

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

Sec. 1. 26 MRSA §625-B, sub-§1, ¶E, as enacted by PL 1979, c. 663, §157, is amended to read:

E. "Physical calamity" means any calamity such as fire, flood or other natural disaster, ~~or the final order of any federal, state or local governmental agency including adjudicated bankruptcy.~~

Sec. 2. 26 MRSA §625-B, sub-§1, ¶H, as enacted by PL 1979, c. 663, §157, is amended to read:

H. "Week's pay" means an amount equal to ~~1/52nd part of the employee's gross wages paid to an employee~~ earnings during the 12 months prior to relocation or termination previous to the date of termination or relocation as established by the director or the date of the termination or layoff of the employee, should it occur earlier, divided by the number of weeks in which the employee worked during that period.

Sec. 3. 26 MRSA §625-B, sub-§3, as amended by PL 2003, c. 624, §1 and affected by §2, is further amended to read:

3. Mitigation of severance pay liability. There is no liability under this section for severance pay to an eligible employee if:

- A. Relocation or termination of a covered establishment is necessitated by a physical calamity;
- B. The employee is covered by, and has been paid under the terms of, an express contract providing for severance pay that is equal to or greater than the severance pay required by this section;
- C. That employee accepts employment at the new location; ~~or~~
- D. That employee has been employed by the employer for less than 3 years; ~~or~~
- E. A covered establishment files for protection under 11 United States Code, Chapter 11 unless the filing is later converted to a filing under 11 United States Code, Chapter 7.

Sec. 4. 26 MRSA §625-B, sub-§10 is enacted to read:

10. Mass layoff. Whenever an employer lays off 100 or more employees at a covered establishment, the employer within 7 days of such a layoff shall report to the director the expected duration of the layoff and whether it is of indefinite or definite duration. The director shall, from time to time, but no less frequently than every 30 days, require the employer to report such facts as the director considers relevant to a determination as to whether the layoff constitutes a termination or relocation under this section or whether there is a substantial reason to believe the affected employees will be recalled within a reasonable time.

Sec. 5. Retroactivity. This Act applies retroactively to March 31, 2009.'

SUMMARY

This amendment redefines "physical calamity" and "week's pay" in the laws governing severance pay. It clarifies that during Chapter 11 bankruptcy proceedings there is no right to severance pay unless the filing is later converted to a filing under Chapter 7. It includes language regarding a mass layoff and directs an employer to report the expected duration of a layoff within 7 days to the Director of the Bureau of Labor Standards. The director shall, at least every 30 days, require the employer to update the employer's report for the director to determine whether the layoff constitutes a termination or relocation. This amendment includes a retroactivity clause dated March 31, 2009.