

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**SENATE**

**123RD LEGISLATURE**

**FIRST REGULAR SESSION**

**Minority**

COMMITTEE AMENDMENT "A" to S.P. 598, L.D. 1691, Bill, "An Act To Improve the Independent Medical Examiner System"

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

**Sec. 1. 39-A MRSA §153, sub-§10** is enacted to read:

**10. Investigation of extent and causation of work-related injuries.** The board shall expend annually to the extent necessary up to a maximum amount equal to the average annual amount expended from 1992 to 2006 on physician or medical examiner fees pursuant to former sections 207 and 312 in order to pay the fees of independent medical examiners the board shall appoint to determine the extent and causation of work-related injuries, and to provide a report on the extent and causation of work-related injuries, when such is at issue in a workers' compensation claim.

**Sec. 2. 39-A MRSA §154, sub-§6, ¶A,** as enacted by PL 2007, c. 240, Pt. LL, §1, is amended to read:

A. The assessments levied under this section may not be designed to produce more than \$6,000,000 in revenues annually beginning in the 1995-96 fiscal year, more than \$6,600,000 annually beginning in the 1997-98 fiscal year, more than \$6,735,000 beginning in the 1999-00 fiscal year, more than \$7,035,000 in the 2001-02 fiscal year, more than \$6,860,000 beginning in the 2002-03 fiscal year, more than \$8,390,000 beginning in the 2003-04 fiscal year, more than \$8,565,000 beginning in the 2004-05 fiscal year, more than \$8,525,000 beginning in the 2005-06 fiscal year, more than \$9,820,178 beginning in the 2007-08 fiscal year, more than ~~\$10,000,000~~ \$15,600,000 beginning in the 2008-09 fiscal year, more than ~~\$10,400,000~~ \$16,000,000 beginning in the 2009-10 fiscal year, more than ~~\$10,800,000~~ \$16,400,000 beginning in the 2010-11 fiscal year or more than ~~\$11,200,000~~ \$16,800,000 beginning in the 2011-12 fiscal year. Assessments collected that exceed \$6,000,000 beginning in the 1995-96 fiscal year, \$6,600,000 beginning in the 1997-98 fiscal year, \$6,735,000 beginning in the 1999-00 fiscal year, \$7,035,000 in fiscal

**COMMITTEE AMENDMENT**

12/12

1 year 2001-02, \$6,860,000 beginning in the 2002-03 fiscal year, \$8,390,000 beginning  
2 in the 2003-04 fiscal year, \$8,565,000 beginning in the 2004-05 fiscal year,  
3 \$8,525,000 beginning in the 2005-06 fiscal year, \$9,820,178 beginning in the 2007-  
4 08 fiscal year, ~~\$10,000,000~~ \$15,600,000 beginning in the 2008-09 fiscal year,  
5 ~~\$10,400,000~~ \$16,000,000 beginning in the 2009-10 fiscal year, ~~\$10,800,000~~  
6 \$16,400,000 beginning in the 2010-11 fiscal year or ~~\$11,200,000~~ \$16,800,000  
7 beginning in the 2011-12 fiscal year by a margin of more than 10% must be refunded  
8 to those who paid the assessment. Any amount collected above the board's allocated  
9 budget and within the 10% margin must be used to create a reserve of up to 1/4 of the  
10 board's annual budget.

11 **Sec. 3. 39-A MRSA §207**, as amended by PL 2001, c. 278, §§1 and 2, is repealed.

12 **Sec. 4. 39-A MRSA §209, sub-§3**, as enacted by PL 1991, c. 885, Pt. A, §8 and  
13 affected by §§9 to 11, is amended to read:

14 **3. Limitation on reimbursement.** In order to qualify for reimbursement for health  
15 care services provided to employees under this Title, health care providers providing  
16 individual health care services and courses of treatment may not charge more for the  
17 services or courses of treatment for employees than is charged to private 3rd-party payors  
18 for similar services or courses of treatment. An employer is not responsible for charges  
19 that are determined to be excessive or treatment determined to be inappropriate by an  
20 independent medical examiner appointed pursuant to section ~~342~~ 153, subsection 10  
21 by the insurance carrier, self-insurer or group self-insurer pursuant to section 210,  
22 subsection 7 or the board pursuant to section 210, subsection 8.

23 **Sec. 5. 39-A MRSA §312**, as amended by PL 2005, c. 24, §§1 and 2, is repealed.

24 **Sec. 6. 39-A MRSA §355-C, sub-§6**, as enacted by PL 2001, c. 448, §5, is  
25 amended to read:

26 **6. Effect of independent medical examiner's report.** The fund is bound to the  
27 same extent as the employee and the insurer or self-insurer by findings contained in an  
28 independent medical examiner's report provided pursuant to section ~~342~~ 153, subsection  
29 10.

30 **39-A MRSA §611, first ¶**, as enacted by PL 1991, c. 885, Pt. A, §8 and affected  
31 by §§9 to 11, is amended to read:

32 On request of a party or on its own motion the board may in occupational disease  
33 cases appoint one or more competent and impartial physicians. Upon order of the board,  
34 the fees and expenses of the health care provider or health care providers must be paid by  
35 the employer. These appointees shall examine the employee and inspect the industrial  
36 conditions under which the employee has worked in order to determine the nature, extent  
37 and probable duration of the occupational disease, the likelihood of its origin in the  
38 industry and the date of incapacity. ~~Section 207 applies to the filing and subsequent~~  
39 ~~proceedings on the report of the appointees and to examinations and treatments by the~~  
40 ~~employer.~~

41 **Sec. 7. Appropriations and allocations.** The following appropriations and  
42 allocations are made.

000

1 **WORKERS' COMPENSATION BOARD**

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

3 Initiative: Allocates funds to the Workers' Compensation Board beginning in fiscal year  
4 2008-09 for the cost associated with paying the fees of independent medical examiners to  
5 determine the extent and causation of work-related injuries that are at issue in workers'  
6 compensation claims.

| 7  | <b>OTHER SPECIAL REVENUE FUNDS</b>       | <b>2007-08</b> | <b>2008-09</b>     |
|----|--|----------------|--------------------|
| 8  | All Other                                | \$0            | \$5,600,000        |
| 9  |  |                |                    |
| 10 | <b>OTHER SPECIAL REVENUE FUNDS TOTAL</b> | <b>\$0</b>     | <b>\$5,600,000</b> |
| 11 |  |                |                    |

12 **SUMMARY**

13 This amendment is the minority report of the Joint Standing Committee on Labor. It  
14 requires the Workers' Compensation Board to expend resources to pay independent  
15 medical examiner fees to determine the extent and causation of work-related injuries.

16 The amendment increases the assessments that the board may levy against insurers.  
17 The amendment also adds an appropriations and allocations section and corrects cross-  
18 references to repealed sections of law.

19 **FISCAL NOTE REQUIRED**  
20 (See attached)



# 123rd MAINE LEGISLATURE

LD 1691

LR 1723(02)

## An Act To Improve the Independent Medical Examiner System

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

Committee: Labor

Fiscal Note Required: Yes

### Fiscal Note

Undetermined current biennium cost increase - All Funds

|                                   | 2007-08 | 2008-09     | Projections<br>2009-10 | Projections<br>2010-11 |
|-----------------------------------|---------|-------------|------------------------|------------------------|
| <b>Appropriations/Allocations</b> |         |             |                        |                        |
| Other Special Revenue Funds       | \$0     | \$5,600,000 | \$5,600,000            | \$5,600,000            |
| <b>Revenue</b>                    |         |             |                        |                        |
| Other Special Revenue Funds       | \$0     | \$5,600,000 | \$5,600,000            | \$5,600,000            |

#### Fiscal Detail and Notes

This bill includes ongoing Other Special Revenue Funds allocations of \$5,600,000 per year beginning in fiscal year 2008-09 to the Workers' Compensation Board for the costs associated with paying the fees of independent medical examiners to determine the extent and causation of work-related injuries that are at issue in a workers' compensation claim. This cost estimate is based on information provided by the Board that indicates that the average annual cost since 1992 for independent medical examinations under Title 39-A, §312 is approximately \$600,000 and the average cost for medical examinations under Title 39-A, §207 is \$5,000,000, assuming 2,500 exams per year at an average cost of \$2,000.

The Workers' Compensation Board will also require an increase of the assessment cap to 15,600,000 in fiscal year 2008-09, \$16,000,000 in fiscal year 2009-10, \$16,400,000 in fiscal year 2010-11 and \$16,800,000 beginning in fiscal year 2011-12 to fund the cost of paying the fees of the independent medical examiners. Increasing the assessment cap will result in an increase in dedicated revenue of \$5,600,000 per year beginning in fiscal year 2008-09.

Increasing the workers' compensation assessment will increase the cost to all State agencies for the workers' compensation portion of the personal services expense. The increased cost can not be determined at this time.