



Janet T. Mills
GOVERNOR

STATE OF MAINE
DEPARTMENT OF LABOR
54 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0054

Laura A. Fortman
COMMISSIONER

**Testimony of Michael Roland, Bureau of Labor Standards,
Maine Department of Labor
Neither For Nor Against LD 607,
An Act To Restore Overtime Protections for Maine Workers**

To the Joint Standing Committee on Labor and Housing
Public Hearing, Monday, March 22, 2021

Good morning Senator Rafferty, Representative Sylvester and members of the Joint Standing Committee on Labor and Housing. I am Michael Roland, Director of the Bureau of Labor Standards for the Maine Department of Labor (Department). I am here today to speak on behalf of the Department neither for nor against LD 607, "An Act To Restore Overtime Protections for Maine Workers."

Under Maine statute, most workers are guaranteed an overtime premium when they work more than 40 hours in a week. This bill would alter the minimum salary that certain workers in Maine must receive in order to be exempted from the overtime requirement.

Both Maine and federal law use a three-pronged test to determine if an employee is exempt from the overtime provisions of the law. The three-pronged test is important when determining eligibility for overtime pay. Only if a worker passes all three of the tests is that worker exempt from receiving overtime pay.

The three prongs of the test are:

1. The employee must be paid on a salary basis.
2. The employee's salary must exceed the defined salary threshold, which is the subject of this bill.
3. An exempt employee's job duties must also conform to certain categories (administrative, professional and executive) as further delineated in the Bureau's Rules Chapter 16.

The "duties test" is often seen as a proxy for determining how much independent bargaining power the employee has. Generally, this includes whether that worker oversees other full-time employees or directs a division or department or has responsibility for hiring and firing other employees.

The US DOL increased its salary threshold last year to \$684 per week or \$35,568 per year, so that most salaried workers making less than this amount are now eligible for overtime pay if they work more than 40 hours per week. At the time, the US DOL believed this would cover an additional one million workers nationwide.

Maine has established its own calculation for prong #2, the salary threshold. For over twenty years, Title 26 Section 663, Sub-section 3, has defined Maine's salary threshold as exceeding 3000 times the State's minimum wage, when converted to an annual rate. Since this threshold is tied to Maine's minimum wage, it changes in concert with the minimum wage, which is now indexed to inflation. The current salary threshold is \$36,450 per year, or \$700.97 per week.

The Department appreciates the sponsor's willingness to adhere to Maine's longstanding practice of linking the salary threshold to the minimum wage. Regardless of the level at which the legislature ultimately decides to set

the threshold, with the passage of this bill it will eventually be automatically geared to the same escalator as Maine's minimum wage, providing both predictability and transparency to the regulated community and the Department.

Thank you for your time and attention. I would be happy to answer any questions you may have now or at a future work session.

The Maine Department of Labor is committed to serving Maine workers and businesses by helping employers recruit and train a talented workforce, providing workers with skills needed to compete in our economy, assisting individuals when jobs are lost, aiding people with disabilities reach career goals, ensuring safe and fair workplaces for people on the job and providing research and analysis of employment data to support job growth.