

MAINE STATE LEGISLATURE

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N I N E T Y - F I R S T L E G I S L A T U R E

Legislative Document

No. 807

S. P. 459

In Senate, March 19, 1943.

Reported by Senator Dunbar of Washington from Committee on Federal Relations and laid on the table to be printed under joint rules.

ROYDEN V. BROWN, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-THREE

**AN ACT Providing for Experience Rating under Unemployment
Compensation Law.**

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

P. L., 1935, c. 192, § 7, amended. Section 7 of chapter 192 of the public laws of 1935, as amended, is hereby repealed and the following enacted in place thereof:

'Sec. 7. Contributions. (a) Payment. (1) On and after January 1, 1936, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this act, with respect to wages for employment (as defined in section 19 (g)). Such contributions shall become due and be paid by each employer to the commission for the fund in accordance with such regulations as the commission may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to $\frac{1}{2}$ cent or more, in which case it shall be increased to 1 cent.

(b) Rate of contribution. Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment:

- (1) .9% with respect to employment during the calendar year 1936;
- (2) 1.8% with respect to employment during the calendar year 1937;
- (3) 2.7% with respect to employment during the calendar years 1938, 1939, and 1940;

(4) Each employer shall pay contributions equal to 2.0% of wages paid by him during the calendar year 1941 and during each calendar year thereafter, except as otherwise prescribed in subsection (d) of this section with respect to wages paid on and after July 1, 1943.

(c) Experience rating record. (1) The commission shall maintain a separate "experience rating record" for each employer, and shall credit his "experience rating record" with all the contributions which he has paid on his own behalf. But nothing in this act shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund. Benefits paid to an eligible individual under the provisions of the Maine Unemployment Compensation Law shall be charged against the "experience rating record" of his employers in his base period in the inverse chronological order in which such individual was employed by such employers, but the maximum amount so charged against the "experience rating record" of any employer shall not exceed, to the nearest dollar, that proportion of 16 times the individual's weekly benefit amount, which his earnings in the base period for that employer bears to his total earnings for all employers in the same base period. The commission shall by general rules prescribe the manner in which benefits shall be charged against the "experience rating records" of several employers for whom an individual performed employment during the same calendar quarter.

(2) The commission shall classify employers in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their "experience rating records" and shall submit in its annual report to the governor, the results of the actual experience in payment of contributions on behalf of the individual employers and with respect to benefits charged to their "experience rating records" together with the recommendations relative to the advisability of the continuance of the rates based on benefit experience.

(d) Employer's experience classification. If and when as of the 1st day of February, 1943, and as of each 1st day of February thereafter, the commission finds that the net balance available for benefit amounts (the sum of the balances in the trust fund, the benefit fund, and the clearing account after adjustment for outstanding checks and adjustment for funds in transit between either of said funds or said account) equals or exceeds 2 times the highest amount of benefits paid in any of the 5 immediately preceding calendar years, or \$12,000,000, whichever is greater, it shall compute contribution rates for each employer based on his own benefit experience from the time he first became an employer and up to and including December 31 of the preceding year, and his contributions on pay rolls up to December 31 of the current year although some part of the contributions due for that year may be payable on or before January 31 of the following year.

(1) No employer's rate shall be varied from 2.7% for any year unless and until his experience rating record has been chargeable with benefits throughout the 36-consecutive-calendar month period ending on the computation date.

(2) Subject to the provisions of the preceding paragraph, each employer's rate for the 12-month period commencing July 1, 1943, and for each 12-month period thereafter shall be based upon his actual experience as follows:

(A) 2.7% if his contributions credited exceed his benefits charged by an amount equivalent to less than 5% of his average annual pay roll for the 36-consecutive-months period ending on the computation date.

(B) 2.4% if his contributions credited exceed his benefits charged by an amount equivalent to 5% of his average annual pay roll for the 36-consecutive-months period ending on the computation date, and such excess is less than 7.5% of such average annual pay roll.

(C) 2.1% if his contributions credited exceed his benefits charged by an amount equivalent to 7.5% of his average annual pay roll for the 36-consecutive-months period ending on the computation date, and such excess is less than 10% of such average annual pay roll.

(D) 1.8% if his contributions credited exceed his benefits charged by an amount equivalent to 10% of his average annual pay roll for the 36-consecutive-months period ending on the computation date, and such excess is less than 12.5% of such average annual pay roll.

(E) 1.5% if his contributions credited exceed his benefits charged by an amount equivalent to or greater than 12.5% of his average annual pay roll for the 36-consecutive-months period ending on the computation date.

(3) Any employer who under the provisions of this act would otherwise be entitled to a rate of less than 2.7% shall nevertheless pay a rate of 2.7% for any quarter during which he was in arrears in the payment of contributions or interest, and his rate shall continue at 2.7% for the remainder of the contribution year.

(4) If the total benefits paid from the fund within the first six months of any calendar year are equal to or exceed 4.5% of the total pay rolls subject to contributions, reported by employers for such 6-months period, the commission shall forthwith reestablish all rates at 2.7%, and such rate shall continue in force for the remainder of such calendar year; and provided further that if, in the opinion of the commission, an emergency exists and the benefits currently being paid, if continued at approximately the same level, will seriously impair the fund, the commission may, after reasonable notices and public hearing, forthwith reestablish all rates at 2.7% and continue said rates in force until, in the opinion of the commission, such emergency no longer exists, or until the date set by this law for the computation of rates.

(5) As used in this section, the words "contributions credited" and "benefits charged" mean the contributions credited to and the benefits paid and chargeable against the "experience rating record" of an employer as provided in subsection (c) of this section, including all contributions due and paid on or before January 30 of the year that immediately follows the computation date and all benefits paid and chargeable on or before the computation date.

(6) The commission:

(1) Shall promptly notify each employer of his rate of contributions as determined for any calendar year pursuant to this section. Such determination shall become conclusive and binding upon the employer unless, within 15 days after the mailing of notice thereof to his last known address or in the absence of mailing, within 15 days after the delivery of such notice, the employer files an application for review and redetermination, setting forth his reasons therefor. If the commission grants such review, the employer shall be promptly notified thereof and shall be granted an opportunity for a hearing, but no employer shall have standing, in any proceeding involving his rate of contributions or contribution

liability, to contest the chargeability to his "experience rating record" of any benefits paid in accordance with a determination, redetermination or decision pursuant to section 6 of this act except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him and only in the event that he was not a party to such determination, redetermination or decision or to any other proceedings under this act in which the character of such services was determined. The employer shall be promptly notified of the commission's denial of his application, or of the commission's redetermination, both of which shall become final unless within 15 days after the mailing of notice thereof to his last known address or in the absence of mailing, within 15 days after the delivery of such notice, a petition for judicial review is filed in the superior court of Kennebec county, state of Maine. In any proceedings under this subsection the findings of the commission as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive and the jurisdiction of said court shall be confined to questions of law. No additional evidence shall be received by the court but the court may order additional evidence to be taken before the commission and the commission may, after hearing such additional evidence, modify its determination, and file such modified determination, together with a transcript of the additional record, with the court. Such proceedings shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under section 6 of this act and the workmen's compensation law of this state. An appeal may be taken from the decision of the superior court of Kennebec county to the supreme judicial court of Maine in the same manner, but not inconsistent with the provisions of this act, as is provided in civil cases;

(2) May provide by regulation for periodic notification to employers of benefits paid and chargeable to their "experience rating record" of the status of such "experience rating record", and any such notification, in the absence of an application for redetermination filed in such manner and within such period as the commission may prescribe, shall become conclusive and binding upon the employer for all purposes. Such redetermination, made after notice and opportunity for hearing, and the commission's findings of fact in connection therewith, may be introduced in any subsequent administrative or judicial proceedings involving the determination of the rate of contributions of any employer for any calendar year and shall be entitled to the same finality as is provided in this subsection with respect to the findings of fact made by the commission in proceedings to redetermine the contribution rates of an employer.

(e) (1) The executors, administrators, successors, or assigns of any former employer who acquire the business of such employer in toto shall acquire the experience of such former employer with pay rolls, contributions and benefits. Effective as of the date on which such business was acquired, the commission shall for purposes of rate determination transfer to the successor employing unit the pay roll record and experience rating records of the predecessor employer.

(2) From the date of the acquisition to the end of the current rate period, the contribution rate of the successor employer shall be a newly computed rate determined in accordance with the provisions of this subsection and based upon the combined experience of the predecessor and successor as of the regular computation date for the rate period in which the acquisition took place.

(f) The computation date shall be December 31st of each calendar year, and the rates of each employer entitled to the provisions of this act shall be determined by the commission as of that date.

(g) The commission shall have the following period of time for the purpose of computing the rates of each employer entitled to the benefits of this provision, January 1st to June 30th of each calendar year.

(h) The term "effective date" shall mean the date on which the new rates shall become effective and shall be July 1st of each calendar year.'