

# MAINE STATE LEGISLATURE

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**STATE OF MAINE  
115TH LEGISLATURE**

**FIRST REGULAR SESSION  
AND  
FIRST SPECIAL SESSION**

**BILL SUMMARIES  
JOINT STANDING COMMITTEE  
ON  
BANKING AND INSURANCE**

**AUGUST 1991**

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**ONE HUNDRED AND FIFTEENTH LEGISLATURE  
FIRST REGULAR SESSION  
AND  
FIRST SPECIAL SESSION  
JOINT STANDING COMMITTEE  
BILL SUMMARIES  
AUGUST 1991**

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees and Joint Select Committees of the Maine Legislature. The volume is organized alphabetically by committee; within each committee, the summaries are arranged by LD number. A subject index is provided at the beginning of each committee's summaries.

All adopted amendments are listed, by paper number (e.g., H - 584 or S - 222), together with the sponsor for floor amendments. Final action on each bill is listed to the right of the title. Various types of final action are abbreviated as follows:

<b>PUBLIC XXX</b>	<i>Chapter # of enacted Public Law</i>
<b>P&amp;S XXX</b>	<i>Chapter # of enacted Private &amp; Special Law</i>
<b>RESOLVE XXX</b>	<i>Chapter # of enacted Resolve</i>
<b>CON RES XXX</b>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<b>EMERGENCY</b>	<i>Enacted law takes effect sooner than 90 days</i>
<b>CARRIED OVER</b>	<i>Bill carried over to 2nd Session</i>
<b>FAILED EMERGENCY ENACTMENT</b>	<i>Bill failed to get 2/3 vote</i>
<b>ONTP</b>	<i>Ought Not to Pass report accepted</i>
<b>LVWD</b>	<i>Leave to Withdraw report accepted</i>
<b>INDEF PP</b>	<i>Bill Indefinitely Postponed</i>
<b>DIED BETWEEN BODIES</b>	<i>House &amp; Senate disagree; bill died</i>
<b>VETO SUSTAINED</b>	<i>Legislature failed to override Governor's Veto</i>
<b>UNSIGNED</b>	<i>Not signed by Governor within 10 days</i>
<b>DIED ON ADJOURNMENT</b>	<i>Action incomplete when 1st session ended</i>

These summaries were prepared by the analyst or analysts assigned to the committee. But, this document was produced by the efforts of all the office staff, including secretaries: Charlene Raymond and Valarie Parlin, and especially Laurette Knox who coordinated preparation of the overall document.

If you have any suggestions or comments on these summaries, please let us know.

extend the deadline for decision by the Superintendent of Insurance in the pending rate proceeding to September 30, 1991 providing for a limited purpose hearing to evaluate the rate effect of the changes to Title 39 enacted by the First Regular Session of the 115th Legislature and issuance of a single decision addressing the pending rate proceeding and the superintendent's findings with respect to the changes to the laws. The rates and fresh start surcharges established by the superintendent's decision are in effect from July 1, 1991, thus avoiding any inequitable effect of the delay of the decision in the pending proceeding.

This bill does not apply to any rate proceeding commenced on or after October 1, 1991 and is repealed on that date.

**LD 1946      An Act to Allow the Risk Management Division to Provide Insurance Services for Elementary and Secondary Schools in the State (Pursuant to Joint Order HP1348)      VETO SUSTAINED**

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
	OTP-AM      MAJ	H-686      MAJ REP
	ONTP      MIN	

**SUMMARY**

This bill allows the Risk Management Division to provide insurance advice and services to the elementary and secondary schools of the State. It separates the funds for this insurance and insurance for family foster homes, respite care providers and the Casco Bay Island Transit District into a separate reserve fund. It requires the purchase of reinsurance for liabilities over \$300,000 per occurrence, payment to be made by the insured entity. The bill requires annual actuarial advice in the development of premiums and reserves as necessary to protect the funds and the clients.

The House amendment H-686) deletes the requirement that a separate fund be set up within the Risk Management Division for the family foster homes, respite care providers, Casco Bay Island Transit District and schools. It also provides rule-making authority to ensure that the fund is adequately funded and that the assets of the fund are protected.

**LD 1957      An Act to Improve the Maine Workers' Compensation System      VETO SUSTAINED**

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
	OTP      MAJ	H-696      MITCHELL E
	OTP-AM      MIN	H-697      ERWIN

**SUMMARY**

This bill represented the majority report of the Joint Standing Committee on Banking and Insurance and the Joint Standing Committee on Labor on workers' compensation reform and made changes to the workers' compensation system as follows. It created the Maine Employer's Mutual Insurance Fund. It strengthened the criteria for the review of lump sum settlements. It allowed the predetermination of independent contractor status. It eliminated the ability of loggers and certain construction workers to be independent contractors. It excluded fringe benefits from the wage calculation. It repealed the statewide work capacity limitation. It increased interest and penalties on awards. It eliminated the compensability of certain subsequent injuries. It created a medical utilization review system. It required health care providers to submit initial medical reports within 5 days. It established an Office of Medical Coordination. It required insurers to offer medical expense deductibles. It allowed for 24-hour coverage pilot projects. It limited health care reimbursement and required providers to complete an occupational health program. It allowed self-insured employers to secure their obligations through funding at a 90% confidence level, or through letters of credit.

It required certain employers to complete a workplace health and safety plan and required insurers to offer workplace safety consultations. It made several changes in the rehabilitation system to ensure speedier and less costly rehabilitation. It made claims information confidential. It expanded employee's reinstatement rights. It required adjusters to have authority to settle cases at informal conferences. It limited the ability of insurers to use private investigators. It required notice to employers of settlements and allowed employers to appeal the settlement for use in premium calculations. It required the Superintendent of Insurance to create rules to reduce the residual market, and to reward safe employers.

It made procedural changes as follows: allowed payments without prejudice, encouraged parties to reach provisional agreements for payments, created an expedited process for certain claims, allowed automatic discontinuances under certain circumstances, created an automatic trial work period, created an apportionment system, and replaced the maximum medical improvement standard with a cap of 520 weeks.

The House amendment (H-696) accomplishes the following:

1. Mandates that the Superintendent of Insurance adopt rules to establish dividend plans and premium credits of 15% for qualifying safety programs;
2. Clarifies that a medical release authorizes the health care provider to release only information that relates to the injury or disease for which compensation is claimed;
3. Requires the adoption of a form used by the Minnesota Workers' Compensation Division for use in making uniform medical reports;
4. Removes the commercial paper standard for banks issuing letters of credit;
5. Clarifies that the Chair of the Workers' Compensation Commission must obtain lists of health care providers to serve on the medical utilization review panel from the professional associations of health care fields, and that the chair must appoint to the panel 2 providers from the same field as the provider being reviewed and 1 provider from another field;
6. Clarifies that a commissioner must consider an employee's pre-injury customary commute in determining the "reasonable commute" work search standard, and that a commute of more than 100 miles one way may be considered reasonable if the employee customarily commuted more than 100 miles one way before the injury;
7. Extends the time limit required to file a notice of controversy for incapacity benefits from 44 days to 75 days;
8. Clarifies that the provision allowing automatic discontinuance or reduction of benefits includes self-employment by the employee;
9. Provides that an employee seeking to have benefits restored during a trial work period may do so by notice to the employer instead of by filing a petition;
10. Clarifies that benefits may be restored if the employee is terminated or suspended during a trial work period only if the termination or suspension is without good cause; and
11. Clarifies that the commission must apportion liability pro rata between insurers based upon the number of insurers whenever the commission determines that 2 or more insurers are liable for a period of incapacity.

The House amendment (H-697) deletes the requirement that the Superintendent of Insurance adopt rules establishing an equipment allowance for loggers, deletes the requirement of posting a notice of workers' compensation coverage at each worksite and imposes a freeze on workers' compensation insurance rates retroactively to July 1, 1991.

**LD 1966      RESOLUTION, Proposing an Amendment to the Constitution of      CARRIED OVER**  
**Maine to Limit the Expenditure of the Funds of a Public**  
**Mutual Insurance Company Created by the State to Provide**  
**Workers' Compensation Insurance to Employers in this State**

**SPONSOR(S)                      COMMITTEE REPORT                      AMENDMENTS ADOPTED**  
MITCHELL E

**SUMMARY**

This resolution proposes an amendment to the Constitution of Maine to prevent the expenditure of the funds of a public mutual insurance company created by the State to provide workers compensation insurance to employers in this State for any purpose other than the purposes of that public mutual insurance company.

**LD 1972      An Act to Reform the Maine Workers' Compensation System      DIED ON**  
**ADJOURNMENT**

**SPONSOR(S)                      COMMITTEE REPORT                      AMENDMENTS ADOPTED**  
COLLINS  
BALDACCI

**SUMMARY**

This bill contained the following changes to the workers' compensation system. It limited lump sum settlements. It required notice to employers of settlements and allowed an appeal to limit the impact of the settlement on an employer's experience rating. It placed a cap on attorneys' fees. It excluded fringe benefits from the wage calculation. It limited physician choice and testing. It established an independent medical system to resolve medical disputes, and an appeal procedure. It changed the statute of limitations from 10 years to 6 years. It offset incapacity benefits against permanent impairment benefits. It increased penalties and interest for late payment of benefits. It established an arbitration procedure for insurer apportionment. It eliminated the need for medical releases. It required health care providers to submit initial medical reports within 5 days, and every 30 days thereafter. It limited health care reimbursement. It required adjusters to have authority to settle cases at the informal conference. It clarified which injuries are compensable under the Act. It modified funding requirements for self-insurers. It moved rulemaking authority under the Workers' Compensation Act to the Commissioner of Labor. It transferred appellate jurisdiction from the Appellate Division to the Administrative Court. It made the following procedural changes: eliminated notice of injury for medical only claims, replaced the maximum medical improvement concept with a 430 week cap on benefits, expanded the statewide work provisions, permitted automatic discontinuances in certain cases, extended the 44-day rule to 75 days, and allowed payments without prejudice.