

# MAINE STATE LEGISLATURE

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# ONE HUNDRED AND FIRST LEGISLATURE

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Legislative Document

No. 1151

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H. P. 778

House of Representatives, February 6, 1963

Referred to Committee on Labor. Sent up for concurrence and 2500 copies ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Thaanum of Winthrop.

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## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-THREE

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### AN ACT Revising the Maine Employment Security Laws.

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

**Sec. 1. R. S., c. 29, § 3, sub-§ III, repealed and replaced.** Subsection III of section 3 of chapter 29 of the Revised Statutes is repealed and the following enacted in place thereof :

**‘III. Base period. “Base period” means the first 4 of the last 5 completed calendar quarters immediately preceding the first day of an individual’s benefit year.’**

**Sec. 2. R. S., c. 29, § 3, sub-§ V, repealed and replaced.** Subsection V of section 3 of chapter 29 of the Revised Statutes is repealed and the following enacted in place thereof :

**‘V. Benefit year. “Benefit year” means the one-year period beginning with the date with respect to which an insured worker files a request for determination of his insured status, and thereafter the one-year period beginning with the date with respect to which he next files such a request after the end of his last preceding benefit year. If an insured worker files a request for determination of his insured status during a week in which one calendar quarter ends and another begins, the benefit year for applicable base period identity purposes, shall be deemed to begin on the first day of the new calendar quarter.**

**A. “Annual average weekly wage,” as used to establish the maximum weekly benefit amount for purposes of this chapter, shall be  $\frac{1}{52}$  of aggregate total wages paid in Maine covered employment, as reported on employer contribution reports for the calendar year, divided by the arithmetic mean of mid-month weekly covered employment reported on employer contribution reports for the calendar year.’**

**Sec. 3. R. S., c. 29, § 3, sub-§ XVII, ¶ B, amended.** Paragraph B of subsection XVII of section 3 of chapter 29 of the Revised Statutes, as amended by section 1 of chapter 447 of the public laws of 1957, is further amended to read as follows:

**'B.** An individual shall be deemed "partially unemployed" in any week of less than full-time work if his wages payable from any source for such week are ~~less than the weekly benefit amount~~ **not \$5 or more in excess of the weekly benefit amount** he would be entitled to receive if totally unemployed and eligible, except that any amounts received from the Federal Government by members of the National Guard and Organized Reserve, including base pay and allowances, **or any amounts received by volunteer firemen,** shall not be deemed wages for the purpose of this subsection.'

**Sec. 4. R. S., c. 29, § 3, sub-§ XIX, repealed and replaced.** Subsection XIX of section 3 of chapter 29 of the Revised Statutes, as amended by section 9 of chapter 381 of the public laws of 1957, is repealed and the following enacted in place thereof:

**'XIX. Wages.** "Wages" means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with regulations prescribed by the commission except that:

**A.** For purposes of section 17, the term "wages" shall not include that part of remuneration which after remuneration equal to \$3,000 has been paid in a calendar year to an individual by an employer or his predecessor with respect to employment during any calendar year, is paid to such individual by such employer during such calendar year unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. The wages of an individual for employment with an employer shall be subject to this exception whether earned in this State or any other state when the employer-employee relationship is between the same legal entities.

**B.** For purposes of section 13, subsection II, section 14, subsection V and section 17, the term "wages" shall not include:

**1.** The amount of any payment made to, or on behalf of, an employee under a plan or system established by an employing unit which makes provision for his employees generally or for a class or classes of his employees, including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment, on account of retirement, or sickness or accident disability, or medical and hospitalization expense in connection with sickness or accident disability, or death;

**2.** The payment by an employing unit, without deduction from the remuneration of the employee, of the tax imposed upon an employee under section 1400 of the Federal Insurance Contributions Act as amended, with respect to service performed after July 26, 1940;

3. The amount of any payment, other than vacation or sick pay, to an individual after the month in which he attains the age of 65, if he did not perform services for the employing unit in the period for which such payment is made.'

Sec. 5. R. S., c. 29, § 3, sub-§ XXIII, additional. Section 3 of chapter 29 of the Revised Statutes, as last amended by section 12 of chapter 361 of the public laws of 1961, is further amended by adding a new subsection XXIII, to read as follows:

**'XXIII. Misconduct.** "Misconduct" means conduct evincing such willful or wanton disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior which the employer has a right to expect of his employee, or in carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer.'

Sec. 6. R. S., c. 29, § 3, sub-§ XXIV, additional. Section 3 of chapter 29 of the Revised Statutes, as amended, is further amended by adding a new subsection XXIV, to read as follows:

**'XXIV. Insured worker.** An "insured worker" is an individual who has been paid wages in his base period for insured work equal to or exceeding  $1\frac{1}{2}$  times the total of his wages paid in the quarter of such base period in which his wages for insured work were highest. No individual shall qualify as an insured worker unless he has been paid at least \$400 in his base period for insured work.'

Sec. 7. R. S., c. 29, § 5, sub-§ V, amended. Subsection V of section 5 of chapter 29 of the Revised Statutes, as amended by chapter 350 of the public laws of 1955, is further amended to read as follows:

**'V. Advisory council.** The commission shall appoint a state advisory council consisting of not more than 9 members composed of an equal number of employer representatives and employee representatives who may fairly be regarded as representative because of their vocation, employment or affiliations and an equal number of members representing the general public. Such council shall meet no less than 4 times a year and shall aid the commission in formulating policies and discussing problems related to the administration of the provisions of this chapter and in assuring impartiality and freedom from political influence in the solution of such problems. **The advisory council may also make recommendations to the Legislature for such changes in this chapter as in their opinion will aid in accomplishing the objectives of this chapter.** Each member of the advisory council shall be compensated in the amount of \$20 for each day in attendance upon a meeting of the council in addition to reimbursement for any necessary expenses; ~~provided, however, that such compensation paid to any one member of the council shall not exceed the sum of \$240 in any 1 fiscal year.'~~

Sec. 8. R. S., c. 29, § 13, sub-§ II, repealed and replaced. Subsection II of

section 13 of chapter 29 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

**'II. Weekly benefit amount for total unemployment.** On and after April 1, 1964, each eligible individual who is totally unemployed in any week shall be paid with respect to such week, benefits equal to  $\frac{1}{25}$  of his wages, rounded to the nearest dollar, earned in the high quarter of his base period, but not less than \$10. The maximum weekly benefit amount for claimants requesting insured status determination from June 1st of a calendar year to May 31st of the next calendar year shall not exceed 50% of the annual average weekly wage, rounded to the nearest dollar, paid in the calendar year preceding June 1st of such calendar year. The maximum weekly benefit amount for claimants requesting insured status determination from April 1, 1964 to May 31, 1964 shall not exceed 50% of the annual average weekly wage, rounded to the nearest dollar, paid in the calendar year 1962.'

Sec. 9. R. S., c. 29, § 13, sub-§ III, repealed and replaced. Subsection III of section 13 of chapter 29 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

**'III. Weekly benefit for partial unemployment.** On and after April 1, 1964, each eligible individual who is partially unemployed in any week shall be paid with respect to such week a partial benefit in an amount equal to his weekly benefit amount less 80% of his earnings for such week of partial unemployment, provided that any fraction of a dollar resulting from such computation shall be disregarded. An individual shall not be entitled to partial benefits if the earnings for such week are \$5 or more in excess of his weekly benefit amount. Amounts received by volunteer firemen or from the Federal Government by members of the National Guard and Organized Reserve, including base pay and allowances, shall not be deemed to be wages for the purposes of this subsection.'

Sec. 10. R. S., c. 29, § 13, sub-§ IV, additional. Section 13 of chapter 29 of the Revised Statutes, as amended, is further amended by adding a new subsection IV, to read as follows:

**'IV. Maximum amount of benefits.** The maximum amount of benefits which shall be paid to any eligible individual with respect to any benefit year, whether for total or partial unemployment, shall not exceed the lesser of 26 times his weekly benefit amount or  $33\frac{1}{3}\%$  of his total wages paid for insured work during his base period.'

Sec. 11. R. S., c. 29, § 14, sub-§ III, amended. Subsection III of section 14 of chapter 29 of the Revised Statutes, as amended, is further amended to read as follows:

**'III. Is able and available for work.** He is able to work and is available for work at his usual or customary trade, occupation, profession or business or in such other trade, occupation, profession or business as his prior training or experience shows him to be fitted or qualified; and in addition to having complied with subsection II is himself actively seeking work. ~~An individual shall~~

be ineligible to receive benefits for any week or weeks which are recognized as a vacation period, or for which he has received or is entitled to receive vacation pay; except that an individual who is not entitled to receive vacation pay for or during any such vacation week or weeks may qualify for benefits or credit for his waiting period if he is available for work and complies with the other conditions of eligibility. A female claimant shall be ineligible to receive benefits, or waiting period credit, if her unemployment is due to or as the result of pregnancy and, in addition, shall in any event be ineligible to receive benefits or waiting period credit for a period of 8 weeks immediately prior to the expected date of such individual giving birth to a child and within 4 weeks after the actual birth of her child.'

**Sec. 12. R. S., c. 29, § 14, sub-§ V, amended.** Subsection V of section 14 of chapter 29 of the Revised Statutes is amended to read as follows:

**'V. Has earned wages.** He has during his base period earned wages for insured work equal to not less than the amount appearing in column (B) of the total unemployment benefit table, on the line of which, in column (C) of that table appears his weekly benefit amount of at least \$400 for insured work, and has earned total base period wages for insured work equal to not less than 1½ times his high quarter wages. For the purpose of this subsection wages shall be counted as wages for insured work for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer by whom such wages were paid has satisfied the conditions of subsection IX of section 3, subsection IX, or subsection III of section 18, subsection III, with respect to becoming an employer.'

**Sec. 13. R. S., c. 29, § 15, sub-§ I, amended.** Subsection I of section 15 of chapter 29 of the Revised Statutes, as amended, is further amended to read as follows:

**I. Voluntarily leaves work.**

**A.** For the period of unemployment subsequent to his having retired, or having left week in which he left his regular employment voluntarily without good cause attributable to such employment, or with respect to a female claimant who has voluntarily left work to marry, or to perform the customary duties of a housewife, or to leave the locale to live with her husband, or to a claimant who has voluntarily removed himself from the labor market where presently employed to an area where employment opportunity is less frequent, if so found by the commission, and disqualification shall continue for 12 weeks immediately following such week or until claimant has earned fifteen 8 times his weekly benefit amount, whichever occurs first. In no event shall disqualification for voluntarily leaving regular employment be avoided by periods of other employment unless such other employment shall have continued for 4 full weeks. Leaving work shall not be considered voluntary without good cause when it is caused by the illness or disability of the claimant and the claimant took all reasonable precautions to protect his employment status by having promptly notified his em-

ployer as to the reason for his absence and by promptly requesting reemployment when he is again able to resume employment.

**B.** For the duration of his unemployment period subsequent to his having retired; or having been retired from his regular employment as a result of a recognized employer policy or program, if so found by the commission, and disqualification shall continue until claimant has earned eight times his weekly benefit amount;'

**Sec. 14. R. S., c. 29, § 15, sub-§ II, amended.** Subsection II of section 15 of chapter 29 of the Revised Statutes, as amended, is further amended to read as follows:

**'II. Discharge for misconduct.** For the ~~period of unemployment subsequent to his having week in which he has~~ been discharged for misconduct connected with his work, if so found by the commission, and disqualification shall continue for 12 weeks immediately following such week or until claimant has earned ~~æ~~ 8 times his weekly benefit amount, whichever occurs first. ~~The term misconduct shall include but not be limited to repeated absenteeism or tardiness after notice or warning, insubordination without provocation by the employer or his agent and disregard of the employer's interest, rules or regulations;'~~

**Sec. 15. R. S., c. 29, § 15, sub-§ III, amended.** Subsection III of section 15 of chapter 29 of the Revised Statutes, as amended, is further amended to read as follows:

**'III. Refused to accept work.** ~~If he has~~ For the duration of his unemployment subsequent to his having refused to accept an offer of suitable work for which he is reasonably fitted, or ~~has having~~ refused to accept a referral to a suitable job opportunity when directed to do so by a local employment office of this State or another state or if an employer is unable to contact a former employee at last known or given address, for the purpose of recall to employment; or the individual fails to respond to a ~~call in card requesting him request~~ to report to the local office for the purpose of a referral to a suitable job, and the disqualification shall continue until claimant has earned ~~15~~ 8 times his weekly benefit amount. ~~For the purpose of this subsection, lack of transportation shall not be a valid excuse for refusal provided the work offered is suitable.'~~

**Sec. 16. R. S., c. 29, § 15, sub-§ V, ¶ C, amended.** Paragraph C of subsection V of section 15 of chapter 29 of the Revised Statutes, as amended, is further amended to read as follows:

**'C.** Retirement pay or a pension paid, excluding a pension paid under Title II of the Federal Social Security Act, as amended, directly by the employer or paid indirectly by the employer through a trust fund, insurance or other media in the manner set forth in section 3, subsection XIX, paragraph B, subparagraph 1, ~~but only if in addition to a retirement pay or a pension paid, he is also being paid a pension under Title II of the Federal Social Security Act, as amended.'~~

**Sec. 17. R. S., c. 29, § 15, sub-§ V, amended.** The last paragraph of subsection V of section 15 of chapter 29 of the Revised Statutes, as amended, is further amended to read as follows:

'If such remuneration under paragraphs A and C is less than the benefits which would otherwise be due under this chapter, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration, provided that any fraction of a dollar included in the weekly remuneration received ~~under paragraph C~~ shall be disregarded;'

**Sec. 18. R. S., c. 29, § 17, sub-§ III, ¶ C, amended.** Paragraph C of subsection III of section 17 of chapter 29 of the Revised Statutes is amended to read as follows:

'C. For the purpose of paragraph A of this subsection, the experience rating record of the most recent subject employer shall not be charged with benefits paid to a claimant whose work record with such employer totaled 5 ~~consecutive work~~ weeks or less **of total or partial employment** but in such case the most recent subject employer with whom claimant's work record exceeded 5 ~~consecutive work~~ weeks **of total or partial employment** shall be charged if such employer would have otherwise been chargeable had not subsequent employment intervened.'

**Sec. 19. R. S., c. 29, § 17, sub-§ IV, ¶ B, amended.** The chart in paragraph B of subsection IV of section 17 of chapter 29 of the Revised Statutes, as amended, is further amended to read as follows:

| Employer's Contribution Rate in Percent of Wages |                            |         |                        |                        |                        |          |
|--|----------------------------|---------|------------------------|------------------------|------------------------|----------|
| Column A   | B                          | C       | D                      | E                      | F                      |          |
| Reserve Ratio                                    | Amount in Fund in Millions |         |                        |                        |                        |          |
| Equal to or more than                            | Less than                  | Over 35 | Over 30<br>not over 35 | Over 25<br>not over 30 | Over 20<br>not over 25 | Under 20 |
|  |                            | Over 40 | Over 35<br>not over 40 | Over 30<br>not over 35 | Over 20<br>not over 30 |          |
| —  | 0%                         | 3.7%    | 3.7%                   | 3.7%                   | 3.7%                   | 3.7%     |
| 0  | 5%                         | 2.7%    | 2.7%                   | 2.7%                   | 2.7%                   | 2.7%     |
| 5%   | 6%                         | 2.4%    | 2.5%                   | 2.6%                   | 2.7%                   | 2.7%     |
| 6%   | 7%                         | 2.1%    | 2.3%                   | 2.5%                   | 2.7%                   | 2.7%     |
| 7%   | 8%                         | 1.9%    | 2.2%                   | 2.4%                   | 2.6%                   | 2.7%     |
| 8%   | 9%                         | 1.8%    | 2.1%                   | 2.3%                   | 2.5%                   | 2.7%     |
| 9%   | 10%                        | 1.6%    | 1.9%                   | 2.2%                   | 2.4%                   | 2.7%     |
| 10%  | 11%                        | 1.5%    | 1.8%                   | 2.1%                   | 2.3%                   | 2.7%     |
| 11%  | 12%                        | 1.3%    | 1.6%                   | 1.9%                   | 2.2%                   | 2.7%     |
| 12%  | 13%                        | 1.2%    | 1.5%                   | 1.8%                   | 2.1%                   | 2.7%     |
| 13%  | 14%                        | 1.1%    | 1.3%                   | 1.6%                   | 2.0%                   | 2.7%     |
| 14%  | 15%                        | 1.0%    | 1.2%                   | 1.5%                   | 1.9%                   | 2.7%     |
| 15%  | 16%                        | 0.9%    | 1.1%                   | 1.4%                   | 1.8%                   | 2.7%     |
| 16%  | 17%                        | 0.8%    | 1 %                    | 1.3%                   | 1.7%                   | 2.7%     |
| 17%  | 18%                        | 0.7%    | .9%                    | 1.2%                   | 1.6%                   | 2.7%     |
| 18%  | 19%                        | 0.6%    | .8%                    | 1.1%                   | 1.5%                   | 2.7%     |
| 19%  | and over                   | 0.5%    | .7%                    | 1 %                    | 1.4%                   | 2.7%     |



**Sec. 20. R. S., c. 29, § 17, sub-§ IV, ¶ B, amended.** The last sentence of paragraph B of subsection IV of section 17 of chapter 29 of the Revised Statutes, as enacted by section 22 of chapter 381 of the public laws of 1957, is repealed as follows:

~~'The contribution rates provided by this paragraph shall be retroactive to July 1, 1957'~~

**Sec. 21. R. S., c. 29, § 17, sub-§ IV, ¶ D, amended.** Paragraph D of subsection IV of section 17 of chapter 29 of the Revised Statutes, as amended, is further amended to read as follows:

**'D.** If at any time, in the opinion of the commission, an emergency exists such as to seriously impair the fund, the commission may, after reasonable notices and public hearing, forthwith re-establish all rates ~~at 2.7%~~ **in accordance with those shown in column F of the schedule carried in paragraph B** and continue said rates in force until, in the opinion of the commission, such emergency no longer exists, or until the date set by this chapter for the computation of rates.'

**Sec. 22. Effective dates.** Sections 1, 2, 3, 4, 6, 8, 9, 10 and 12 of this act shall become effective April 1, 1964. Section 19 of this act shall become effective July 1, 1964.