

MAINE STATE LEGISLATURE

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Date: 3/18/10

Majority

(Filing No. H-746)

LABOR

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1102, L.D. 1565, Bill, "An Act To Amend the Laws Governing the Knowing Misclassification of Construction Workers"

Amend the bill by striking out the title and substituting the following:

'An Act To Amend the Laws Governing the Misclassification of Construction Workers'

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

'Sec. 1. 39-A MRSA §105-A, sub-§5 is enacted to read:

5. Stop-work orders. In addition to any penalty imposed under section 324, subsection 3, if after a hearing the executive director determines that a hiring agent or construction subcontractor has failed to secure the payment to that hiring agent's or construction subcontractor's employees of the compensation provided for by this Act, the executive director or the executive director's designee shall issue a stop-work order pursuant to this subsection.

A. A hiring agent or construction subcontractor must receive at least 48 hours' notice of a hearing regarding a stop-work order.

B. If the executive director or the executive director's designee finds at the hearing that the hiring agent or construction subcontractor failed to provide a workers' compensation insurance policy, misrepresented one or more employees as independent contractors or provided false, incomplete or misleading information to the board concerning the number of employees, the executive director or the executive director's designee shall issue a stop-work order effective immediately on the conclusion of the hearing.

C. A stop-work order issued pursuant to this subsection remains in effect until the executive director or the executive director's designee issues an order releasing the stop-work order upon finding that the hiring agent or construction subcontractor has

COMMITTEE AMENDMENT

1 come into compliance with the requirements of this subsection and has paid any
2 penalty assessed under section 324, subsection 3.

3 D. A stop-work order issued pursuant to this subsection against a hiring agent or
4 construction subcontractor applies to any successor firm, corporation or partnership
5 of the hiring agent or construction subcontractor in the same manner as it applies to
6 the hiring agent or construction subcontractor.

7 **Sec. 2. Appropriations and allocations.** The following appropriations and
8 allocations are made.

9 **WORKERS' COMPENSATION BOARD**

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

11 Initiative: Allocates funds to enhance enforcement of laws prohibiting the
12 misclassification of workers by establishing one Management Analyst II position at range
13 24 and one Auditor III position at range 25. Notwithstanding any other provision of law,
14 the Management Analyst II position and the Auditor III position must be funded from the
15 Workers' Compensation Board's reserve account pursuant to the Maine Revised Statutes,
16 Title 39-A, section 154, subsection 6, paragraph B.

17	OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
18	POSITIONS - LEGISLATIVE COUNT	0.000	2.000
19	Personal Services	\$0	\$161,773
20			
21	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$161,773
22			

23 **SUMMARY**

24 This amendment, which is the majority report of the committee, authorizes the
25 Executive Director of the Workers' Compensation Board or the executive director's
26 designee, to issue a stop-work order after a hearing if a hiring agent or construction
27 subcontractor misrepresented one or more employees as independent contractors, failed
28 to provide a workers' compensation insurance policy or provided false, incomplete or
29 misleading information to the Workers' Compensation Board concerning the number of
30 employees. The executive director must give the hiring agent or construction
31 subcontractor 48 hours' notice before the stop-work order hearing. The amendment also
32 includes an appropriations and allocations section to cover enforcement.

33 **FISCAL NOTE REQUIRED**

34 **(See attached)**



124th MAINE LEGISLATURE

LD 1565

LR 2254(02)

An Act To Amend the Laws Governing the Knowing Misclassification of Construction Workers

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

Committee: Labor

Fiscal Note Required: Yes

Fiscal Note

	2009-10	2010-11	Projections 2011-12	Projections 2012-13
Appropriations/Allocations				
Other Special Revenue Funds	\$0	\$161,773	\$166,756	\$171,892

Fiscal Detail and Notes

This bill includes an Other Special Revenue Funds allocation of \$161,773 in fiscal year 2010-11 to the Workers' Compensation Board for one Management Analyst II position and one Auditor III position in order to enhance the enforcement of laws prohibiting the misclassification of workers. This bill includes language that provides that both positions be funded on an ongoing basis by monies in the Workers' Compensation Board's Reserve Account. The cash balance in the Reserve Account as of March 9, 2010 is \$2,188,742.