

§355-B. Supplemental Benefits Oversight Committee

The Supplemental Benefits Oversight Committee, referred to in this section and sections 355-C and 356 as the "committee," is created and charged with the duty to monitor, facilitate and provide general oversight in the administration of reimbursement of workers' compensation benefit obligations of the fund pursuant to section 213, subsections 3 and 4. [PL 2001, c. 448, §5 (NEW).]

1. Members. The committee consists of 5 members, appointed by the Governor as follows:

A. Two members must represent employers. One must be appointed from the list provided by the Maine State Chamber of Commerce or its successor organization. One must be an approved self-insured employer, appointed from the list provided by the Maine Council of Self-insurers or its successor organization; [PL 2001, c. 448, §5 (NEW).]

B. One member must represent insurers and must be appointed from the list provided by the Superintendent of Insurance; [PL 2001, c. 448, §5 (NEW).]

C. One member must represent labor interests and must be appointed from the list provided by the Maine AFL-CIO or its successor organization; and [PL 2001, c. 448, §5 (NEW).]

D. One member must be an at-large member who possesses skills and experience suited to the functions of the committee. [PL 2001, c. 448, §5 (NEW).]

[PL 2001, c. 448, §5 (NEW).]

2. Terms. Except for members of the initial committee, members are appointed for terms of 3 years. Committee members may serve multiple terms. Of the initial committee member appointments, one member must be appointed for a term of one year, 2 must be appointed for terms of 2 years and 2 must be appointed for terms of 3 years, at the discretion of the Governor. The committee is not authorized to begin transacting business until the Governor has made all 5 initial committee appointments.

A. The Governor may remove a member for cause. [PL 2001, c. 448, §5 (NEW).]

B. If a vacancy occurs on the committee after initial appointments are made, the committee may select an alternate member representing the same entity represented by the vacant position to serve until the Governor makes a new appointment. The Governor shall make appointments to fill vacancies in the same manner in which the member whose leaving caused the vacancy was appointed. [PL 2001, c. 448, §5 (NEW).]

[PL 2001, c. 448, §5 (NEW).]

3. Alternate members. The Governor shall appoint 3 alternate members for each member appointed under subsection 1. An alternate for a member appointed under subsection 1, paragraphs A to C must be named from the alternate member list provided by the same entity that provided the list for appointment of the member. An alternate member may serve on the committee in the event of a vacancy pursuant to subsection 2, paragraph B or when a member has a conflict of interest pursuant to subsection 5. An alternate member is entitled to the same compensation and protections from liability as a member when serving on the committee.

[PL 2001, c. 448, §5 (NEW).]

4. Voting; quorum. A quorum consists of 4 members of the committee. Each member has one vote that must be exercised. A decision may not be made by the committee without at least 3 affirmative votes. A member who does not vote is considered to have voted in the negative.

[PL 2001, c. 448, §5 (NEW).]

5. Conflict of interest. A member may not participate in any matter in which that member has an actual or potential conflict of interest. A member may not participate in deliberations on such a matter and may not vote on that matter. A conflict of interest exists if the member, the person that employs that member or the person that the member represents is financially interested in the matter. If a

member is unable to participate in a matter pursuant to this subsection, the committee shall select an alternate member representing the same interest from the alternate members appointed pursuant to subsection 3. The alternate member serves under this subsection for the limited purpose of deciding the financial responsibility, if any, of the fund to an insurer or self-insurer regarding a reimbursement request concerning which a member of the committee is precluded from participating pursuant to this subsection.

[PL 2001, c. 448, §5 (NEW).]

6. Compensation. A member of the committee receives a per diem of \$100 per day and reimbursement of actual and necessary expenses while attending to the business of the fund. Per diem and expenses are paid from the fund.

[PL 2001, c. 448, §5 (NEW).]

7. Liability. A member of the committee is not liable in a civil action for any act performed in good faith in the execution of duties as a member of the committee. The fund must indemnify a member against judgments, fines, amounts paid in settlement, reasonable costs and expenses, including attorney's fees, and any other liabilities that may be incurred as a result of legal actions or threatened legal actions, except in relation to matters in which the member is adjudged to be liable by reason of willful misconduct in the performance of duties or obligations to the committee.

[PL 2001, c. 448, §5 (NEW).]

8. Legal representation. The committee, directly or through a service agent, may seek the advice and counsel of the Attorney General or retain private counsel through service contracts. The Attorney General may not prosecute an assessment against the State or defend the fund against any claims brought by the State. Reasonable costs of legal representation by the Attorney General or attorneys contractually retained by the committee or its service agent are chargeable to the fund.

[PL 2001, c. 448, §5 (NEW).]

9. Board proceedings. Neither the fund nor the committee has standing or authority to participate directly or indirectly in any proceeding before the board regarding the level or duration of benefits payable to an employee.

[PL 2001, c. 448, §5 (NEW).]

10. Fund management; fiduciary duty. Each member of the committee is held to account as a fiduciary in the administration of the fund's assets. Management and investment of the assets of the account by the committee or a service agent must conform to prudent investor standards. The committee shall maintain complete and accurate records of investments, money and other assets comprising the corpus of the fund. The committee shall provide to the board on the first business day of January, April, July and October each year an accounting respecting the fund's assets and transactions relating to activities of the committee. The board shall promptly notify the joint standing committee of the Legislature having jurisdiction over labor matters of any concerns raised by those reports.

[PL 2001, c. 448, §5 (NEW).]

11. Records and proceedings of committee. For the purposes of Title 1, chapter 13, subchapter I:

A. Records in the possession of the committee that relate to individual workers' compensation claims, claims for reimbursement by insurers and self-insurers under section 213, subsection 3 or 4 or claims settlement activities are not public records; and [PL 2001, c. 448, §5 (NEW).]

B. Proceedings of the committee relating to individual workers' compensation claims, claims for reimbursement by insurers and self-insurers under section 213, subsection 3 or 4 or claims settlement activities are not public proceedings. [PL 2001, c. 448, §5 (NEW).]

[PL 2001, c. 448, §5 (NEW).]

12. Rulemaking. The committee may adopt procedural rules in accordance with Title 5, chapter 375 as necessary to facilitate timely and proper administration of the affairs of the fund. These rules are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.
[PL 2001, c. 448, §5 (NEW).]

SECTION HISTORY

PL 2001, c. 448, §5 (NEW).

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