

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 768

S.P. 263

In Senate, February 18, 2003

An Act To Improve the Administration of the Baxter Compensation Program

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator TREAT of Kennebec.
Cosponsored by Representative BULL of Freeport and
Senators: BRENNAN of Cumberland, CATHCART of Penobscot, EDMONDS of
Cumberland, TURNER of Cumberland, WOODCOCK of Franklin, Representatives:
BOWLES of Sanford, McKEE of Wayne, NORBERT of Portland.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 5 MRSA §22002, sub-§6, ¶H,** as enacted by PL 2001, c.
439, Pt. T, §5, is amended to read:

6 H. The authority shall submit an annual written report by
8 January 15th of each year to the Governor, the Attorney
10 General and the joint standing committee of the Legislature
having jurisdiction over judiciary matters. The report must
include information on the following:

12 (1) The activities of the authority within the last 12
14 months;

16 (2) The number of employees and volunteers and their
responsibilities;

18 (3) Data pertaining to the following:

20 (a) Requests for information;

22 (b) Applications filed;

24 (c) Claims submitted to the compensation panel;

26 (d) Decisions made by the compensation panel, and
the nature of the decisions;

28 (e) Decisions appealed to the appeal board, and
30 the grounds for and outcomes of the appeals;

32 (f) Claims pending completion prior to being
submitted to the compensation panel;

34 (g) Claims pending decision by the compensation
36 panel;

38 (h) Claims pending resolution by the appeal
board; and

40 (i) Awards made and paid;

42 (4) Amount of compensation paid;

44 (5) Any other information that would help to evaluate
46 the performance of the program; and

48 (6) Any recommended legislation the authority
50 determines is necessary to carry out its duties; and

2 (7) A detailed account of the administrative budget
3 and the previous year's expenditures.

4 **Sec. 2. 5 MRSA §22002, sub-§8,** as enacted by PL 2001, c. 439,
5 Pt. T, §5, is repealed.

6 **Sec. 3. 5 MRSA §22009, sub-§2,** as enacted by PL 2001, c. 439,
7 Pt. T, §5, is amended to read:

10 **2. Confidential.** All information provided by a claimant or
11 a claimant's family is confidential until the claim is submitted
12 to the compensation panel. Once the claim is submitted to the
13 compensation panel, the claim following information is a public
14 record-;

16 A. The claimant's name;

18 B. The claimant's eligibility for compensation;

20 C. The amount of the compensation award, if any; and

22 D. A summary of the compensation panel's rationale in
23 deciding eligibility and the compensation award amount.

24 All other information supporting or corroborating the claim
25 continues to be confidential and may be released by the authority
26 to only the Attorney General, the Governor and the chairs of the
27 joint standing committee of the Legislature having jurisdiction
28 over the authority. The information remains confidential and the
29 Attorney General, the Governor and chairs of the committee may
30 not release it.

32 **Sec. 4. 5 MRSA §22025, sub-§§4 and 5,** as enacted by PL 2001, c.
33 439, Pt. T, §5, are repealed and the following enacted in their
34 place:

36 **4. Appeal on record and appeal documents.** In considering
37 an appeal, the appeal board, except as otherwise provided in this
38 section, shall consider only the record of the proceedings before
39 the compensation panel, including any documents or testimony
40 presented to the panel. The appeal board may also consider any
41 oral or written arguments that the claimant may wish to make in
42 support of the claim.

44 **5. Standard of review.** The appeal board may either affirm
45 or increase a compensation award of the compensation panel, but
46 may not reduce an award. The appeal board may overrule a
47 decision of the compensation panel only if the appeal board
48 determines the decision of the compensation panel is arbitrary
49 and capricious, inconsistent with the statute or inconsistent
50 with the policies adopted by the authority.

2 This bill also addresses the appeal process. It allows the
3 appeal board to affirm or increase a compensation award, but
4 prohibits a reduction in the amount awarded by the compensation
5 panel. The appeal board may consider records and testimony
6 presented to the compensation panel. It may also accept oral and
7 written arguments from the claimant in support of the claim. If
8 the claimant wants to present new information on appeal, the
9 appeal board will make a determination on whether the new
10 information is appropriate to be considered in connection with
11 the claim. If so, then the appeal board must return the claim to
12 the compensation panel and order the compensation panel to
reconsider the decision in light of the new information.