

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1012

H. P. 762

House of Representatives, March 10, 1977

On motion of Mr. Bustin of Augusta, referred to Committee on Labor.
Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Bustin of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

**AN ACT to Amend the Employment Security Law to Include Federal
Requirements and other Options Available to the State.**

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

Sec. 1. 26 MRSA § 1043, sub-§ 2, as last amended by PL 1971, c. 538, § 2, is further amended to read:

2. **Annual payroll.** "Annual payroll" means the total amount of wages paid by an employer during a calendar year, not meaning, however, to include that part of individual wages and salaries in excess of \$3,000 in any calendar year through 1971, and \$4,200 in any subsequent calendar year through 1977 and \$6,000 in any subsequent calendar year.

Sec. 2. 26 MRSA § 1043, sub-§ 9, ¶ A-2 is enacted to read:

A-2. On and after January 1, 1978, any employing unit which:

(1) During any calendar quarter in either the current or the preceding calendar year paid remuneration of \$20,000 or more to individuals employed in agricultural labor or for some portion of a day in each of 20 different weeks whether or not the weeks were consecutive, within either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, irrespective of whether the same individuals are or were employed in each such day; or

(2) During any calendar quarter in either the current or the preceding calendar year paid remuneration of \$1,000 or more to individuals employed in domestic service.

Sec. 3. 26 MRSA § 1043, sub-§ 11, ¶ A-1, sub-¶ (1), as last amended by PL 1973, c. 555, § 7, is further amended to read:

(1) Notwithstanding paragraph F, except as herein provided, service performed by an individual, prior to January 1, 1978, 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, subparagraph (21), divisions (a) through (h);~~ service performed after December 31, 1977, in the employ of this State or any political subdivision thereof or any instrumentality of any one or more of the foregoing which is wholly owned by this State and one or more other states or political subdivisions, or any service performed in the employ of any instrumentality of this State or of any political subdivision thereof, and one or more other states or political subdivisions, provided that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act by section 3306 (c) (7) of that Act and is not excluded under paragraph F, subparagraph (21).

Sec. 4. 26 MRSA § 1043, sub-§ 11, ¶ A-1, sub-¶ (4), 1st ¶ as enacted by PL 1971, c. 538, § 8, is amended to read:

(4) The service of an individual who is a citizen of the United States, performed outside the United States, except in Canada ~~or the Virgin Islands~~, in the employ of an American employer, other than service which is deemed employment under paragraph A, if:

Sec. 5. 26 MRSA § 1043, sub-§ 11, ¶ F, sub-¶ (4) is amended to read:

(4) Agricultural labor as defined in subsection 1, except as provided in subsection 9, paragraph A-2, subparagraph (1);

Sec. 6. 26 MRSA § 1043, sub-§ 11, ¶ F, sub-¶ (5), is amended to read:

(5) Domestic service in a private home, except as provided by subsection 9, paragraph A-2, subparagraph (2);

Sec. 7. 26 MRSA § 1043, sub-§ 11, ¶ F, sub-§ (21), division (g), as repealed and replaced by PL 1973, c. 555, § 7, is amended to read:

(g) Services performed prior to January 1, 1978, for a hospital in a state prison or other state correctional institution by an inmate of such prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution;

Sec. 8. 26 MRSA § 1043, sub-§ 11, ¶ R, sub-¶ (21), division (i) is enacted to read:

(i) Service performed in the employ of a governmental entity referred to in paragraph A-1, subparagraph (1), if such service is performed by an individual in the exercise of duties:

(i) As an elected official;

(ii) As a member of a legislative body or a member of the judiciary of a state or political subdivision thereof:

(iii) As a member of the State National Guard or Air National Guard;

(iv) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency; or

(v) In a position which, under or pursuant to the laws of this State, is designated as a major nontenured policy-making or advisory position, the performance of the duties of which ordinarily does not require more than 8 hours per week.

Sec. 9. 26 MRSA § 1043, sub-§ 16 is amended to read:

16. **State.** "State" includes, in addition to the states of the United States of America, Puerto Rico and, the District of Columbia and the Virgin Islands.

Sec. 10. 26 MRSA § 1043, sub-§ 19, ¶ A, 1st sentence, as last amended by PL 1971, c. 538, § 15, is further amended to read:

For purposes of section 1221, the term "wages" shall not include that part of remuneration which after remuneration equal to \$3,000 through December 31, 1971, \$4,200 through December 31, 1977, and on and after January 1, 1978, that part of remuneration equal to ~~\$4,200~~ \$6,000 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.

Sec. 11. 26 MRSA § 1195, sub-§ 1, ¶ A, sub-¶ (3) as enacted by PL 1971, c. 119, is amended to read:

(3) Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee.

Sec. 12. 26 MRSA § 1195, sub-§ 1, ¶ E, as enacted by PL 1971, c. 119, is repealed and the following enacted in its place:

E. National "off" indicator. There is a "national 'off' indicator" for a week if, for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment, seasonably adjusted, for all states was less than 4.5%. The rate of insured unemployment, for the purposes of this subsection, shall be determined by the United States Secre-

tary of Labor by reference to the average monthly covered employment for the first 4 of the most recent 6 calendar quarters ending before the close of such period.

Sec. 13. 26 MRSA § 1195, sub-§ 1, ¶ F, is repealed and the following enacted in its place:

F. National "on" indicator. There is a "national 'on' indicator" for a week if, for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment, seasonably adjusted, for all states equaled or exceeded 4.5%. The rate of insured unemployment, for the purposes of this subsection, shall be determined by the United States Secretary of Labor by reference to the average monthly covered employment for the first 4 of the most recent 6 calendar quarters ending before the close of such period.

Sec. 14. 26 MRSA § 1195, sub-§ 1, ¶ L, as last repealed and replaced by PL 1975, c. 299, § 2, is repealed and the following enacted in its place:

L. With respect to benefits for weeks of unemployment beginning after October 1, 1977, the determination of whether there has been a state "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if paragraphs H and I:

(1) Did not contain subparagraph (1) thereof; and

(2) The figure "4" contained in subparagraph (2) thereof were "5;"

except that, notwithstanding any such provision of this subsection, any week for which there would otherwise be a state "on" indicator shall continue to be such a week and shall not be determined to be a week for which there is a state "off" indicator.

Sec. 15. 26 MRSA § 1195, sub-§ 1, ¶ M, as last repealed and replaced by PL 1975, c. 299, § 3, is repealed.

STATEMENT OF FACT

The purpose of this bill is to amend the Employment Security Law to conform to the Federal Unemployment Compensation Amendments of 1976, PL 94-566, and to include further amendments suggested by the United States Department of Labor relating to such law.