

Labor

PUBLIC 18 An Act To Require Notice prior to Decreases in Wage or Salary Rates

LD 257

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE STRIMLING	OTP-AM MAJ ONTP MIN	H-30

Public Law 2005, chapter 18 requires employers to notify employees, including salaried employees, one working day prior to a decrease in pay taking effect. The law provides exceptions for changes in wages made under a collective bargaining agreement and for cases in which an employer temporarily increases an employee's wage rate to comply with prevailing wage requirements.

PUBLIC 21 An Act To Codify Unallocated Law Regarding the Maine State Retirement System

LD 962

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE	OTP	

Public Law 2005, chapter 21 moves certain language referring to the status of employees who have retired and returned to covered employment under the Maine State Retirement System from Public Law 2001, chapter 442, section 5 to the Maine Revised Statutes, Title 5, chapter 13, subchapter 2, which concerns the State employee health insurance program.

PUBLIC 24 An Act To Encourage Parties To Agree to the Selection of Independent Medical Examiners in Workers' Compensation Cases

LD 302

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	S-20

Public Law 2005, chapter 24 encourages parties in a workers' compensation case to agree to the selection of independent medical examiners by establishing that, whether or not the parties have agreed to the selection of an independent medical examiner, the examiner's findings must be adopted unless there is clear and convincing evidence to the contrary in the record that does not support the medical findings. The law also allows a physician who has examined an employee at the request of an insurance company, employer or employee during the previous 52 weeks to serve as an independent medical examiner if agreed upon by the parties to the workers' compensation claim.

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PUBLIC 25 **An Act To Amend the Process for Review of Hearing Officer
Decisions by the Workers' Compensation Board** **LD 322**

<u>Sponsor(s)</u>		<u>Committee Report</u> OTP		<u>Amendments Adopted</u>
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Public Law 2005, chapter 25 extends the time within which a hearing officer may request review of a decision by the full Workers' Compensation Board to allow for the filing of motions to find the facts specially and state separately the conclusions of law.

PUBLIC 35 **An Act To Amend the Laws Relating to Unemployment
Compensation** **LD 425**

<u>Sponsor(s)</u> FISCHER		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-31
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Public Law 2005, chapter 35 clarifies the exemption from the definition of "employment," for the purposes of unemployment compensation and insurance, concerning the delivery and distribution of periodicals by replacing the term "periodicals" with the term "newspapers or magazines."

PUBLIC 39 **An Act Concerning Appeal Rights under the Maine Enterprise
Option Program** **LD 145**

<u>Sponsor(s)</u> BARTLETT SMITH W		<u>Committee Report</u> OTP		<u>Amendments Adopted</u>
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Public Law 2005, chapter 39 permits an individual to file an appeal to the Maine Unemployment Insurance Commission in the case of a disagreement with a decision concerning the Maine Enterprise Option program rendered by the Division of Administrative Hearings. Prior law pertaining to the Maine Enterprise Option program only referenced the ability for someone to appeal eligibility decisions to the Department of Labor, Division of Administrative Hearings; no second level of appeal was afforded, unlike all other unemployment programs under Maine law. Public Law 2005, chapter 39 makes appeal rights under the Maine Enterprise Option program consistent with that afforded to all other unemployment insurance programs.

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PUBLIC 40 An Act Relating to the Treatment of Employers and Military LD 190
Personnel in Connection with "Call to Duty" Activity

<u>Sponsor(s)</u> FISHER BARTLETT	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-26
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Public Law 2005, chapter 40 relieves employers of unemployment benefit charges resulting from layoffs that occur as a result of personnel returning from military leaves of absence. The law addresses the situation in which an employer, pursuant to existing legal requirements, holds a position for a worker who is called to active duty, but needs to hire a replacement worker to keep the business going until the former employee returns. If the return of the active military personnel causes the replacement worker to be laid off, the laid-off worker receives unemployment benefits; this law relieves the employer of any charges to the employer's unemployment tax experience rating due to this situation.

PUBLIC 67 An Act Concerning Payment of Health Insurance Premiums for LD 487
Surviving Spouses of Maine State Retirement System Members

<u>Sponsor(s)</u> DAVIS G	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-122
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Public Law 2005, chapter 67 guarantees that a spouse or other dependents of a retiree enrolled in the State's group health plan may continue coverage under the plan after the death of the retiree by making the premium payments for the cost of that coverage. This protection is similar to the law covering spouses and other dependents of State employees who die while in employment.

PUBLIC 76 An Act To Increase the Limit on the Right To Rejoin the Maine LD 515
State Retirement System

<u>Sponsor(s)</u> HOGAN DAMON	<u>Committee Report</u> OTP-AM MAJ ONTP MIN	<u>Amendments Adopted</u> H-106
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Public Law 2005, chapter 76 increases the limit on the right to rejoin the Maine State Retirement System from one occurrence to 2 occurrences.

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PUBLIC 89 **An Act To Set Standards for Electronic Methods Used for Wage Payment** **LD 963**

<u>Sponsor(s)</u> HUTTON SNOWE-MELLO		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-160
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Public Law 2005, chapter 89 clarifies that an employer may pay an employee through electronic transfer if it does not create any additional cost for the employee or the employee has a choice of another means of payment that does not create any additional cost for the employee.

PUBLIC 99 **An Act To Facilitate Testimony in Workers' Compensation Proceedings** **LD 809**

<u>Sponsor(s)</u> PERRY A		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-146
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Public Law 2005, chapter 99 authorizes nurse practitioners and physicians' assistants to submit sworn written testimony in Workers' Compensation Board proceedings, just as physicians, psychologists and chiropractors may do.

PUBLIC 103 **An Act To Allow for Equitable Recovery of Wages for Employees Who Are Not Paid in Full** **LD 659**

<u>Sponsor(s)</u> HUTTON BRYANT B		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-158
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Public Law 2005, chapter 103 clarifies that an employee may recover wages from an employer when the employer has not paid the employee in full.

PUBLIC 119 **An Act To Amend the Laws Regarding Certain Employment-related Matters** **LD 1419**

<u>Sponsor(s)</u> SMITH W STRIMLING		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-233
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Public Law 2005, chapter 119 inserts a reference to the statutory provision that governs payment for services of a member of the State Board of Arbitration and Conciliation in the laws governing leaves of absence. That provision requires the costs to be shared by the parties. The law also provides that wages paid to election

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officials and election workers do not have to be reported for purposes of unemployment compensation until they exceed \$1,000.

PUBLIC 120 An Act To Conform Maine Employment Security Law with the LD 995
Federal SUTA Dumping Prevention Act of 2004

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING HALL	OTP-AM	S-97

Public Law 2005, chapter 120 helps detect businesses with high unemployment insurance tax rates resulting from a high volume of layoff activity that set up shell companies and transfer their employees to the shell companies to get lower, new-employer unemployment insurance tax rates, and deters those businesses from doing so. This law keeps Maine law in compliance with federal law that was recently enacted to address this type of unemployment tax rate manipulation.

PUBLIC 126 An Act To Exempt Fire Departments from Biweekly Pay LD 1170
Requirements for Volunteer Firefighters

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVAGE COLLINS	OTP-AM	S-113

Public Law 2005, chapter 126 clarifies that fire departments may pay volunteer firefighters every 6 months or more frequently.

PUBLIC 149 An Act To Authorize the Maine State Retirement System To LD 209
Provide Names and Addresses to Public Retiree Organizations

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON STRIMLING	OTP-AM MAJ ONTP MIN	H-153

Public Law 2005, chapter 149 allows the home address of a Maine State Retirement System retiree, until September 15, 2007, to be disclosed to nonprofit or public retiree organizations for recruitment purposes unless the retiree "opts out" from authorizing this disclosure on a form provided by the retirement system. Beginning September 15, 2007, the information again becomes confidential unless the retiree "opts in" by signing a waiver of confidentiality. The law also requires the retirement system to deny information in the future to an organization that obtained information for the purpose of membership recruitment but used the information for another purpose.

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PUBLIC 228 An Act To Conform the Remedies under the Maine Family Medical Leave Requirements with Those Available under Federal Law LD 1413

<u>Sponsor(s)</u> PELLETIER-SIMPSON	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-348
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Public Law 2005, chapter 228 expands the remedies available to employees alleging violations of the Maine family medical leave requirements to equal those available under federal law. The remedies include back pay, interest, attorneys' fees and costs, liquidated double damages and equitable remedies. Additionally, the law places the burden on the employee to prove that the violation was willful for the employee to recover double damages.

PUBLIC 232 An Act To Amend the Laws Governing the Department of Labor's Construction Industry Wage and Hour Survey LD 943

<u>Sponsor(s)</u> COWGER SMITH W	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-177
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Public Law 2005, chapter 232 supplements current law requiring the Department of Labor, Bureau of Labor Standards to determine the prevailing hourly wage and benefits in the construction industry in Maine. The survey is based upon an investigation of wages and benefits paid by employers in the construction industry during the 2nd and 3rd weeks of September, annually. Chapter 232 enables petitions to be filed with the Director of the Bureau of Labor Standards within the Department of Labor to institute a supplemental wage and benefit survey to determine a prevailing wage for a trade or occupation that has more than 10 workers, if that trade or occupation was not part of a previous wage and hour survey.

PUBLIC 238 An Act To Amend the Laws Concerning the Maine State Retirement System LD 396

<u>Sponsor(s)</u> SMITH W	<u>Committee Report</u> OTP MAJ ONTP MIN	<u>Amendments Adopted</u>
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Public Law 2005, chapter 238 authorizes the Maine State Retirement System to employ a general counsel and, with the approval of the Attorney General, assistant counsel. The law requires that the Maine State Retirement System's executive director and the Attorney General agree on the duties of any such positions by entering into a memorandum of understanding.

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PUBLIC 255 An Act To Recognize the Federal Salary Level for Overtime When Higher than the State Level LD 214

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PINEAU BRYANT B	OTP	

Public Law 222, chapter 255 provides that the minimum salary level for the purposes of exemption from overtime requirements for a bona fide executive, administrative or professional employee is 3,000 times the state minimum wage or the salary level set by the United States Department of Labor, whichever is higher. This change aligns state law with the current federal regulations in this regard.

PUBLIC 296 An Act To Establish a Fair System for the Protection of Volunteer Firefighters' Employment LD 1652

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUCHESNE	OTP-AM	H-493

Public Law 2005, chapter 296 protects a volunteer firefighter from being discharged or disciplined by an employer on the grounds that the volunteer firefighter arrives late or does not arrive at work because the volunteer firefighter is responding to an emergency such as a fire, hazardous or toxic waste spill or other situation to which the fire department is called to respond. The law also allows written agreements between employers and employees to supersede its terms. Additionally, the law clarifies that a volunteer firefighter is not required to report to work immediately after an emergency, but rather as soon as reasonably possible after being released from an emergency, and specifies that a volunteer firefighter must, at the employer's request, provide a statement from the fire chief documenting the time of release from the emergency call. Finally, the law allows an employer to designate an employee as essential when the absence of the employee would cause disruption of the employer's business.

PUBLIC 324 An Act To Promote Stability in Labor Relations LD 1123

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPLESSIE STRIMLING	OTP-AM MAJ ONTP MIN	H-492

Public Law 2005, chapter 324 provides that, for an expired collective bargaining agreement signed after October 1, 2005, the grievance arbitration provisions of the collective bargaining agreement that concern what is commonly known as the "static status quo" remain in effect until a new contract is executed. The law gives the Maine Labor Relations Board authority over disputes concerning the application of the static status quo doctrine, as well as rulemaking authority to implement the amendment's purposes. The law further provides that a grievance appealed to arbitration is subject exclusively to arbitration, and that grievance arbitration will be stayed pending resolution of a dispute over application of the static status quo doctrine by the Maine Labor Relations Board.

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**PUBLIC 443 An Act To Refine and Study Substance Abuse Testing Procedures
and Treatment**

LD 1361

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PERRY A MARTIN	OTP-AM	H-428 S-386 GAGNON

Public Law 2005, chapter 443 specifies that the results of a point of collection substance abuse screening test must be provided to the employee who is the subject of the test immediately, regardless of the preliminary result. Chapter 443 also states that the results of a point of collection screening test may not be released to the employer until after results of a confirmation test have been determined or until after the time it would have taken for results of a confirmation test to be determined if one had been performed. The law further specifies that the results of a confirmation test must be provided immediately to both the employee and employer.

Additionally, chapter 443 directs the Department of Labor to establish a task force on substance abuse testing and treatment and details the duties, membership and reporting obligations of the task force.

**PUBLIC 454 An Act To Amend the Sunset on Part-time Unemployment
Insurance Benefits**

LD 309

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH W STRIMLING	OTP-AM MAJ ONTP MIN	H-33 H-402 SMITH W S-318 STRIMLING

Public Law 2005, chapter 454 extends until September 30, 2008 the sunset on the expansion of unemployment benefit eligibility to workers who have a primary history of part-time work, who are laid off and are only able and available for comparable part-time work. The language expanding those benefits in prior law took effect on January 1, 2004 and was scheduled to sunset on September 30, 2005 until chapter 454 was enacted. Additionally, chapter 454 directs the Department of Labor to develop as a pilot program an education and training program for unemployed part-time workers that is designed to enhance the employability and economic security of those workers. In designing the pilot program, the department is directed to develop methods to facilitate the participants' efficient transition from receiving compensation under the unemployment compensation insurance system to obtaining new job placements and to minimize the impact on the Unemployment Trust Fund from extending unemployment compensation benefits to unemployed part-time workers. The department is directed to report its results to the Joint Standing Committee on Labor by January 15, 2006.

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PUBLIC 455 An Act To Care for Families

LD 1044

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS RICHARDSON J	OTP-AM MAJ ONTP MIN	S-280 S-335 COURTNEY S-347 RAYE

Public Law 2005, chapter 455 requires an employer with 25 or more employees to allow an employee who receives paid leave, such as sick or vacation time, to use that time to care for an ill immediate family member. The law allows an employer to limit an employee's use of paid leave for care of a family member to 40 hours per year, and to eliminate or modify paid leave benefits.

**PUBLIC 461 An Act To Require Proof of Equipment Ownership for Employers
Using Foreign Laborers**

LD 730

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON STRIMLING	OTP-AM MAJ ONTP MIN	H-372 H-708 CUMMINGS

Public Law 2005, chapter 461 requires an employer who hires a foreign worker in a logging occupation working in the United States under what is commonly known as an "H-2B visa" to provide proof of ownership of any equipment used by that worker, on a form to be provided by the Commissioner of Labor, including a receipt for payment of the equipment and documentation of any property taxes on equipment used by the bond worker paid by the employer during the year in which the bond worker was employed. Further, the law specifies that proof of ownership of at least one piece of logging equipment is required for every 2 bond workers employed in logging occupations. The law also sets fines for violations at no less than \$1,000 and no more than \$5,000 per violation, and expressly exempts from the proof of ownership requirements any equipment for which a federal prevailing wage has been established. Finally the law authorizes major substantive rulemaking.

**P & S 1 An Act To Establish the Administrative Operating Budget for the
EMERGENCY Maine State Retirement System for the Fiscal Year Ending June
30, 2006**

LD 31

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-29

Private and Special Law 2005, chapter 1 approves the Maine State Retirement System's personal services costs and its costs for all other operating expenses for fiscal year 2005-06, including the attribution of expenses to the 3 retirement system member and employer categories: General Fund; Non-General Fund; and Participating Local District, as well as the approval of the retirement system's use of \$200,000 to begin funding for a multimillion dollar expenditure to replace aging and soon-to-be-desupported benefits payroll technology.

Private and Special Law 2005, chapter 1 was enacted as an emergency measure effective April 1, 2005.

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RESOLVE 12 **Resolve, Regarding Legislative Review of Chapter 15: Rules Relating to Severance Pay, a Major Substantive Rule of the Department of Labor, Bureau of Labor Standards**

LD 7

<u>Sponsor(s)</u>		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-107
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Resolve 2005, chapter 12 approves adoption of Chapter 15: Rules Relating to Severance Pay, a major substantive rule of the Department of Labor, Bureau of Labor Standards, but requires the following modification: if the director's determination of a covered establishment's date of termination or relocation is based primarily on the fact that the covered establishment has on that date reduced its number of employees, number of work hours or production to less than 50% of that of the same time period one year earlier, the director's determination is a presumption that may be overcome by evidence that the covered establishment's operations did not substantially cease on that date.

RESOLVE 17 **Resolve, Directing the Advisory Council on Tax-deferred Arrangements To Study Deferred Retirement Option Programs**

LD 978

<u>Sponsor(s)</u> LERMAN		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-145
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Resolve 2005, chapter 17 directs the Advisory Council on Tax-deferred Arrangements to study whether it is in the interest of the State and of employees and retirees who are members of the Maine State Retirement System to make available a deferred retirement option program as part of the deferred compensation programs offered to these employees and retirees. The resolve also sets a deadline of January 15, 2006 for a report to the Joint Standing Committee on Labor including the Advisory Council on Task-deferred Arrangements's findings, recommendations and suggested legislation, directs that the Department of Administrative and Financial Services provide administrative support for the study within existing resources and gives the Joint Standing Committee on Labor authority to report out legislation concerning the study to the Second Regular Session of the 122nd Legislature.

