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Legislative Document

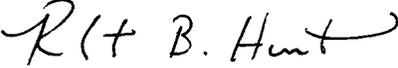
No. 1712

H.P. 1147

House of Representatives, April 17, 2025

**An Act to Amend the Paid Family and Medical Leave Benefits
Program to Balance Support of Businesses and Employees**

Reference to the Committee on Labor suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative ROBERTS of South Berwick.
Cosponsored by Senator BALDACCI of Penobscot and
Representatives: ARATA of New Gloucester, COLLAMORE of Pittsfield, CROCKETT of
Portland, HEPLER of Woolwich, MASTRACCIO of Sanford, O'HALLORAN of Brewer,
STOVER of Boothbay, Senator: BRADSTREET of Kennebec.

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

2 **Sec. 1. 26 MRSA §850-B, sub-§7**, as enacted by PL 2023, c. 412, Pt. AAA, §7, is
3 amended to read:

4 **7. Notice to employer.** Absent an emergency, illness or other sudden necessity for
5 taking leave, an employee shall give reasonable notice to the employee's supervisor of the
6 employee's intent to use leave under this subchapter. Use of such leave must be scheduled
7 to prevent undue hardship on the employer as reasonably determined by the employer. If
8 an employer fails to provide notice as required under section 850-I, the employee's
9 obligation to provide notice under this subsection is waived. For purposes of this
10 subsection, the conditions that constitute undue hardship include, but are not limited to:

11 A. The employer employs fewer than 15 employees;

12 B. When, during the period between 3 days before Memorial Day until Labor Day, the
13 employer is experiencing a labor shortage;

14 C. The employer generates at least 60% of the employer's annual revenue during a 5-
15 month period, and it is during that 5-month period; or

16 D. When more than 25% of the employer's employees are already on leave or have
17 requested and been approved for leave, including, but not limited to, vacation or
18 medical or family leave.

19 An employer may determine additional conditions that constitute undue hardship based on
20 an individualized assessment of the effect of the leave request on that employer's
21 operations.

22 A decision of an employer to deny the use of leave based on undue hardship is not
23 reviewable by the department or subject to appeal pursuant to section 850-K. This
24 subsection may not be construed to prevent an employer from granting leave despite a
25 determination of undue hardship by the employer.

26 **Sec. 2. 26 MRSA §850-B, sub-§10, ¶B**, as enacted by PL 2023, c. 412, Pt. AAA,
27 §7, is amended to read:

28 B. In any way curtail the rights, privileges or remedies of any employee under any
29 collective bargaining agreement or employment contract. This paragraph may not be
30 construed to prohibit an employer from deducting a portion of the premium as required
31 pursuant to section 850-F, subsection 5;

32 **Sec. 3. 26 MRSA §850-B, sub-§10, ¶D**, as enacted by PL 2023, c. 412, Pt. AAA,
33 §7, is amended to read:

34 D. Require a ~~public~~ public an employer, ~~as defined in section 962, subsection 7,~~ or employee
35 of a ~~public~~ public an employer that is a party to a collective bargaining agreement in existence
36 ~~on the effective date of this subchapter~~ October 25, 2023 to apply any of the rights and
37 responsibilities under this subchapter until the existing collective bargaining agreement
38 expires.

39 **Sec. 4. 26 MRSA §850-C, sub-§2**, as enacted by PL 2023, c. 412, Pt. AAA, §7, is
40 amended to read:

1 **2. Determination of weekly benefit amount.** The weekly benefit amount paid to
2 ~~employees and an employee or self-employed individuals~~ individual on family leave or
3 ~~medical leave is calculated as follows: 65% of that employee's or self-employed~~
4 ~~individual's average weekly wage.~~

5 A. ~~The portion of the covered individual's average weekly wage that is equal to or less~~
6 ~~than 50% of the state average weekly wage must be replaced at a rate of 90%; and~~

7 B. ~~The portion of the covered individual's average weekly wage that is more than 50%~~
8 ~~of the state average weekly wage must be replaced at a rate of 66% up to the maximum~~
9 ~~weekly benefit.~~

10 **Sec. 5. 26 MRSA §850-D, sub-§2,** as enacted by PL 2023, c. 412, Pt. AAA, §7, is
11 repealed and the following enacted in its place:

12 **2. Filing of application.** The filing of an application for family leave and medical
13 leave benefits is governed by this subsection.

14 A. An individual may file an application for family leave benefits or medical leave
15 benefits no more than 60 days before the anticipated start date of family leave and
16 medical leave.

17 B. An individual may file an application for family leave benefits no more than 15
18 days after the start date of family leave.

19 C. An individual may file an application for medical leave benefits no more than 30
20 days after the start date of medical leave. The administrator shall waive the 30-day
21 filing deadline for good cause.

22 The administrator shall institute forms and procedures that are not unduly burdensome to
23 an individual claiming benefits.

24 **Sec. 6. 26 MRSA §850-F, sub-§5,** as enacted by PL 2023, c. 412, Pt. AAA, §7, is
25 repealed.

26 **Sec. 7. 26 MRSA §850-F, sub-§5-A** is enacted to read:

27 **5-A. Payment of share of premium by employees.** Payment of an employee's share
28 of the premium is governed by this subsection.

29 A. An employer shall deduct 50% of the premium amount required by subsection 3
30 from an employee's wages and shall remit 100% of the combined premium contribution
31 required in subsection 3 to the fund.

32 B. Notwithstanding paragraph A, an employer may pay up to 100% of the employee's
33 premium amount required by subsection 3 in addition to the amount required to be paid
34 by the employer, as long as 100% of the amount of the premium required by subsection
35 3 is remitted.

36 C. Notwithstanding any provision of law to the contrary, an employer subject to
37 collective bargaining is not required to bargain for the deduction of the premium from
38 an employee's wages as permitted by this subsection.

39 **Sec. 8. 26 MRSA §850-F, sub-§9,** as enacted by PL 2023, c. 412, Pt. AAA, §7, is
40 amended to read:

1 **9. Failure or refusal to make premium contributions.** An employer that fails or
2 refuses to make premium contributions as required in this section must be assessed ~~1.0%~~
3 of its total annual payroll for each year it so failed to comply in addition to any amounts
4 previously owed, or fraction thereof a fine, in addition to the total amount of family leave
5 benefits and medical leave benefits paid to covered individuals for whom it failed to make
6 premium contributions. ~~The rate of assessment imposed by this subsection must be adjusted~~
7 ~~annually consistent with subsection 3, paragraph B.~~ The following provisions govern fines
8 imposed pursuant to this subsection.

9 A. The maximum amount of the fine is \$50 for each employee for whom the employer
10 failed or refused to make premium contributions.

11 B. The department shall determine the amount of the fine assessed pursuant to
12 paragraph A.

13 C. The department may waive the fine when it determines that equity and good
14 conscience require the waiver.

15 D. If the department assesses a fine for underpayment of the premium contributions,
16 the department shall inform the employer of the amount of the underpayment.

17 E. An employer notified pursuant to paragraph D may appeal pursuant to section
18 850-K.

19 F. An employer found in violation of this subsection that fails to withhold from an
20 employee the amount allowed pursuant to subsection 5 may deduct the appropriate
21 amounts from the employee retroactively.

22 The provisions of this subsection do not apply until January 1, 2026 unless the employer
23 willfully fails or refuses to make the premium contributions required in this section.

24 **Sec. 9. 26 MRSA §850-M, sub-§1-A** is enacted to read:

25 1-A. State tax. An individual filing a new claim for family leave benefits or medical
26 leave benefits under this subchapter may elect to have the administrator deduct and
27 withhold state income tax from the individual's payment of benefits at the rate of 5%. The
28 department shall advise an individual filing a new claim, at the time the individual files the
29 claim, that:

30 A. The benefits are subject to state income tax;

31 B. Requirements exist pertaining to estimated tax payments;

32 C. The individual may elect to have state income tax deducted and withheld from the
33 individual's payment of benefits at the rate of 5%; and

34 D. The individual is permitted to change a previously elected withholding status.

35 **Sec. 10. 36 MRSA §5122, sub-§1, ¶QQ** is enacted to read:

36 QQ. For each taxable year beginning on or after January 1, 2026, an amount equal to
37 the amount of family leave benefits or medical leave benefits paid pursuant to Title 26,
38 section 850-C, to the extent those benefits are not included in the taxpayer's federal
39 adjusted gross income.

40 **Sec. 11. 36 MRSA §5122, sub-§2, ¶AAA** is enacted to read:

1 Finally, it stays the imposition of any fines until January 1, 2026 unless the employer
2 willfully fails or refuses to make the premium contributions.

3 7. It provides that benefits paid from the program are subject to state income tax to the
4 extent those benefits are not included in the taxpayer's federal adjusted gross income. It
5 also provides that a taxpayer's federal adjusted gross income may be reduced by the amount
6 subject to repayment that has been previously taxed by the State. It also allows individuals
7 filing a new claim for family leave benefits or medical leave benefits to elect to have the
8 administrator of the program deduct and withhold state income tax from the individual's
9 payment of benefits at the rate of 5% and requires the administrator of the program to
10 deduct and withhold state income tax. It also requires the department to advise individuals
11 filing a new claim for benefits that the benefits are subject to state income tax.