

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 178

S. P. 92

In Senate, January 25, 1979

Referred to the Committee on Labor. Sent down for concurrence and ordered printed.

Presented by Senator Chapman of Sagadahoc.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT Concerning Unemployment Compensation Benefits For Employees
Formerly Working for a Bankrupt Employer.**

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

Sec. 1. 26 MRSA § 632 is enacted to read:

§ 632. Fund for unpaid wages

1. **Fund established.** There is established a Maine Wage Assurance Fund to be used by the Bureau of Labor within the Department of Manpower Affairs for the purpose of assuring that all former employees of employers within the State receive payment for wages for the work they have performed. The Legislature intends that payment of earned wages from the fund be limited to those cases when the employer has terminated his business and there are no assets of the employer from which earned wages may be paid, or when the employer has filed under any provision of the Federal Bankruptcy Act. No officer or director in the case of a corporation, no partner in the case of a partnership and no owner in the case of a sole proprietorship shall be considered an employee for purposes of this section.

2. **Administration.** The fund shall be administered by the Director of the Bureau of Labor. Applications for payment from the fund and disbursements from the fund shall be in accordance with regulations promulgated by the director. The

State shall be subrogated to any claims against an employer for unpaid wages by an employee who has received payment from the fund. Subrogation to these claims shall be to the extent of payment from the fund to the employee.

3. Amount in fund. The Maine Wage Assurance Fund shall be a nonlapsing, revolving fund limited to a minimum of \$50,000 and a maximum of \$100,000. All moneys collected from an employer pursuant to a claim for unpaid wages by an employee who has received payment from the fund, or by the State as his subrogee, shall be credited to the fund.

The fund shall be established and augmented periodically as necessary by fees to be determined by the Legislature. The fees shall be assessed to all employers on the basis of the aggregate total wages paid in the calendar year preceding the year of assessment. The term "wages" means a remuneration of personal services, including commissions, bonuses, gratuities and the cash value of all remuneration in any medium other than cash. Collection of the fees shall be administered by the Commissioner of Manpower Affairs.

Moneys in the fund not needed currently to meet claims against the fund shall be deposited with the Treasurer of State to be credited to the fund and may be invested in such manner as is provided for by statute. Interest received on that investment shall be credited to the Maine Wage Assurance Fund.

Sec. 2. Fees for calendar year 1979. Fees for the Maine Wage Assurance Fund assessed to employers for the calendar year 1979 shall be at the rate of 2¢ per \$1,000 of wages paid in the calendar year 1977.

STATEMENT OF FACT

Employees who are still owed wages when their employer ceases to do business or files under the Federal Bankruptcy Act must suffer the loss if the employer is out of business and no money is available to pay these earned wages. For example, in the fall of 1976 one industry was forced to close its doors due to financial burden and tax liens and, consequently, several hundred employees were thrown out of work and are still owed one to 2 weeks' wages. Investigation by state and federal agencies has produced conclusive evidence that no assets are available to meet the obligation.

This bill would enable the employee to be paid unpaid wages with a minimum of delay in the event that the employer ceases to do business in the State and money is unavailable, whether or not bankruptcy proceedings are initiated.

The mechanism for payment would be a separate fund administered within the Department of Manpower Affairs. The fund would be supported by periodic assessments against all employers. In light of the size of the fund and the number of employers in the State, the cost to any individual employer should be minimal.