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An Act To Ensure Fair Calculation of Severance Pay for Maine Workers

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

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order to ensure the fair calculation of severance pay for workers of this State as soon as possible in light of the current economic conditions and to provide relief to affected workers; 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 §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.

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

Effective June 8, 2009.