

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

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

Penmor Lithographers
Lewiston, Maine
2003

emergency relating to the lack of an enacted budget document for fiscal years ending June 30, 1992 and June 30, 1993, or, if a member elects to make the payments as set forth in section 17704-B, as a result of days off without pay as authorized by legislative action, by the State Court Administrator or from executive order for the fiscal year beginning July 1, 2002, or, if a member is subject to days off without pay, not to exceed 10 days in each fiscal year ending June 30, 1992 and June 30, 1993, as a result of actions taken by local school administrative units to offset school subsidy reductions or, notwithstanding section 18202, as a result of actions of a participating local district to offset reductions in municipal revenue sharing or a combination thereof, for the fiscal years ending June 30, 1992 and June 30, 1993, the 3-year average final compensation must be determined as if the member had not been temporarily laid off, reduced in pay or provided days off without pay; or

Sec. 4. 5 MRSA §17704-B is enacted to read:

§17704-B. Back contributions for certain days off without pay

1. Election. If the retirement system determines at the time a member retires that the member's benefit would be increased as a result of the inclusion of compensation that would have been paid for fiscal year 2002-03 days off without pay as provided in section 17001, subsection 4, paragraph A, the retirement system shall advise the member of that result and shall allow the member to elect to have that compensation included in the calculation of the member's benefit and to make payments set forth in subsection 2.

2. Payment. The amount that a member who makes the election permitted in subsection 1 must pay is the amount equal to the employee contribution that member would have made on wages that would have been paid to that member on the days off without pay during the 2002-03 fiscal year as provided in section 17001, subsection 4, paragraph A, plus interest at the same rate as that required for payment of back contributions pursuant to section 17704, subsection 3. If the member elects to make the payment, the retirement system shall withhold the required amount from the member's first retirement benefit check.

3. Benefit calculation. If the member fails to make the election within 31 days of the notification provided under subsection 1, the retirement system shall calculate the member's retirement benefit without inclusion of the days off without pay during the 2002-03 fiscal year as provided in section 17001, subsection 4, paragraph A.

Sec. 5. Employee contribution; transition.

A member of the Maine State Retirement System or the Maine Judicial Retirement System who retired before the effective date of this Act may ask the retirement system to determine whether inclusion of the wages from days off without pay as provided in the Maine Revised Statutes, Title 4, section 1201 or Title 5, section 17001, subsection 4, paragraph A would increase that member's retirement benefit. If it would, the retirement system shall allow the retiree to make an election and payments as provided in Title 4, section 1306 or Title 5, section 17704-B. A retiree is not entitled to retroactive payment of any increase in the benefit resulting from inclusion of the days off without pay.

Sec. 6. Special retirement rate assessment. Notwithstanding any other provision of law, the State Budget Officer shall calculate a special retirement rate assessment for all departments and agencies necessary to fund the employer's share of the costs of this legislation, estimated to be \$76,081. The State Budget Officer shall divide the cost by the total salaries and wages paid by state departments and agencies during the time period from July 1, 2003 to September 30, 2003 and apply that percentage as an assessment against all affected accounts so that \$76,081 is available on October 1, 2003 for payment to the Maine State Retirement System.

See title page for effective date.

CHAPTER 487

S.P. 233 - L.D. 669

An Act To Strengthen the Energy Resources Council

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

Whereas, in order to provide adequate time for a study of vital energy-related matters prior to the beginning of the next legislative session, this Act must take effect immediately; 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. 5 MRSA §3327, sub-§3, as enacted by PL 2001, c. 630, §1, is amended to read:

3. Quarterly meetings; staff; funding. The council shall meet at least quarterly. The council shall prepare a work program for each year establishing priorities among its efforts. The State Planning Office, within the Executive Department, shall provide staff support. ~~Each member of the council shall enter into an agreement with the State Planning Office to share in the cost of providing the staff support.~~

A. A state agency applying for funds under the State Energy Program of the United States Department of Energy pursuant to 10 Code of Federal Regulations, Part 420 shall, as directed by the council, apply for funds to support the work of the council and its staff.

B. To the extent funds available pursuant to paragraph A are insufficient to fund fully staff support for the council, each member of the council shall enter into an agreement with the State Planning Office to share in the cost of providing the staff support.

C. The council may seek, and the Public Utilities Commission may provide, funds to the council pursuant to Title 35-A, section 3211-A, subsection 5-A.

Sec. 2. 35-A MRSA §3211-A, sub-§1, ¶C, as enacted by PL 2001, c. 624, §4, is amended to read:

C. "Available funds" means funds available in the program fund but does not include any funds provided to the Energy Resources Council pursuant to subsection 5-A.

Sec. 3. 35-A MRSA §3211-A, sub-§5-A is enacted to read:

5-A. Support for Energy Resources Council.
Notwithstanding any other provision of this section:

A. The Energy Resources Council established under Title 5, section 3327 may apply to the commission for funding from the program fund to support projects and activities of the council related to energy conservation; and

B. The commission may provide up to \$200,000 in any fiscal year to the Energy Resources Council established under Title 5, section 3327 from the program fund if the funds are needed for particular projects or activities directed by the Legislature to be undertaken by the council, or the commission finds the projects or activities are generally consistent with the overall purposes of this section.

Sec. 4. Energy review and report. In addition to its other responsibilities, the Energy Resources Council established under the Maine Revised Statutes,

Title 5, section 3327 shall undertake a review of state energy-related policy and its implementation and prepare and submit a report of its findings and recommendations to the Joint Standing Committee on Utilities and Energy no later than December 3, 2003. The council shall review and identify in its report any demand and supply forecasts for electricity that have been compiled by regional entities such as the New England Power Pool or the independent system operator for New England, with particular reference to forecasts specific to this State. In developing its findings and recommendations, the council shall identify the links between energy policy and environmental, transportation and economic development policy. The council also shall identify opportunities for improving the effectiveness of state policy implementation. The council shall focus its review on policies related to energy efficiency and renewable energy.

The Speaker of the House shall appoint 2 members of the House of Representatives, one from the majority political party and one from a minority political party, who serve on the Joint Standing Committee on Utilities and Energy to participate in the council's deliberations under this section. The President of the Senate shall appoint 2 members of the Senate, one from the majority political party and one from a minority political party, who serve on the Joint Standing Committee on Utilities and Energy to participate in the council's deliberations under this section. All appointments must be made no later than 30 days following the effective date of this Act. The appointing authorities shall notify the Executive Director of the Legislative Council once appointments have been completed. Legislators so appointed are members of the council for the purpose of allowing their full participation in its deliberations, including voting on findings and recommendations, conducted pursuant to this section. Legislators are not members of the council for any other purposes and are not entitled to participate in any other matters of the council. Legislators so appointed are entitled to receive the legislative per diem and reimbursement for travel and other necessary expenses related to their attendance at meetings of the commission.

The council may hold up to 4 meetings to conduct its review, including one public hearing on its draft findings and recommendations prior to preparing its final draft. As it finds appropriate, the council shall invite additional comments from legislative committees of jurisdiction, stakeholders and the public.

In response to the report of the council, the Joint Standing Committee on Utilities and Energy may report out a bill to the Second Regular Session of the 121st Legislature concerning energy policy.

Sec. 5. Transfer of funds. Notwithstanding the Maine Revised Statutes, Title 35-A, section 3211-A, the State Controller shall transfer \$1,705 from the Public Utilities Commission's conservation program fund under the Maine Revised Statutes, Title 35-A, section 3211-A, subsection 5 to the Legislature at the beginning of the 2003-04 fiscal year. These funds must be used for costs incurred to pay the per diem and expenses of legislative members participating in the review required by this Act.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

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Miscellaneous Studies - Energy Resources Council

Initiative: Provides funds for per diem and expenses of legislative members participating in activities of the Energy Resources Council for the energy review and report requirement. Funds from the Public Utilities Commission's conservation program fund must be transferred to the Legislature at the beginning of the fiscal year to be available for the legislative expenses.

Other Special Revenue Funds	2003-04	2004-05
Personal Services	\$880	\$0
All Other	825	0
Other Special Revenue Funds Total	\$1,705	\$0

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DEPARTMENT TOTALS	2003-04	2004-05
OTHER SPECIAL REVENUE FUNDS	\$1,705	\$0
DEPARTMENT TOTAL - ALL FUNDS	\$1,705	\$0

EXECUTIVE DEPARTMENT

State Planning Office

Initiative: Provides funds for contractual services to assist the Energy Resources Council established pursuant to the Maine Revised Statutes, Title 5, section 3327 with its comprehensive review of the State's energy policy and for other related purposes.

Other Special Revenue Funds	2003-04	2004-05
All Other	\$197,080	\$200,000
Other Special Revenue Funds Total	\$197,080	\$200,000

EXECUTIVE DEPARTMENT

DEPARTMENT TOTALS	2003-04	2004-05
OTHER SPECIAL REVENUE FUNDS	\$197,080	\$200,000

DEPARTMENT TOTAL - ALL FUNDS	\$197,080	\$200,000
SECTION TOTALS	2003-04	2004-05
OTHER SPECIAL REVENUE FUNDS	\$198,785	\$200,000
SECTION TOTAL - ALL FUNDS	\$198,785	\$200,000

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

Effective June 23, 2003.

CHAPTER 488

H.P. 1126 - L.D. 1533

An Act To Create the Maine National Guard Education Assistance Program

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

Whereas, the National Guard Education Assistance Pilot Program has been extremely successful in attracting recruits to the Maine National Guard, and those recruits are using the existing funding at a rate higher than anticipated rate; and

Whereas, the National Guard Education Assistance Pilot Program has inadequate funds remaining in the accounts to pay tuition benefits for the upcoming summer sessions that begin in May 2003; and

Whereas, the Maine National Guard Education Assistance Pilot Program provides funding flexibility to the Adjutant General that allows the Adjutant General to utilize existing funds to meet the tuition needs for the upcoming summer session; and

Whereas, the Maine National Guard must have a viable education assistance program to maintain an adequate military force within the State; and

Whereas, once these soldiers and airmen earn their college degrees they will further enhance the competitive labor force within the State of Maine; 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,