



126th MAINE LEGISLATURE

SECOND REGULAR SESSION-2014

Legislative Document

No. 1701

S.P. 666

In Senate, January 8, 2014

**An Act To Amend the Work-sharing Program To Conform with
Federal Law**

(EMERGENCY)

Submitted by the Department of Labor pursuant to Joint Rule 204.
Reference to the Committee on Labor, Commerce, Research and Economic Development
suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator PATRICK of Oxford.
Cosponsored by Representative VOLK of Scarborough and
Senator: CUSHING of Penobscot, Representatives: MASON of Topsham, RUSSELL of
Portland.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the federal Middle Class Tax Relief and Job Creation Act of 2012, Public
4 Law 112-96, 126 Stat. 156 contains revised provisions for state-run, short-time
5 compensation programs, also known as "work-sharing programs"; and

6 **Whereas,** states that administer work-sharing programs must conform their statutes
7 to the new federal provisions no later than August 22, 2014; and

8 **Whereas,** the State administers a work-sharing program; and

9 **Whereas,** lack of compliance would cause significant costs to the State and to
10 employers; and

11 **Whereas,** this legislation continues the laws governing the work-sharing program,
12 which otherwise will be repealed February 28, 2014; and

13 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
14 the meaning of the Constitution of Maine and require the following legislation as
15 immediately necessary for the preservation of the public peace, health and safety; now,
16 therefore,

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

18 **Sec. 1. 26 MRSA §1198, sub-§1, ¶I,** as enacted by PL 2011, c. 91, §1 and
19 affected by §3, is repealed.

20 **Sec. 2. 26 MRSA §1198, sub-§1, ¶M,** as enacted by PL 2011, c. 91, §1 and
21 affected by §3, is amended to read:

22 M. "Work-sharing plan" means a plan submitted to the commissioner by an eligible
23 employer under which there is a reduction in the number of hours worked by the
24 eligible employees in the affected unit in lieu of ~~temporary~~ layoffs of some of the
25 employees.

26 **Sec. 3. 26 MRSA §1198, sub-§2,** as enacted by PL 2011, c. 91, §1 and affected
27 by §3, is amended to read:

28 **2. Criteria for approval of a work-sharing plan.** An eligible employer wishing to
29 participate in a work-sharing program under this section must submit a signed work-
30 sharing plan to the commissioner for approval. The commissioner shall approve a work-
31 sharing plan if the terms of the employer's written work-sharing plan and implementation
32 plan described in paragraph I attest that they are consistent with employer obligations
33 under applicable federal and state laws and if the following requirements are met:

34 A. The work-sharing plan identifies the affected unit or units and specifies the
35 effective date of the plan;

- 1 B. The work-sharing plan identifies the eligible employees in the affected unit or
2 units by name, social security number, usual weekly hours of work, proposed wage
3 and hour reduction and any other information that the commissioner requires;
- 4 C. The work-sharing plan certifies that the reduction in the usual weekly hours of
5 work is in lieu of ~~temporary~~ layoffs that would have affected at least 10% of the
6 eligible employees in the affected unit or units and that would have resulted in an
7 equivalent reduction in work hours;
- 8 D. Under the work-sharing plan the usual weekly hours of work for eligible
9 employees in the affected unit or units are reduced by not less than 10% and not more
10 than 50% and the reduction in hours in each affected unit is spread equally among
11 eligible employees in the affected unit;
- 12 E. The work-sharing plan specifies the manner in which the fringe benefits of the
13 eligible employees will be affected. If the employer provides health benefits or
14 retirement benefits under a defined benefit plan, the employer must continue to
15 provide the benefits to employees participating in the work-sharing program as if the
16 workweeks of these employees had not been reduced or to the same extent the
17 benefits are provided to other employees not participating in the work-sharing
18 program;
- 19 F. In the case of eligible employees represented by a collective bargaining agent, the
20 work-sharing plan is approved in writing by the collective bargaining agent that
21 covers the affected eligible employees. In the absence of a collective bargaining
22 agent, the work-sharing plan must contain a certification by the eligible employer that
23 the proposed plan, or a summary of the plan, has been made available to each eligible
24 employee in the affected unit;
- 25 G. A statement that the work-sharing plan will not serve as a subsidy of seasonal
26 employment during the off-season or of intermittent employment is included; ~~and~~
- 27 H. The eligible employer agrees to furnish reports relating to the proper conduct of
28 the work-sharing plan and agrees to allow the commissioner or the commissioner's
29 designee or authorized representatives access to all records necessary to verify the
30 plan prior to approval and to monitor and evaluate application of the plan after
31 approval;
- 32 I. The work-sharing plan specifies the manner in which the requirements of this
33 subsection will be implemented including a plan for giving notice, when feasible, to
34 an employee whose workweek is to be reduced together with an estimate of the
35 number of layoffs that would have occurred absent the ability of employees to
36 participate in the work-sharing and such other information as the United States
37 Secretary of Labor determines is appropriate; and
- 38 J. The eligible employer allows eligible employees to participate, as appropriate, in
39 training, including employer-sponsored training or worker training funded under the
40 federal Workforce Investment Act of 1998, Public Law 105-220, 112 Stat. 936, to
41 enhance job skills if such training has been approved by the commissioner.

42 **Sec. 4. 26 MRSA §1198, sub-§12**, as enacted by PL 2011, c. 91, §1 and affected
43 by §3, is repealed.

1 **Emergency clause.** In view of the emergency cited in the preamble, this
2 legislation takes effect when approved.

3 **SUMMARY**

4 This bill changes the law regarding work-sharing programs to bring it into conformity
5 with federal provisions that govern short-time compensation programs. The federal
6 Middle Class Tax Relief and Job Creation Act of 2012 requires states that currently
7 administer a work-sharing program to conform their laws to the new federal provisions
8 no later than August 22, 2014 or risk a loss of unemployment tax credits. Changes
9 include ensuring continuing health or retirement benefits for participating employees to
10 the same extent the benefits are provided to those employees not participating in the
11 work-sharing program; providing details in the employer's application process about the
12 number of layoffs averted and the employee notification process that will be used; and
13 ensuring that work-sharing employees may participate in training to enhance their job
14 skills while participating in the work-sharing program.