

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 1260

H.P. 927

House of Representatives, March 26, 2021

**An Act To Promote the Sustainability of Unemployment Insurance
by Linking the Duration of Benefits to the State's Average
Unemployment Rate**

Received by the Clerk of the House on March 24, 2021. Referred to the Committee on Labor and Housing pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative BRADSTREET of Vassalboro.
Cosponsored by Representatives: HALL of Wilton, HANLEY of Pittston, MORRIS of Turner,
Senators: DAVIS of Piscataquis, GUERIN of Penobscot.

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

2 **Sec. 1. 26 MRSA §585, sub-§1**, as enacted by PL 1997, c. 387, §2, is amended to
3 read:

4 **1. Agricultural labor.** "Agricultural labor" means agricultural labor as defined in the
5 ~~Employment Security Law, chapter 13~~ Reemployment Assistance Program.

6 **Sec. 2. 26 MRSA §663, sub-§3, ¶A**, as amended by PL 1975, c. 717, §5, is further
7 amended to read:

8 A. Any individual employed in agriculture as defined in the ~~Maine Employment~~
9 ~~Security Law~~ Reemployment Assistance Program and the Federal Unemployment
10 Insurance Tax Law, except when that individual performs services for or on a farm
11 with over 300,000 laying birds;

12 **Sec. 3. 26 MRSA §1041** is amended to read:

13 **§1041. Short title**

14 This chapter ~~shall be~~ is known and may be cited as "the "Employment Security Law
15 Reemployment Assistance Program"."

16 **Sec. 4. 26 MRSA §1043, sub-§16-A** is enacted to read:

17 **16-A. State average unemployment rate.** "State average unemployment rate" means
18 a percentage equal to the average of the 3 months of the most recent 3rd quarter of a
19 calendar year of the seasonally adjusted unemployment rate for the State as published by
20 the Department of Labor.

21 **Sec. 5. 26 MRSA §1164**, as amended by PL 1999, c. 464, §5, is further amended to
22 read:

23 **§1164. Special Administrative Expense Fund**

24 The Special Administrative Expense Fund is created as a special fund in the State
25 Treasury. All interest, fines and penalties collected under this chapter and all voluntary
26 contributions tendered as a contribution to this fund must be paid into this fund. The money
27 may not be expended or available for expenditure in any manner that would permit its
28 substitution for, or a corresponding reduction in, federal funds that would in the absence of
29 that money be available to finance expenditures for the administration of the ~~Employment~~
30 ~~Security Law~~ Reemployment Assistance Program. Nothing in this section prevents the
31 money from being used as a revolving fund to cover expenditures, necessary and proper
32 under the law, for which federal funds have been duly requested but not yet received,
33 subject to the charging of those expenditures against those funds when received. The
34 money in this fund must be used by the commissioner either for the payment of costs of
35 administration that are found not to have been properly and validly chargeable against
36 federal grants or other funds received for or in the Employment Security Administration
37 Fund on or after January 1, 1943, to finance the Maine Wage Assurance Fund established
38 in section 632; for the payment of costs of administering chapter 26, for which federal
39 funds are not available; or to fund activities that will improve the solvency of the
40 Unemployment Compensation Fund. The money must be available either to satisfy the
41 obligations incurred by the bureau directly or by requesting the Treasurer of State to
42 transfer the required amount from the Special Administrative Expense Fund to the

1 Employment Security Administration Fund or the Maine Wage Assurance Fund. The
2 Treasurer of State shall upon receipt of a written request of the commissioner make any
3 such transfer. The commissioner shall give notice to the commission prior to any
4 expenditures from this fund. The commissioner shall order the transfer of the funds or the
5 payment of any such obligation and the funds must be paid by the Treasurer of State on
6 requisitions drawn by the commissioner directing the State Controller to issue the State
7 Controller's warrant for them. The warrant must be drawn by the State Controller based
8 upon bills of particulars and vouchers certified by an officer or employee designated by the
9 commissioner. The money in this fund is specifically made available to replace, within a
10 reasonable time, any money received by this State pursuant to ~~section~~ Section 302 of the
11 Federal Social Security Act as amended that, because of any action or contingency, has
12 been lost or has been expended for purposes other than, or in amounts in excess of, those
13 necessary for the proper administration of the ~~Employment Security Law~~ Reemployment
14 Assistance Program. The money in this fund must be continuously available to the
15 commissioner for expenditure in accordance with this section and may not lapse at any time
16 or be transferred to any other fund except as provided. Any money in the Special
17 Administrative Expense Fund may be used to make refunds of interest, penalties or fines
18 erroneously collected and deposited in the Special Administrative Expense Fund. On June
19 30th of each year all money in excess of \$100,000 in this fund must be transferred to the
20 Unemployment Compensation Fund.

21 **Sec. 6. 26 MRSA §1191, sub-§4**, as amended by PL 2009, c. 271, §2, is further
22 amended to read:

23 **4. Maximum amount of benefits.** The maximum amount of benefits that may be
24 paid to any eligible individual with respect to any benefit year, whether for total or partial
25 unemployment, ~~may not exceed the lesser of 26 is 12~~ times the individual's weekly benefit
26 amount ~~or 33 1/3%, rounded to the nearest dollar, of the individual's total wages paid for~~
27 ~~insured work during the individual's base period, plus the supplemental weekly benefit for~~
28 ~~dependents payable under subsection 6~~ if the state average unemployment rate is at or
29 below 5.5%, plus an additional amount equal to one week of the individual's weekly benefit
30 amount for each 0.5% of the state average unemployment rate above 5.5%, up to a
31 maximum of 20 times the individual's weekly benefit amount.

32 A. If a dislocated worker, as defined in section 1196, subsection 1, who is in training
33 approved under section 1192, subsection 6, 6-A, 6-C, 6-D or 6-E qualifies for
34 additional benefits under section 1043, subsection 5, paragraph B, or exhausts the
35 worker's entitlement to benefits available to the worker under this subsection, the
36 maximum amount under this subsection is the product of the worker's most recent
37 weekly benefit amount multiplied by the number of weeks in which the worker
38 thereafter attends an approved training program. No increase may be made under this
39 paragraph, with respect to any benefit period, greater than ~~26~~ 20 times the individual's
40 weekly benefit amount.

41 (1) Benefits paid to an individual under this paragraph may not be charged against
42 the experience rating record of any employer, but must be charged to the General
43 Fund.

44 (2) No benefits may be paid under this paragraph to any person:

1 (b) Until the person has exhausted benefits for which the person is eligible
2 under any unemployment insurance benefit program funded in whole or in part
3 by the State Government or Federal Government; or

4 (c) Who is eligible for or who has exhausted, after the effective date of this
5 paragraph, trade adjustment allowances as provided by the United States Trade
6 Act of 1974, Title II, Chapter 2, Public Law 93-617, United States Code, Title
7 19, Section 2291, et seq., and any amendments or additions thereto, or a similar
8 successor provision of that Act, except that any individual who was eligible
9 for and received less than ~~26~~ 20 weeks of benefits under the United States
10 Trade Act may receive benefits for the number of weeks by which their
11 benefits under that Act are less than ~~26~~ 20 weeks.

12 **Sec. 7. 26 MRSA §1221, sub-§3, ¶A**, as amended by PL 2019, c. 585, §1, is further
13 amended to read:

14 A. At the time the status of an employing unit is ascertained to be that of an employer,
15 the commissioner shall establish and maintain, until the employer status is terminated,
16 for the employer an experience rating record, to which are credited all the contributions
17 that the employer pays on the employer's own behalf. This chapter may not be
18 construed to grant any employer or individuals in the employer's service prior claims
19 or rights to the amounts paid by the employer into the fund. Benefits paid to an eligible
20 individual under the ~~Employment Security Law~~ Reemployment Assistance Program
21 must be charged against the experience rating record of the claimant's most recent
22 subject employer or to the General Fund if the otherwise chargeable experience rating
23 record is that of an employer whose status as such has been terminated; except that no
24 charge may be made to an individual employer but must be made to the General Fund
25 if the commission finds that:

26 (1) The claimant's separation from the claimant's last employer was for misconduct
27 in connection with the claimant's employment or was voluntary without good cause
28 attributable to the employer;

29 (2) The claimant has refused to accept reemployment in suitable work when
30 offered by a previous employer, without good cause attributable to the employer;

31 (3) Benefits paid are not chargeable against any employer's experience rating
32 record in accordance with section 1194, subsection 11, paragraphs B and C;

33 (5) Reimbursements are made to a state, the Virgin Islands or Canada for benefits
34 paid to a claimant under a reciprocal benefits arrangement as authorized in section
35 1082, subsection 12, as long as the wages of the claimant transferred to the other
36 state, the Virgin Islands or Canada under such an arrangement are less than the
37 amount of wages for insured work required for benefit purposes by section 1192,
38 subsection 5;

39 (6) The claimant was hired by the claimant's last employer to fill a position left
40 open by a Legislator given a leave of absence under chapter 7, subchapter 5-A, and
41 the claimant's separation from this employer was because the employer restored
42 the Legislator to the position after the Legislator's leave of absence as required by
43 chapter 7, subchapter 5-A;

1 (7) The claimant was hired by the claimant's last employer to fill a position left
2 open by an individual who left to enter active duty in the United States military,
3 and the claimant's separation from this employer was because the employer
4 restored the military serviceperson to the person's former employment upon
5 separation from military service;

6 (8) The claimant was hired by the claimant's last employer to fill a position left
7 open by an individual given a leave of absence for family medical leave provided
8 under Maine or federal law, and the claimant's separation from this employer was
9 because the employer restored the individual to the position at the completion of
10 the leave; or

11 (9) The claimant initiated a partial separation or reduction of hours and that partial
12 separation or reduction of hours was agreed to by the employee and employer.

13 **Sec. 8. 26 MRSA §1221-B, sub-§5, ¶C**, as enacted by PL 2001, c. 381, §1, is
14 amended to read:

15 C. Could cause services in the employ of the Indian tribe to be excepted from
16 employment for purposes of obtaining benefits under the ~~Employment Security Law~~
17 Reemployment Assistance Program.

18 **Sec. 9. 39-A MRSA §220, sub-§1**, as enacted by PL 1991, c. 885, Pt. A, §8 and
19 affected by §§9 to 11, is amended to read:

20 **1. Reduction for unemployment benefits.** Compensation paid under this Act, except
21 compensation under section 212, subsection 3 and lump sum settlements, to any employee
22 for any period for which the employee is receiving or has received benefits under the
23 ~~Employment Security Law~~ Reemployment Assistance Program, Title 26, chapter 13, must
24 be reduced by the amount of the unemployment benefits.

25 SUMMARY

26 This bill renames the Employment Security Law the Reemployment Assistance
27 Program and establishes the maximum amount of unemployment benefits at 12 weeks if
28 the State's average unemployment rate is 5.5% or below, with an additional week added for
29 every 0.5% the rate is above 5.5% to a maximum of 20 weeks of benefits.