

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1547

H. P. 1247

House of Representatives, March 28, 1979

On Motion of Mrs. Kany of Waterville, referred to the Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Wyman of Pittsfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Clarify the Administration of the Department of Manpower Affairs.

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

Sec. 1. 2 MRSA § 6-A, sub-§ 2 as enacted by PL 1977, c. 697, § 2 is amended by adding after the first paragraph the following:

Chairman, Maine Employment Security Commission;

Sec. 2. 2 MRSA § 6-A, sub-§ 3 is enacted to read:

3. Range 87. The salaries of the following state officials and employees shall be within salary range 87:

Members, Maine Employment Security Commission.

Sec. 3. 26 MRSA § 1043, sub-§ 5-A is enacted to read:

5-A. Bureau of Employment Security. "Bureau of Employment Security" hereinafter in this chapter called the "bureau," means the former Employment Security Commission agency.

Sec. 4. 26 MRSA § 1043, sub-§ 7 is amended to read:

7. Commission. "Commission" means the 3-member Employment Security Commission.

Sec. 5. 26 MRSA § 1043, sub-§ 19, 2nd sentence, as repealed and replaced by PL 1965, c. 381, § 4 is amended to read:

The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with regulations prescribed by the ~~commissioner~~ **commissioner**, except that:

Sec. 6. 26 MRSA § 1044, sub-§ 2, as last amended by PL 1977, c. 694, § 467, is further amended to read:

2. Limitation of fees; penalty. No individual claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the ~~commissioner~~ **commissioner** or ~~its~~ **his** representatives or by any court or any officer thereof, unless otherwise provided by Title 5, section 8001 et seq. Any individual claiming benefits in any proceeding before the ~~commissioner~~ **commissioner** or a court may be represented by counsel or other duly authorized agent; but no such counsel or agents shall either charge or receive for such services more than an amount approved by the ~~commissioner~~ **commissioner**. In the event a claimant has retained counsel for the purpose of prosecuting an appeal from a decision of the ~~commissioner~~ **commissioner**, and the final decision of such court results in a reversal, in whole or in part, of the decision appealed from, the fees for such service shall be paid by the ~~commissioner~~ **commissioner** from ~~its~~ **his** administrative fund. ~~Said fees shall not be less than the fees established for similar services by the bar association of the county in which the claimant's attorney has his office~~ Any person who violates any provision of this subsection shall, for each such offense, be punished by a fine of not less than \$50 nor more than \$500, or by imprisonment for not more than 6 months, or by both.

Sec. 7. 26 MRSA § 1045, sub-§ 1 is amended to read:

1. Civil actions. In any civil action to enforce this chapter the ~~commissioner~~ **bureau** and the State may be represented by any qualified attorney who is employed by the ~~commissioner~~ **bureau** and designated by it for this purpose or at the ~~commissioner's~~ **commissioner's** request by the Attorney General.

Sec. 8. 26 MRSA § 1050, 2nd, 3rd, 4th and 5th sentences are amended to read:

The ~~commissioner~~ **commissioner** shall thereupon requisition from the Unemployment Trust Fund all moneys therein standing to ~~its~~ **his** credit and shall direct the Treasurer of State to deposit such moneys, together with any other moneys in the fund, as a special fund in any banks or public depositories in this State in which general funds of the State may be deposited, and to hold such moneys for such disposition as the Legislature shall prescribe. The ~~commissioner~~ **commissioner** shall thereupon refund, as the Legislature shall prescribe, without interest and in accordance with regulations prescribed by ~~it~~ **him**, to each person or concern by whom contributions have been paid, their pro rata share of the total contributions paid under this chapter. Any interest or earnings of the fund shall be available to the ~~commissioner~~ **commissioner** to pay for the costs of making such refunds. When the ~~commissioner~~ **commissioner** shall have executed the duties

prescribed and performed such other acts as are incidental to the termination of ~~its~~ his duties under this chapter, the Governor shall by proclamation declare that this chapter shall cease to be operative.

Sec. 9. 26 MRSA § 1051, sub-§ 5, as last amended by PL 1977, c. 460, § 2, is further amended to read:

5. Refusal to repay erroneous payments. If, after due notice, any person refuses to repay amounts erroneously paid to him as unemployment benefits, the amounts due from such person shall be collectible in the manner provided in subsection 6 or ~~in the discretion of the commission~~ the amount erroneously paid to such person may be deducted from any future benefits payable to him under this chapter. Provided that there shall be no recovery of payments from any person who ~~in the judgment of at least 2 commissioners~~ is without fault on his part and where, ~~in the judgment of the commission~~ such recovery would defeat the purpose of benefits otherwise authorized or would be against equity and good conscience.

Sec. 10. 26 MRSA c. 13, sub-chapter II, 2nd line is repealed and the following enacted in its place:

BUREAU OF EMPLOYMENT SECURITY

Sec. 11. 26 MRSA § 1082, sub-§ 1, as last repealed and replaced by PL 1977, c. 696, § 373 and the following enacted in its place:

1. Duties and powers. Except as otherwise provided, it shall be the duty of the Commissioner of Manpower Affairs to administer this chapter. The commissioner shall have the power and authority to employ such persons, make such expenditures, require such reports, make such investigations, and take such other actions as he deems necessary or suitable to that end. He shall determine his own organization to be known as the Bureau of Employment Security and shall have an official seal which shall be judicially noticed. The commissioner shall determine methods of procedure in accordance with the provisions of this chapter and by the Maine Administrative Procedure Act, Title 5, chapter 375. The commissioner shall make such recommendations for amendments to this chapter as he deems proper. Whenever the commissioner believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, he shall promptly so inform the Governor and the Legislature and make recommendations with respect thereto.

Sec. 12. 26 MRSA § 1082, sub-§ 3, as amended by PL 1971, c. 620, § 7, is further amended to read:

3. Publication. The Commissioner of Manpower Affairs shall cause to be printed for distribution to the public the text of this chapter, the ~~commission's~~ commissioner's regulations, his annual reports to the Governor and any other material the ~~commission~~ commissioner deems relevant and suitable, and shall furnish the same to any person upon application therefor.

Sec. 13. 26 MRSA § 1082, sub-§ 4, as repealed and replaced by PL 1977, c. 675, § 8, is amended to read:

4. Personnel. Subject to other provisions of this chapter, the Commissioner of Manpower Affairs ~~with the advice and consent of the commission~~ is authorized to appoint and prescribe the duties and powers of, and fix the compensation of, such officers, accountants, attorneys, experts and other persons as may be necessary in the performance of his duties, subject to the Personnel Law. The commissioner ~~with the advice and consent of the commission~~ may delegate to any such person so appointed such power and authority as is reasonable and proper for the effective administration of this chapter, and may in his discretion bond any person handling moneys or signing checks hereunder. On request of the commissioner, the Attorney General shall represent the department, the ~~Maine Bureau of Employment Security Commission~~ and the State in any court action relating to this chapter or to its administration and enforcement. Special counsel may be retained by the commissioner in accordance with Title 5, section 196, whose service and expenses shall be paid from the funds provided for the administration of this chapter. The commissioner shall not employ or pay any person who is an officer or committee member of any political party organization.

Sec. 14. 26 MRSA § 1082, sub-§ 7, first, 2nd and 3rd sentences are amended to read:

Each employing unit shall keep true and accurate work records, containing such information as the ~~commission~~ **commissioner** may prescribe. Such records shall be open to inspection and be subject to being copied by the ~~commission~~ **commissioner** or ~~its~~ **his** authorized representatives at any reasonable time and as often as may be necessary. The ~~commission~~ **commissioner** may require from any employing unit any sworn or unsworn reports, with respect to persons employed by ~~it~~ **him**, which the ~~commission~~ **commissioner** deems necessary for the effective administration of this chapter.

Sec. 15. 26 MRSA § 1082, sub-§ 8, 2nd sentence is amended to read:

Oaths and affirmations required by reason of duties performed pursuant to this chapter may be administered by any of such persons as may be designated for the purpose by the ~~commission~~ **commissioner**.

Sec. 16. 26 MRSA § 1082, sub-§ 13, as last amended by PL 1971, c. 538, §§ 19 and 20, is further amended to read:

13. Filing payroll reports; penalty. The ~~commission~~ **commissioner** may prescribe regulations for the filing of payroll reports for the employing units in the State ~~commencing with the 4th calendar quarter of 1970~~ and the failure on the part of any employing unit to file the payroll reports within the time stated by the regulation of the ~~commission~~ shall render the employing unit liable to a penalty of \$10, unless the delay was occasioned by the illness or death of the person in charge of the records of the employing unit or by other unavoidable occurrence which shall excuse the employing unit from said penalty, except that an extension of time up to 30 days beyond the prescribed due date for a quarterly payroll report may be allowed ~~by the commission~~ for good cause upon written request made on or before the due date.

Provided that in the case of executive, administrative and professional employees, and outside salesmen, as defined in Part 541 of the Rules and Regulations promulgated under the Fair Labor Standards Act of 1938, as amended as of June 30, 1971, the ~~commission~~ **commissioner**, upon the request of an employer of such individuals, may approve an alternative method for obtaining from that employer necessary wage information relative to such employees.

Sec. 17. 26 MRSA § 1141, first sentence, as amended by PL 1977, c. 675, § 14, is further amended to read:

The Unemployment Compensation Fund, as heretofore created, shall be a special fund, separate and apart from all public moneys or funds of this State, and ~~except as otherwise provided in section 1162~~ shall be administered by the commissioner exclusively for the purposes of this chapter.

Sec. 18. 26 MRSA § 1162 as amended by PL 1975, c. 462, § 4, is repealed and the following is enacted in its place:

§ 1162. Withdrawals

Moneys shall be requisitioned from the state's account in the Unemployment Trust Fund solely for the payment of benefits and for the payment of refunds pursuant to section 1043, subsection 11, paragraph F, subparagraph (2) and section 1225 in accordance with regulations prescribed by the commissioner. The commissioner shall from time to time requisition from the Unemployment Trust Fund the amounts, not exceeding the amounts standing to this state's account therein, as he deems necessary for the payment of the benefits and refunds for a reasonable future period. Upon receipt thereof the Treasurer of State shall deposit the moneys in the benefit account and warrants shall be issued for the payment of benefits and refunds solely from the benefit account. All warrants issued for the payment of benefits and refunds shall bear the signature of the commissioner or his duly authorized agent for that purpose. When so signed and delivered to the payee, the warrants shall become a check against a designated bank or trust company acting as a depository of the State Government. The bureau shall be the sole judge of the legality or propriety of any award of benefits, or the amount thereof, appearing in any such warrant prepared by the commissioner, subject only to the right of appeal as provided in section 1194, subsections 8 and 9. Any balance of moneys requisitioned from the Unemployment Trust Fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which the sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits and refunds during succeeding periods, or, in the discretion of the commissioner, shall be redeposited with the Secretary of the Treasury of the United States of America, to the credit of this state's account in the Unemployment Trust Fund, as provided in section 1161.

Sec. 19. 26 MRSA § 1164, 6th sentence, as amended by PL 1977, c. 675, § 17, is further amended to read:

Such moneys shall be available either to satisfy the obligations incurred by the ~~Employment Security Commission~~ bureau directly or by requesting the Treasurer of State to transfer the required amount from the Special Administrative Expense Fund to the Employment Security Administration Fund.

Sec. 20. 26 MRSA § 1192, sub-§ 2, as repealed and replaced by PL 1975, c. 25, is amended to read:

2. Has registered for work. He has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the ~~commission~~ commissioner may prescribe, except that the ~~commission~~ commissioner may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which ~~it~~ he finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this chapter. No such regulation shall conflict with section 1191, subsection 1;

Sec. 21. 26 MRSA § 1194, sub-§ 2, first sentence is amended to read:

A representative designated by the ~~commission~~ commissioner, and in this chapter referred to as a deputy, shall promptly examine the first claim filed by a claimant in each benefit year and shall determine the weekly benefit amount and maximum benefit amount potentially payable to the claimant during such benefit year in accordance with section 1192, subsection 5.

Sec. 22. 26 MRSA § 1194, sub-§ 3, 2nd sentence, as amended by PL 1971, c. 538, § 31, is further amended to read:

The parties shall be then duly notified of such tribunal's decision, together with its reasons therefor, which subject to subsection 11 shall be deemed to be the final decision of the commission, unless within 15 days after the date of notification or mailing of such decision, the claimant and employer may appeal to the commission by filing an appeal in accordance with such rules as the ~~commission~~ commissioner shall prescribe, provided that the appealing party appeared at the hearing and was given notice of the effect of the failure to appear in writing prior to the hearing.

Sec. 23. 26 MRSA § 1194, sub-§ 4, first, 2nd and 3rd sentences are amended to read:

To hear and decide disputed claims, the ~~commission~~ commissioner shall establish one or more impartial appeal tribunals consisting in each case of either a salaried examiner or a body consisting of 3 members, one of whom shall be a salaried examiner, who shall serve as chairman, one of whom shall be a representative of employers and the other of whom shall be a representative of employees; each of the latter 2 members shall serve at the pleasure of the ~~commission~~ commissioner and be paid a fee of not more than \$10 per day of active service on such tribunal plus necessary expenses. No person shall participate on behalf of the ~~commission~~

bureau in any case in which he is an interested party. The ~~commission~~ **commissioner** may designate alternates to serve in the absence or disqualification of any member of an appeal tribunal.

Sec. 24. 26 MRSA § 1221, sub-§ 1, ¶ A, 2nd sentence is amended to read:

Such contributions shall become due and be paid by each employer to the ~~commission~~ **bureau** for the fund in accordance with such regulations as the ~~commission~~ **commissioner** may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

Sec. 25. 26 MRSA § 1221, sub-§ 4, ¶ E, first sentence is amended to read:

The ~~commission~~ **commissioner**:

Sec. 26. 26 MRSA § 1221, sub-§ 11, ¶ D, as amended by PL 1977, c. 570, § 32, is further amended to read:

D. The amount due specified in any assessment from the ~~commission~~ **commissioner** shall be conclusive on the employer or governmental entity, unless not later than 15 days after the assessment was mailed to the last known address, the employer or governmental entity files an application for redetermination by the commission setting forth the grounds for such application.

Sec. 27. 26 MRSA § 1221, sub-§ 12, first sentence, as enacted by PL 1971, c. 538, § 43, is amended to read:

In the discretion of the ~~commission~~ **commissioner**, any employer who elects to become liable for payments in lieu of contributions shall be required within 60 days after the effective date of his election to execute and file with the ~~commission~~ **bureau** a surety bond or he may elect to deposit with the ~~commission~~ **bureau** money or securities as approved by the ~~commission~~ **commissioner**; upon the failure of an employer to comply with this subsection within the time limits imposed, the ~~commission~~ **commissioner** may terminate such employer's election to make payments in lieu of contributions and such termination shall be effective for the current and next calendar year.

Sec. 28. 26 MRSA § 1221, sub-§ 13, first sentence, as repealed and replaced by PL 1977, c. 570, § 34, is amended to read:

The State or any political subdivision or any of their instrumentalities shall pay contributions in accordance with subsections 1 and 2, unless a governmental entity elects to pay to the ~~commission~~ **bureau** for the unemployment compensation fund, in lieu of contributions, an amount equal to the amount of regular benefits and $\frac{1}{2}$ of extended benefits paid that are attributable to service in the employ of such governmental entity, except that with respect to benefits paid for weeks of unemployment after January 1, 1979, such governmental entity must make payments in lieu of contributions as provided in subsection 10.

Sec. 29. 26 MRSA § 1222, sub-§ 2, ¶ B, as amended by PL 1971, c. 538, § 47, is further amended to read:

B. The ~~commission~~ **commissioner** may upon ~~its~~ **his** own motion terminate coverage of any employer, who became an employer under section 1043, subsection 9, paragraph H, when the ~~commission~~ **commissioner** finds that there were no 20 different days, each day being in a different week within the preceding calendar year, within which such employing unit employed 4 or more individuals in employment subject to this chapter; and the ~~commission~~ **commissioner** may, upon ~~its~~ **his** own motion terminate the coverage of an employing unit which had become an employer by virtue of subsection 3, as of January 1st of any calendar year when such employing unit has, by virtue of approval of its election to become a subject employer, been such a subject employer for the 2 or more preceding calendar years.

Sec. 30. 26 MRSA § 1222, sub-§ 2, ¶ D, as enacted by PL 1971, c. 538, § 47, is amended to read:

D. The ~~commission~~ **commissioner** may upon ~~its~~ **his** own motion terminate coverage of any employer when the ~~commission~~ **commissioner** finds that there were no 20 different weeks within the preceding calendar year, within which such employing unit employed one or more individuals in employment subject to this chapter and did not pay wages of \$1,500 in any calendar quarters; and the ~~commission~~ **commissioner** may upon ~~its~~ **his** own motion terminate the coverage of an employing unit which had become an employer by virtue of subsection 3, paragraphs A and B as of January 1st of any calendar year when such employing unit has, by virtue of approval of its election to become a subject employer, been such a subject employer for the 2 or more preceding calendar years.

Sec. 31. 26 MRSA § 1225, sub-§ 1, as enacted by PL 1975, c. 462, § 9, is amended to read:

1. Assessment procedure. If any employer files reports for the purpose of determining the amount of contribution due, but fails to pay any part of the contribution, interest or penalties due thereon as prescribed by the ~~commission~~ **commissioner**, or fails to file such reports when due, or files an incorrect or insufficient report, the Director of Unemployment Compensation, ~~or if a member of the commission is acting in that capacity, a representative of the commission duly authorized by the commission to do so~~ may assess the contribution and any interest or penalties due on the basis of the information submitted by the employer or on the basis of an estimate as to the amount due and shall give written notice of the assessment to the employer.

Sec. 32. 26 MRSA § 1225, sub-§ 2, as enacted by PL 1975, c. 462, § 9, is amended to read:

2. Jeopardy assessment. If the Director of Unemployment Compensation, ~~or if a member of the commission is acting in that capacity, a representative of the commission duly authorized by the commission to do so~~ determines that the collection of any contribution, interest or penalty under this subchapter, as

amended, will be jeopardized by delay, he may immediately assess such contributions, interest or penalties, whether or not the time prescribed by law or any regulations issued pursuant to section 1082, subsection 2, of this chapter for making reports and paying such contributions has expired, and shall give written notice of the assessment to the employer. In such cases, the right to appeal to the commission, as provided in section 1226, shall be conditioned upon payment of the contributions, interest or penalties so assessed, or upon giving appropriate security to the ~~commission~~ **commissioner** for the payment thereof.

Sec. 33. 26 MRSA § 1225, sub-§ 3, as enacted by PL 1975, c. 462, § 9, is amended to read:

3. Interest on past-due contributions. Contributions which are unpaid on the date on which they are due and payable, as prescribed by the ~~commission~~ **commissioner**, shall bear interest at the rate of 1% per month from and after the due date, until payment is received by the ~~commission~~ **commissioner**. If it is shown to the satisfaction of the ~~commission~~ **commissioner** that the delinquency arose from reasonable questions of liability under this subchapter, the ~~commission~~ **commissioner**, in ~~its~~ **his** discretion, may abate part of the interest not to exceed 75% of the total interest.

Sec. 34. 26 MRSA § 1225, sub-§ 4, as enacted by PL 1975, c. 462, § 9, is amended to read:

4. Penalty on past-due contributions. If quarterly contributions are not paid when due, the ~~commission~~ **commissioner** shall assess a penalty of 5% of the amount of the contributions, but such penalty shall not be less than \$5 nor more than \$100. The ~~commission~~ **commissioner** may waive such penalty if ~~it~~ **he** finds that the delay was occasioned by the illness or death of the person in charge of the records of the employing unit or by some other unavoidable occurrence. The ~~commission~~ **commissioner** may allow an extension of time up to 30 days beyond the due date for good cause upon written request made on or before the due date.

Sec. 35. 26 MRSA § 1225, sub-§ 5, first, 2nd, 3rd and 4th sentences, as enacted by PL 1975, c. 462, § 9, is amended to read:

If not later than 4 years after the date on which any contributions or interest thereon became due, an employer who has paid such contributions or interest thereon shall make application for an adjustment thereof in connection with subsequent contribution payments, or for a refund thereof because such adjustment cannot be made, and if the ~~commission~~ **commissioner** shall determine that such contributions, or interest or any portion thereof was erroneously collected, the ~~commission~~ **commissioner** shall allow such employer to make an adjustment thereof, without interest, in connection with subsequent contribution payments by him, or if such adjustment cannot be made, the ~~commission~~ **commissioner** shall refund said amount, without interest, from the fund. For like cause and within the same period, adjustment or refund may be so made on the ~~commission's~~ **commissioner's** own initiative. Any such adjustment or refund,

involving contributions with respect to wages upon the basis of which benefits have been paid for unemployment, shall be reduced by the amount of benefits so paid. If the ~~commission~~ **commissioner** determines that contributions or interest were erroneously paid to this State on wages insured under the employment security law of some other state or of the Federal Government, refund or adjustment thereof may be made without interest, irrespective of the time limits provided in this subsection, on satisfactory proof that contributions or interest on such wages have been paid to such other state or to the Federal Government.

Sec. 36. 26 MRSA § 1226, sub-§ 1, ¶ A, first sentence as enacted by PL 1975, c. 462, § 9, is amended to read:

An employer may appeal an assessment made under section 1225 to the commission by filing an appeal, in accordance with such regulations as the ~~commission~~ **commissioner** shall prescribe, within 15 days after notification of the assessment is mailed to the employer's last known address as it appears in the records of the ~~commission~~ **bureau** or, in the absence of such mailing, within 15 days after the notification is delivered.

Sec. 37. 26 MRSA § 1226, sub-§ 1, ¶ B, first sentence, as enacted by PL 1975, c. 462, § 9 is amended to read:

Upon appeal from an assessment, the commission shall, after affording the appellant and the ~~commission's~~ **commissioner's** designated representative a reasonable opportunity for a fair hearing, make finding of facts and render its decision, which may affirm, modify or reverse the action of its designated representative.

Sec. 38. 26 MRSA § 1226, sub-§ 1, ¶ B, 2nd sentence, as amended by PL 1977, c. 694, § 480, is further amended to read:

The conduct of such hearings shall be governed by regulations of the ~~commission~~ **commissioner** consistent with Title 5, section 9051, et seq.

Sec. 39. 26 MRSA § 1227, sub-§ 1, first, 6th and 7th sentences, as enacted by PL 1975, c. 462, § 9, is amended to read:

Upon the failure of an employer to pay the amount assessed pursuant to section 1225, the ~~commission~~ **commissioner** may file in the registry of deeds of any county or with any town or city clerk a certificate under ~~its~~ **his** official seal, stating the name of the employer; his address; the amount of the contributions and interest or penalties assessed and in default; and that the time in which an appeal is permitted pursuant to section 1226 has expired without such appeal having been taken or that delay will jeopardize collection.

Such lien may be enforced against any real or personal property by a civil action in the name of the ~~commission~~ **commissioner**.

The ~~commission~~ **commissioner** shall discharge any such lien upon receiving, from any such employer against whose property a lien certificate has been filed, a good

and sufficient bond with sureties conditioned upon the payment of the amount of contributions and interest as finally determined, together with any additional amount which may have become due or may have accrued under this chapter and costs of court, if any.

Sec. 40. 26 MRSA § 1229, as enacted by PL 1975, c. 462, § 9, is amended to read:

§ 1229. Collection by civil action

If any employer fails to make any payment of contributions, interest or penalties after notice of an assessment under section 1225, subsection 1, and after the assessment has become final as to law and fact, in addition to or alternatively to any other method of collection prescribed in this chapter, the amount due may be collected by civil action in the name of the ~~commissioner~~ **commissioner** and the employer shall pay the costs of such actions. Civil actions brought under this section to collect contributions and interest, or penalties due thereon, from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions, except petitions for judicial review under this chapter and cases arising under the ~~Workmen's~~ **Workers'** Compensation Law of this State. The foregoing remedies shall be in addition to all other existing remedies against the employer or his successor.

Sec. 41. 26 MRSA § 1230, sub-§ 1, as enacted by PL 1975, c. 462, § 9, is amended to read:

1. Request for warrant. If any contribution required to be paid and any interest or penalty or both payable to the ~~commissioner~~ **commissioner** under this chapter is not paid when due and has become final as to law and fact under section 1226, the ~~commissioner~~ **commissioner** may, within 3 years thereafter, notify the employer who is liable according to the records of the ~~commissioner~~ **commissioner** ~~bureau~~, specifying the amount due and demanding payment within 12 days after the date the notice is mailed. The notice shall inform the employer that if he does not make the payment as demanded, the ~~commissioner~~ **commissioner** will certify to the Attorney General the amount due for collection by warrant as provided in this section. If the employer does not make the payment as demanded within the 12-day period or within an extended period which the ~~commissioner~~ **commissioner** may allow, the ~~commissioner~~ **commissioner** shall certify to the Attorney General the amount due for collection. The Attorney General may file in the office of the clerk of the Superior Court of Kennebec County, or any county, a certificate addressed to the clerk specifying the contribution required to be paid, interest and penalties due, the name and address of the liable employer as it appears on the records of the ~~commissioner~~ **commissioner** ~~bureau~~, the facts whereby the amount has become final as to law and fact and the notice given, and requesting that a warrant be issued against the employer for the contribution required to be paid, together with interest and penalties, as set forth in the certificate, and with costs. If the ~~commissioner~~ **commissioner** has reasonable grounds to believe that the employer may abscond within the 12-day period, the ~~commissioner~~ **commissioner** may certify to the Attorney General the amount due for collection, without notice to the employer.

Sec. 42. 26 MRSA § 1230, sub-§ 4, ¶ A, 2nd and 4th ¶¶, as enacted by PL 1975, c. 462, § 9, is amended to read:

Whereas, the ~~Maine Bureau of Employment Security Commission~~ and the Attorney General have certified that, pursuant to the terms of Title 26, section 1230, subsection 1, of the Revised Statutes, the amount of certain unemployment compensation tax, assessed against.....of with interest and penalties, has become final as to law and fact, to wit:

We command you, therefore, that of the money, goods and chattels of said debtor, in your precinct, or the value thereof in money, you cause to be paid and satisfied unto the ~~Maine Bureau of Employment Security Commission~~, to satisfy the sums aforesaid and cents more for this warrant, together with your own fees.

Sec. 43. Amendatory provision. Wherever in the Revised Statutes, Title 26, section 1043, subsection 11, paragraphs C and E; sections 1046 and 1047; section 1051, subsection 4; section 1221, subsection 4, paragraph F; section 1221, subsections 10 and 14, except as otherwise provided by this Act, the word "commission" appears it shall be changed to "bureau" meaning the "Bureau of Employment Security" as defined in Section 2.

Sec. 44. Amendatory provision. Wherever in the Revised Statutes, Title 26, section 1043, subsection 11, paragraph F, subparagraphs (2), (3) and (17); section 1043, subsection 17, paragraph C; section 1043, subsection 20; section 1051, subsection 6; section 1082, subsection 14, paragraphs A and B; sections 1111 and 1112; section 1191, subsections 1 and 6; section 1192, subsections 1, 3 and 6; section 1194, subsections 1 and 6; section 1195, subsection 2; section 1221, subsection 5, paragraph A; section 1221, subsection 6, paragraph A; section 1221; subsection 10, paragraphs A, B, C and D; section 1221, subsection 11, paragraph A; section 1222, subsection 2, paragraphs A and C; section 1222, subsection 3, paragraphs A and B; section 1224; section 1225, subsection 6; section 1227, subsections 2 and 3; section 1228; section 1230, subsection 2; section 1230, subsection 4, paragraph C; and section 1251, subsection 2, except as otherwise provided by this Act, the word "commission" appears it shall be changed to "commissioner" meaning the "Commissioner of Manpower Affairs."

Sec. 45. Amendatory provision. Wherever in the Revised Statutes, Title 26, section 1193, subsection 1, paragraphs A and B; section 1193, subsection 2 and 3; section 1193, subsection 4; section 1195, subsection 3; and section 1221, subsection 3, paragraph A, except as otherwise provided by this Act, the word "commission" appears it shall be changed to "deputy."

Sec. 46. Transitional provisions. All existing rules and regulations of the commission currently in effect and operation on the effective date of this Act shall continue in effect until rescinded, amended or changed according to law.

The term "regulation" shall include, but not be limited to, any regulation, rule, order, administrative procedure, policy determination, directive, authorization, privileged, form, requirement, designation or agreement.

All appointments and deputizations heretofore made by the commission shall continue in force and effect on the effective date of this Act, unless revoked by the Bureau of Employment Security.

All funds, equipment, property and records of the commission shall remain in the custody and control of the Bureau of Employment Security as required by the Revised Statutes, Title 26, chapter 13.

STATEMENT OF FACT

The purpose of this bill is to correct inconsistencies in the Employment Security Law relative to the administrative authority and organization of the Employment Security Agency and to clarify the roles of the Employment Security Commission and the Commissioner of Manpower Affairs. This bill also names the Employment Security Agency as the "Bureau of Employment Security" so as to prevent confusion of the Employment Security Agency with the 3-member board known as the Employment Security Commission.