

MAINE STATE LEGISLATURE

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Report to the Committee on Labor

Pursuant to P.L. 2009, Ch. 452

**An Act To Ensure That Construction Workers Are Protected by
Workers' Compensation Insurance**

Submitted by:
Maine Workers' Compensation Board
December 15, 2009

APR 1 2010

REPORT TO THE JOINT STANDING COMMITTEE ON LABOR

December 15, 2009

P.L. 2009, Ch. 452 states that "[B]y December 15, 2009, the Workers' Compensation Board and the Department of Labor shall report to the Joint Standing Committee on Labor any recommended changes to the provisions established by this Act and the resources required by the board and the department, if any, for implementation of this Act. After receipt and review of the report, the joint standing committee may report out a bill to the Second Regular Session of the 124th Legislature."

On January 14, 2009, the Governor issued an Executive Order to establish a Joint Enforcement Task Force on Employee Misclassification. The purpose of the Task Force is to coordinate the investigation and enforcement of employee misclassification matters. As part of that effort, and in conjunction with P.L. 2009, Ch. 452, the Workers' Compensation Board is making the following recommendations to assist the Task Force.

I. Workers' Compensation Board Resources and Options.

There are a number of options available to the Maine Workers' Compensation Board in regard to the implementation of Chapter 452 and its coordination with the Governor's Task Force. We have outlined both the "options" and the "consequences" for the Labor Committee's consideration. It is our strong recommendation that any major changes be referred to the Governor's Task Force so there might be a coordinated effort in regard to the issue of "Employee Misclassification."

A. Maintain Status Quo.

Consequences:

1. No additional costs to the Maine Workers' Compensation Board budget.
2. No increase in identifying employers without workers' compensation insurance.
3. Consider mandating workers' compensation coverage for all construction contractors and increasing 14-day timeline in §105(3) to 30 or 45 days.

B. Reclassify Positions.

1. Reclassify two Workers' Compensation Specialists from Range 24-8 to Range 27-8 to have investigator authority and to present their findings before a Maine Workers' Compensation Board Hearing Officer to ensure compliance.
2. Reclassify Secretary Legal from Range 13-8 to Paralegal Range 20-8 to conduct legal research and related responsibilities.

Consequences.

1. Minimal impact on allocation.
2. Increase in prosecution of no coverage cases.
3. Likely to impact other AIU cases.
4. No increase in head count.
5. Consider mandating workers' compensation insurance for all construction contractors and increasing 14-day timeline in §105(3) to 30 or 45 days.

C. Reallocation of Positions.

Reallocate two Advocate Positions from the Maine Workers' Compensation Board Advocate Program and reclassify the three above positions. Utilize Mediators to process predeterminations.

Consequences.

1. Minimal impact on allocation.
2. No increase in head count.
3. Greater increase in prosecution of no coverage cases.
4. Likely to impact other AIU cases.
5. Consider mandating workers' compensation insurance for all construction contractors and increasing 14-day timeline in §105(3) to 30 or 45 days.

II. Task Force Resources and Options.

Consider the creation of an Employee Misclassification Unit.

Consequences.

1. Create a minimum of six new positions.
2. Significant additional costs (\$515,330).
3. Significant increase in compliance.
4. Revenue enhancements and cost reductions.
 - (a) Maine Revenue Services.
 - (b) Department of Labor, Unemployment Insurance.
 - (c) Support Enforcement.
 - (d) Premium Revenues and Reductions.

Attached are appendices reflecting the Proposed Costs, a Proposed Flow Chart, and a Maine Workers' Compensation Board Personnel Chart.

The Workers' Compensation Board recommends that the Labor Committee request that the Governor's Task Force consider the feasibility of creating an Employee Misclassification Unit and determine whether this would lead to increased revenues and decreased premiums.

Proposed Cost

12/11/2009

Personal Services

New MA II (24-8)	78,604
New Auditor III (25-8)	83,169
New Auditor II (23-8)	72,818
New Auditor II (23-8)	72,818
New Admin Assistant (20-8)	63,907

Total	371,316
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All Other	
training (\$250 ea)	750
travel (100 ea)	300
rent (1,000 for both units)	7,500
Insurance (150 ea)	450
general office (100 ea)	300
telephone (\$50 per month ea)	1,800
computer \$150 per month ea)	5,400
printer (2,000)	2,000
office supplies (100 ea)	300
equipment (\$2,900 ea)	8,700

Total	27,500
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Total	398,816
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Total

Personal Services

Reclass WC specialist	5,824
Reclass WC specialist	5,824
Reclass Secretary Legal to Paralegal	10,121
New Paralegal (20-8)	67,245

Total	89,014
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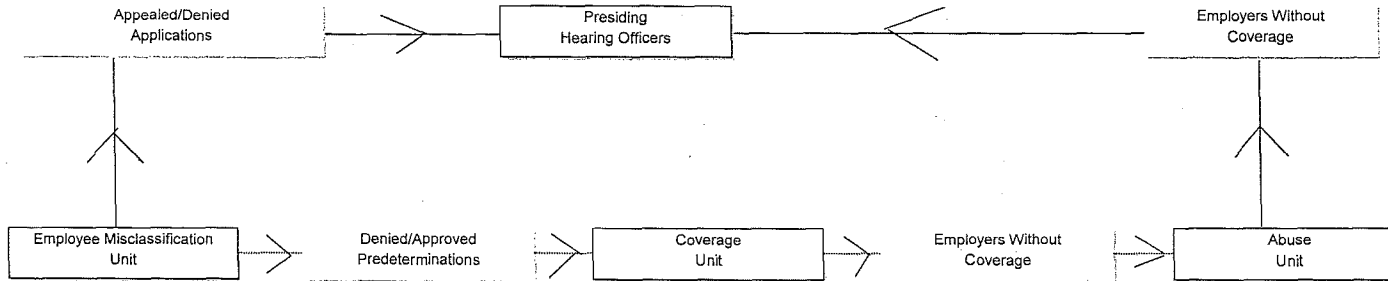
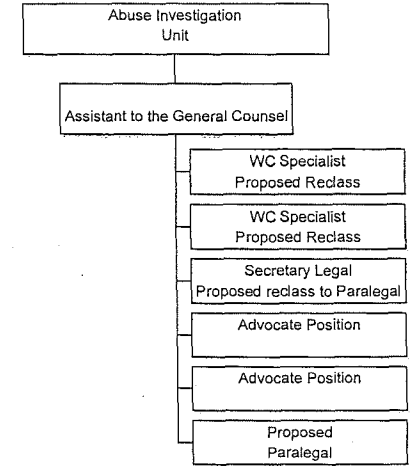
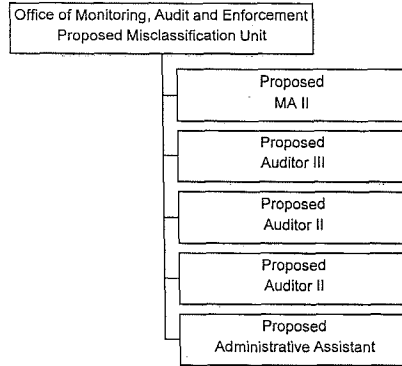
All Other	
training (\$250 ea)	750
travel (100 ea)	300
rent (1,000 for both units)	7,500
Insurance (150 ea)	450
general office (100 ea)	300
telephone (\$50 per month ea)	1,800
computer \$150 per month ea)	5,400
printer (2,000)	2,000
office supplies (100 ea)	300
equipment (\$2,900 ea)	8,700

Total	27,500
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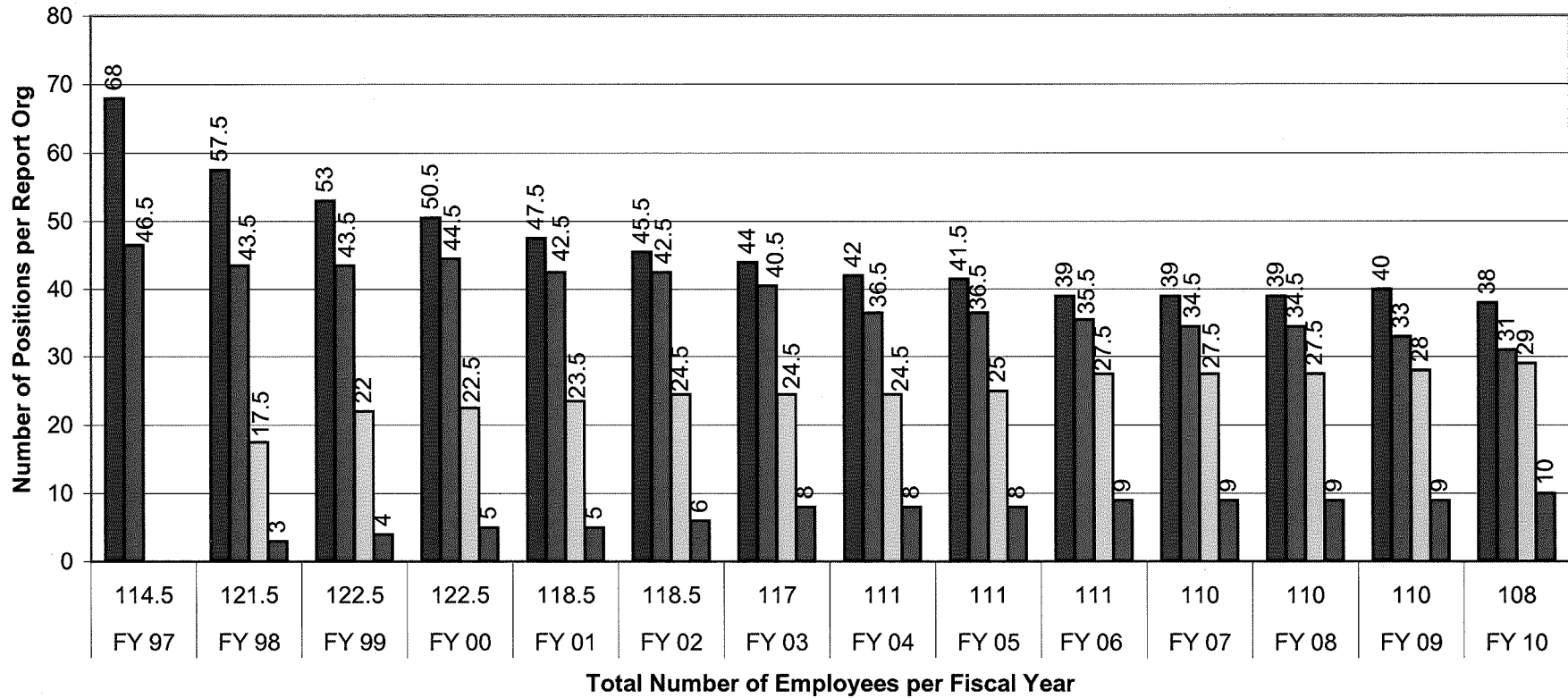
Total	116,514
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515,330

Proposed Employee Misclassification Flow Chart
 Maine Workers' Compensation Board
 -2009



WCB - Personnel Changes Since FY 97
December 11, 2009



The MAE and Worker Advocate programs represent 36% of the agency's total number of employees.

■ Dispute Resolution ■ Central Services □ Advocate Program ■ MAE Program