

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
110TH LEGISLATURE
FIRST REGULAR SESSION

(Filing No. H-122)

COMMITTEE AMENDMENT "A" to H.P. 354, L.D. 402, Bill, "AN ACT Relating to Unemployment Compensation Benefits for Persons Receiving a Pension or Retirement Pay."

Amend the bill by striking out all of section 4 and inserting in its place the following:

'Sec. 4. 26 MRSA §1193, sub-§9 is enacted to read:

9. Receiving pension. For any week with respect to which he is receiving a governmental or other pension, retirement or retired pay, annuity or any other similar periodic payment under a plan maintained or contributed to by a base period or chargeable employer; except that he shall receive benefits reduced, but not below zero, as follows:

A. By the prorated weekly amount of the pension after deduction of that portion of the pension that is directly attributable to the percentage of the contributions made to the plan by that individual;

B. By the entire prorated weekly amount of the pension if paragraph A or C does not apply; or

C. By no part of the pension if the entire contributions to the plan were provided by the individual or by the individual and an employer, or any other person or organization, who is not a base period or chargeable employer.

No reduction may be made under this subsection by reason of the receipt of a pension if the services performed by the individual during the base period, or remuneration received for these services, for the employer did not affect the individual's eligibility for, or increase the amount of that pension, retirement or retired pay, annuity or similar payment. The conditions specified by this paragraph shall not apply to pensions paid under the United States Social Security Act or the Railroad Retirement Act of 1974, or the corresponding provisions of prior law. Payments made under those Acts shall be treated solely in the manner specified by paragraphs A, B and C.'

Statement of Fact

This amendment retains the basic purpose of the bill, which is to bring the Employment Security Laws into conformity with the Federal Unemployment Tax Act and to provide for a credit to employees against the pension offset for the employee's contribution to the pension plan.

The amendment does 2 things. It removes a pretest for crediting the employee's contributions which was inadvertently added to the bill as originally drafted and which arbitrarily exceeds the federal requirements for offset. Also, it substitutes a method of crediting employee contributions which reflects fairly the contribution and does not arbitrarily distinguish between employees who contributed various amounts other than strictly 1/2 of the contributions to the plan.

The original bill contains language in ^{Sec. 4, §1193,} subsection 9 that establishes a pretest for receiving credit for contributions to a pension. An employee whose weekly prorated pension exceeds his unemployment benefit is denied the application of the credit for his contribution. This pretest is contained in the restriction that no benefit, reduced or otherwise, is allowed where the prorated pension exceeds the benefit.

Under the bill, an employee who paid 1/2 the contributions to the pension and whose prorated pension is \$100, and whose prorated unemployment benefit is \$90, receives no benefits. Had the credit applied, only 1/2 the pension would be offset against the benefit, the 1/2 not contributed to by the employee. The employee would have received \$90 less an offset of \$50, half the pension or a net benefit of \$40.

The employee who also paid half the contributions to the plan but whose pension payment is less than the benefit does get the credit under the bill. So if his unemployment benefit is again \$90, and pension is \$80, he will receive \$90 less the offset of \$40, half the pension, for a net benefit of \$50.

There is no reason to discriminate between these 2 groups of workers in allowing them credit for their contributions to the plan. Any employee whose unemployment benefit exceeds so much of his pension payment as is left after the credit for employee contributions should receive the balance of his unemployment benefits. Removal of the pretest would accomplish this.

The bill, as presently written, gives no credit at all to an employee who paid any amount less than 1/2 the contributions to the plan. Similarly, the employee who paid more than half but less than 100% of the contributions is limited to a 1/2 credit against the pension offset.

This is a needless and unfair penalty against those who did not pay exactly 50% of their pension contributions. While the vast majority of people will have contributed 50%, if anything, there are notable exceptions, even with the Social Security Act.

The self-employed person who paid 100% of the contributions to social security for 40 years of selfemployment, and then works 2 or 3 years late in life for an employer covered by F.I.C.A., will have an effective rate of contribution to F.I.C.A. in excess of 50% due to the 100% contributions for that portion of the work history which involved selfemployment. Yet the bill, as now drafted, limits this individual to a 50% credit.

Another worker who paid 25% of the contributions to a pension plan gets no credit at all for these, and is subject to the full ^{the} offset. This is so under /present bill, ~~--->~~ regardless of the fact that the base period employer did not bear the full burden of supporting that pension plan.

Substituting a straight "prorata" credit for employee contributions solves both problems. In the vast majority of cases it will simply amount to a 50% rule; for those cases where the contribution rate did vary, it will permit a fair apportionment of the credit.

Reported by the Committee on Labor.
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