

WORKERS' COMPENSATION LEGISLATION UPDATE – 5/10/19

Since our last update, there have been many developments with the dozens of workers' compensation bills that have been introduced in the Maine legislature. Combined, they would bring us back to the pre-reform days of high cost, frequent litigation and premium/coverage uncertainty. This update is meant to be a brief synopsis of current developments and disposition.

The public hearings process is complete for all WC bills, with the last ones held last Monday. This afternoon, the committee Chairs held a "stakeholder group" meeting intended to have all parties come to the table with three bills that are priorities and three that they could live without. Labor and trial attorneys clearly believe the system needs to offer more and expanded benefits to injured employees. The employer community, however, was steadfast in our belief that the system, while not perfect, is in an acceptable balance. Our unified position is to not negotiate systemic changes, making it more expensive, without offsetting savings.

The Labor & Housing Committee Chairs started the "stakeholder group" meeting by outlining the seven bills that they understand have consensus. When asked which parties were involved in this "consensus", I did not receive an acceptable answer – because the business community was not involved in such "consensus". Regardless, here is the list that Senator Bellows outlined as acceptable to the "consensus" group:

LD 601 - An Act To Create Fairness by Reinstating the Cost-of-living Adjustment for Workers' Compensation Benefits

- Reinstates the pre 1992 reform practice of benefits automatically adjusting with the state's average weekly wage.

LD 758 - An Act To Clarify Work Search Requirements for Workers' Compensation

- Would change the work search requirement for injured workers to be the responsibility of the employer, not the employee.

LD 947 - An Act To Extend the Notice of Injury Period in the Maine Workers' Compensation Act of 1992

- Current notice requirements are set at 30 days after the date of injury. This bill would extend that to 180 days after the date of injury.

LD 1204 - An Act To Eliminate the Cap on Weekly Benefits in Workers' Compensation Cases

- Would remove the current law's cap on maximum weekly benefits.

LD 1253 - An Act To Fairly Compensate for Fatal Accidents under the Maine Workers' Compensation Act of 1992

- Current law limits to 500 weeks the duration of death benefits under the laws governing workers' compensation. This bill removes the 500-week cap.

LD 1500 - An Act To Improve Workers' Compensation Protection for Injured Workers Whose Employers Have Wrongfully Not Secured Workers' Compensation Insurance

- This bill creates liability for situations when an employee is injured while working for an uninsured subcontractor.

LD 1625 - An Act To Eliminate the Durational Cap on Partial Benefits under the Workers' Compensation Laws

- Current law limits to 520 weeks the duration of workers' compensation benefits for partial incapacity claims. This bill removes that durational cap (potentially lifetime benefits), significantly increasing the value of claims.

From the beginning, the committee chairs committed to hold work session(s) for all WC bills all at once – starting on Monday at 9am. There is an indication that they are wanting to pass one bill with many of the bills listed above included in the singular bill. They also indicated that Monday is the start of the process of weeding through what will be included in the omnibus bill, likely to last weeks, so it's not time (in our opinion) to rally the troops to the Statehouse. Depending upon how things progress, we may get to that point sometime soon.

We will likely send you an update after Monday to keep you up-to-speed on these fast-moving developments. We still don't know where the Governor is on these issues and she will be key to shaping the negotiations. Once we know more, we will share it with you.

In the meantime, please let us know if you have any questions.