

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-SIX

—
H.P. 1408 - L.D. 2093

**An Act to Codify and Update a Provision of Private and Special Law
Governing Temporary Disability for State Employees**

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

Sec. 1. 5 MRSA §7073 is enacted to read:

§7073. Provision for temporary disability

When a confidential employee has a temporary total disability, the appointing authority shall provide temporary disability benefits to the confidential employee in accordance with this section and continue to pay the confidential employee's regular employment benefits in accordance with subsection 7.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Confidential employee" means an employee within the executive branch, including a probationary employee, who is employed in a position excluded from the definition of "state employee" pursuant to Title 26, section 979-A, subsection 6, paragraphs B, C, D, I and J.

B. "Continuous leave" means leave that is not intermittent and not a reduced schedule.

C. "Temporary disability benefit" means a benefit for temporary total disability paid to an eligible confidential employee pursuant to this section.

D. "Total disability" means the inability to engage in any gainful occupation for which a confidential employee is reasonably suited by training, education and experience.

2. Eligibility. A confidential employee employed by the State in that position for more than 6 months who becomes totally disabled may receive a temporary disability benefit while the confidential employee remains totally disabled and under the care of a licensed physician if:

A. The confidential employee incurs a loss of time from work as a result of the disability, including a disability resulting from sickness or accidental bodily injury; and

B. The disability prevents the confidential employee from performing the duties of that confidential employee's occupation.

3. Start of benefit. The temporary disability benefit must commence on the day immediately following the later of:

A. The exhaustion of the confidential employee's accumulated sick leave; or

B. The 30th day of continuous total disability.

4. End of benefit. The temporary disability benefit must continue until whichever of the following occurs first:

A. The day before the day the confidential employee returns to any gainful occupation;

B. The day after the confidential employee exhausts the remaining balance of the 365 days of temporary disability benefits allowed per confidential employee pursuant to subsection 6; or

C. The first day the confidential employee is eligible for a disability retirement allowance under Title 5, chapter 423, subchapter 5, article 3.

5. Benefit amount; exception for disabilities compensable under workers' compensation. The temporary disability benefit equals 2/3 of the confidential employee's weekly salary at the date of the commencement of the total disability. Any state retirement allowance must be deducted from the temporary disability benefit. A temporary disability benefit may not be made if the confidential employee's disability is compensable under Title 39-A.

6. Benefit cap; subsequent periods of total disability. A confidential employee may not receive more than 365 days of temporary disability benefits during that confidential employee's entire tenure of service as a confidential employee, regardless of any breaks in service. If a confidential employee does not use all 365 days of temporary disability benefits for a single period of continuous leave for total disability, the confidential employee carries the remaining balance of the 365 days and may use those remaining days for subsequent periods of continuous leave for total disability in accordance with this section.

7. Continuation of regular employment benefits. A confidential employee who is provided temporary disability benefits under this section must continue to receive the regular employment benefits that were provided to the confidential employee immediately before the first date of the total disability.

Sec. 2. P&SL 1989, c. 86, Pt. C, §5 is repealed.