



STATE OF MAINE
WORKERS' COMPENSATION BOARD
Board of Directors' Business Meeting

March 12, 2019

A business meeting of the Maine Workers' Compensation Board of Directors was held on Tuesday, March 12, 2019, at the Workers' Compensation Board, Augusta Central Office.

PRESENT: John Rohde (*Executive Director*), Ron Green, Glenn Burroughs, Emery Deabay, Richelle Wallace, Tom Davis, and Gary Koocher.

I. CALL TO ORDER

Executive Director Rohde called the meeting to order at 10:00 a.m.

II. APPROVAL OF MINUTES

1. Draft Minutes of 2/12/2019 Meeting

Director Koocher noted a clerical error in the minutes from 2/12/19. LD 758 should have read "motion passed" instead of "motion failed." Director Koocher MOVED TO ACCEPT THE MINUTES OF THE 2/12/19 MEETING with the correction on LD 758; Director Burroughs seconded. **MOTION PASSES 7-0.**

III. SUBCOMMITTEE REPORTS

1. Personnel Subcommittee

The Personnel subcommittee met prior to the Board meeting to discuss applications for the General Counsel position. Director Deabay MOVED TO HIRE RICHARD HEWES AS GENERAL COUNSEL. Director Wallace seconded. **MOTION PASSES 7-0.**

2. IME Subcommittee

The IME subcommittee met prior to the Board meeting to discuss the list of independent medical examiners. A review of the list will be done by Kimberlee McCarson and she will report back to the subcommittee with recommendations.

IV. EXECUTIVE DIRECTOR AND GENERAL COUNSEL REPORT

Executive Director Rohde gave a combined update on the Executive Director and General Counsel topics.

1. Appropriations Committee

Executive Director Rohde reported that the Board budget will be before the Appropriations committee on March 13, 2019.

2. Assessment Rate

Due to the timing of the May meeting, the assessment letters will go out a bit later than usual.

V. OLD BUSINESS

1. §213 Petition

The Employer has submitted a motion to amend the scheduling order for the Moulton petition. The Employee has no objection to the change. Executive Director Rohde will issue the amended scheduling order. The Board has scheduled the hearing to begin at noon on April 9, 2019.

2. LD 942 An Act To Require Reimbursement for Medical Marijuana

Executive Director Rohde recommended that the Board take no position on LD 942, but provide information about the *Bourgoin* decision to the Labor and Housing Committee.

VI. NEW BUSINESS

1. Legislation

Executive Director Rohde reviewed the bills that have been submitted to date with regard to workers' compensation.

LD 1095 An Act Regarding Workers' Compensation Liens. Discussion about the bill centered around the word "attributable" and those cases that will also involve a civil suit.

Director Davis MOVED TO OPPOSE LD 1095 AS READ; Director Koocher seconded.
MOTION TO OPPOSE FAILS 3-4.

Executive Director Rohde explained that a failed motion regarding a bill means the Board will testify neither for nor against the bill.

Executive Director Rohde reminded everyone that the Labor and Housing Committee plans to group the WC bills and consider them together to assess the overall impact to the system.

LD 1203 An Act To Clarify the Retirement Presumption under the Maine Workers' Compensation Act of 1992. There is not a cost impact estimate available for this bill yet.

Director Deabay MOVED TO SUPPORT LD 1203 AS READ; Director Green seconded. **MOTION TO SUPPORT FAILS 3-4.**

LD 1204 An Act To Eliminate the Cap on Weekly Benefits in Workers' Compensation Cases. Maine's current Average Weekly Wage is lower than other New England states. NCCI is pricing the impact of this bill. Director Burroughs and Director Deabay noted that most shipyard and mill jobs in Maine will put an injured worker above the current cap.

Director Burroughs MOVED TO SUPPORT LD 1204 AS READ; Director Green seconded. **MOTION TO SUPPORT TIES 3-3-1** (*Director Wallace abstained*).

LD 1205 An Act To Allow Full Retirement Benefits under the Maine Workers' Compensation Act of 1992. There is not a cost impact report from NCCI available yet for this bill.

Director Koocher MOVED TO OPPOSE LD 1205 AS READ; Director Davis seconded. **MOTION TO OPPOSE FAILS 3-4.**

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

Director Deabay MOVED TO SUPPORT LD 758 AS OUGHT TO PASS, Director Burroughs seconded. **MOTION PASSES 4-3.**

LD 1112 An Act To Provide Employee Vaccination Compensation. There is a very narrow issue for Workers' Compensation in this bill and the primary impact involves the waiting period.

Director Koocher MOVED TO OPPOSE LD 1112 AS READ; Director Davis seconded. **MOTION TO OPPOSE WAS WITHDRAWN** as this bill will fall under the Department of Labor.

LD 809 An Act To Expand and Clarify the Disqualification from Workers' Compensation Benefits of an Employee Who Is Injured While Under the Influence of Drugs or Alcohol.

Director Green MOVED TO OPPOSE LD 809 AS READ; Director Deabay seconded. **MOTION TO OPPOSE PASSES 4-3.**

LD 819 An Act To Enhance the Predetermination of Independent Contractors.

Director Koocher MOVED TO BE NEITHER FOR NOR AGAINST LD 819 AS READ; Director Green seconded. **MOTION PASSES 7-0.**

LD 901 An Act To Clarify the Statute of Limitations under the Maine Workers' Compensation Act of 1992.

Director Deabay MOVED TO SUPPORT LD 901 AS READ, Director Burroughs seconded. **MOTION TO SUPPORT PASSES 4-3.**

LD 947 An Act To Extend the Notice of Injury Period in the Maine Workers' Compensation Act of 1992. The Board briefly adjourned to caucus on this bill.

Director Deabay MOVED TO SUPPORT LD 947 AS READ, Director Burroughs seconded. **MOTION TO SUPPORT PASSES 4-3.**

Executive Director Rohde addressed questions about EDI. Maine Workers' Compensation is not withdrawing from EDI. The payment piece of EDI, however, will be on hold for now.

VII. ADJOURNMENT

Director Deabay MOVED TO ADJOURN; Director Green seconded. **MOTION PASSES 6-1-0** (*Director Burroughs abstained*).

The meeting formally was adjourned at 11:53 a.m.