

APPROVED
FEBRUARY 20, 2014
BY GOVERNOR

CHAPTER
448
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOURTEEN

S.P. 666 - L.D. 1701

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

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

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

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

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

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

Whereas, this legislation continues the laws governing the work-sharing program, which otherwise will be repealed February 28, 2014; and

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

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

Sec. 1. 26 MRSA §1198, sub-§1, ¶I, as enacted by PL 2011, c. 91, §1 and affected by §3, is repealed.

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

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

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

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

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

B. The work-sharing plan identifies the eligible employees in the affected unit or units by name, social security number, usual weekly hours of work, proposed wage and hour reduction and any other information that the commissioner requires;

C. The work-sharing plan certifies that the reduction in the usual weekly hours of work is in lieu of ~~temporary~~ layoffs that would have affected at least 10% of the eligible employees in the affected unit or units and that would have resulted in an equivalent reduction in work hours;

D. Under the work-sharing plan the usual weekly hours of work for eligible employees in the affected unit or units are reduced by not less than 10% and not more than 50% and the reduction in hours in each affected unit is spread equally among eligible employees in the affected unit;

E. The work-sharing plan specifies the manner in which the fringe benefits of the eligible employees will be affected. If the employer provides health benefits or retirement benefits under a defined benefit plan, the employer must continue to provide the benefits to employees participating in the work-sharing program as if the workweeks of these employees had not been reduced or to the same extent the benefits are provided to other employees not participating in the work-sharing program;

F. In the case of eligible employees represented by a collective bargaining agent, the work-sharing plan is approved in writing by the collective bargaining agent that covers the affected eligible employees. In the absence of a collective bargaining agent, the work-sharing plan must contain a certification by the eligible employer that the proposed plan, or a summary of the plan, has been made available to each eligible employee in the affected unit;

G. A statement that the work-sharing plan will not serve as a subsidy of seasonal employment during the off-season or of intermittent employment is included; ~~and~~

H. The eligible employer agrees to furnish reports relating to the proper conduct of the work-sharing plan and agrees to allow the commissioner or the commissioner's

designee or authorized representatives access to all records necessary to verify the plan prior to approval and to monitor and evaluate application of the plan after approval;

I. The work-sharing plan specifies the manner in which the requirements of this subsection will be implemented including a plan for giving notice, when feasible, to an employee whose workweek is to be reduced together with an estimate of the number of layoffs that would have occurred absent the ability of employees to participate in the work-sharing and such other information as the United States Secretary of Labor determines is appropriate; and

J. The eligible employer allows eligible employees to participate, as appropriate, in training, including employer-sponsored training or worker training funded under the federal Workforce Investment Act of 1998, Public Law 105-220, 112 Stat. 936, to enhance job skills if such training has been approved by the commissioner.

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

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