

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 949

S.P. 327

In Senate, March 12, 2013

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**An Act To Ensure the Proportional Offset against Retirement  
Benefits of Workers' Compensation Awards**

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Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator JOHNSON of Lincoln.  
Cosponsored by Representative GILBERT of Jay and  
Senators: JACKSON of Aroostook, PATRICK of Oxford, Representatives: CAMPBELL of  
Newfield, MASTRACCIO of Sanford.

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**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 39-A MRSA §221, sub-§3, ¶A**, as amended by PL 1995, c. 76, §1, is further amended to read:

A. The employer's obligation to pay or cause to be paid weekly benefits other than benefits under section 212, subsection 2 or 3 is reduced by the following amounts:

(1) Fifty percent of the amount of the old-age insurance benefits received or being received under the United States Social Security Act. For injuries occurring on or after October 1, 1995, such a reduction may not be made if the old-age insurance benefits had started prior to the date of injury or if the benefits are spouse's benefits;

(2) The after-tax amount of the payments received or being received under a self-insurance plan or a wage continuation plan or under a disability insurance policy provided by the same employer from whom benefits under section 212 or 213 are received if the employee did not contribute directly to the plan or to the payment of premiums regarding the disability insurance policy. If the self-insurance plans, wage continuation plans or disability insurance policies are entitled to repayment in the event of a workers' compensation benefit recovery, the insurance carrier shall satisfy the repayment out of funds the insurance carrier has received through the coordination of benefits provided for under this section;

(3) The proportional amount, based on the ratio of the employer's contributions to the total insurance premiums for the policy period involved, of the after-tax amount of the payments received or being received by the employee pursuant to a disability insurance policy provided by the same employer from whom benefits under section 212 or 213 are received, if the employee did contribute directly to the payment of premiums regarding the disability insurance policy;

~~(4) The after tax amount of the pension or retirement payments received or being received pursuant to a plan or program established or maintained by the same employer from whom benefits under section 212 or 213 are received, if the employee did not contribute directly to the pension or retirement plan or program;~~

(5) The proportional amount, based on the ratio of the employer's contributions to the total contributions to the plan or program, of the after-tax amount of the pension or retirement payments received or being received by the employee pursuant to a plan or program established or maintained by the same employer from whom benefits under section 212 or 213 are received, ~~if the employee did contribute~~ regardless of whether the employee contributed directly to the pension or retirement plan or program; and

(6) For those employers who do not provide a pension plan, the proportional amount, based on the ratio of the employer's contributions to the total contributions made to a qualified profit sharing plan under the United States Internal Revenue Code, Section 401(a) or any successor to the United States Internal Revenue Code, Section 401(a) covering a profit sharing plan that provides for the payment of benefits only upon retirement, disability, death, or

1 other separation of employment to the extent that benefits are vested under the  
2 plan.

3 **SUMMARY**

4 Current law allows workers' compensation awards to be offset by the full after-tax  
5 amount of a pension or retirement benefit received by an injured employee, for those  
6 employees that did not contribute directly to the pension or retirement plan or program.  
7 For employees that did contribute to their pension or retirement plan or program, their  
8 workers' compensation awards are offset only by the proportional amount that the  
9 employer contributed to their plan.

10 This bill would allow for the same proportional offset of pension and retirement  
11 benefits, based on the employer's contributions to the pension or retirement program, to  
12 apply to workers' compensation awards regardless of whether or not the employee had  
13 contributed directly to the pension or retirement plan or program.