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An Act To Minimize Hardship by Prohibiting the State from Reducing the Wages of a State Employee To Recoup Payments the State Made in Error

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

Sec. 1. 26 MRSA §635, sub-§4, as enacted by PL 1989, c. 804, is amended to read:

4. Application. This section is applied as follows.

A. An employer has the burden of proof, except that, if the overcompensation amounts to less than 15% of the correct net amount of the employee's compensation, the employer must prove by clear and convincing evidence that the employee knowingly accepted the overcompensation.

B. If an employee knowingly accepts the overcompensation, this section does not apply.

C. This section, except for the forfeiture provisions in subsection 3, does not limit or affect an employer's general civil remedies against an employee.

This section does not apply to the State in its capacity as an employer.

Sec. 2. 26 MRSA §635-A is enacted to read:

§ 635-A. Recovery of overcompensation by the State prohibited

If the State, in its capacity as an employer, overcompensates an employee as a result of the State's error, the State may not recover the overpayment of wages by deducting or withholding amounts from that employee's subsequent wages.

SUMMARY

This bill provides that, if the State, in its capacity as an employer, overcompensates an employee as a result of the State's error, the State may not recover the overpayment of wages by deducting or withholding amounts from that employee's subsequent wages.