

JOINT STANDING COMMITTEE ON LABOR AND HOUSING

PUBLIC HEARING FOR L.D. 2176

TUESDAY, FEBRUARY 6, 2024, 1:00 P. M.

CROSS BUILDING, ROOM 202

**AN ACT TO ENSURE THE WORKERS' COMPENSATION BOARD'S
ALLOCATIONS ARE PROPERLY FUNDED**

TESTIMONY IN SUPPORT OF L.D. 2176

BY THE WORKERS' COMPENSATION BOARD

The Workers' Compensation Board was created in 1993 as a dedicated revenue agency responsible for generating its own income. Because the Board must generate its own income, the Workers' Compensation Act (the "Act") has an assessment mechanism, to provide a means of generating income, and an assessment cap stated as a specific dollar amount. What the Act did not have is a means of adjusting the assessment cap.

L.D. 2176 was submitted by the Board to address this issue. The vote to submit this bill was 4-2, with the management members opposed. Notwithstanding the lack of consensus, L.D. 2176 resolves the assessment cap issue by balancing concerns raised by all parties. There will still be an assessment cap, but, the assessment cap will be linked to the Board's legislatively approved allocation instead of a fixed number. A fixed number that is, no matter how well-intentioned or thought out, speculative and, practically speaking, simply serves to create a problem for a future board to grapple with.

The assessment cap, as you might expect, provides a limit on the amount of money the assessment can be designed to produce for a fiscal year. It plays a more important role in the biennial budget process. As is the case with General Fund agencies, the Board submits a biennial budget proposal that is included in the Governor's budget bill and is then subject to legislative approval and allocation. Unlike a General Fund agency, the Board must demonstrate that it has the authority – even if it does not have the need – to generate income sufficient to fund requested expenditures. If the assessment cap is equal to or higher than projected expenditures, the Board can demonstrate it will be able to generate enough revenue to meet those projected expenditures. If projected expenditures exceed the assessment cap, the Board must account for the difference.

This can be done by submitting legislation to address the assessment cap along with the biennial budget. Two examples demonstrate why this process has not worked in the past and should not be relied upon in the future.

In 2003, the assessment cap was inadequate to fund necessary expenditures. Emergency legislation was required because, as stated in the emergency preamble to the bill that was ultimately enacted,

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;

In 2022, the board reached consensus on its budget and the need to increase the cap. Despite this, consensus could not be reached to increase the assessment cap by the minimum needed to submit the agreed upon budget. Essentially, the Board agreed to spend money it would not be able to raise. Obviously, a different solution was required. To keep the door open for future consensus, a proposal was made to submit the agreed upon budget with an assessment cap increase that was the minimum necessary to allow the Board to submit its biennial budget request. No other proposals were offered. A majority of the Board then voted in favor of the proposal. Which, by the way, is not the last step in the budget process. After a vote, the Board's budget is subject to review by the Bureau of the Budget, the Governor and, finally, the Board's budget is subject to legislative approval and allocation.

In 2023, as planned, discussions continued with respect to the assessment cap. A proposal was made to maintain an assessment cap but link it to the Board's legislatively approved allocation. No alternatives were proposed, and, as I mentioned before, the vote to submit this legislation was 4-2.

I urge your support for L.D. 2176 which solves a recurring issue in a manner that takes into account concerns raised by all sides.

Thank you. I am happy to answer any questions you have.