

MAINE STATE LEGISLATURE

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DATE: 6-4-03

(Filing No. S-255)

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STATE OF MAINE
SENATE
121ST LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "B" 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"

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

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

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

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

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

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,'

SENATE AMENDMENT

2 Further amend the bill by striking out everything after the
3 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
9 rules requiring the electronic filing of information required by
10 this Act and by board rule. Rules adopted pursuant to this
11 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
15 rule development process set forth in Title 5, section
16 8051-B and must include as participants representatives of
17 employers, insurers and 3rd-party administrators.

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

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

28 Sec. 2. 39-A MRSA §154, sub-§6, as amended by PL 2003, c. 93,
29 §1, is further amended to read:

32 6. Assessment levied. The assessments levied under this
33 section may not be designed to produce more than \$6,000,000 in
34 revenues annually beginning in the 1995-96 fiscal year, more than
35 \$6,600,000 annually beginning in the 1997-98 fiscal year, more than
36 \$6,735,000 beginning in the 1999-00 fiscal year, more than
37 \$7,035,000 in the 2001-02 fiscal year ~~or~~ more than \$6,860,000
38 beginning in the 2002-03 fiscal year, more than \$8,390,000
39 beginning in the 2003-04 fiscal year, more than \$8,565,000
40 beginning in the 2004-05 fiscal year or more than \$8,525,000
41 beginning in the 2005-06 fiscal year. Assessments collected that
42 exceed \$6,000,000 beginning in the 1995-96 fiscal year,
43 \$6,600,000 beginning in the 1997-98 fiscal year, \$6,735,000
44 beginning in the 1999-00 fiscal year, \$7,035,000 in fiscal year
45 2001-02 ~~or~~ \$6,860,000 beginning in the 2002-03 fiscal year,
46 \$8,390,000 beginning in the 2003-04 fiscal year, \$8,565,000
47 beginning in the 2004-05 fiscal year or \$8,525,000 beginning in
48 the 2005-06 fiscal year by a margin of more than 10% must be
49 refunded to those who paid the assessment. Any amount collected

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

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

26
27 **1. Members.** The commission consists of 2 Senators appointed
28 by the President of the Senate, one representing each of the 2
29 political parties in the Legislature with the greatest number of
30 members, 2 members of the House of Representatives appointed by
31 the Speaker of the House of Representatives, one representing
32 each of the 2 political parties in the Legislature with the
33 greatest number of members, and 2 members of the Workers'
34 Compensation Board, one representing and appointed by the labor
35 members of the board and one representing and appointed by the
36 management members of the board.

37
38 **2. Chairs.** The first-named Senator and the first-named
39 member of the House of Representatives are the chairs of the
40 commission.

41
42 **3. Appointments; convening of commission.** All appointments
43 must be made no later than 30 days following the effective date
44 of this Act. The appointing authorities shall notify the
45 Executive Director of the Legislative Council once all
46 appointments have been completed. Within 15 days after
47 appointment of all members, the chairs shall call and convene the
48 first meeting of the commission.

2 **4. Duties.** The commission shall review the process used by
3 the Workers' Compensation Board to establish, approve and monitor
4 its budget and determine whether improvements are needed. The
5 commission shall determine whether recommendations regarding the
6 budget process contained in the 1997 Coopers and Lybrand report
7 and the 2001 Berry, Dunn, McNeil and Parker report have been
8 implemented and, if not, whether and how they should be
9 implemented.

10 **5. Report.** The commission shall report its findings and
11 recommendations, along with any recommended legislation, to the
12 Joint Standing Committee on Labor not later than December 3,
13 2003. The Joint Standing Committee on Labor is authorized to
14 submit legislation to the Second Regular Session of the 121st
15 Legislature in response to the report.

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

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

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

36 **9. Commission budget.** The chairs of the commission, with
37 assistance from the commission staff, shall administer the
38 commission's budget. Within 10 days after its first meeting, the
39 commission shall present a work plan and proposed budget to the
40 Legislative Council for its approval. The commission may not
41 incur expenses that would result in the commission's exceeding
42 its approved budget. Upon request from the commission, the
43 Executive Director of the Legislative Council shall promptly

2 provide the commission chairs and staff with a status report on
the commission budget, expenditures incurred and paid and
4 available funds.

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

8 **WORKERS' COMPENSATION BOARD**

10 **Administration - Workers' Compensation Board 0183**

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

16	Other Special Revenue Funds	2003-04	2004-05
18	All Other	\$40,000	\$40,000
20	Other Special Revenue Funds Total	<u>\$40,000</u>	<u>\$40,000</u>

22 **Administration - Workers' Compensation
Board 0183**

24 Initiative: Provides for increased revenue allocation,
restoration of positions and All Other costs for the central
26 office, dispute resolution and the worker advocate programs to
continue program operations. It also restores fiscal year
28 2004-05 funding for the law clerk at the administrative office of
the courts.

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

38 **Administration - Workers' Compensation
Board 0183**

40 Initiative: Allocates funds for Department of Labor programming
42 services.

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

Other Special Revenue Funds Total \$70,000 \$70,000

2

**Administration - Workers' Compensation
Board 0183**

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

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

14

**Administration - Workers' Compensation
Board 0183**

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18 Initiative: Provides for the elimination of one Hearing Officer
20 position for the purpose of staying within recommended available
resources.

22	Other Special Revenue Funds	2003-04	2004-05
24	Positions - Legislative Count	(-1.000)	(-1.000)
26	Personal Services	(\$140,512)	(\$140,244)
28	Other Special Revenue Funds Total	(\$140,512)	(\$140,244)

26

**Administration - Workers' Compensation
Board 0183**

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

40	Other Special Revenue Funds	2003-04	2004-05
42	Personal Services	\$30,000	\$0
44	All Other	140,000	0
46	Other Special Revenue Funds Total	\$170,000	\$0

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WORKERS' COMPENSATION BOARD

46

DEPARTMENT TOTALS	2003-04	2004-05
OTHER SPECIAL REVENUE FUNDS	\$1,725,238	\$1,623,726
DEPARTMENT TOTAL - ALL FUNDS	\$1,725,238	\$1,623,726

LEGISLATURE

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

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.

Other Special Revenue Funds	2003-04	2004-05
Personal Services	\$880	\$0
All Other	830	0
Other Special Revenue Funds Total	\$1,710	\$0

LEGISLATURE	2003-04	2004-05
OTHER SPECIAL REVENUE FUNDS	\$1,710	\$0
DEPARTMENT TOTAL - ALL FUNDS	\$1,710	\$0

SECTION TOTALS	2003-04	2004-05
OTHER SPECIAL REVENUE FUNDS	\$1,726,948	\$1,623,726
SECTION TOTAL - ALL FUNDS	\$1,726,948	\$1,623,726

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

SUMMARY

This amendment provides that the commission to review the budget process of the Workers' Compensation Board consists of 2 Senators appointed by the President of the Senate, one representing each of the 2 political parties in the Legislature with the greatest number of members, 2 members of the House of Representatives appointed by the Speaker of the House of Representatives, one representing each of the 2 political parties in the Legislature with the greatest number of members, and 2 members of the Workers' Compensation Board, one representing and appointed by the labor members of the board and one representing

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

and appointed by the management members of the board. It also
incorporates changes made by Senate Amendment "A" to Committee
Amendment "A."

FISCAL NOTE REQUIRED
(See attached)

SPONSORED BY:

(Senator EDMONDS)

COUNTY: Cumberland

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(11)

Fiscal Note for Senate Amendment "B" 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	\$236,948	(\$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 \$236,948 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 \$1,726,948 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.