

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 443

6
7 H.P. 327

House of Representatives, February 6, 1985

8 Referred to the Committee on Business and Commerce. Sent up for
9 concurrence and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Baker of Portland.

11
12 STATE OF MAINE
13

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

17 AN ACT to Amend the Severance Pay Law in
18 Regard to Medical Insurance.
19

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

22 26 MRSA §625-B, as amended by PL 1981, c. 337, is
23 further amended to read:

24 §625-B. Severance pay

25 1. Definitions. As used in this section, unless
26 the context otherwise indicates, the following words
27 shall have the following meanings.

28 A. "Covered establishment" means any industrial
29 or commercial facility or part thereof which em-
30 ploys or has employed at any time in the preced-
31 ing 12-month period 100 or more persons.

32 B. "Director" means the Director of the Bureau
33 of Labor Standards.

1 C. "Employer" means any person who directly or
2 indirectly owns and operates a covered establish-
3 ment.

4 D. "Person" means any individual, group of indi-
5 viduals, partnership, corporation, association or
6 any other entity.

7 E. "Physical calamity" means any calamity such
8 as fire, flood or other natural disaster, or the
9 final order of any federal, state or local gov-
10 ernmental agency including adjudicated bankrupt-
11 cy.

12 F. "Relocation" means the removal of all or sub-
13 stantially all of industrial or commercial opera-
14 tions in a covered establishment to a new loca-
15 tion, within or without the State of Maine, 100
16 or more miles distant from its original location.

17 G. "Termination" means the substantial cessation
18 of industrial or commercial operations in a cov-
19 ered establishment.

20 H. "Week's pay" means an amount equal to 1/52nd
21 part of the gross wages paid to an employee dur-
22 ing the 12 months prior to relocation or termina-
23 tion.

24 2. Severance pay. Any employer who relocates or
25 terminates a covered establishment shall be liable to
26 his employees for severance pay at the rate of one
27 week's pay for each year of employment by the employ-
28 ee in that establishment. The severance pay to eli-
29 gible employees shall be in addition to any final
30 wage payment to the employee and shall be paid within
31 one regular pay period after the employee's last full
32 day of work, notwithstanding any other provisions of
33 law.

34 2-A. Health benefits. Any employer who
35 relocates or terminates a covered establishment shall
36 be liable to his employees for continuation of any
37 group or individual health benefits, which the em-
38 ployees were receiving prior to termination or relo-
39 cation, for a period of not less than 6 months fol-
40 lowing the employee's last full day of work.

1 3. Mitigation of severance pay liability. There
2 shall be no liability for severance pay or group or
3 individual health benefits, to an eligible employee
4 if:

5 A. Relocation or termination of a covered estab-
6 lishment is necessitated by a physical calamity;

7 B. The employee is covered by an express con-
8 tract providing for severance pay;

9 C. That employee accepts employment at the new
10 location; or

11 D. That employee has been employed by the em-
12 ployer for less than 3 years.

13 4. Suits by employees. Any employer who violates
14 the provisions of this section shall be liable to the
15 employee or employees affected in the amount of their
16 unpaid severance pay and the value of unpaid health
17 benefits. Action to recover the liability may be
18 maintained against any employer in any state or fed-
19 eral court of competent jurisdiction by any one or
20 more employees for and on behalf of himself or them-
21 selves and any other employees similarly situated.
22 Any labor organization may also maintain an action on
23 behalf of its members. The court in such action
24 shall, in addition to any judgment awarded to the
25 plaintiff or plaintiffs, allow a reasonable attor-
26 ney's fee to be paid by the defendant and costs of
27 the action.

28 5. Suits by the director. The director is autho-
29 rized to supervise the payment of the unpaid sever-
30 ance pay and the value of health benefits owing to
31 any employee under this section. The director may
32 bring an action in any court of competent jurisdic-
33 tion to recover the amount of any unpaid severance
34 pay and the value of any unpaid health benefits. The
35 right provided by subsection 4 to bring an action by
36 or on behalf of any employee, and of any employee to
37 become a party plaintiff to any such action, shall
38 terminate upon the filing of a complaint by the di-
39 rector in an action under this subsection, unless the
40 action is dismissed without prejudice by the direc-
41 tor. Any sums recovered by the director on behalf of

1 an employee pursuant to this subsection shall be held
2 in a special deposit account and shall be paid, on
3 order of the director, directly to the employee af-
4 fected. Any sums thus recovered not paid to an em-
5 ployee because of inability to do so within a period
6 of 3 years shall be paid over to the State of Maine.

7 6. Notice of director. Any person proposing to
8 relocate or terminate a covered establishment shall
9 notify the director in writing not less than 60 days
10 prior to the relocation.

11 6-A. Notice to employees and municipality. Any
12 person proposing to relocate a covered establishment
13 outside the State shall notify employees, and the mu-
14 nicipal officers of the municipality where the plant
15 is located, in writing not less than 60 days prior to
16 the relocation. Any person violating this provision
17 commits a civil violation for which a forfeiture of
18 not more than \$500 may be adjudged, provided that no
19 forfeiture may be adjudged if the relocation is ne-
20 cessitated by a physical calamity, or if the failure
21 to give notice is due to unforeseen circumstances.

22 7. Powers of director. In any investigation or
23 proceeding under this section, the director shall
24 have, in addition to all other powers granted by law,
25 the authority to examine books and records of any em-
26 ployer affected by this section as set out in section
27 665, subsection 1.

28 STATEMENT OF FACT

29 The purpose of this bill is to amend the current
30 severance pay law so that in the event of a closure
31 on the plant or a portion as defined in the bill, the
32 obligation to continue medical insurance for employ-
33 ees and insured members of their families under the
34 same payment terms as existed during employment con-
35 tinues for a minimum period of 6 months.

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