

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

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Penmor Lithographers
Lewiston, Maine
2003

CHAPTER 425

S.P. 21 - L.D. 35

**An Act To Increase the Assessment
on Workers' Compensation
Insurance To Fund the Workers'
Compensation Board Administrative
Fund**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the operating expenses necessary for the Workers' Compensation Board to provide adequate services to the employers and workers of this State have increased to a level beyond that contemplated by the current assessment limit; and

Whereas, if additional funding is not available before the 90-day period has expired, it may become necessary for the Workers' Compensation Board to suspend the employee advocate program and lay off the advocate staff; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 39-A MRSA §152, sub-§2-A is enacted to read:

2-A. Electronic filing rulemaking. The board shall adopt rules requiring the electronic filing of information required by this Act and by board rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

A. The rules must be developed through the consensus-based rule development process set forth in Title 5, section 8051-B and must include as participants representatives of employers, insurers and 3rd-party administrators.

B. The rules must include written standards and procedures for implementation of the standards, which may include definition of the applicable programming interface for in-state and out-of-state entities required to submit reports. The rules must relate specific forms required to be filed with data points in the standards.

Before adopting the rules, the board shall test the applicable application programming interfaces and standards to ensure that the program operates successfully.

Sec. 2. 39-A MRSA §154, sub-§6, as amended by PL 2003, c. 93, §1, is further amended to read:

6. Assessment levied. 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 ~~or~~, 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 or more than \$8,525,000 beginning in the 2005-06 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 year 2001-02 ~~or~~, \$6,860,000 beginning in the 2002-03 fiscal year, \$8,390,000 beginning in the 2003-04 fiscal year, \$8,565,000 beginning in the 2004-05 fiscal year or \$8,525,000 beginning in the 2005-06 fiscal year by a margin of more than 10% must be refunded to those who paid the assessment. Any amount collected above the board's allocated budget and within the 10% margin must be used to create a reserve of up to 1/4 of the board's annual budget. The board, by a majority vote of its membership, may use its reserve to assist in funding its Personal Services account expenditures and All Other account expenditures and to help defray the costs incurred by the board pursuant to this Act including administrative expenses, consulting fees and all other reasonable costs incurred to administer this Act. The board shall notify the chairs and members of the joint standing committee of the Legislature having jurisdiction over labor matters whenever the board receives approval from the State Budget Officer and the Governor to use reserve funds to increase its allotment above the allocation authorized by the Legislature. Any collected amounts or savings above the allowed reserve must be used to reduce the assessment for the following fiscal year. The board shall determine the assessments prior to May 1st and shall assess each insurance company or association and self-insured employer its pro rata share for expenditures during the fiscal year beginning July 1st. Each self-insured employer shall pay the assessment on or before June 1st. Each insurance company or association shall pay the assessment in accordance with subsection 3.

Sec. 3. Review. A commission is established to review the budget process of the Workers' Compensation Board.

1. Members. The commission consists of 2 Senators appointed by the President of the Senate, one representing each of the 2 political parties in the Legislature with the greatest number of members, 2 members of the House of Representatives appointed by the Speaker of the House of Representatives, one representing each of the 2 political parties in the Legislature with the greatest number of members, and 2 members of the Workers' Compensation Board, one representing and appointed by the labor members of the board and one representing and appointed by the management members of the board.

2. Chairs. The first-named Senator and the first-named member of the House of Representatives are the chairs of the commission.

3. Appointments; convening of commission. All appointments must be made no later than 30 days following the effective date of this Act. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. Within 15 days after appointment of all members, the chairs shall call and convene the first meeting of the commission.

4. Duties. The commission shall review the process used by the Workers' Compensation Board to establish, approve and monitor its budget and determine whether improvements are needed. The commission shall determine whether recommendations regarding the budget process contained in the 1997 Coopers and Lybrand report and the 2001 Berry, Dunn, McNeil and Parker report have been implemented and, if not, whether and how they should be implemented.

5. Report. The commission shall report its findings and recommendations, along with any recommended legislation, to the Joint Standing Committee on Labor not later than December 3, 2003. The Joint Standing Committee on Labor is authorized to submit legislation to the Second Regular Session of the 121st Legislature in response to the report.

6. Expenses and per diem. Commission members who are Legislators are entitled to receive legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses related to their attendance at meetings of the commission. Commission members who are members of the Workers' Compensation Board are entitled to per diem and expenses as provided in Title 39-A, section 151, subsection 6. The Workers' Compensation Board shall transfer sufficient funds from its reserve fund to the

Legislature to cover the costs of legislative per diem and expenses for commission meetings.

7. Staff. The Workers' Compensation Board shall provide staffing to the commission. Upon approval by the Legislative Council, the Office of Policy and Legal Analysis and the Office of Fiscal and Program Review shall also provide staff assistance to the commission.

8. Extension. If the commission requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council, which may grant an extension.

9. Commission budget. The chairs of the commission, with assistance from the commission staff, shall administer the commission's budget. Within 10 days after its first meeting, the commission shall present a work plan and proposed budget to the Legislative Council for its approval. The commission may not incur expenses that would result in the commission's exceeding its approved budget. Upon request from the commission, the Executive Director of the Legislative Council shall promptly provide the commission chairs and staff with a status report on the commission budget, expenditures incurred and paid and available funds.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

WORKERS' COMPENSATION BOARD

Administration - Workers' Compensation Board 0183

Initiative: Allocates funds for the board to contract with the Department of Labor for programming services to implement electronic filing by insurers and self-insurers.

Other Special Revenue Funds	2003-04	2004-05
All Other	\$40,000	\$40,000
Other Special Revenue		
Funds Total	\$40,000	\$40,000

Administration - Workers' Compensation Board 0183

Initiative: Provides for increased revenue allocation, restoration of positions and All Other costs for the central office, dispute resolution and the worker advocate programs to continue program operations. It also restores fiscal year 2004-05 funding for the law clerk at the administrative office of the courts.

Other Special Revenue Funds	2003-04	2004-05
Positions - Legislative Count	(23,000)	(24,000)
Personal Services	\$1,363,043	\$1,431,589
All Other	242,711	247,794
Other Special Revenue		
Funds Total	\$1,605,754	\$1,679,383

Administration - Workers' Compensation Board 0183

Initiative: Allocates funds for Department of Labor programming services.

Other Special Revenue Funds	2003-04	2004-05
All Other	\$70,000	\$70,000
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Other Special Revenue Funds Total	\$70,000	\$70,000

Administration - Workers' Compensation Board 0183

Initiative: Provides for the reduction in All Other funds for the purpose of staying within the assessment level recommended by the board.

Other Special Revenue Funds	2003-04	2004-05
All Other	(\$20,004)	(\$25,413)
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Other Special Revenue Funds Total	(\$20,004)	(\$25,413)

Administration - Workers' Compensation Board 0183

Initiative: Provides for the elimination of one Hearing Officer position for the purpose of staying within recommended available resources.

Other Special Revenue Funds	2003-04	2004-05
Positions - Legislative Count	(-1,000)	(-1,000)
Personal Services	(\$140,512)	(\$140,244)
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Other Special Revenue Funds Total	(\$140,512)	(\$140,244)

Administration - Workers' Compensation Board 0183

Initiative: Allocates funds to contract for temporary worker advocate and clerical support services and associated overtime for the Worker Advocate Program offices in Portland and Augusta. Recent changes by the Bureau of Accounts and Controls prohibit the encumbering of a contract in fiscal year 2002-03 for services to be provided in fiscal year 2003-04. Funding is available for these expenditures in fiscal year 2003-04 from the unexpended cash in fiscal year 2002-03.

Other Special Revenue Funds	2003-04	2004-05
Personal Services	\$30,000	\$0
All Other	140,000	0
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Other Special Revenue Funds Total	\$170,000	\$0

WORKERS' COMPENSATION BOARD

DEPARTMENT TOTALS	2003-04	2004-05
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OTHER SPECIAL REVENUE FUNDS	\$1,725,238	\$1,623,726
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DEPARTMENT TOTAL - ALL FUNDS	\$1,725,238	\$1,623,726

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Commission to Review the Budget Process of the Workers' Compensation Board

Initiative: Allocates funds to reflect the reimbursement to be received from the Workers' Compensation Board reserve fund to cover the costs of legislative per diem and expenses.

Other Special Revenue Funds	2003-04	2004-05
Personal Services	\$880	\$0
All Other	830	0
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Other Special Revenue Funds Total	\$1,710	\$0

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OTHER SPECIAL REVENUE FUNDS

DEPARTMENT TOTAL - ALL FUNDS

SECTION TOTALS

OTHER SPECIAL REVENUE FUNDS

SECTION TOTAL - ALL FUNDS

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect July 1, 2003.

Effective July 1, 2003.

CHAPTER 426

H.P. 635 - L.D. 858

An Act To Establish a Municipal Affordable Housing Development District Tax Increment Financing Program

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

Sec. 1. 30-A MRSA c. 206, sub-c. 3 is enacted to read:

SUBCHAPTER 3

MUNICIPAL AFFORDABLE HOUSING DEVELOPMENT DISTRICTS

§5245. Findings and declaration of necessity

1. Legislative finding. The Legislature finds that there is a need for the development of affordable, livable housing and the containment of the costs of unplanned growth in Maine municipalities.