LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTY-SECOND LEGISLATURE

SECOND REGULAR SESSION
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spouse, own the fee simple estate or be purchasing the fee simple estate under a recorded instrument of sale, or 2 or more individuals must together own or be purchasing the fee simple estate with rights of survivorship under a recorded instrument of sale if all owners live in the homestead. <u>For purposes of this subsection, property held in a revocable living trust for the benefit of the taxpayer is deemed to be a fee simple estate owned by the taxpayer.</u>

Sec. C-9. 36 MRSA §6254, sub-§2-B, as enacted by PL 1989, c. 713, §4, is amended to read:

2-B. Sale; legislative authorization. After authorization by the Legislature, the State Tax Assessor shall~~,~~ sell or convey any ~~such~~ real estate <u>upon which a tax lien mortgage has been foreclosed pursuant to this chapter</u>, ~~but shall in all cases of sales,~~ except sales to former owners of the real estate, ~~give public notice of the proposal to sell the real estate and shall ask for competitive bids and sell to the highest bidder with the right of rejecting all bids. Sales of any such real estate may not be made by the State Tax Assessor except by authorization of the Legislature~~ <u>using the sale process provided under section 943-C</u>.

The supervision, administration, utilization and vindication of the right of the State in any such real estate is vested in the State Tax Assessor until the title is conveyed or otherwise disposed of by the Legislature.

PART D

Sec. D-1. 36 MRSA §507, sub-§1, as enacted by PL 2007, c. 432, §1 and affected by §2, is amended to read:

1. Reductions to tax. The property tax bill must contain a statement or calculation that demonstrates the amount or percentage by which the taxpayer's tax has been reduced by the distribution of state-municipal revenue sharing, state reimbursement for the Maine resident homestead property tax exemption and state aid for education. ~~The State Tax Assessor shall annually provide each municipality with the amount of state-municipal revenue sharing and state aid for education subject to identification under this section.~~

Sec. D-2. 36 MRSA §5122, sub-§2, ¶L, as amended by PL 2003, c. 705, §11 and affected by §14, is repealed.

Sec. D-3. 36 MRSA §5122, sub-§2, ¶QQ, as enacted by PL 2019, c. 348, §3, is amended to read:

QQ. For tax years beginning on or after January 1, 2020, <u>to the extent included in federal adjusted gross income,</u> any earnings on funds in an account established under a qualified ABLE program that complies with the requirements of the federal Achieving a Better Life Experience Act of 2014, Public Law 113-295.

See title page for effective date.

CHAPTER 663

H.P. 1467 - L.D. 2180

An Act to Make Changes to the Laws Regarding the Department of Administrative and Financial Services, Bureau of Human Resources and the State Civil Service Appeals Board

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

PART A

Sec. A-1. 4 MRSA §807, sub-§3, ¶U, as amended by PL 2025, c. 97, §2, is further amended to read:

U. Practice, pursuant to a rule of the Supreme Judicial Court, by a law student enrolled in a law school accredited by the American Bar Association; ~~or~~

Sec. A-2. 4 MRSA §807, sub-§3, ¶V, as enacted by PL 2025, c. 97, §3, is amended to read:

V. An attorney certified by the judge advocate general of that attorney's respective military branch representing Maine National Guard members in proceedings conducted pursuant to Title 37-B, section 415-A~~.~~<u>;</u>

Sec. A-3. 4 MRSA §807, sub-§3, ¶W is enacted to read:

<u>W. A person who is not an attorney but is representing the State before the State Civil Service Appeals Board as described in Title 5, section 7081 on a reclassification, reallocation or reorganization appeal; or</u>

Sec. A-4. 4 MRSA §807, sub-§3, ¶X is enacted to read:

<u>X. A person who is not an attorney but is representing the State before an arbitrator related to a grievance filed under a collective bargaining agreement.</u>

PART B

Sec. B-1. 5 MRSA §7083, as corrected by RR 2023, c. 2, Pt. B, §§73 to 76, is amended to read:

§7083. Procedure for settlement

A grievance or dispute between a state employee and the agency of the State by whom the state employee is employed must be entertained by the <u>appeals</u> board upon the application of the employee, as long as there has been compliance with the following requirements:

~~**1. Adjust dispute.** That the employee aggrieved or the employee's representative, or both, have attempted to adjust the dispute through oral communication with the employee's immediate supervisor within 7 working days of the time that the employee is aware of the grievable incident. The immediate supervisor is then required to render an oral decision to the employee within 3 working days;~~

~~**2. Grievance in writing.** If the employee is dissatisfied with the oral decision of the employee's immediate supervisor, the employee or the employee's representative, or both, may, before the end of the 10th working day following the day of the oral decision, present the grievance to the employee's supervisor again, this time in written form. The supervisor is then required to make a decision in writing and present it to the employee within 10 working days;~~

3. ~~Appeal~~ Submission of grievance or dispute to department or agency head. ~~If the employee is dissatisfied with the supervisor's written decision, the employee or the employee's representative, or both, then may, before the end of the 20th working day following receipt of the decision, appeal in writing to the department head. The~~ Within 21 days of the employee becoming aware of the grievance or dispute, the employee or the employee's representative, or both, shall submit the grievance or dispute in writing to the department or agency head describing the employee's desired resolution. Within 21 days of receiving the employee's written notice of the grievance or dispute, the department or agency head shall meet with the employee or the employee's ~~designated~~ representative, or both, ~~within 20 working days of receipt of the employee's notice of dissatisfaction~~ and attempt to adjust the dispute. Within 5 ~~working~~ days of meeting with the employee or the employee's representative, or both, the department or agency head shall render a decision in writing to the aggrieved employee ~~and~~ or the employee's representative~~;~~, or both.

If the department or agency head issues a written decision after conducting a due process meeting with the employee or the employee's representative, or both, at which the employee was afforded an opportunity to present information relating to proposed disciplinary action issued by the department or agency head, the written decision must be treated as the final written decision of the department or agency head for the purposes of this subsection. Upon receipt of the written decision following the due process meeting, no further action by the employee is required at the department or agency level, and the employee may appeal the written decision to the officer pursuant to subsection 4 if the employee is a classified employee or the employee may appeal the written decision directly to the appeals board pursuant to subsection 5 if the employee is an unclassified employee;

4. Appeal to State Human Resources Officer. If the classified employee is dissatisfied with the written decision ~~following the meeting with~~ of the department or agency head, the employee or the employee's representative, or both, may appeal in writing to the State Human Resources Officer within ~~7 working days of meeting with the department head~~ 21 days of receiving the written decision. The officer shall within ~~10 working~~ 21 days reply in writing to the aggrieved employee~~,~~ or the employee's representative, or both, and the department or agency head involved stating the officer's decision, based on the Civil Service Law and rules;

5. Submission to board. In the event the grievance is not satisfactorily adjusted under subsections ~~1 to~~ 3 and 4, within the time limits in those subsections, the dispute may be submitted to the appeals board within ~~10 working~~ 21 days following receipt ~~of the officer's written decision~~ of the last relevant written decision from the employer pursuant to subsection 3 or 4. The appeals board shall investigate the matters in controversy, shall hear all interested persons who come before it and shall make a written decision, which is binding on the parties involved. The appeals board's written decision must be issued within 30 working days after the hearing on the dispute is concluded, unless both parties agree that an extension of the time limit should be allowed; and

6. Procedure. Any member of the appeals board may administer oaths and subpoena and require the attendance of witnesses and the production of books, papers, public records and other relevant documentary evidence or certified copies of the evidence by the department or agency head pertinent to the dispute and shall do so if requested in writing by any party to the dispute or the party's representative. A witness summonsed by subpoena is entitled to witness fees and travel allowance in the amount allowed for appearance in District Court, the costs of which must be advanced by the party requesting the subpoena prior to issuance of the subpoena. A state employee subpoenaed under this subsection may not lose pay to which the employee would otherwise be entitled.

Sec. B-2. 5 MRSA §7084, sub-§1, as corrected by RR 2023, c. 2, Pt. B, §77, is amended to read:

1. Application for extension. The chair of the appeals board may extend any time limit specified in section 7083, subsections ~~1~~ 3 to ~~4~~ 5, upon written application of either party, as long as the application is submitted within the time provided for in the applicable step. Failure of an employee to pursue a grievance within the prescribed time limits constitutes an acceptance of the last response by the department or agency head. Failure of the department or agency head to respond within the stipulated time limits provided for in the applicable step constitutes an automatic waiver of that step and the employee may proceed to the next step as outlined in this section.

A. At least one day prior to the ~~presentation~~ <u>submission</u> of the employee's grievance to the ~~employee's supervisor~~ <u>department or agency head</u>, the employee's representative, if any, may have access to the work location of the employee involved during the working hours for the purpose of investigating the grievance.

B. The department <u>or agency</u> head may designate a representative, with authority to take appropriate action, who must be at the deputy or assistant department <u>or agency</u> head or labor specialist level to represent the department <u>or agency</u> head in section 7083, subsections ~~2 and~~ 3 <u>and 4</u>.

See title page for effective date.

CHAPTER 664

H.P. 1465 - L.D. 2177

An Act to Update and Improve the MaineCare Reimbursement System

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

Sec. 1. 22 MRSA §1708, sub-§3, as amended by PL 2021, c. 29, Pt. R, §1, is further amended to read:

3. Compensation for nursing homes. A nursing home, as defined under section 1812-A, or any portion of a hospital or institution operated as a nursing home, when the State is liable for payment for care, must be reimbursed at a rate established by the Department of Health and Human Services pursuant to ~~this subsection~~ <u>section 3173-J</u>. ~~The department may not establish a so-called "flat rate."~~ This subsection applies to all funds, including federal funds, paid by any agency of the State to a nursing home for patient care. The department shall establish rules concerning reimbursement that:

A. Take into account the costs of providing care and services in conformity with applicable state and federal laws, rules, regulations and quality and safety standards;

B. Are reasonable and adequate to meet the costs incurred by efficiently and economically operated facilities;

C. Are consistent with federal requirements relative to limits on reimbursement under the federal Social Security Act, Title XIX; <u>and</u>

~~D. Ensure that any calculation of an occupancy percentage or other basis for adjusting the rate of reimbursement for nursing facility services to reduce the amount paid in response to a decrease in the number of residents in the facility or the percentage of the facility's occupied beds excludes all beds that the facility has removed from service for all or part of the relevant fiscal period in accordance with section 333. If the excluded beds are converted to residential care beds or another program for which the department provides reimbursement, nothing in this paragraph precludes the department from including those beds for purposes of any occupancy standard applicable to the residential care or other program pursuant to duly adopted rules of the department;~~

~~E. Contain an annual inflation adjustment that:~~

~~(1) Recognizes regional variations in labor costs and the rates of increase in labor costs determined pursuant to the principles of reimbursement and establishes at least 4 regions for purposes of annual inflation adjustments; and~~

~~(2) Uses the applicable regional inflation factor as established by a national economic research organization selected by the department to adjust costs other than labor costs or fixed costs; and~~

~~F. Establish a nursing facility's base year every 2 years and increase the rate of reimbursement beginning July 1, 2014 and every year thereafter until June 30, 2018. For the state fiscal year beginning July 1, 2018, the base year for each facility is its fiscal year that ended in the calendar year 2016. For state fiscal years beginning on or after July 1, 2019, subsequent rebasing must be based on the most recent cost report filings available. The department may provide a mechanism for subsequent adjustments to base year costs to reflect any material difference between as-filed cost reports used in rebasing and subsequent determinations of audited, allowable costs for the same fiscal period. The department's rules must provide that, beginning in the state fiscal year beginning July 1, 2018, the rates set for each rebasing year must include an inflation adjustment for a cost-of-living percentage change in nursing facility reimbursement each year in accordance with the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index nursing homes and adult day care services index.~~

~~Any rebasing done pursuant to this paragraph may not result in a nursing facility receiving a reimbursement rate that is lower than the rate in effect on June 30, 2018.~~

<u>G. Establish that nursing facility reimbursement will be rebased for rates effective January 1, 2028, and thereafter rebasing must occur in accordance with section 3173-J.</u>

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.