

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

**FIRST REGULAR SESSION**

December 5, 1984 to June 20, 1985

Chapters 1-384

PUBLISHED BY THE REVISOR OF STATUTES IN ACCORDANCE WITH  
MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 163-A,  
SUBSECTION 4.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1986

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

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ONE HUNDRED AND TWELFTH LEGISLATURE

1985

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voter approval on a school construction project in a referendum under section 15904 in fiscal year 1984-85 shall include the initial local share under subsection 1 in the total cost of the project under subsection 2, paragraph A.

Sec. 11. 20-A MRSA §15914, first ¶, as enacted by PL 1983, c. 426, §7, is amended to read:

It is the intent of the Legislature that, notwithstanding any other statute, the \$30,000,000 debt service limit set forth in section 15905, subsection 1, paragraph A, should be allocated so that the state share of all new school construction projects will be funded in the current fiscal year starting with fiscal year 1993 or as soon thereafter as possible. This section shall not affect projects funded under chapter 609, prior to its implementation. This goal shall be accomplished in the following manner.

Sec. 12. 20-A MRSA §15914, sub-§4, as enacted by PL 1983, c. 426, §7, is amended to read:

4. State-local allocation share. ~~The state local~~ state-local allocation share of a unit's project shall be the total cost of the project, as defined in section 15901, subsection 5, minus the initial state share as determined in subsection 3 ~~of this section,~~ and the initial local share as determined in section ~~15909,~~ subsection 1.

The state-local allocation share shall be financed in accordance with section 15909.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect July 1, 1985.

Effective July 1, 1985.

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## CHAPTER 249

H.P. 883 - L.D. 1240

AN ACT to Clarify the Agricultural Exemption  
in the Workers' Compensation Laws.

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

Sec. 1. 39 MRSA §2, sub-§12 is enacted to read:

12. Agriculture. "Agriculture" means the operation of farm premises, including:

A. The planting, cultivating, producing, growing and harvesting of agricultural or horticultural commodities on those premises;

B. The raising of livestock and poultry on those premises; and

C. Any work performed as an incident to or in conjunction with these farm operations, including the packing, drying and storing of these commodities for market, if these operations:

(1) Are incident to or in conjunction with growing and harvesting farm operations of the same employer; and

(2) Are not provided as a service for other farm operations or employers.

Sec. 2. 39 MRSA §4, as amended by PL 1981, c. 70, §2, is repealed and the following enacted in its place:

§4. Applicability to certain actions and employers; exemptions

An employer who has secured the payment of compensation in conformity with sections 21-A to 27 is exempt from civil actions, either at common law or under sections 141 to 148, Title 14, sections 101 to 8118, and Title 18-A, section 2-804, involving personal injuries sustained by an employee arising out of and in the course of his employment, or for death resulting from those injuries. This exemption from liability applies to all employees, supervisors, officers and directors of the employer for any personal injuries arising out of and in the course of employment, or for death resulting from those injuries. These exemptions also apply to occupational diseases sustained by an employee or for death resulting from those diseases.

Sec. 3. 39 MRSA §21, as amended by PL 1981, c. 70, §3, is repealed.

Sec. 4. 39 MRSA §21-A is enacted to read:

§21-A. Liability of employer

1. Private employers. Every private employer is subject to this Act and shall secure the payment of compensation in conformity with this section and sec-

tions 22 to 27 with respect to all employees, subject to the provisions of this section.

Any private employer who has not secured the payment of compensation under this section and sections 22 to 27 is not entitled, in a civil action brought by an employee or his representative, for personal injuries or death arising out of and in the course of his employment, to the defense set forth in section 3. The employee of any such employer may, instead of bringing a civil action, claim compensation from the employer under this Act.

The following employers are not liable under this section for securing the payment of compensation in conformity with this section and sections 22 to 27 with respect to the employees listed, nor deprived of the defenses listed in section 3:

A. Employers of employees engaged in domestic service;

B. Employers of employees engaged in agriculture or aquaculture as seasonal or casual laborers, if the employer maintains coverage by an employer's liability insurance policy with total limits of not less than \$25,000 and medical payment coverage of not less than \$1,000.

(1) As used in this subsection, "casual" means occasional or incidental. "Seasonal" refers to laborers engaged in agricultural or aquacultural employment beginning at or after the commencement of the planting or seeding season and ending at or before the completion of the harvest season; and

C. Employers of 6 or fewer agricultural or aquacultural laborers, if the employer maintains an employer's liability insurance policy with total limits of not less than \$100,000 multiplied by the number of agricultural or aquacultural laborers employed by that employer and medical payment coverage of not less than \$1,000.

(1) In computing the number of agricultural or aquacultural laborers under this paragraph, immediate family members of unincorporated employers, immediate family members of bona fide owners of at least 20% of the outstanding voting stock of an incorporated agricultural employer and seasonal and casual workers are not included. For the purposes of this subparagraph, "immediate fami-

ly members" means parents, spouse, brothers, sisters and children.

(2) This exemption does not apply if the employer has employed more than 6 agricultural or aquacultural laborers in regular and concurrent manner, as computed under subparagraph (1), at any time during the 52 weeks immediately preceding the injury.

The burden of proof to establish an exempt status under this section is on the employer claiming the exemption.

2. Governmental bodies. The State and every county, city and town is subject to this Act and shall secure the payment of compensation in conformity with sections 22 to 27.

Sec. 5. 39 MRSA §96-B, sub-§1, as enacted by PL 1983, c. 318, is amended to read:

1. Claim of exemption; answer. If an employer carries employer liability insurance as required by sections 27 4 and ~~21~~ 21-A and claims to fall within one of the agricultural or aquacultural exemptions in section 27 4 or ~~21~~ 21-A, the employer may raise this either in an answer filed under section 97 or by motion. The employer shall file such a motion with the commission within 5 days after receipt of the employee's petition and shall mail a copy thereof to the employee. The employer shall file affidavits, records, proof of insurance and other evidence supporting his claim for an exemption, together with the motion. Within 5 days after receipt of the employer's motion, the employee may file a reply with the commission, together with affidavits, records and other evidence supporting his claim that the employer does not fall within an agricultural or aquacultural exemption. If the employee files a reply, a copy thereof shall be mailed to the employer.

Effective September 19, 1985.

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## CHAPTER 250

S.P. 242 - L.D. 637

AN ACT to Clarify the Maine State Retirement System's Board of Trustees' Relationship with the System's Investment Managers.