



Janet T. Mills
GOVERNOR

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

Laura A. Fortman
COMMISSIONER

Testimony of Laura Boyett, Bureau of Unemployment Compensation Maine Department of Labor

In Support of LD 1368 “An Act to Ensure Fairness in Unemployment Benefits By Clarifying Laws Regarding Labor Organizations”

To the Joint Standing Committee on Labor and Housing Public Hearing, May 9, 2023

Good afternoon, Senator Tipping, Representative Roeder, and members of the Joint Standing Committee on Labor and Housing. I am Suzan McKechnie, Deputy Director of the Bureau of Unemployment Compensation at the Maine Department of Labor and I am testifying in Support of LD 1368, “An Act to Ensure Fairness in Unemployment Benefits by Clarifying Laws Regarding Labor Organizations.” This bill proposes several changes to Maine Employment Security law.

First, it would permit members of a union that has a hiring hall to place its members in jobs with employers, to report their contacts with this service to satisfy their weekly work search requirement for receiving unemployment benefits. Twenty states currently have similar laws for satisfying the work search requirement for unemployment benefit purposes. Maine law currently allows this for up to 6-weeks, but the department has no objection to extending it as proposed for members of a union that offers this service for its members or that may require their members to go through the hiring hall as part of their membership charter. In essence, this is a targeted and successful means for finding new employment specific to the skills and knowledge of the union members.

We suggest the following edits to the second change proposed in the bill: In 23 Sec. 4. 26 MRSA §1193, sub-§3, ¶B, as amended by PL 2021, c. 348, §40, is further amended by amending subparagraph (2) to read: (2) If the wages, hours, other conditions of work, such as fringe benefits, are substantially less favorable to the individual than those prevailing for similar work in the locality. The wording is very consistent with federal law and guidance provided by the U.S. Department of Labor. Federal Unemployment Tax Act (FUTA, Section 3304(a)(5)(B) states that unemployment compensation shall not be denied to any otherwise eligible individual for refusing to accept new work, when among other things, “the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.” USDOL guidance under UIPL 41-98, states that “the phrase ‘conditions of work’ encompasses fringe benefits such as life and group health insurance; paid sick, vacation, and annual leave, provisions for leaves of absence and holiday leave, pensions, annuities and retirement provisions, and severance pay....” The guidance goes on to say that “States may not disregard any of these factors when investigating a ‘prevailing conditions’ issue. An individual may not be denied unemployment compensation for refusal of work if the wages, hours, or

any other material condition or combination of conditions of the work offered is substantially less favorable to the individual than those prevailing in the locality for similar work.” Given that this addition applies to “prevailing” in the industry for the type of work rather than a direct comparison against a recent job held by the individual; the proposed language codifies what the department is required to do and helps clarify that “other conditions of work” includes fringe benefits. The agency believes that this would be helpful clarification in the law.

The last proposed change would expand to the exception language under Section 1193, sub-3, B to make it clear that if the job offered required the individual to ‘resign from or refrain from joining or “maintaining membership in” any bona fide labor organization’, that the work would not be considered suitable. Since the section of the law already includes “to resign from.... Any bona fide labor organization”, the department is not sure that ‘maintaining membership in’ might not be duplicative, but we do not object to the language addition if it is adding further clarity.

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.