA §152, sub-§2-A is enacted to read:

8 2-A. Electronic filing rulemaking. The board shall adopt
rules requiring the electronic filing of information required by
10 this Act and by board rule. Rules adopted pursuant to this
subsection are routine technical rules as defined in Title 5,
12 chapter 375, subchapter 2-A.

14 A. The rules must be developed through the consensus-based
rule development process set forth in Title 5, section
16 8051-B and must include as participants representatives of
employers, insurers and 3rd-party administrators.

18 B. The rules must include written standards and procedures
20 for implementation of the standards, which may include
definition of the applicable programming interface for
22 in-state and out-of-state entities required to submit
reports. The rules must relate specific forms required to
24 be filed with data points in the standards.

26 Before adopting the rules, the board shall test the applicable
application programming interfaces and standards to ensure that
28 the program operates successfully.

30 Sec. 2. 39-A MRSA §154, sub-§6, as amended by PL 2003, c. 93,
§1, is further amended to read:

32 6. Assessment levied. The assessments levied under this
34 section may not be designed to produce more than \$6,000,000 in
36 revenues annually beginning in the 1995-96 fiscal year, more than
\$6,600,000 annually beginning in the 1997-98 fiscal year, more
38 than \$6,735,000 beginning in the 1999-00 fiscal year, more than
\$7,035,000 in the 2001-02 fiscal year or more than \$6,860,000
40 beginning in the 2002-03 fiscal year, more than \$8,390,000
beginning in the 2003-04 fiscal year, more than \$8,565,000
42 beginning in the 2004-05 fiscal year or more than \$8,525,000
beginning in the 2005-06 fiscal year. Assessments collected that
44 exceed \$6,000,000 beginning in the 1995-96 fiscal year,
\$6,600,000 beginning in the 1997-98 fiscal year, \$6,735,000
46 beginning in the 1999-00 fiscal year, \$7,035,000 in fiscal year
2001-02 or \$6,860,000 beginning in the 2002-03 fiscal year,
48 \$8,390,000 beginning in the 2003-04 fiscal year, \$8,565,000
beginning in the 2004-05 fiscal year or \$8,525,000 beginning in
50 the 2005-06 fiscal year by a margin of more than 10% must be
refunded to those who paid the assessment. Any amount collected

SENATE AMENDMENT

above the board's allocated budget and within the 10% margin must
2 be used to create a reserve of up to 1/4 of the board's annual
budget. The board, by a majority vote of its membership, may use
4 its reserve to assist in funding its Personal Services account
expenditures and All Other account expenditures and to help
6 defray the costs incurred by the board pursuant to this Act
including administrative expenses, consulting fees and all other
8 reasonable costs incurred to administer this Act. The board
shall notify the chairs and members of the joint standing
10 committee of the Legislature having jurisdiction over labor
matters whenever the board receives approval from the State
12 Budget Officer and the Governor to use reserve funds to increase
its allotment above the allocation authorized by the
14 Legislature. Any collected amounts or savings above the allowed
reserve must be used to reduce the assessment for the following
16 fiscal year. The board shall determine the assessments prior to
May 1st and shall assess each insurance company or association
18 and self-insured employer its pro rata share for expenditures
during the fiscal year beginning July 1st. Each self-insured
20 employer shall pay the assessment on or before June 1st. Each
insurance company or association shall pay the assessment in
22 accordance with subsection 3.

24 **Sec. 3. Review.** A commission is established to review the
budget process of the Workers' Compensation Board.

26
1. **Members.** The commission consists of 2 members of the
28 Joint Standing Committee on Labor, one representing each of the 2
political parties in the Legislature with the greatest number of
30 members, appointed by the chairs of the Joint Standing Committee
on Labor, and 2 members of the Workers' Compensation Board, one
32 representing and appointed by the labor members of the board and
one representing and appointed by the management members of the
34 board.

36 2. **Chairs.** The members from the Joint Standing Committee
on Labor are the chairs of the commission.

38
3. **Appointments; convening of commission.** All appointments
40 must be made no later than 30 days following the effective date
of this Act. The appointing authorities shall notify the
42 Executive Director of the Legislative Council once all
appointments have been completed. Within 15 days after
44 appointment of all members, the chairs shall call and convene the
first meeting of the commission.

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4. **Duties.** The commission shall review the process used by
48 the Workers' Compensation Board to establish, approve and monitor
its budget and determine whether improvements are needed. The
50 commission shall determine whether recommendations regarding the

SENATE AMENDMENT

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2 budget process contained in the 1997 Coopers and Lybrand report
and the 2001 Berry, Dunn, McNeil and Parker report have been
4 implemented and, if not, whether and how they should be
implemented.

6 **5. Report.** The commission shall report its findings and
recommendations, along with any recommended legislation, to the
8 Joint Standing Committee on Labor not later than December 3,
2003. The Joint Standing Committee on Labor is authorized to
10 submit legislation to the Second Regular Session of the 121st
Legislature in response to the report.

12 **6. Expenses and per diem.** Commission members who are
14 Legislators are entitled to receive legislative per diem, as
defined in the Maine Revised Statutes, Title 3, section 2, and
16 reimbursement for travel and other necessary expenses related to
their attendance at meetings of the commission. Commission
18 members who are members of the Workers' Compensation Board are
entitled to per diem and expenses as provided in Title 39-A,
20 section 151, subsection 6. The Workers' Compensation Board shall
transfer sufficient funds from its reserve fund to the
22 Legislature to cover the costs of legislative per diem and
expenses for commission meetings.

24 **7. Staff.** The Workers' Compensation Board shall provide
26 staffing to the commission. Upon approval by the Legislative
Council, the Office of Policy and Legal Analysis and the Office
28 of Fiscal and Program Review shall also provide staff assistance
to the commission.

30 **8. Extension.** If the commission requires a limited
32 extension of time to complete its study and make its report, it
may apply to the Legislative Council, which may grant an
34 extension.

36 **9. Commission budget.** The chairs of the commission, with
assistance from the commission staff, shall administer the
38 commission's budget. Within 10 days after its first meeting, the
commission shall present a work plan and proposed budget to the
40 Legislative Council for its approval. The commission may not
incur expenses that would result in the commission's exceeding
42 its approved budget. Upon request from the commission, the
Executive Director of the Legislative Council shall promptly
44 provide the commission chairs and staff with a status report on
the commission budget, expenditures incurred and paid and
46 available funds.

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

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SENATE AMENDMENT

WORKERS' COMPENSATION BOARD

2

Administration - Workers' Compensation Board 0183

4

Initiative: Allocates funds for the board to contract with the Department of Labor for programming services to implement electronic filing by insurers and self-insurers.

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Other Special Revenue Funds	2003-04	2004-05
All Other	\$40,000	\$40,000
Other Special Revenue Funds Total	\$40,000	\$40,000

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Administration - Workers' Compensation Board 0183

16

Initiative: Provides for increased revenue allocation, restoration of positions and All Other costs for the central office, dispute resolution and the worker advocate programs to continue program operations. It also restores fiscal year 2004-05 funding for the law clerk at the administrative office of the courts.

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Other Special Revenue Funds	2003-04	2004-05
Positions - Legislative Count	(23,000)	(24,000)
Personal Services	\$1,363,043	\$1,431,589
All Other	242,711	247,794
Other Special Revenue Funds Total	\$1,605,754	\$1,679,383

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Administration - Workers' Compensation Board 0183

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Initiative: Allocates funds for Department of Labor programming services.

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Other Special Revenue Funds	2003-04	2004-05
All Other	\$70,000	\$70,000
Other Special Revenue Funds Total	\$70,000	\$70,000

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Administration - Workers' Compensation Board 0183

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Initiative: Provides for the reduction in All Other funds for the purpose of staying within the assessment level recommended by the board.

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Other Special Revenue Funds	2003-04	2004-05
All Other	(\$20,004)	(\$25,413)

2.013.

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 21, L.D.
35

2 Other Special Revenue Funds Total (\$20,004) (\$25,413)

4 Administration - Workers' Compensation
Board 0183

6 Initiative: Provides for the elimination of one Hearings Officer
8 position for the purpose of staying within recommended available
resources.

10	Other Special Revenue Funds	2003-04	2004-05
12	Positions - Legislative Count	(-1.000)	(-1.000)
14	Personal Services	(\$140,512)	(\$140,244)
16	Other Special Revenue Funds Total	(\$140,512)	(\$140,244)

18 Administration - Workers' Compensation
Board 0183

20 Initiative: Allocates funds to contract for temporary worker
22 advocate and clerical support services and associated overtime
24 for the Worker Advocate Program offices in Portland and Augusta.
Recent changes by the Bureau of Accounts and Controls prohibit
the encumbering of a contract in fiscal year 2002-03 for services
to be provided in fiscal year 2003-04. Funding is available for
26 these expenditures in fiscal year 2003-04 from the unexpended
cash in fiscal year 2002-03.

28	Other Special Revenue Funds	2003-04	2004-05
30	Personal Services	\$30,000	\$0
32	All Other	140,000	0
34	Other Special Revenue Funds Total	\$170,000	\$0

36 WORKERS' COMPENSATION BOARD
DEPARTMENT TOTALS

38	OTHER SPECIAL REVENUE FUNDS	\$1,725,238	\$1,623,726
40	DEPARTMENT TOTAL - ALL FUNDS	\$1,725,238	\$1,623,726

42 LEGISLATURE

44 Commission to Review the Budget
46 Process of the Workers' Compensation Board

48 Initiative: Allocates funds to reflect the reimbursement to be
received from the Workers' Compensation Board reserve fund to
cover the costs of legislative per diem and expenses.

50

SENATE AMENDMENT

2	Other Special Revenue Funds	2003-04	2004-05
	Personal Services	\$440	\$0
	All Other	415	0
4			
	Other Special Revenue Funds Total	\$855	\$0
6			
	LEGISLATURE	2003-04	2004-05
8			
	OTHER SPECIAL REVENUE FUNDS	\$855	\$0
10			
	DEPARTMENT TOTAL - ALL FUNDS	\$855	\$0
12			
	SECTION TOTALS	2003-04	2004-05
14			
	OTHER SPECIAL REVENUE FUND	\$1,726,093	\$1,623,726
16			
	SECTION TOTAL - ALL FUNDS	\$1,726,093	\$1,623,726

18 **Emergency clause.** In view of the emergency cited in the
 20 preamble, this Act takes effect July 1, 2003.'

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 24 **SUMMARY**

26 This amendment increases the maximum allowable assessment to
 support the activities of the Workers' Compensation Board to
 28 \$8,390,000 in fiscal year 2003-04, \$8,565,000 in fiscal year
 2004-05 and \$8,525,000 in fiscal year 2005-06. The bill restores
 the worker advocate and support staff positions to continue
 30 program operation. Included in the increased assessment cap for
 fiscal years 2003-04 and 2004-05 is \$40,000 for the board to
 32 contract for programming services to implement electronic filing
 by insurers and self-insurers.

34 The amendment requires the Workers' Compensation Board to
 36 adopt rules requiring the electronic filing of information with
 the board. The rules are routine technical rules but must be
 38 developed through the consensus-based rule development process
 described in the Maine Administrative Procedure Act.

40 The amendment also creates a 4-member commission to review
 42 the Workers' Compensation Board's budget process for
 establishing, approving and monitoring its budget, with 2
 44 Legislators and 2 members of the Workers' Compensation Board.
 The commission will report its findings and recommendations to
 46 the Joint Standing Committee on Labor by December 3, 2003.

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SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 21, L.D.
35

2 This amendment adds an emergency preamble and clause and
specifies an effective date of July 1, 2003.

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FISCAL NOTE REQUIRED
(See attached)

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SPONSORED BY: *Bob Edmonds*
(Senator EDMONDS)

12

COUNTY: Cumberland

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**121st Maine Legislature
Office of Fiscal and Program Review**

**LD 35**

**An Act to Increase the Assessment on Workers' Compensation Insurance
To Fund the Workers' Compensation Board Administrative Fund**

LR 0283(09)

Fiscal Note for House Amendment 'A' to Committee Amendment "A"

Sponsor: Sen. Edmonds

Fiscal Note Required: Yes

Fiscal Note

	2003-04	2004-05	Projections 2005-06	Projections 2006-07
Appropriations/Allocations				
Other Special Revenue Funds	\$236,093	(\$41,274)	(\$81,274)	(\$81,274)
Revenue				
Other Special Revenue Funds	\$40,000	\$40,000	\$0	\$0

Fiscal Detail and Notes

This amendment increases the Workers' Compensation Board assessment cap by \$40,000 in fiscal years 2003-04 and 2004-05. This amendment also increases the Other Special Revenue Fund allocation for the Workers' Compensation Board by \$236,093 in fiscal year 2003-04 and decreases the Other Special Revenue Fund allocation by \$41,274 in fiscal year 2004-05.

As amended, this bill increases the Workers' Compensation Board assessment cap to \$8,390,000 in fiscal year 2003-04, \$8,565,000 in fiscal year 2004-05, and \$8,525,000 in fiscal year 2005-06. As amended, this bill includes Other Special Revenue Funds allocations of \$1,726,093 and \$1,623,726 in fiscal years 2003-04 and 2004-05, respectively, for the costs associated with restoring 22 positions in fiscal year 2003-04 and 23 positions in fiscal year 2004-05 and for contracting for programming services with the Department of Labor, including the costs associated with implementing an electronic filing system. As amended, this bill also provides for the costs of the legislative per diem and expenses associated with the Commission to Review the Budget Process of the Workers' Compensation Board.