

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

SECOND REGULAR SESSION
January 6, 2010 to April 12, 2010

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 12, 2010

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

Augusta, Maine
2010

3. Rules. The department shall adopt rules specifying the method to be used to calculate publicly supported secondary school graduation rates through 2016 and dates by which graduation rates must be reported to the department. Rules adopted under this section are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A and must be provisionally adopted and submitted to the Legislature for review no later than January 14, 2011.

Sec. 2. Stakeholder group. The Commissioner of Education shall establish a stakeholder group to develop methodologies and recommendations relating to increasing publicly supported secondary school graduation rates, as well as policies related to school expulsion, suspension, zero-tolerance practices and truancy, in the State. The stakeholder group must include, but is not limited to, the Commissioner of Education or the commissioner's designee, educators and other persons the commissioner determines will contribute to the development of effective policies. The commissioner shall invite the participation of:

1. Representatives of the following educational associations nominated by the respective associations:
 - A. The Maine School Boards Association;
 - B. The Maine School Superintendents Association;
 - C. The Maine Education Association;
 - D. The Maine Administrators of Services for Children with Disabilities; and
 - E. The Maine School Counselor Association;
2. A school attendance coordinator in a secondary school in the State; and
3. An elementary school teacher or administrator in the State.

The commissioner and the stakeholder group shall review existing plans developed by the advisory committee on truancy, dropouts and alternative education established pursuant to the Maine Revised Statutes, Title 20-A, section 5152, the performance plans developed by the Maine Administrators of Services for Children with Disabilities and other existing plans developed by an educational association in the State.

Sec. 3. Report to Joint Standing Committee on Education and Cultural Affairs. The Commissioner of Education and the stakeholder group under section 2 shall report their recommendations for increasing graduation rates to the Joint Standing Committee on Education and Cultural Affairs by November 1, 2010. The report must include, but is not limited to, recommendations relating to:

1. The establishment of guidelines for school suspensions and expulsions, including notification of hearings, time frames, provision of educational sup-

port services, pathways to reinstatement and alternatives to expulsion and suspension;

2. The impact and implementation of zero-tolerance practices;
3. Best practices for secondary schools, families and youth for increasing secondary school graduation rates;
4. The maximum age of mandatory school attendance; and
5. The impact and effectiveness of the current truancy laws.

The Joint Standing Committee on Education and Cultural Affairs may accept and discuss the report at an authorized interim committee meeting. After receipt and review of the report, the committee may make recommendations to the Commissioner of Education for further action and provide these recommendations and comments to the joint standing committee of the 125th Legislature having jurisdiction over education matters.

See title page for effective date.

CHAPTER 627

S.P. 651 - L.D. 1679

An Act To Create Jobs and Stimulate Economic Development by Making Captive Insurers Eligible for Pine Tree Development Zone Benefits

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

Whereas, during the First Regular Session of the 124th Legislature, Public Law 2009, chapter 335 was enacted to modernize the State's insurance laws to encourage the formation of new captive insurance companies in this State; and

Whereas, this legislation would stimulate economic development by amending the State's tax laws to attract captive insurance companies to the State by making captive insurance companies eligible for Pine Tree Development Zone tax credits; 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. 30-A MRS §5223, sub-§3, as amended by PL 2009, c. 314, §8, is further amended to read:

3. Conditions for approval. Designation of a development district is subject to the following conditions.

A. At least 25%, by area, of the real property within a development district must meet at least one of the following criteria:

- (1) Must be a blighted area;
- (2) Must be in need of rehabilitation, redevelopment or conservation work; or
- (3) Must be suitable for commercial or arts district uses.

B. The total area of a single development district may not exceed 2% of the total acreage of the municipality. The total area of all development districts may not exceed 5% of the total acreage of the municipality.

C. The original assessed value of a proposed tax increment financing district plus the original assessed value of all existing tax increment financing districts within the municipality may not exceed 5% of the total value of taxable property within the municipality as of April 1st preceding the date of the commissioner's approval of the designation of the proposed tax increment financing district.

Excluded from the calculation in this paragraph is any district excluded from the calculation under former section 5253, subsection 1, paragraph C and any district designated on or after the effective date of this chapter that meets the following criteria:

- (1) The development program contains project costs, authorized by section 5225, subsection 1, paragraph A, that exceed \$10,000,000;
- (2) The geographic area consists entirely of contiguous property owned by a single taxpayer;
- (3) The assessed value exceeds 10% of the total value of taxable property within the municipality; and
- (4) The development program does not contain project costs authorized by section 5225, subsection 1, paragraph C.

For the purpose of this paragraph, "contiguous property" includes a parcel or parcels of land divided by a road, power line or right-of-way.

D. The aggregate value of municipal general obligation indebtedness financed by the proceeds from tax increment financing districts within any county may not exceed \$50,000,000 adjusted by a factor equal to the percentage change in the United States Bureau of Labor Statistics Consumer Price Index, United States City Average from January 1, 1996 to the date of calculation.

(1) The commissioner may adopt rules necessary to allocate or apportion the designation of captured assessed value of property within proposed tax increment financing districts to permit compliance with the condition in this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

(2) The acquisition, construction and installation of all real and personal property improvements, buildings, structures, fixtures and equipment included within the development program and financed through municipal bonded indebtedness must be completed within 5 years of the commissioner's approval of the designation of the tax increment financing district.

The conditions in paragraphs A to D do not apply to approved downtown tax increment financing districts, ~~tax increment financing districts included within Pine Tree Development Zones designated and approved under subchapter 3~~, tax increment financing districts that consist solely of one or more community wind power generation facilities owned by a community wind power generator that has been certified by the Public Utilities Commission pursuant to Title 35-A, section 3403, subsection 3 or transit-oriented development districts.

Sec. 2. 30-A MRS §5250-I, sub-§8, as enacted by PL 2003, c. 688, Pt. D, §2, is amended to read:

8. Financial services. "Financial services" means services provided by an insurance company subject to taxation under Title 36, chapter 357; a captive insurance company formed or licensed under Title 24-A, chapter 83; a financial institution subject to taxation under Title 36, chapter 819; or a mutual fund service provider as defined in Title 36, section 5212, subsection 1, paragraph E.

Sec. 3. 30-A MRS §5250-I, sub-§14, ¶E, as enacted by PL 2005, c. 351, §3, is amended to read:

E. Discounted rates approved by the Public Utilities Commission, if applicable, and offered by transmission and distribution utilities as authorized under Title 35-A, section ~~3210-B~~ 3210-E, subsection 1; and

Sec. 4. 30-A MRSA §5250-I, sub-§14, ¶F, as enacted by PL 2005, c. 351, §3, is amended to read:

F. Line extensions and conservation programs approved or authorized by the ~~Public Utilities Commission~~ under Title 35-A, section 3210-B, ~~subsections 2 and 3~~ 3210-E.

Sec. 5. 35-A MRSA §3210-E is enacted to read:

§3210-E. Electric utility and conservation benefits

1. Discount rates. Transmission and distribution utilities may offer discounted rates to qualified Pine Tree Development Zone businesses established under Title 30-A. If a transmission and distribution utility requires approval prior to offering any such rate, the transmission and distribution utility shall apply to the commission in accordance with applicable provisions of this Title, and the commission may approve the rate if it finds it to be in accord with applicable requirements of this Title, except that the commission may take into account the overall benefits to ratepayers resulting from state efforts to promote economic development within Pine Tree Development Zones.

2. Line extensions. When approving or authorizing line extension terms and conditions for qualified Pine Tree Development Zone businesses established under Title 30-A, the commission may take into account the overall benefits to ratepayers resulting from state efforts to promote economic development within Pine Tree Development Zones established pursuant to Title 30-A.

3. Conservation programs. In designing and implementing conservation programs pursuant to section 3211-A, the commission may make available to qualified Pine Tree Development Zone businesses established under Title 30-A special programs of enhanced value to aid state efforts to promote economic development within Pine Tree Development Zones. A program made available pursuant to this subsection must be cost-effective as defined by the commission by rule or order pursuant to section 3211-A. This subsection is repealed July 1, 2010.

4. Conservation programs. Beginning July 1, 2010, in designing and implementing conservation programs pursuant to section 10110, the Efficiency Maine Trust may make available to qualified Pine Tree Development Zone businesses established under Title 30-A special programs of enhanced value to aid state efforts to promote economic development within Pine Tree Development Zones. A program made available pursuant to this subsection must be cost-effective as defined by the Efficiency Maine Trust by rule or order pursuant to section 10110.

5. Electricity sales. Notwithstanding section 3210, the sale of electricity by a competitive electricity provider to a qualified Pine Tree Development Zone

business established under Title 30-A is exempt from the requirements of that section and, at the request of the competitive electricity provider, sales to qualified Pine Tree Development Zone businesses must be excluded from any calculation by the commission to determine compliance with that section.

6. Repeal. This section is repealed December 31, 2028.

Sec. 6. 36 MRSA §1760, sub-§87, as amended by PL 2005, c. 351, §8 and affected by §26, is further amended to read:

87. Sales of tangible personal property to qualified development zone businesses. Beginning July 1, 2005, sales of tangible personal property to a qualified Pine Tree Development Zone business, as defined in Title 30-A, section 5250-I, subsection 17, for use directly and primarily in one or more qualified business activities, as defined in Title 30-A, section 5250-I, subsection 16. The exemption provided by this subsection is limited for each qualified Pine Tree Development Zone business to sales occurring within a period of 10 years in the case of a business located in a tier 1 location, as defined in Title 30-A, section 5250-I, subsection 21-A, and 5 years in the case of a business located in a tier 2 location, as defined in Title 30-A, section 5250-I, subsection 21-B, from the date the business is certified pursuant to Title 30-A, section 5250-O or until December 31, 2018 2028, whichever occurs first. As used in this subsection, "primarily" means more than 50% of the time during the period that begins on the date on which the property is first placed in service by the purchaser and ends 2 years from that date or at the time the property is sold, scrapped, destroyed or otherwise permanently removed from service by the purchaser, whichever occurs first.

Sec. 7. 36 MRSA §2016, sub-§4, ¶A, as enacted by PL 2005, c. 351, §9 and affected by §26, is amended to read:

A. Reimbursements made by the assessor pursuant to this section are limited to taxes paid in connection with sales of tangible personal property that occur within a period of 10 years in the case of a qualified Pine Tree Development Zone business located in a tier 1 location, as defined in Title 30-A, section 5250-I, subsection 21-A, and 5 years in the case of a qualified Pine Tree Development Zone business located in a tier 2 location, as defined in Title 30-A, section 5250-I, subsection 21-B, from the date the qualified Pine Tree Development Zone business receiving the property is certified pursuant to Title 30-A, section 5250-O or by December 31, 2018 2028, whichever occurs first.

Sec. 8. 36 MRSA §2529, sub-§1, ¶B, as repealed and replaced by PL 2005, c. 351, §10 and affected by §26, is amended to read:

B. ~~Fifty percent~~ For a business located in a tier 1 location, as defined in Title 30-A, section 5250-I, subsection 21-A, 50% of the tax that would otherwise be due under this chapter upon premiums that are attributable to a qualified business activity as defined in Title 30-A, section 5250-I, subsection 16 for each of the 5 tax years following the time period in paragraph A.

Sec. 9. 36 MRSA §2529, sub-§3, as enacted by PL 2003, c. 451, Pt. NNN, §4 and affected by §8, is amended to read:

3. Limitation. The credit provided by this section may not be claimed for calendar years beginning on or after January 1, ~~2019~~ 2029.

Sec. 10. 36 MRSA §5219-W, sub-§1, ¶B, as repealed and replaced by PL 2005, c. 351, §13 and affected by §26, is amended to read:

B. ~~Fifty percent~~ For a business located in a tier 1 location, as defined in Title 30-A, section 5250-I, subsection 21-A, 50% of the tax that would otherwise be due under this Part for each of the 5 tax years following the time period in paragraph A.

Sec. 11. 36 MRSA §5219-W, sub-§4, as enacted by PL 2003, c. 451, Pt. NNN, §5 and affected by §8, is amended to read:

4. Limitation. The credit provided by this section may not be claimed for tax years beginning on or after January 1, ~~2019~~ 2029.

Sec. 12. Retroactivity. That section of this Act that enacts the Maine Revised Statutes, Title 35-A, section 3210-E applies retroactively to December 31, 2009. Those sections of this Act that amend Title 36, section 1760, subsection 87; section 2016, subsection 4, paragraph A; section 2529, subsection 1, paragraph B; and section 5219-W, subsection 1, paragraph B apply retroactively to September 12, 2009.

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

Effective April 9, 2010.

CHAPTER 628

H.P. 1205 - L.D. 1704

An Act To Amend the Laws Regarding Authority over and Oversight of Certified Nursing Assistant Educational Programs

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

Sec. 1. 26 MRSA §2164, sub-§3, as amended by PL 1993, c. 306, §5 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

3. Certification. Participants who complete training under this section with a 200-hour curriculum approved by the Department of ~~Education~~ Health and Human Services to include both theoretical and practical training receive a statewide certificate granted by the Department of ~~Education~~ Health and Human Services. This certificate or a certificate issued under subsection 4 is required for employment as an activities coordinator in this State after December 31, 1993, except that a person employed as an activities coordinator on ~~the effective date of this chapter~~ October 9, 1991 who has completed a training program approved by the Department of Health and Human Services is not required to obtain a certificate under this section.

Sec. 2. 26 MRSA §2164, sub-§4, as amended by PL 1993, c. 306, §5 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

4. Reciprocity. Certification may also be issued to candidates who can document completion of comparable training and experience in accordance with rules adopted by ~~the Commissioner of Education and~~ the Commissioner of Health and Human Services after consultation with the activities coordinator board of a state health care association.

Sec. 3. 32 MRSA §2104, sub-§4, as amended by PL 1993, c. 600, Pt. A, §114, is further amended to read:

4. Approval and monitoring of nursing assistant training curriculum and faculty. An educational institution or health care facility desiring to conduct an educational program for nursing assistants to prepare individuals for a certificate of training and subsequent listing on the Maine Registry of Certified Nursing Assistants must apply to the ~~Department of Education~~ Department of Health and Human Services and submit evidence:

- A. That it is prepared to carry out the curriculum for nursing assistants as prescribed by the board;
- B. That it is prepared to meet those standards established by the board;
- C. That it is prepared to meet those standards for educational programming and faculty as established by the ~~Department of Education~~ Department of Health and Human Services; and
- D. With respect to an application by a health care facility, that an educational institution cannot provide a nursing assistant training program within 30 days of the application date.