An Act To Amend the Laws Governing Workers' Compensation

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

Sec. 1. 39-A MRSA §107, 3rd ¶, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

If the employee or the employee's beneficiary recovers damages from a 3rd person, the employee shall repay to the employer, out of the recovery against the 3rd person, the benefits paid by the employer under this Act~~, less the employer's proportionate share of cost of collection, including reasonable attorney's fees~~.

Sec. 2. 39-A MRSA §107, last ¶, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

If the employer recovers from a 3rd person damages in excess of the compensation and benefits paid or for which the employer has become liable, then any excess must be paid to the injured employee~~, less a proportionate share of the expenses and cost of actions or collection, including reasonable attorney's fees~~. Settlement of any such subrogation claims and the distribution of the proceeds therefrom must have the approval of the court in which the subrogation action is pending or to which it is returnable; or if not in suit, of the board. When the court in which the subrogation action is pending or to which it is returnable is in vacation, the judge of the court, or, if the action is pending in or returnable to the Superior Court, any Justice of the Superior Court has the power to approve the settlement of the action and the distribution of the proceeds therefrom. The beneficiary is entitled to reasonable notice and the opportunity to be present in person or by counsel at the approval proceeding.

Sec. 3. 39-A MRSA §151, sub-§1, as amended by PL 2009, c. 640, §1, is further amended to read:

1. Board established. Pursuant to Title 5, section 12004G, subsection 35, the Workers' Compensation Board is established as an independent board composed of 7 members. The members of the board, including the executive director, must be appointed by the Governor within 30 days after a new board member is authorized or a vacancy occurs, subject to review by the joint standing committee of the Legislature having jurisdiction over labor matters and confirmation by the Legislature. Notwithstanding the provisions of Title 3, section 157, the designated committee shall complete its review of the appointments of the Governor within 15 days of the Governor's written notice of appointment and the vote of the Legislature must be taken no later than 7 days after the vote of the designated committee.

The board consists of 3 representatives of management, 3 representatives of labor and the executive director appointed pursuant to subsection 1A. All management representatives must be appointed from a list provided by the Maine Chamber of Commerce and Industry or other bona fide organization or association of employers. ~~All labor representatives must be from a list provided by the Executive Board of the Maine AFLCIO or other bona fide labor organization or association of employees representing at least~~

~~10% of the Maine work force.~~The Governor shall appoint one labor representative from a list provided by the executive board of the Maine AFLCIO or other bona fide labor organization or association of employees. The remaining 2 representatives of labor are appointed at the discretion of the Governor. Any list submitted to the Governor must have at least 4 times the number of names as there are vacancies for the group represented by the vacancies.

A member of the board is not liable in a civil action for any act performed in good faith in the execution of duties as a board member.

A member of the board may not be a lobbyist required to be registered with the Commission on Governmental Ethics and Election Practices, a service provider to the workers' compensation system or a representative of a service provider to the workers' compensation system. In addition to the conflict of interest provisions in section 152, subsection 8, a member of the board may not take part in reaching a decision or recommendation in any matter that directly affects an insurer, self-insurer, group self-insurer or labor organization that the member represents.

Members of the board representing management and labor hold office for staggered terms of 4 years, commencing and expiring on February 1st, except for initial appointees and members appointed to fill unexpired terms.

Sec. 4. 39-A MRSA §153, sub-§2, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is repealed.

Sec. 5. 39-A MRSA §153, sub-§6, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

6. Mediation. The board shall establish a mediation program to provide mediation services ~~to parties to~~when requested by both the employer and the employee in a workers' compensation ~~cases~~case.

Sec. 6. 39-A MRSA §153, sub-§8, ¶B, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

B. The board shall collect and analyze data from Maine cases, studies from other states and generally accepted medical guidelines for occupational impairment to examine the feasibility and desirability of establishing an objectively ascertainable functional capacity standard to be used for determining eligibility for benefits under this Act ~~consistent with section 213, subsection 2~~.

Sec. 7. 39-A MRSA §153, sub-§9, as amended by PL 2005, c. 603, §3, is further amended to read:

9. Audit and enforcement. The executive director shall establish an audit, enforcement and monitoring program by July 1, 1998, to ensure that all obligations under this Act are met, including the requirements of section 359. The functions of the audit and enforcement program include, but are not limited to, auditing timeliness of payments and claims handling practices of insurers, self-insurers~~, the Maine Insurance Guaranty Association~~ and 3rdparty administrators; determining whether insurers,

self-insurers~~, the Maine Insurance Guaranty Association~~ and 3rdparty administrators are unreasonably contesting claims; and ensuring that all reporting requirements to the board are met. ~~When auditing the Maine Insurance Guaranty Association, the program shall consider when the Maine Insurance Guaranty Association obtained the records of an insolvent insurer.~~ The program must be coordinated with the abuse investigation unit established by section 153, subsection 5 as appropriate. The program must monitor activity and conduct audits pursuant to a schedule developed by the deputy director of benefits administration. Audit working papers are confidential and may not be disclosed to any person outside of the board except the audited entity. For purposes of this subsection "audit working papers" means all documentary and other information acquired, prepared or maintained by the board during the conduct of an audit or investigation, including all intraagency and interagency communications relating to an audit or investigation and draft reports or any portion of a draft report. The final audit report, including the underlying reconciled information, is not confidential. At the end of each calendar quarter, the executive director shall prepare a compliance report summarizing the results of the audits and reviews conducted pursuant to this subsection. The executive director shall submit the quarterly compliance reports to the board, the Bureau of Insurance and the Director of the Bureau of Labor Standards within the Department of Labor. An annual summary must be provided to the Governor and to the joint standing committees of the Legislature having jurisdiction over labor and banking and insurance matters by February 15th of each year. The quarterly compliance reports and the annual summaries must be made available to the public following distribution.

Sec. 8. 39-A MRSA §153-A, sub-§2, as enacted by PL 1997, c. 486, §4, is amended to read:

2. Qualified employee. For purposes of this section, "qualified employee" means an employee who, with respect to an injury occurring on or after January 1, 1993, ~~has participated in the troubleshooter program and~~ has not informally resolved the dispute and has demonstrated to the board that legal counsel has not been retained.

Sec. 9. 39-A MRSA §201, sub-§5, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

5. Subsequent nonwork injuries. If an employee suffers a nonwork-related injury or disease that is not causally connected to a previous compensable injury, the subsequent nonwork-related injury or disease is not compensable under this Act. <u>If an employee otherwise receiving workers' compensation benefits becomes totally disabled as a result of an unrelated and independent cause, the employee's rights and benefits cease for the duration of such total disability.</u>

Sec. 10. 39-A MRSA §205, sub-§9, ¶B, as amended by PL 2009, c. 280, §1 and affected by §2, is further amended to read:

B. In all circumstances other than the return to work or increase in pay of the employee under paragraph A, if the employer, insurer or group self-insurer determines that the employee is not eligible for compensation under this Act, the employer, insurer or group self-insurer may discontinue or reduce benefits only in accordance with this paragraph.

(1) If no order or award of compensation or compensation scheme has been entered, the employer, insurer or group self-insurer may discontinue or reduce benefits by sending a certificate by certified mail to the employee and to the board, together with any information on which the employer, insurer or group self-insurer relied to support the discontinuance or reduction. The employer may discontinue or reduce benefits no earlier than 21 days from the date the certificate was mailed to the employee, except that benefits paid pursuant to section 212, subsection 1 or section 213, subsection 1 may be discontinued or reduced based on the amount of actual documented earnings paid to the employee during the 21day period if the employer files with the board the documentation or evidence that substantiates the earnings and the employer only reduces or discontinues benefits for any week for which it possesses evidence of such earning. The certificate must advise the employee of the date when the employee's benefits will be discontinued or reduced, as well as other information as prescribed by the board, including the employee's appeal rights.

(2) If an order or award of compensation or compensation scheme has been entered, the employer, insurer or group self-insurer shall petition the board for an order to reduce or discontinue benefits and may not reduce or discontinue benefits until the matter has been ~~finally~~ resolved ~~through the dispute resolution procedures of this Act, any appeal proceedings have been completed and an order of reduction or discontinuance has been entered by the board~~by a decree issued by a hearing officer. The employer, insurer or group selfinsurer may reduce or discontinue benefits pursuant to such a decree pending an appeal from that decree. Upon the filing of a petition, the employer may discontinue or reduce the weekly benefits being paid pursuant to section 212, subsection 1 or section 213, subsection 1 based on the amount of actual documented earnings paid to the employee after filing the petition. The employer shall file with the board the documentation or evidence that substantiates the earnings and the employer may discontinue or reduce weekly benefits only for weeks for which the employer possesses evidence of such earnings.

Sec. 11. 39-A MRSA §207, first ¶, as amended by PL 2001, c. 278, §1, is further amended to read:

An employee being treated by a health care provider of the employee's own choice shall, after an injury and at all reasonable times during the continuance of disability if so requested by the employer, submit to an examination by a physician, surgeon or chiropractor authorized to practice as such under the laws of this State, to be selected and paid by the employer. ~~The physician, surgeon or chiropractor must have an active practice of treating patients. For purposes of this section, "active practice" may be demonstrated by having active clinical privileges at a hospital.~~ A physician or surgeon must be certified in the field of practice that treats the type of injury complained of by the employee. Certification must be by a board recognized by the American Board of Medical Specialties or the American Osteopathic Association or their successor organizations. A chiropractor licensed by the Board of Chiropractic Licensure~~, who has an active practice of treating patients~~ may provide a 2nd opinion when the initial opinion was given by a chiropractor. Once an employer selects a health care provider to examine an employee, the employer may not request that the employee be examined by more than one other health care provider, other than an independent medical examiner appointed pursuant to section 312, without prior approval from

the employee or a hearing officer. This provision does not limit an employer's right to request that the employee be examined by a specialist upon referral by the health care provider. Once the employee is examined by the specialist, the employer may not request that the employee be examined by a different specialist in the same specialty, other than an independent medical examiner appointed pursuant to section 312, without prior approval from the employee or the board. The employee has the right to have a physician, surgeon or chiropractor of the employee's own selection present at such an examination, whose costs are paid by the ~~employer~~employee. The employer shall give the employee notice of this right at the time the employer requests an examination.

Sec. 12. 39-A MRSA §209, sub-§1, ¶A, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

A. Standards, schedules or scales of maximum charges for individual services, procedures or courses of treatment. ~~In establishing these standards, schedules or scales, the~~The board shall ~~consider maximum~~establish standards, schedules or scales based upon reasonable and customarily negotiated charges paid by private 3rd-party payors for similar services provided by health care providers in the State and shall consult with organizations representing health care providers and other appropriate groups. The standards must be adjusted annually to reflect any appropriate changes in such negotiated levels of reimbursement. The standards apply to hospital costs and health care providers ~~and must be in effect no later than January 1, 1993~~. If standards are not established pursuant to this paragraph by October 1, 2011, charges customarily paid by MaineCare apply; and

Sec. 13. 39-A MRSA §209, sub-§2, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

2. Payment for services. A health facility or health care provider must be paid either the amounts authorized pursuant to the standards established in subsection 1, paragraph A or its usual and customary charge for any health care services or the maximum charge established under the rules adopted pursuant to subsection 1, whichever is less.

Sec. 14. 39-A MRSA §209, sub-§3, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

3. Limitation on reimbursement. In order to qualify for reimbursement for health care services provided to employees under this Title, health care providers providing individual health care services and courses of treatment ~~may not~~must charge ~~more~~ for the services or courses of treatment ~~for employees than is charged to private 3rd-party payors for similar services or courses of treatment~~in accordance with the standards established in subsection 1. An employer is not responsible for charges that are determined to be excessive or treatment determined to be inappropriate by an independent medical examiner appointed pursuant to section 312 or by the insurance carrier, self-insurer or group self-insurer pursuant to section 210, subsection 7 or the board pursuant to section 210, subsection 8.

Sec. 15. 39-A MRSA §213, sub-§1, as amended by PL 2003, c. 52, §1, is repealed and the following enacted in its place:

1. Benefit and duration. Compensation for partial incapacity is governed by this subsection.

A. While the incapacity for work is partial, the employer shall pay the injured employee a weekly compensation equal to 80% of the difference between the injured employee's aftertax average weekly wage before the personal injury and the aftertax average weekly wage that the injured employee is able to earn after the injury, but not more than the maximum benefit under section 211.

B. For injuries occurring from January 1, 2006 to September 30, 2011, compensation must be paid for the duration of the disability if the employee's permanent impairment, determined according to subsection 1A and the impairment guidelines adopted by the board pursuant to section 153, subsection 8, resulting from the personal injury is in excess of 11% to the body.

C. For injuries occurring on or after October 1, 2011, an employee may not receive compensation under this subsection after the employee has received compensation under section 212, subsection 1, this section or both, for the following number of weeks:

(1) Fiftytwo weeks, if there is no permanent impairment resulting from the injury or if the permanent impairment resulting from the injury is not in excess of 3%;

(2) One hundred and four weeks, if the permanent impairment resulting from the injury is in excess of 3% but not in excess of 6%;

(3) One hundred and fifty-six weeks, if the permanent impairment resulting from the injury is in excess of 6% but not in excess of 9%;

(4) Two hundred and eight weeks, if the permanent impairment resulting from the injury is in excess of 9% but not in excess of 12%;

(5) Two hundred and sixty weeks, if the permanent impairment resulting from the injury is in excess of 12% but not in excess of 15%;

(6) Three hundred and twelve weeks, if the permanent impairment resulting from the injury is in excess of 15% but not in excess of 18%;

(7) Three hundred and sixty-four weeks, if the permanent impairment resulting from the injury is in excess of 18% but not in excess of 21%;

(8) Four hundred and sixteen weeks, if the permanent impairment resulting from the injury is in excess of 21% but not in excess of 24%;

(9) Four hundred and sixty-eight weeks, if the permanent impairment resulting from the injury is in excess of 24% but not in excess of 27%; and

(10) Five hundred and twenty weeks, if the permanent impairment resulting from the injury is in excess of 27%.

For purposes of this paragraph, the permanent impairment resulting from the personal injury is determined according to subsection 1A and the impairment guidelines adopted by the board pursuant to section 153, subsection 8.

Sec. 16. 39-A MRSA §213, sub-§2, as amended by PL 2001, c. 712, §3 and affected by §6, is repealed.

Sec. 17. 39-A MRSA §213, sub-§3, as amended by PL 2001, c. 448, §1, is repealed.

Sec. 18. 39-A MRSA §213, sub-§4, as amended by PL 2001, c. 448, §2, is repealed.

Sec. 19. 39-A MRSA §223, sub-§1, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

1. Presumption. An employee who ~~terminates active employment and~~ is receiving nondisability pension or retirement benefits under either a private or governmental pension or retirement program, including old-age benefits under the United States Social Security Act, 42 United States Code, Sections 301 to 1397f, that was paid by or on behalf of an employer from whom weekly benefits under this Act are sought is presumed not to have a loss of earnings or earning capacity as the result of compensable injury or disease under this Act. This presumption may be rebutted only by a preponderance of evidence that the employee is unable, because of a work-related disability, to perform work suitable to the employee's qualifications, including training or experience. This standard of disability supersedes other applicable standards used to determine disability under this Act.

Sec. 20. 39-A MRSA §306, sub-§1, as enacted by PL 1999, c. 354, §6 and affected by §10, is amended to read:

1. Statute of limitations. Except as provided in this section, a petition brought under this Act is barred unless filed within 2 years after the date of injury or the date the employee's employer files a required first report of injury ~~as~~if required in section 303, whichever is later.

Sec. 21. 39-A MRSA §324, sub-§1, as amended by PL 2009, c. 129, §9 and affected by §13, is further amended to read:

1. Order or decision. The employer or insurance carrier shall make compensation payments within 10 days after the receipt of notice of an approved agreement for payment of compensation or within 10 days after any order or decision of the board awarding compensation. If the board enters a decision awarding compensation and a motion for findings of fact and conclusions of law is filed with the hearing officer or an appeal is filed with the Law Court pursuant to section 322, payments may not be suspended while the motion for findings of fact and conclusions of law or appeal is pending. The employer or insurer may recover from an employee payments made pending a motion for findings of fact and conclusions of law or appeal to the Law Court if and to the extent that the hearing officer or the Law Court has decided

that the employee was not entitled to the compensation paid. The board has full jurisdiction to determine the amount of overpayment, if any, and the amount and schedule of repayment, if any. The board, in determining whether or not repayment should be made and the extent and schedule of repayment, shall consider the financial situation of the employee and the employee's family and may not order repayment that would work hardship or injustice. The board shall notify the Commissioner of Health and Human Services within 10 days after the receipt of notice of an approved agreement for payment of compensation or within 10 days after any order or decision of the board awarding compensation identifying the employee who is to receive the compensation. For purposes of this subsection, "employer or insurance carrier" includes the Maine Insurance Guaranty Association under Title 24A, chapter 57, subchapter 3.

Sec. 22. 39-A MRSA §324, sub-§2, as amended by PL 2009, c. 129, §10 and affected by §13, is further amended to read:

2. Failure to pay within time limits. An employer or insurance carrier who fails to pay compensation, as provided in this section, is penalized as follows. ~~For purposes of this subsection, "employer or insurance carrier" includes the Maine Insurance Guaranty Association under Title 24A, chapter 57, subchapter 3.~~

A. Except as otherwise provided by section 205, if an employer or insurance carrier fails to pay compensation as provided in this section, the board may assess against the employer or insurance carrier a fine of up to $200 for each day of noncompliance. The board may not assess a fine in excess of $25,000 under this subsection unless a majority of the board finds by clear and convincing evidence that the employer or insurance carrier intentionally and fraudulently failed to pay compensation. If the board finds that the employer or insurance carrier was prevented from complying with this section because of circumstances beyond its control, a fine may not be assessed.

(1) The fine for each day of noncompliance must be divided as follows: Of each day's fine amount, the first $50 is paid to the employee to whom compensation is due and the remainder must be paid to the board and be credited to the Workers' Compensation Board Administrative Fund.

(2) If a fine is assessed against any employer or insurance carrier under this subsection on petition by an employee, the employer or insurance carrier shall pay reasonable costs and attorney's fees related to the fine, as determined by the board, to the employee.

(3) Fines assessed under this subsection may be enforced by the Superior Court in the same manner as provided in section 323.

B. Payment of a fine assessed under this subsection is not considered an element of loss for the purpose of establishing rates for workers' compensation insurance.

Sec. 23. 39-A MRSA §325, sub-§4, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

4. Attorney's fees for lump-sum settlements. Attorney's fees for lump-sum settlements pursuant to section 352 for injuries after January 1, 2005 must be determined as follows:

A. Before computing the fee, reasonable expenses incurred on the employee's behalf must be deducted from the total settlement, including:

(1) Medical examination fee and witness fee;

(2) Any other medical witness fee, including cost of subpoena;

(3) Cost of court reporter service; and

(4) Appeal costs; ~~and~~

B. The computation of the fee, based on the amount resulting after deductions according to paragraph A, may not exceed:

(1) Ten percent of the first $50,000 of the indemnity benefits of the settlement;

(2) Nine percent of the first $10,000 over $50,000 of the indemnity benefits of the settlement;

(3) Eight percent of the next $10,000 over $50,000 of the indemnity benefits of the settlement;

(4) Seven percent of the next $10,000 over $50,000 of the indemnity benefits of the settlement;

(5) Six percent of the next $10,000 over $50,000 of the indemnity benefits of the settlement; and

(6) Five percent of any amount over $90,000 of the indemnity benefits of the settlement~~.~~; and

C. A fee may not be assessed for the amount of any settlement intended to pay for current or future medical costs.

Sec. 24. 39-A MRSA §355-A, as enacted by PL 2001, c. 448, §5, is repealed.

Sec. 25. 39-A MRSA §355-B, as enacted by PL 2001, c. 448, §5, is repealed.

Sec. 26. 39-A MRSA §355-C, as enacted by PL 2001, c. 448, §5, is repealed.

Sec. 27. 39-A MRSA §356, as amended by PL 2001, c. 448, §6, is repealed.

Sec. 28. 39-A MRSA §358-A, sub-§1, as enacted by PL 1997, c. 486, §8, is amended to read:

1. Workers' compensation system annual report. The board, in consultation with the Superintendent of Insurance and the Director of the Bureau of Labor Standards within the Department of Labor, shall submit an annual report to the Governor and the joint standing committees of the Legislature having jurisdiction over labor and banking and insurance matters by February 15th of each year regarding the status of the workers' compensation system. At a minimum, the report must include an assessment of the board's implementation of the following provisions:

A. The number of individual cases monitored to ensure the provision of benefits in accordance with law, pursuant to section 152, subsection 10;

B. The number of cases monitored to ensure the payments are initiated within the time limits of sections 205 and 324 and the adequacy of compensation provided pursuant to section 153, subsection 1;

C. The number of investigations performed pursuant to section 153, subsection 7;

D. The number of lump-sum settlements cases monitored and a summary of postsettlement employment experience pursuant to section 352, subsection 6;

E. The number of audits performed and an assessment of compliance with this Act based on audit results pursuant to section 359, subsection 1;

F. The number of penalties assessed and the reasons for the assessments pursuant to section 205, subsection 3; section 313, subsection 4; section 324, subsections 2 and 3; section 359, subsection 2; and section 360; and

G. The results of the monitoring program giving sidebyside information compilations for the past 5 years pursuant to section 359, subsection 3.

The report must contain specific data regarding compliance, including benchmarks measuring individual insurer's, self-insurer's~~,~~ or 3rdparty administrator's compliance with the provisions of this Act and any penalties assessed. Benchmarks must be developed by the board with input from insurers, self-insurers and 3rdparty administrators and other parties the board considers appropriate. The board shall also report on the utilization of ~~troubleshooters,~~ advocates and retained legal counsel, with correlating outcomes.

SUMMARY

This bill amends provisions of the Maine Workers' Compensation Act of 1992 and procedures of the Workers' Compensation Board.

1. It amends the law to provide for full reimbursement to an employer from proceeds paid by a 3rd party.

2. It amends the selection process for the Workers' Compensation Board. Under current law, the 3 representatives of labor on the board must be appointed from a list provided by a bona fide labor organization or association of employees. This bill instead requires that one of the 3 labor members

be appointed from that list; the other 2 labor representatives must be appointed at the discretion of the Governor.

3. It repeals the troubleshooter program established under the Maine Revised Statutes, Title 39A, section 153, subsection 2.

4. It amends the mediation provision to require that mediation be requested both by the employer and the employee.

5. It eliminates the board's audit and enforcement oversight of the Maine Insurance Guaranty Association.

6. It amends the law to address the decision in Roy v. Bath Iron Works, 2008 ME 94, to specifically provide that a subsequent nonwork injury, independent of any workrelated injury, and unrelated to any workrelated injury, that results in total disability results in a cessation of benefits for the duration of the disability.

7. It specifies that, if an award has been entered, the employer, insurer or group selfinsurer may petition the board for a reduction and may not reduce or discontinue benefits until the issuance of a decree by a hearing officer, after which benefits may be reduced or discontinued pending an appeal from the hearing officer's decree.

8. It eliminates the requirement that a physician have an active practice in order to be qualified to conduct a medical examination.

9. It provides that if an employee chooses to have a physician present at an employerrequired examination, the employee must pay the cost of that physician.

10. Under current law, in establishing standards, schedules or scales of maximum charges, the board is required to consider maximum charges paid by private 3rdparty payors. This bill requires the board to base those standards, schedules or scales on reasonably and customarily negotiated charges between health care providers and 3rdparty insurers and requires that if standards are not established by October 1, 2011, then charges customarily paid by MaineCare apply.

11. It amends the laws governing compensation for partial incapacity.

A. Under current law, the compensation must be paid for the duration of the disability if the employee's permanent impairment resulting from the personal injury is in excess of 15%; if the permanent impairment is equal to or less than 15%, the employee may not receive compensation for more than 260 weeks unless the board extends the duration of benefit entitlement beyond 260 weeks due to extreme financial hardship.

B. This bill instead provides that, for injuries occurring from January 1, 2006 to September 30, 2011, compensation must be paid for the duration of the disability if the employee’s permanent impairment is in excess of 11%; for injuries occurring on or after October 1, 2011, an employee may not receive compensation for more than 52 weeks, if there is no permanent impairment resulting from the injury or if the permanent impairment resulting from the injury is not in excess of 3%; 104 weeks, if the permanent impairment resulting from the injury is in excess of 3% but not in excess of 6%; 156 weeks, if the permanent impairment resulting from the injury is in excess of 6% but not in excess of 9%; 208 weeks, if the permanent impairment resulting from the injury is in excess of 9% but not

in excess of 12%; 260 weeks, if the permanent impairment resulting from the injury is in excess of 12% but not in excess of 15%; 312 weeks, if the permanent impairment resulting from the injury is in excess of 15% but not in excess of 18%; 364 weeks, if the permanent impairment resulting from the injury is in excess of 18% but not in excess of 21%; 416 weeks, if the permanent impairment resulting from the injury is in excess of 21% but not in excess of 24%; 468 weeks, if the permanent impairment resulting from the injury is in excess of 24% but not in excess of 27%; and 520 weeks, if the permanent impairment resulting from the injury is in excess of 27%. This bill also eliminates the board's ability to extend the duration of benefit entitlement in cases of extreme financial hardship.

12. It repeals provisions of the law requiring the board to adjust the 15% impairment threshold, dates of injury and extension of the period of benefit limitation.

13. It provides that an employee who is otherwise retired is not presumed to have a loss of earnings or earning capacity regardless of whether the employee terminates active employment.

14. It amends the statute of limitations periods when no first report of injury is required to be filed.

15. It amends the law to address the decision in Larochelle v. Crest Shoe, 655 A. 2d 1245 (Me 1995) to specify that overpayments made during the pendancy of a motion for findings of fact and conclusions of law must be repaid.

16. It prohibits the board from assessing a fine against an employer or insurer in excess of $25,000 unless the employer or insurer intentionally and fraudulently failed to pay compensation.

17. It provides that, for injuries occurring after January 1, 2005, lumpsum attorney's fees are paid on the indemnity portion of a settlement.

18. It prohibits the assessment of an attorney's fee for the amount of any settlement intended to pay for current or future medical costs.

19. It repeals provisions regarding the Supplemental Benefits Fund, which was established to reimburse payments of compensation to employees under provisions governing extended benefits for partial incapacity that are repealed in this bill.