

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

EMW
Maine Employment Security Commission

INTER-OFFICE MEMORANDUM

Date: May 11, 1971

To: James C. Schoenthaler, Chairman

Office: _____

From: Frank A. Ferrington, Assistant Attorney General

Office: _____

Subject: L.D. 1595 105th Legislature

Syllabus:

L.D. 1595, S.P. 480 pending before the 105th Legislature would provide unemployment compensation coverage only for those State employees who perform services for State hospitals and State institutions of higher education located in this State.

FACTS:

Legislative Document 1595, S.P. 480, 105th Legislature, proposes changes in the Maine Employment Security Law to keep said law in conformity with certain provisions of the Federal Unemployment Tax Act, as contained in Public Law 91-373, enacted by the 91st Congress, August 10, 1970.

At a Legislative hearing on April 29, 1971, part of the discussion of the bill by one of those persons appearing was to the effect that there was thought that Section 8 of L.D. 1595, paragraph A-1, subparagraph (1) provided for unemployment compensation coverage for all State employees.

QUESTION:

Your memorandum of May 10, 1971, requests an opinion as to whether Section 8 of L.D. 1595, in paragraph A-1, subparagraph (1) limits coverage of State employees to those employed in State hospitals or State institutions of higher education.

ANSWER:

Yes.

OPINION:

Section 8 of L.D. 1595 would amend Section 1043, subsection 11 of Title 26 of the Revised Statutes (Maine Employment Security Law) by adding a new paragraph "A-1" pertinent part of which is subparagraph (1), reading as follows:

"A-1. After December 31, 1971, employment shall include:

"(1) Notwithstanding paragraph F except as herein provided, service performed by an individual in the employ of this State or any of its instrumentalities, or in the employ of this State and one or more states or their instrumentalities, for a hospital or institution of higher education located in this State, provided that such service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of section 3306(c) (7) of that Act and is not excluded under paragraph F, subparagraphs (21) to (28);"

Section 3306(c) (7) of the Federal Unemployment Tax Act does exclude from coverage service performed in the employ of any State or any political subdivision thereof, or any instrumentality of a State or any political subdivision thereof. Hence the service described in the above quote would constitute employment if this portion of L.D. 1595 becomes law.

The reference to paragraph F, subparagraphs (21) to (28) has no bearing on the question you ask.

The "paragraph F" referred to is subparagraph (1) of paragraph F of subsection 11 of Section 1043 of the law, which Section 9 of L.D. 1595 would amend to read as follows:

"(1) Service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions, except as provided by this subsection;"
(underlined words constitute the proposed amendment).

Consideration of these two quotes leads to the conclusion that L.D. 1595 does not propose to provide unemployment compensation coverage for all State employees.

The language of "A-1 (1)" considered alone, leads to the same conclusion. The only service performed by an individual which would constitute employment would be service performed for a hospital or institution of higher education located in this State "...in the employ of this State or any of its instrumentalities, or in the employ of this State and one or more states or their instrumentalities..."

FAF:e

cc - Mr. Cote

Mr. George

Attorney General