

MAINE STATE LEGISLATURE

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72
R. of S.

L.D. 927

(Filing No. S- 400)

STATE OF MAINE
SENATE
115TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT " D " to COMMITTEE AMENDMENT "A" to H.P.
653, L.D. 927, Bill, "An Act Making Unified Appropriations and
Allocations for the Expenditures of State Government, General
Fund and Changing Certain Provisions of the Law Necessary to the
Proper Operations of State Government for the Fiscal Years Ending
June 30, 1992 and June 30, 1993"

Amend the amendment by inserting before the emergency clause
the following:

PART WW

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

SUBCHAPTER VIII-A

STATE ECONOMIC SUPPORT AND HIRING PREFERENCES

§865. Definitions

As used in this subchapter, unless the context otherwise
indicates, the following terms have the following meanings.

1. Direct economic support. "Direct economic support"
means the provision of a financial payment, grant, loan or
evidence of debt, loan guarantee or tax increment financing
arrangement in any amount or investment tax credits in excess of
\$250,000 in any single tax year to an employer, for the purpose
of supporting that employer's economic activities, by a public
agency acting either on its own behalf or as an intermediary or
administrator of funds provided in whole or in part from any
public source. Unless specifically provided for in this
subsection, the term does not include:

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2 A. Job training programs under chapter 33;

4 B. Housing development assistance under Title 30-A, chapter
201 or 202; or

6 C. Tax exemptions or abatements.

8 2. Employer. "Employer" means any person, partnership,
10 private corporation or other private legal entity, whether
12 temporary or permanent, that employs more than 100 individuals in
14 the State at any time when direct economic support is received by
that employer. The term includes any related entity, such as a
corporate parent or subsidiary of an employer, or any other
entity or form in which the employer has any degree of beneficial
ownership.

16
18 3. Existing employee. "Existing employee" means:

20 A. Any individual who is currently employed and has been
employed for at least the previous 6 months in this State by
an employer receiving direct economic support; or

22 B. Unless discharged for good cause relating to the
24 individual's job performance or unless the individual
26 voluntarily quits employment, any individual who was an
28 employee of the employer for at least one year at a facility
in the State within 3 years before the employer's original
receipt of the direct economic support.

30 3. New employment position. "New employment position"
32 means any position of employment averaging at least 30 hours per
34 week that is available with an employer and that was not held by
an employee of that employer before the employer's receipt of the
direct economic support, including positions that involve duties
not performed previously for that employer by its employees and
the creation of additional positions involving duties currently
performed by existing employees of the employer.

38 4. Original receipt or originally received. "Original
40 receipt" or "originally received," as applied to the receipt of
42 direct economic support, means the date on which an employer
44 first receives the direct economic support. For tax benefits
subject to this subchapter, "original receipt" or "originally
received" means the first day of the tax year for which the
benefit is applicable.

46 5. Public agency. "Public agency" means the State, any
48 political subdivision of the State or any state or local
governmental or quasi-governmental entity.

§866. Preference to existing employees

2
4 1. Preference required. As a condition of receiving any
6 direct economic support, an employer shall obligate itself and
8 its successors and assigns to give preference in hiring for new
10 employment positions inside the State to any existing employees
12 of the employer who apply for those positions, unless:

14 A. The existing employee is not qualified to perform the
16 duties of the new position and can not be made qualified
18 with the same training required for alternative applicants
20 who are not existing employees of the employer.

22 (1) This paragraph does not require an employer to
24 provide any technical or advanced education to an
26 existing employee that would not be provided to
28 alternative applicants who are not existing employees
30 of the employer;

32 B. The new position is a supervisory position; or

34 C. That preference conflicts with any other state or
36 federal law.

38 2. Term. The requirements imposed by subsection 1 apply to
40 an employer from the employer's original receipt of any direct
42 economic support until one year after the final date of receipt
44 of that direct economic support.

46 3. Public notice. An employer subject to this section
48 shall notify existing employees of the existence of a new
50 employment position by publishing notice of the position in 3
52 successive editions of a newspaper of general circulation in the
54 county where the new employment position is available and in a
56 newspaper of general circulation in any county in which the
58 employer employs individuals in the State.

§867. Other obligations

60 The requirements of section 866 are in addition to and not
62 in place of any other obligations to which an employer is
64 subject. The requirements of section 866 do not affect the
66 provisions of any individual or collective employment contract,
68 any agreement with any public agency or any obligation under any
70 other law or rule that offers greater reemployment opportunities
72 to existing employees.

§868. Enforcement

R.O.S.

SENATE AMENDMENT "D" to COMMITTEE AMENDMENT "A" to H.P. 653,
L.D. 927

2 1. Attorney General to draft language. The Attorney
4 General shall draft language that must be incorporated in all
6 contracts, agreements, applications or other documents providing
8 for direct economic support to employers. This language must
 obligate the recipient of any direct economic support to comply
 with this subchapter as a condition of receiving the direct
 economic support.

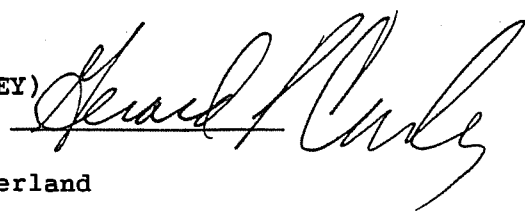
10 2. Complaint. Any aggrieved existing employee of an
12 employer subject to this subchapter may file a complaint with the
14 granting agency requesting the granting agency to investigate the
16 alleged violation of this subchapter. Upon receipt of a
18 complaint, the granting agency may investigate the merits of the
20 complaint and, when justified, act as a mediating agent with sole
22 responsibility for settling the complaint between an employer and
24 an employee. An existing employee may challenge the employer's
 determination of the employee's qualifications, or the length or
 level of training necessary to make the employee qualified by
 submitting to the employer evidence of comparable qualifications,
 or the need for a comparable period or level of training to
 become qualified, relative to the qualifications or training
 requirements of an alternative applicant who is not an existing
 employee.

26 §869. Application

28 This subchapter applies to direct economic support
30 originally received by an employer on or after the effective date
 of this subchapter.'

32 **STATEMENT OF FACT**

34 This amendment requires employers in the State who receive
36 economic subsidies from the State to give a hiring preference to
38 their existing employees whenever new employment positions are
40 created by the employer. This preference does not require the
42 employer to fill any new positions with existing employees who
44 are not qualified to perform the tasks required by the new
 position. The amendment requires the employer to hire an
 existing employee only if that employee is qualified to do the
 job and no better qualified applicant exists. The preference may
 not, however, conflict with any collective bargaining agreement
 that may apply to such an employer.

48
50 (Senator CONLEY)
52 SPONSORED BY: 

54 COUNTY: Cumberland

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