

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "A" to S.P. 425, L.D. 1262, Bill, "An Act to Increase the Minimum Wage in Maine"

Amend the bill by inserting after the enacting clause and before section 1 the following:

Sec. 1. 26 MRSA §621-A, sub-§§3 and 4 are enacted to read:

3. Compensatory time agreements. Notwithstanding subsections 1 and 2, public agency employers and employees may enter into compensatory time overtime agreements in accordance with the federal Fair Labor Standards Act, 29 United States Code, Section 207(o). These agreements are governed solely by federal law. For purposes of this subsection, "public agency" has the same meaning as in 29 United States Code, Section 203(x).

4. School personnel. Employees of a school administrative unit who work the school year schedule may, upon written agreement with the employer, be paid for their work during the school year over 12 months. For purposes of this subsection, "written agreement" includes but is not limited to a collective bargaining agreement.

Sec. 2. 26 MRSA §623, as amended by PL 1999, c. 465, §4, is further amended to read:

§623. Exemptions

This section and sections 621-A and 622 do not apply to family members and salaried employees as defined in section 663, subsection 3, paragraphs J and K. Sections 621-A and 622 do not

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apply to an employee of a cooperative corporation or association if the employee is a stockholder of the corporation or association, unless the employee requests the association or corporation to pay that employee in accordance with section 621-A. A Except as provided in section 621-A, subsections 3 and 4, a corporation, contractor, person or partnership may not by a special contract with an employee or by any other means exempt itself from this section and sections 621-A and 622.'

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Further amend the bill by inserting at the end before the summary the following:

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'Sec. 2. **Retroactivity.** Those sections of this Act that amend the Maine Revised Statutes, Title 26, section 621-A and 623 apply retroactively to September 18, 1999.'

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Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

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SUMMARY

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This amendment amends the biweekly pay law enacted in the First Regular Session of the 119th Legislature to authorize 2 long-standing practices in the public sector that were inadvertently affected by the new law. First, public sector employers are authorized under the Fair Labor Standards Act to permit the earning of compensatory time, at the rate of time and a half, as payment for overtime worked. Under the federal regulations, this accrual of compensatory time must be with the permission of the employee and any amount on the books at the retirement, resignation or termination of an employee must be paid out in the same manner as accrued vacation time. This amendment would permit this use of compensatory time under the federal law and regulation, without violating the biweekly wage payment provisions of state law. Second, the amendment allows school administrative units to pay staff who work the school year over all 12 months of the year, rather than paying only during the school year, if the employees have agreed to that payment schedule.

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HOUSE AMENDMENT