

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 597

6
7 H.P. 349

House of Representatives, February 1, 1983

8 Referred to the Joint Standing Committee on State Government.

9 On February 7, 1983, On Motion of Representative Gwadosky of
Fairfield, House receded from reference to the Committee on State
10 Government and concurred with the Senate reference to the Joint Standing
Committee on Labor.

EDWIN H. PERT, Clerk

Presented by Representative Tuttle of Sanford.

11 Cosponsors: Senator Dutremble of York and Senator Hayes of Penobscot.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Provide for Leaves of Absence
18 for Employees Elected to the Legislature,
19 Excluding Employees Covered under Provisions
20 Dealing with Teachers.
21

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

24 26 MRSA c. 7, sub-c. V-A is enacted to read:

25 SUBCHAPTER V-A

26 LEAVE OF ABSENCE AS LEGISLATOR

27 §21. Person employed in position other than tempo-
28 rary

29 Any person, except a person covered under Title
30 20, section 2001, employed in a position other than a
31 temporary position shall be granted a leave of ab-

1 sence to fulfill the duties of a Legislator, provided
2 that the employee gives written notice to his
3 employer of his intent to become a candidate for the
4 Legislature within 10 days after taking action under
5 Title 21 to place his name on a primary or general
6 election ballot. Following his term of service as a
7 Legislator, the employee, if he is still qualified to
8 perform the duties of the position from which he was
9 granted leave, shall be entitled to be restored to
10 his previous, or a similar, position with the same
11 status, pay and seniority. This leave of absence
12 shall, within the discretion of the employer, be with
13 or without pay and shall be limited to one legis-
14 lative term of 2 years.

15 §822. Absence for service in Legislature not to
16 affect employee's rights

17 Absence for service in the Legislature shall not
18 affect an employee's right to receive normal vaca-
19 tion, sick leave, bonus, advancement and other advan-
20 tages of his employment normally to be anticipated in
21 his particular position.

22 §823. Waiver of right

23 An employee who fails to provide the notice to
24 his employer required by section 821 waives any
25 rights to a leave of absence provided by this sub-
26 chapter.

27 §824. Appeal by employer

28 1. Request. An employer who feels that granting
29 the leave of absence required by this subchapter will
30 cause unreasonable hardship for his business may
31 appeal for relief by a written notice of appeal to
32 the chairman of the State Board of Arbitration and
33 Conciliation. If the notice of appeal is not filed
34 within 14 days of receipt of the employee's notice
35 requesting a leave of absence, the employer waives
36 his right to appeal. The notice of appeal shall
37 state the name of the employee and the reasons for
38 the alleged unreasonable hardship. This section pro-
39 vides the exclusive remedy for an employer claiming
40 unreasonable hardship as a result of a request for
41 leave of absence.

1 2. Proceedings. The chairman of the State Board
 2 of Arbitration and Conciliation, or any member of the
 3 board designated by the chairman, shall serve as an
 4 arbitrator of any case appealed under this section.
 5 The proceeding shall provide an opportunity for the
 6 employee to respond, orally or in writing, to the
 7 allegations contained in the appeal. Within 30 days
 8 of receipt of the notice of appeal, the arbitrator
 9 shall issue an order, binding on both parties, either
 10 affirming or denying the claim of unreasonable hard-
 11 ship. If the claim is affirmed, the employee is not
 12 entitled to a leave of absence under this subchapter.
 13 In reaching his decision, the arbitrator shall con-
 14 sider, but is not limited to, the following factors:

15 A. The length of time the employee has been
 16 employed by the employer;

17 B. The number of employees in the employer's
 18 business;

19 C. The nature of the employer's business;

20 D. The nature of the position held by the
 21 employee and the ease or difficulty and cost of
 22 temporarily filling the position during the leave
 23 of absence; and

24 E. Any agreement entered into between the
 25 employee and employer as a condition of employ-
 26 ment.

27 3. Exception. This section is not applicable if
 28 the employer employs 5 or fewer persons immediately
 29 prior to the first day of the leave of absence.

30 STATEMENT OF FACT

31 The purpose of this bill is to provide that any
 32 employee other than an employee covered under Title
 33 20, section 2001, who serves as a Legislator shall be
 34 granted a leave of absence from his employment during
 35 his term of office. This bill will prevent economic
 36 discrimination and give persons from all walks of
 37 economic life a chance to serve in the Legislature.

1 This bill requires the employee to give written
2 notice of his request to the employer. An employer
3 who feels that an unreasonable hardship will result,
4 can appeal to the State Board of Arbitration and Con-
5 ciliation. The arbitrator would make a binding deci-
6 sion in the matter.

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