

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 77**

H. P. 90

House of Representatives, January 21, 1943.

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Jordan of Saco.

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**STATE OF MAINE**

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-THREE

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**AN ACT Relating to Compensation of Employees Who Have Received  
Prior Injuries.**

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

**R. S., c. 55, §§ 13-A, 13-B, additional.** Chapter 55 of the revised statutes is hereby amended by adding thereto 2 new sections to be numbered 13-A and 13-B, and to read as follows :

‘Sec. 13-A. Injury increasing disability; provisions for; vocational rehabilitation. I. If an employee receives an injury which of itself would only cause permanent partial disability but which combined with a previous disability does in fact cause permanent total disability, the employer shall provide compensation only for the disability caused by the subsequent injury. Provided, however, that in addition to compensation for such permanent partial disability, and after the cessation of the payments for the prescribed period of weeks, the employee shall be paid the remainder of the compensation that would be due for permanent total disability. In determining compensation for the subsequent injury or for death resulting therefrom, the weekly wages shall be such sum as will reasonably represent the earning capacity of the employee at the time of the subsequent

injury. Such additional compensation shall be paid out of the special fund established according to the provisions of section 13-B.

II. In all other cases in which, following a previous disability, an employee receives an injury which is not covered by subsection I of this section, the employer shall provide compensation only for the disability caused by the subsequent injury.

III. Refunds from the "special fund" established by section 13-B may be made under any of the following conditions:

A. When employee suffered from a prior permanent partial disability before his employment.

B. When employer took employee at the request of the vocational rehabilitation division of the department of education with the consent and approval of the industrial accident commission.

C. When the subsequent accident must have been caused or aggravated by prior disability.

The amount of refund at the time of subsequent accident shall be decided by agreement between the employer, the vocational rehabilitation division of the department of education and the industrial accident commission.

An employee who as a result of injury is or may be expected to be totally or partially incapacitated for a remunerative occupation and who, under the direction of the vocational rehabilitation division of the department of education, is being rendered fit to engage in a remunerative occupation, shall receive additional compensation necessary for his maintenance, but such additional compensation shall not exceed \$10 per week. The expense shall be paid out of the special fund established under the provisions of section 13-B.'

'Sec. 13-B. Special disability compensation fund. I. There is hereby established in the treasury of the state a special disability compensation fund, hereinafter called the "special fund", for the purpose of making payments in accordance with the provisions of section 13-A. Such special fund shall be administered by the industrial accident commission. The treasurer of state shall be the custodian of such fund, and all moneys and securities in such fund shall be held in trust by such treasurer and shall not be money or property of the state.

II. The treasurer of state is authorized to disburse money from such special fund created herein only upon an order signed by a majority of the

industrial accident commission of the state. The treasurer of state as custodian of said fund shall be required to give a separate surety bond executed by a surety company licensed to do a business of surety in the state in an amount of 50% of the maximum accumulation authorized herein. His bond shall be conditioned upon the faithful performance of his duty as custodian of such fund.

III. Payments to create such special fund and to maintain it in a solvent manner shall be made as follows: Each mutual company or stock company writing workmen's compensation insurance in the state and providing benefits under the provisions of this chapter or any private employer who has become an assenting employer under subsection III of section 6 of this chapter shall annually on or before May 1st of each year pay to the treasurer of state a sum equal to 1% of the total gross premium writings on Maine workmen's compensation licenses written during the preceding calendar year, and in the case of self-insurers within the state what the total gross premium writings for the preceding calendar year would have been if said self-insurers had purchased workmen's compensation insurance policies in the state. The insurance commissioner shall assist the industrial accident commission without charge in determining the amount due from said self-insurers referred to herein.

The amount of 1% to be paid said treasurer shall be figured on the writings—or the premium charges applicable to said self-insurers if they had purchased workmen's compensation insurance policies—based on the gross writings less cancellations during the calendar year preceding the due date of such payment. The treasurer shall issue his receipt upon receipt of such contribution from each contributor herein named, and shall deposit such sums in the said special fund.

IV. The special fund shall not be disbursed by the industrial accident commission for any other purpose whatsoever than for the purpose specifically created, and said fund shall be considered at all times a special fund to be disbursed within the meaning of this and the preceding sections.

The insurance commissioner is authorized under this section to permit the loading of 1% into the workmen's compensation insurance rates which are under his jurisdiction and control.

When the treasurer of state notifies the insurance commissioner that the contributions to the fund created herein have accumulated to the sum of \$50,000 but not in excess of \$75,000 the insurance commissioner shall be

authorized to discontinue the load to create this fund for any calendar year until this fund has been reduced by payments authorized herein to \$50,000. When payments hereunder have reduced the fund to said \$50,000 the insurance commissioner shall on the next annual adjustment of workmen's compensation insurance rates load the rates which he promulgates for the next calendar year to establish the fund at not less than \$50,000 and not more than \$75,000.

V. The treasurer of state shall make no payment from the special fund until there is accumulated in it \$20,000 or more.'