

# MAINE STATE LEGISLATURE

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*R.O.S.*

1  
2 Date: *05-31-07*

(Filing No. S-179)

3 **LABOR**

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5 **STATE OF MAINE**

6 **SENATE**

7 **123RD LEGISLATURE**

8 **FIRST REGULAR SESSION**

9 COMMITTEE AMENDMENT "*A*" to S.P. 506, L.D. 1439, Bill, "An Act To  
10 Enhance the Workers' Compensation Board Advocate Program"

11 Amend the bill by striking out everything after the enacting clause and before the  
12 summary and inserting the following:

13 **Sec. 1. 2 MRSA §6-E, sub-§2**, as enacted by PL 1993, c. 145, §1, is amended to  
14 read:

15 **2. General counsel.** The salary of the general counsel is within salary range ~~86~~ 89.

16 **Sec. 2. 39-A MRSA §153-A, sub-§3**, as amended by PL 2003, c. 608, §11, is  
17 further amended to read:

18 **3. Advocates and advocate attorneys.** The executive director shall hire advocates  
19 and advocate attorneys under the authority of section 151, subsection 1-A, subject to the  
20 Civil Service Law, who must be qualified by experience and training.

21 A. The minimum qualifications for employment as an advocate must include at least  
22 the following:

23 (1) A 6-year combination of appropriate experience, education and training in  
24 advocacy or dispute resolution;

25 (2) Knowledge of administrative, adjudicatory or workers' compensation laws,  
26 rules and procedures;

27 (3) Knowledge of legal documents, court procedures and rules of evidence; and

28 (4) Knowledge of medical and legal terminology and practices with respect to  
29 workers' compensation.

30 A-1. The minimum qualifications for employment as an advocate attorney must  
31 include at least admission to the practice of law in the State and current registration  
32 with the Board of Overseers of the Bar or eligibility for admission to practice law in  
33 the State, as long as the advocate attorney is admitted to practice law in the State and

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COMMITTEE AMENDMENT "A" to S.P. 506, L.D. 1439

1 is registered with the Board of Overseers of the Bar within 12 months of the date the  
2 advocate attorney was hired.

3 B. The board shall ensure that advocates and advocate attorneys receive appropriate  
4 and ongoing education and training.

5 C. An advocate or advocate attorney may not represent before the board any  
6 insurer, self-insurer or 3rd-party administrator for a period of 2 years after  
7 terminating employment with the board.

8 **Sec. 3. 39-A MRSA §153-A, sub-§4**, as enacted by PL 1997, c. 486, §4, is  
9 amended to read:

10 **4. Duties of advocates and advocate attorneys.** Advocates and advocate attorneys  
11 have the following duties:

12 A. Assisting qualified employees in matters regarding workers' compensation  
13 claims, including negotiations;

14 B. Acting as an information resource to qualified employees on laws, decisions,  
15 rules, policies and procedures of the board;

16 C. Assisting and advocating on behalf of qualified employees to obtain appropriate  
17 rehabilitation, return to work and employment security services;

18 D. Meeting with or otherwise communicating with insurers, employers and health  
19 care and other authorized providers in order to assist qualified employees;

20 E. Assisting and advocating on behalf of qualified employees in any mediation or  
21 hearing proceeding under the jurisdiction of the board; and

22 F. Maintaining confidentiality of information and communications with respect to  
23 the assistance and representation provided to qualified employees.

24 **Sec. 4. 39-A MRSA §153-A, sub-§5**, as enacted by PL 1997, c. 486, §4, is  
25 amended to read:

26 **5. Legal advice to advocates and advocate attorneys.** The board's general counsel  
27 shall assign a staff attorney as necessary to advise advocates and, as necessary, advocate  
28 attorneys on the preparation of qualified employees' cases at the formal hearing stage.

29 **Sec. 5. 39-A MRSA §153-A, sub-§6**, as enacted by PL 1999, c. 410, §1, is  
30 amended to read:

31 **6. Case management authority of advocates and advocate attorneys.** An  
32 advocate or advocate attorney has the authority to:

33 A. Manage and prioritize the advocate's or advocate attorney's caseload to  
34 efficiently move cases through the board mediation and hearing process and to  
35 achieve resolution;

36 B. With the written approval of the staff attorney, decline cases or cease assistance  
37 to an employee when the advocate or advocate attorney after investigation finds:

38 (1) Timely notice of the injury was not given by the employee to the employer,  
39 pursuant to this Act;

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- 1 (2) The statute of limitations has expired;
- 2 (3) The employee's case is based on an argument or issue adversely determined
- 3 by the Supreme Judicial Court;
- 4 (4) The employee's case is based on a claim of discrimination governed by
- 5 section 353;
- 6 (5) There is no record of medical assessment stating that the employee's injury
- 7 was either caused by, aggravated by or precipitated by the employee's work or,
- 8 when the issue is aggravation, there is no record of medical assessment stating
- 9 that the employee's work aggravated a preexisting condition in a significant
- 10 manner; or
- 11 (6) The employee has admitted to a fraudulent act, has been convicted of a
- 12 fraudulent act by a court of competent jurisdiction or has been found to have
- 13 committed a fraudulent act by the abuse investigation unit of the board; and

14 C. With the written approval of the staff attorney, present lump-sum settlements on  
15 cases pursuant to section 352.

16 A qualified employee whose case is declined or whose advocate or advocate attorney  
17 assistance ceases pursuant to this subsection may appeal the action to the executive  
18 director of the board, within 30 days of the action. The executive director's ruling on the  
19 appeal is final and is not subject to judicial review. If the executive director finds  
20 assistance by an advocate or advocate attorney should resume, the employee must be  
21 assigned to an advocate or advocate attorney other than the advocate or advocate attorney  
22 who declined the case or ceased assistance.

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

25 **WORKERS' COMPENSATION BOARD**

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

27 Initiative: Allocates funds to implement a reorganization to enhance the Workers'  
28 Compensation Advocate Program by providing a range change from 86 to 89 for one  
29 Public Service Executive II (Workers' Compensation Board General Counsel) position,  
30 reclassifying one Public Service Manager II (Deputy Senior Staff Attorney) range 29  
31 position to a Public Service Manager II (Senior Staff Attorney) range 33 position,  
32 reclassifying one Workers' Compensation Advocate range 24 position to a Public Service  
33 Manager II (Deputy Senior Staff Attorney) range 29 position, reclassifying eligible  
34 Workers' Compensation Advocate range 24 positions to Workers' Compensation  
35 Advocate Attorney range 27 positions, permitting a Workers' Compensation Advocate  
36 position that is vacant or may become vacant to be reclassified to a Workers'  
37 Compensation Advocate Attorney position, providing a range change from 24 to 27 for  
38 all Workers' Compensation Advocate positions and reclassifying 6 Paralegal Assistant  
39 range 18 positions to Paralegal range 20 positions.

40	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2007-08</b>	<b>2008-09</b>
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# COMMITTEE AMENDMENT

**2.02**

COMMITTEE AMENDMENT "A" to S.P. 506, L.D. 1439

1	Personal Services	\$146,232	\$156,792
2	All Other	(\$146,232)	(\$156,792)
3			
4	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$0

5

6

**SUMMARY**

7 This amendment establishes a new Workers' Compensation Advocate Attorney  
8 classification, reclassifies qualified Workers' Compensation Advocates to Workers'  
9 Compensation Advocate Attorneys, provides for the reclassification of vacant Workers'  
10 Compensation Advocate positions to Workers' Compensation Advocate Attorney  
11 positions, reclassifies other staff attorney and paralegal positions and provides a range  
12 change from 86 to 89 for the Workers' Compensation Board General Counsel position.

13

**FISCAL NOTE REQUIRED**

14

(See attached)

**COMMITTEE AMENDMENT**



# 123rd MAINE LEGISLATURE

LD 1439

LR 1507(02)

## An Act To Enhance the Workers' Compensation Board Advocate Program

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Labor

Fiscal Note Required: Yes

### Fiscal Note

	2007-08	2008-09	Projections 2009-10	Projections 2010-11
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$0	\$0	\$0	\$0

#### Fiscal Detail and Notes

This bill includes Other Special Revenue Funds allocations of \$146,232 in fiscal year 2007-08 and \$156,792 in fiscal year 2008-09 to the personal services line category within the Workers' Compensation Board Administrative Fund and corresponding Other Special Revenue Funds deallocations to the all other line category to fund a reorganization within the Workers' Compensation Board to enhance the Workers' Compensation Advocate program.