

**Testimony of the
Workers' Compensation Board**

**Before the
Joint Standing Committee on Appropriations and Financial Affairs
and the
Joint Standing Committee on Labor and Housing**

February 25, 2021

Good afternoon Senator Breen, Representative Pierce and members of the Joint Standing Committee on Appropriations and Financial Affairs and good afternoon Senator Rafferty, Representative Sylvester and members of the Joint Standing Committee on Labor and Housing. My name is John Rohde. I am the Executive Director of the Workers' Compensation Board. I am here today to testify in favor of the Board's portion of L.D. 221, the 2022-2023 Biennial Budget.

I. BACKGROUND

As discussed by Governor Mills, the Workers' Compensation Board (the "Board") developed this biennial budget at a time when Maine people are hurting, small businesses are struggling, and we are still dealing with the deadly COVID-19 pandemic which has made the future even more difficult to predict. Consistent with its mission, the Board, and especially its budget subcommittee, worked diligently to craft a budget that "serve[s] the employees and employers of the State fairly and expeditiously . . ." (39-A M.R.S.A. § 151-A.)

The Board is managed by a seven-member board of directors who are appointed by the Governor. Three members represent labor, three represent management and the executive director serves as chair. The Board does not receive any General Fund money. Its revenue is derived from annual assessments paid by employers.

The amount of money the Board can generate through its assessment is limited by a statutory assessment cap. (39-A M.R.S.A. § 154(6).) The Legislature amended the assessment cap most recently in 2016. That amendment, which increased the assessment cap from \$11,200,000 to \$13,000,000, was intended to cover anticipated needs for four years – which it did.

The budget plan contained in L.D. 221 was developed in the Board's budget subcommittee and is designed to ensure the Board will meet its statutory obligations. During its deliberations, the subcommittee considered different funding options for the 2022-2023 biennial budget. Initially, the subcommittee considered addressing the assessment cap which is due for reconsideration. However, in light of the pandemic and in an effort to achieve unanimous support for the budget, the subcommittee agreed to defer discussion about the assessment cap. Instead, funds from the Board's reserve account will be used to pay the difference between the assessment cap and projected expenditures.

In October, the full Board considered the budget plan. While the 2022-2023 biennial budget was crafted to obviate the need for a vote on an assessment cap increase this year, some directors expressed concern that a vote in favor of the proposed budget might somehow obligate them to later vote to increase the assessment cap.

The Board also discussed how this budget might impact employers and the fact that there is not a one-to-one correlation between the Board's allotment and its assessment. For instance, the Board's allotment for the current fiscal year, 2021, is larger than it was for 2020 but the assessment for insured employers decreased by 4.65%. Based on the Board's cautious management of its budget this year, we project there will be savings that can be applied to reduce the assessment this spring.

Ultimately, the motion to submit the budget contained in L.D. 221 passed by a 4-3 vote.

II. PROGRAMS and INITIATIVE

The Board's budget is divided into three programs, each of which I will briefly summarize.

A. Administration – Workers' Compensation Board 0183 (p. A-492)

The first program, on page A-492, is Administration – 0183. This program funds the operations of the Workers' Compensation Board, including:

- 1. Administration:** The administration of the Board and its operations. This includes budget, legal, technology, regional office supervision, medical and rehabilitation services, claims management and coverage.
- 2. Dispute Resolution:** The Workers' Compensation Board has five regional offices (Augusta, Bangor, Caribou, Lewiston and Portland) where troubleshooting, mediation and formal hearings take place. Dispute resolution also includes the Board's Appellate Division which is authorized to hear and decide appeals from decisions issued by Administrative Law Judges (ALJs).
- 3. Monitoring Audit and Enforcement:** The Board monitors the timeliness with which certain forms and payments are being made; provides training for employers, insurers, self-insured employers, claim adjusters, and administrators; and, conducts compliance audits to ensure all obligations under the Workers' Compensation Act are met. Through its Abuse Investigation Unit, the Board enforces the administrative penalty provisions of the Workers' Compensation Act.
- 4. Worker Advocates:** The Worker Advocate Program provides legal representation without cost to injured workers pursuing claims before the Workers' Compensation Board. In order for an injured worker to qualify for Advocate representation, the injury must have occurred on or after January 1, 1993; the worker must have participated in the Board's troubleshooter program;

the worker must have failed to informally resolve the dispute; and finally, the worker must not have retained private legal counsel.

There is one initiative in this account which can be found on page A-492. The initiative provides funding for increased rent costs and associated STA-CAP charges. The amounts are: \$83,566 in FY22 and \$85,021 in FY23.

B. Employment Rehabilitation Program – 0195 (p. A-493)

The second program, on page A-493, is the Employment Rehabilitation Program. The Employment Rehabilitation Program is mandated by statute and is used to make initial payments to ensure injured workers have access to employment rehabilitation services.

There are no initiatives for this program.

C. Workers' Compensation Board 0751 (p. A-493)

The third program, also found on page A-493, funds the Workers' Compensation Board of Directors. The Board of Directors includes 3 members who represent labor, 3 who represent management, and, the Executive Director. The per diem and expenses of the 6 labor and management members are funded in this program.

There are no initiatives for this program.

Thank you for your time this afternoon. I am happy to answer any questions.