

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 534, L.D. 731, Bill, "An Act to Amend the Definition of Employer to Include Governmental Entities"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'26 MRSA §592, as amended by PL 1985, c. 112, §2, is further amended to read:

No employer may require any employee or accepted applicant for employment to bear the medical expense of an examination when that examination is ordered or required by the employer. No employer may require any employee or ~~accepted~~ accepted applicant for employment to bear the expense of an eye examination ordered or required by the employer which is performed by a person licensed to perform the examinations, except that if an employer orders or requires the eye examination to be performed by a specific type of eye care provider, or specific provider, the employer must pay for the examination only when performed by that specific type of eye care provider or specific provider. An employer may pay for an examination under this section directly, through group health insurance coverage of the employee or otherwise, as long as the employee is not ultimately required to bear the expense of that examination. Any employer who violates this section commits a civil violation for which a forfeiture not to exceed \$50 for each and every violation may be adjudged. It is the duty of the director to enforce this section. Notwithstanding section 591, subsection 2, for the purposes of this section, the term "employer" includes the State, a county, a municipality, a quasi-municipal corporation or any other public employer. For the purposes of this section, the term "accepted applicant" means an applicant who has been offered a job by the employer.

FISCAL NOTE

This bill will require the State, as an employer, to pay for the cost of employer-requested medical examinations. This could

1 add to the expenses of many state programs. While the effect of
3 this proposal on individual accounts may not be significant and
5 could likely be absorbed within current existing budgeted
resources, this could result in future additional General Fund
appropriation requests and increases in allocations.'

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STATEMENT OF FACT

11 This amendment clarifies the intent of the original bill by
restricting the application of the expanded definition of
13 "employer" to the Maine Revised Statutes, Title 26, section 592.
Under the amendment, a public employer may not require an
15 employee or accepted applicant to pay the expense of any medical
or eye examination of the employee which is ordered or required
17 by the employer. This ensures that all public employers are
subject to the same restrictions governing private employers in
19 this area. The amendment also clarifies existing law by
describing accepted methods of payment by an employer and by
21 providing a definition of "accepted applicant" to ensure that
employers, both public and private, are required to pay for
23 medical exams before employment only if the applicant has been
offered a job by that employer. Under this amendment, for
25 example, an employer who narrows down a field of 50 applicants to
10, then requires a physical examination from each of these 10
27 applicants before offering employment to 5 of the applicants,
does not have to pay for the examinations. An employer who
29 directly offers employment to the same 5 applicants but
conditions the offer upon the successful completion of a physical
31 examination would have to pay for those examinations.

Reported by the Committee on Labor

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House

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