

MAINE STATE LEGISLATURE

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L.D. 1970

DATE: 5-25-99

(Filing No. H-681)

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

COMMITTEE AMENDMENT "A" to H.P. 1372, L.D. 1970, Bill, "An Act to Address the Solvency of the Unemployment Compensation Fund"

Amend the bill by striking out all of sections 2 and 3 and inserting in their place the following:

'Sec. 2. 26 MRSA §1043, sub-§23, as enacted by PL 1965, c. 381, §5, is repealed and the following enacted in its place:

'23. Misconduct. "Misconduct" means a culpable breach of the employee's duties or obligations to the employer or a pattern of irresponsible behavior, which in either case manifests a disregard for a material interest of the employer. This definition relates only to an employee's entitlement to benefits and does not preclude an employer from discharging an employee for actions that are not included in this definition of misconduct. A finding that an employee has not engaged in misconduct for purposes of this chapter may not be used as evidence that the employer lacked justification for discharge.

A. The following acts or omissions are presumed to manifest a disregard for a material interest of the employer. If a culpable breach or a pattern of irresponsible behavior is shown, these actions or omissions constitute "misconduct" as defined in this subsection. This does not preclude other acts or omissions from being considered to manifest a disregard for a material interest of the employer. The acts or omissions included in the presumption are the following:

(1) Refusal, knowing failure or recurring neglect to perform reasonable and proper duties assigned by the employer;

COMMITTEE AMENDMENT

- 2 (2) Unreasonable violation of rules that are
4 reasonably imposed and communicated and equitably
 enforced;
- 6 (3) Unreasonable violation of rules that should be
8 inferred to exist from common knowledge or from the
 nature of the employment;
- 10 (4) Failure to exercise due care for punctuality or
12 attendance after warnings;
- 14 (5) Providing false information on material issues
16 relating to the employee's eligibility to do the work
 or false information or dishonesty that may
18 substantially jeopardize a material interest of the
 employer;
- 20 (6) Intoxication while on duty or when reporting to
 work or unauthorized use of alcohol while on duty;
- 22 (7) Using illegal drugs or being under the influence
24 of such drugs while on duty or when reporting to work;
- 26 (8) Unauthorized sleeping while on duty;
- 28 (9) Insubordination or refusal without good cause to
30 follow reasonable and proper instructions from the
 employer;
- 32 (10) Abusive or assaultive behavior while on duty,
 except as necessary for self-defense;
- 34 (11) Destruction or theft of things valuable to the
36 employer or another employee;
- 38 (12) Substantially endangering the safety of the
40 employee, coworkers, customers or members of the public
 while on duty;
- 42 (13) Conviction of a crime in connection with the
44 employment or a crime that reflects adversely on the
 employee's qualifications to perform the work; or
- 46 (14) Absence for more than 2 work days due to
 incarceration for conviction of a crime.

48 B. "Misconduct" may not be found solely on:

(1) An isolated error in judgment or a failure to perform satisfactorily when the employee has made a good faith effort to perform the duties assigned;

(2) Absenteeism caused by illness of the employee or an immediate family member if the employee made reasonable efforts to give notice of the absence and to comply with the employer's notification rules and policies; or

(3) Actions taken by the employee that were necessary to protect the employee or an immediate family member from domestic violence if the employee made all reasonable efforts to preserve the employment.

Sec. 3. 26 MRSA §1051, sub-§7, as enacted by PL 1981, c. 284, is amended to read:

7. Limitation on recovery. Deduction from benefits that may be or may become payable to an individual as provided for in subsection 5 shall ~~be~~ is limited to not more than 10% of the first \$100 and 50% of any amount above \$100 of any weekly benefit payment otherwise due the claimant.'

Further amend the bill by striking out all of section 8 and inserting in its place the following:

'**Sec. 8. 26 MRSA §1194, sub-§2, ¶B**, as enacted by PL 1987, c. 365, §2, is repealed.'

Further amend the bill in section 9 in subsection 4-A in paragraph A in the 8th line (page 8, line 37 in L.D.) by striking out the following: 'the predetermined yield' and inserting in its place the following: 'the greater of the predetermined yield or 1.0%'

Further amend the bill in section 9 in subsection 4-A in paragraph B by striking out all of subparagraph (3) and inserting in its place the following:

'(3) The planned yield is 1.10%.'

Further amend the bill by inserting after section 12 the following:

'**Sec. 13. Report.** The Department of Labor, within existing resources, shall report to the Second Regular Session of the 119th Legislature and submit proposed legislation by January 1, 2000 that establishes a method for setting the planned yield for

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COMMITTEE AMENDMENT "A" to H.P. 1372, L.D. 1970

future rate years and addresses the issue of a cap on the Unemployment Compensation Fund.

Sec. 14. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1999-00	2000-01
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		
Departmentwide		
Personal Services	\$1,567	\$1,506
Provides funds for additional unemployment compensation costs. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, the State Budget Officer is authorized to transfer funds within the department to General Fund accounts as required to provide funding for these unemployment compensation costs.		

Sec. 15. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1999-00	2000-01
BAXTER STATE PARK AUTHORITY		
Baxter State Park Authority		
Personal Services	\$5,148	\$4,946
Provides funds for additional unemployment compensation costs.'		

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

COMMITTEE AMENDMENT

FISCAL NOTE

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1999-00

2000-01

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APPROPRIATIONS/ALLOCATIONS

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General Fund	\$1,567	\$1,506
Other Funds	5,148	4,946

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Changes in this bill will have the net effect of increasing the reserves in the Unemployment Compensation Trust Fund, which is administered by the Department of Labor. Projected unemployment trends, which use a set of economic assumptions that include an "average high unemployment period" in the next decade, have been factored by the department into current statutory provisions (which assume the continuation of temporary solvency measures currently in effect), which in turn determine the amounts of unemployment benefits paid by the fund and the revenues collected by the fund. Based on this analysis, it is likely that the fund will have a deficit of approximately \$110,800,000 by calendar year 2004. Assuming no change in the planned yield during the projection period, the overall effect of the changes in this bill will result in a deficit fund balance of \$7,800,000 by the end of calendar year 2004. The proposed system is designed to keep the trust fund balance with enough reserves to avoid long term borrowing.

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For calendar year 2000, the net effect of changing the weekly benefit formula from 1/22 of high quarter wages to 1/22 of the average of the 2 highest quarters of wages; allowing the \$3 weekly benefit adjustment reduction and the 6% maximum weekly benefit adjustment reduction to expire; changing the definition of misconduct; and making other changes to provisions related to overpayment reductions, fraud and overpayment recovery will result in net savings of \$300,000 in benefits paid from the fund. The net benefit savings are projected to vary in the following years, with calendar year 2004 showing net savings in benefit costs of \$2,200,000.

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This bill also includes a number of changes that will increase revenues collected for the fund. Beginning in calendar year 2000, the total effect of increasing the taxable wage base from \$7,000 to \$12,000; allowing the .4% surcharge to expire; expanding delinquent contribution collections; and replacing the current experience rating system for employers with an array contribution system with a 1.1% planned yield will result in an increase of \$13,000,000 in unemployment compensation contributions raised for the fund. In following years, the projected increase in annual revenues will be fairly level, with the calendar year 2004 increase expected to be \$13,300,000.

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2 This bill includes General Fund appropriations of \$1,567 and
3 \$1,506 in fiscal years 1999-00 and 2000-01, respectively, for the
4 Department of Agriculture, Food and Rural Resources for the
5 increased unemployment compensation costs. In addition, the
6 department may need additional Federal Expenditures Fund, Other
7 Special Revenue funds and Enterprise Fund allocations in fiscal
8 years 1999-00 and 2000-01 for increased unemployment compensation
9 costs. These amounts can not be determined at this time.

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11 The bill includes Other Special Revenue funds allocations of
12 \$5,148 and \$4,946 in fiscal years 1999-00 and 2000-01,
13 respectively, for the Baxter State Park Authority for increased
14 unemployment compensation costs.

15 The Atlantic Salmon Authority, the Saco River Corridor
16 Commission and the Maine Sardine Council will incur some minor
17 additional costs to pay for increased unemployment compensation
18 costs. These costs can be absorbed within the respective
19 agencies' existing budgeted resources.'

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22 **SUMMARY**

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24 This amendment redefines the term "misconduct" and changes
25 the amount that may be withheld from benefit payments to repay
26 previous overpayments to provide a lower percentage of
27 withholding on the first \$100 of a person's benefit. It also
28 establishes a planned yield and requires the Department of Labor
29 to report back to the Legislature by January 1, 2000 with
30 legislation to impose a cap on the amount in the Unemployment
31 Compensation Fund to prevent further increases in the
32 contribution rates when the fund reaches a certain level. The
33 amendment also deletes language allowing the Department of Labor
34 to stop making payments for up to 14 days when a question arises
35 after benefit payments have begun and adds a fiscal note to the
36 bill.

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38 This amendment also adds an appropriation section and a
39 fiscal note to the bill.
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