

# MAINE STATE LEGISLATURE

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Date: 5-26-09

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LABOR

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STATE OF MAINE  
SENATE  
124TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 547, L.D. 1469, Bill, "An Act To Ensure Fair Calculation of Severance Pay for Maine Workers"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

Sec. 1. 26 MRSA §625-B, sub-§1, ¶E, as enacted by PL 1979, c. 663, §157, is amended to read:

E. "Physical calamity" means any calamity such as fire, flood or other natural disaster, ~~or the final order of any federal, state or local governmental agency including adjudicated bankruptcy.~~

Sec. 2. 26 MRSA §625-B, sub-§1, ¶H, as enacted by PL 1979, c. 663, §157, is amended to read:

H. "Week's pay" means an amount equal to ~~1/52nd part of the employee's gross wages paid to an employee~~ earnings during the 12 months prior to relocation or termination previous to the date of termination or relocation as established by the director or the date of the termination or layoff of the employee, should it occur earlier, divided by the number of weeks in which the employee worked during that period.

Sec. 3. 26 MRSA §625-B, sub-§3, as amended by PL 2003, c. 624, §1 and affected by §2, is further amended to read:

3. Mitigation of severance pay liability. There is no liability under this section for severance pay to an eligible employee if:

A. Relocation or termination of a covered establishment is necessitated by a physical calamity;

B. The employee is covered by, and has been paid under the terms of, an express contract providing for severance pay that is equal to or greater than the severance pay required by this section;

COMMITTEE AMENDMENT

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- 1 C. That employee accepts employment at the new location; or
- 2 D. That employee has been employed by the employer for less than 3 years; or
- 3 E. A covered establishment files for protection under 11 United States Code, Chapter
- 4 11 unless the filing is later converted to a filing under 11 United States Code, Chapter
- 5 7.

6 **Sec. 4. 26 MRSA §625-B, sub-§10** is enacted to read:

7 10. Mass layoff. Whenever an employer lays off 100 or more employees at a  
 8 covered establishment, the employer within 7 days of such a layoff shall report to the  
 9 director the expected duration of the layoff and whether it is of indefinite or definite  
 10 duration. The director shall, from time to time, but no less frequently than every 30 days,  
 11 require the employer to report such facts as the director considers relevant to a  
 12 determination as to whether the layoff constitutes a termination or relocation under this  
 13 section or whether there is a substantial reason to believe the affected employees will be  
 14 recalled within a reasonable time.

15 **Sec. 5. Retroactivity.** This Act applies retroactively to March 31, 2009.'

16 **SUMMARY**

17 This amendment redefines "physical calamity" and "week's pay" in the laws  
 18 governing severance pay. It clarifies that during Chapter 11 bankruptcy proceedings  
 19 there is no right to severance pay unless the filing is later converted to a filing under  
 20 Chapter 7. It includes language regarding a mass layoff and directs an employer to report  
 21 the expected duration of a layoff within 7 days to the Director of the Bureau of Labor  
 22 Standards. The director shall, at least every 30 days, require the employer to update the  
 23 employer's report for the director to determine whether the layoff constitutes a  
 24 termination or relocation. This amendment includes a retroactivity clause dated March  
 25 31, 2009.

FISCAL NOTE REQUIRED  
 (See attached)



# 124th MAINE LEGISLATURE

LD 1469

LR 1975(02)

**An Act To Ensure Fair Calculation of Severance Pay for Maine Workers**

**Fiscal Note for Bill as Amended by Committee Amendment "A"**

**Committee: Labor**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

Additional costs to the Bureau of Labor Standards within the Department of Labor associated with enforcement of the provisions in this legislation can be absorbed within existing budgeted resources.