

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

E I G H T Y - E I G H T H L E G I S L A T U R E

Legislative Document

No. 502

S. P. 280

In Senate, February 11, 1937.

Referred to Committee on Judiciary and 1,000 copies ordered printed.
Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Corrigan of Washington.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

AN ACT Creating a State Workmen's Compensation Fund.

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

Sec. 1. Establishment of fund. The industrial accident commission is hereby authorized and directed to create and establish a fund to be known as the "State Workmen's Compensation Fund," for the purpose of insuring employers against liability under the workmen's compensation act and to their employes and their dependents the payment of compensation under said workmen's compensation act. Such fund shall consist of all premiums received and paid into the fund and of property and securities acquired and interest earned through the use of moneys belonging to the fund. Said fund shall be administered by the commission and shall be applicable to the payment of losses sustained on account of insurance and to the payment of expenses in the manner provided in this act.

Sec. 2. Payments by employers. For the purpose of creating such workmen's compensation fund each employer insured in this fund shall pay into the state treasury the premiums of liability based upon and being such percentage of the payroll of such employer, as may have been determined and published by the commission and be then in effect. The premiums shall be paid every 4 months, and shall be the prescribed percentage

of the total wages paid to all employes subject to the workmen's compensation act for such preceding 4 months' period; provided however, that in order to create a fund available upon the application of this act as aforesaid on July 1st, 1937, the payments for the month of July, 1937, to October, inclusive, 1937, shall be made on or before July 1st, 1937, and be based preliminarily upon the payroll of the operations of the 4 months preceding July 1st, 1937. If any employer be found to have overpaid for such 4 months he may deduct such over-payment from the next succeeding 4 months' payment made to the fund; if any employer be found to have underpaid for such 4 months, he shall pay the deficiency with the payment made by him after the end of said 4 months.

Sec. 3. Computations; classifications. If a single establishment of work insured in the state workmen's compensation fund comprises several occupations, the premium shall be computed according to the payroll of each occupation, if clearly separable; otherwise an average rate of premium shall be charged for the entire establishment, taking into consideration the number of employes and the relative hazards. In computing the payroll the entire compensation received by every workman employed in extra-hazardous work and insured in the state workmen's compensation fund, within the meaning of this act, shall be included, whether it be in the form of salary, wage, piece work, overtime, or any allowance in the way of profit-sharing, premium or otherwise, and whether payable in money, board or otherwise. Provided the money value of board and similar advantages shall have been fixed by parties at the time of hiring.

It shall be the duty of the commission to classify any industries subject to the workmen's compensation act which are insured in the state workmen's compensation fund. And the commission shall have power on or before the 1st day of January of each year to reclassify such industries, or oftener, if in the opinion of the commission the same should be deemed just and advantageous; or to create additional classifications with respect to their respective degrees of hazard and determine the risk of the different classes, and fix the rates of premium for each class, according to the risks of the same sufficiently large to guarantee a workmen's compensation fund from year to year. It shall be the duty of the commission in determining the rates, in order to create a fund sufficiently large to guarantee a workmen's compensation fund from year to year to also reclassify from time to time the industries or occupations, in order that there may be a flexible adjustment of the rates as the hazard fluctuates, and to use all means in their power through the rate adjustment to lessen the opportunities for injuries to the workmen. The classification so determined and the rates of premium established shall be applicable for such year unless

a re-classification should, in the opinion of the commission, necessitate a change of rate within such year; and based on each \$100 of the gross annual payroll of each employer in any class; provided also, that for the purpose of this act, the pay of the employee partly within and partly without the state shall be deemed to be such proportion of the total pay of such employee as his service within the state bears to his services outside the state.

The commission shall also have power to establish and fix minimum premiums to be paid by any employer insured or insuring in the state workmen's compensation fund, and to require the payment of estimated premiums in advance.

The commission, in its administration of the state workmen's compensation fund, shall have the power to declare dividends to the subscribers or policyholders in the fund, either in the form of cash refunds or credits, when the financial condition of the fund is such, in the judgment of the commission, as to make such dividend declaration warranted and advisable.

Sec. 4. Maintenance of uniform payroll. The commission may establish and require all employers insured in the state workmen's compensation fund to install and maintain a uniform form payroll. The commission shall ascertain and establish the amounts to be paid into and out of the workmen's compensation fund. Issue proper receipts for moneys received, and certificates for benefits accrued and accruing from the state workmen's compensation fund.

Sec. 5. Reports; fraud. Every employer subject to the operation and effect of the workmen's compensation act, who shall insure in the state workmen's compensation fund, shall every 4 months submit a report to the commission according to the regulations and requirements it may prescribe, of his payroll for the 4 months then ending. Upon the failure of an employer to comply with the requirements of the preceding paragraph of this section, the commission may pass an order cancelling the policy of insurance of any such employer, such cancellation to be effective upon the expiration of 10 days after the passage of said order; and it shall be the duty of the secretary of the commission to mail a copy by registered mail of any such order to the employer at his last known address promptly after the passage thereof.

Any employer who shall, with fraudulent intent, misrepresent to the commission the amount of payroll upon which the premium under this act is based, shall be liable to the commission in 10 times the amount of the difference in the premium paid and the amount the employer should have paid. The liability to the commission under this provision shall be en-

forced in a civil action in the name of the commission. All sums collected under this section shall be paid into the state workmen's compensation fund.

Sec. 6. Action in case of default. If an employer shall default in any payment required to be made by him to the state workmen's compensation fund, the amount due from him may be collected by civil action against him in the name of the state of Maine and the commission, whenever it may deem it necessary, shall certify to the attorney-general of the state the names and residences, or places of business, of any employer known to the commission to be in default for such payment or payments, and the amount due from such employer, and it shall then be the duty of the attorney-general forthwith to bring or cause to be brought against such employer a civil action in the proper court for the collection of such amount so due, and the same, when collected, shall be paid into the state workmen's compensation fund, and the policy which the state workmen's compensation fund has issued to such employer shall cease to be in effect from the date such certificate has been made to the attorney-general of the state, and shall not again be in effect until all premiums due by such employer have been paid into the state workmen's compensation fund.

Sec. 7. Surplus. 10% of the premiums collected from employers insured in the state workmen's compensation fund shall be set aside by the commission for the creation of a surplus until such surplus shall amount to the sum of \$50,000, and thereafter 5% of such premiums until such time as in the judgment of said commission such surplus shall be sufficiently large to cover the catastrophe hazard. The commission shall also set up and maintain a reserve adequate to meet anticipated losses and carry all claims and policies to maturity.

The treasurer of the state shall be the custodian of the state workmen's compensation fund and all disbursements therefrom shall be paid by him upon order or voucher, approved and signed by the chairman or acting chairman and secretary of the commission, and directed to the comptroller of the state, who shall draw his warrant therefor. It shall be the duty of the treasurer to keep and maintain the fund herein created separate and distinct from other state funds. On and after January 1, 1938, the obligation in the bond of the state treasurer shall contain a provision securing the protection of this fund.

Sec. 8. The state treasurer may deposit any portion of the aforesaid state fund not needed for immediate use, in the manner and subject to all provisions of law respecting the deposit of other state funds by him. Interest earned by such portion of the state workmen's compensation fund

deposited by the state treasurer shall be collected by him and placed to the credit of the fund.

Sec. 9. Withdrawal. Any employer, after entering the state workmen's compensation fund may withdraw from said fund after the period of 1 year upon giving 60 days' notice of his intention so to do and upon paying all arrears, if any, of premiums due the said fund.

Sec. 10. Administration expense. The entire expense of conducting and administering the state workmen's compensation fund shall be paid in the first instance out of monies appropriated for the maintenance of the workmen's compensation commission and the payment of the salaries and expenses of said commission and its employees. In the month of January 1939 and annually thereafter in such month the commission shall ascertain the just expense incurred by the commission during the preceding calendar year, in conducting and in the administration of the state workmen's compensation fund, by including the salaries of the superintendent of said fund and such other employees of the commission whose services were rendered exclusively to said fund, and all other expenses incurred exclusively for such fund; and the amount of such salaries and expenses shall be chargeable to the state workmen's compensation fund. And if there be employes of the commission, other than the members themselves and the secretary, whose time is devoted partly to the general work of the commission and partly to the work of the state workmen's compensation fund, and in case there are any other expenses which are incurred jointly on behalf of the general work of the commission and the state workmen's compensation fund, an equitable apportionment of the salaries of such employes and expenses shall be made by the commission and the part thereof which is applicable to the state workmen's compensation fund shall likewise be chargeable thereto; and the commission shall authorize, in the same manner as other disbursements from the state workmen's compensation fund are authorized, the whole amount so chargeable to the state workmen's compensation fund to be transferred from said fund by the treasurer to the state treasury to reimburse the state for the monies so appropriated and expended in conducting and administering the state workmen's compensation fund for the calendar year ending December 31, 1938 and for each calendar year thereafter.

Sec. 11. Distribution of funds in case act is repealed. If this act shall be hereafter repealed, all moneys which are in the state workmen's compensation fund at the time of the repeal shall be subject to such disposition as may be provided by the legislature, and in default of such legislative

provision, distribution thereof shall be in accordance with the justice of the matter, due regard being had to obligations of compensation incurred and existing.

Sec. 12. Power of commission. In the administration of the state workmen's compensation fund, the commission shall have full power and authority to make any and all rules and regulations not inconsistent with law, for the conduct of the business of the state workmen's compensation fund.