

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 309

H. P. 229

House of Representatives, January 23, 1973

Referred to the Committee on State Government. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Perkins of So. Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Relating to Tax-sheltered Annuities.

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

Whereas, the 105th Legislature enacted legislation providing tax-sheltered annuities for members of the Department of Educational and Cultural Services and vocational-technical institutes; and

Whereas, further enabling legislation is required to accomplish the purpose intended; 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. R. S., T. 5, § 11, amended. Section 11 of Title 5 of the Revised Statutes is amended by adding at the end 3 new paragraphs to read as follows:

Any payment of salary at a rate different from that prescribed in the compensation plan which results solely from a reduction in salary at the request of a certified employee of the State Department of Educational and Cultural Services for the purpose of the purchase by the department for his benefit of a tax-sheltered annuity contract shall not be deemed consistent with the compensation plan or rules pertaining thereto. The reduction in salary for the purchase of a tax-sheltered annuity contract shall be considered a reduction

in, and not a deduction from, the employee's gross salary and such reduction shall be excludable from gross salary for all purposes except for determination of earnable salary for retirement and group insurance purposes.

Upon certification to the State Controller by the Commissioner of Educational and Cultural Services with the approval of the Director of Personnel, that a classified employee of the Department of Educational and Cultural Services has requested a reduction in salary for the purpose of the purchase by the department of a tax-sheltered annuity, the State Controller shall authorize payments directly to the insurer under such annuity contract at such intervals and in such amounts as may be prescribed in the annuity contract and shall authorize such payments as charges against appropriations and allotments for personal services for the account from which the employee is paid.

Whenever the Department of Educational and Cultural Services is obligated under terms of a tax-sheltered annuity contract purchased for a certified employee at his request, the department shall be authorized to request appropriations for succeeding fiscal years within the current services requests for personal services appropriations of the account in which the position held by the employee is authorized.

Sec. 2. R. S., T. 5, § 634, amended. Section 634 of Title 5 of the Revised Statutes, as amended, is further amended by adding at the end 2 new paragraphs to read as follows:

Whenever a certified employee of the State Department of Educational and Cultural Services has requested the State Board of Education to purchase for his benefit a tax-sheltered annuity contract, as authorized under provisions of the Internal Revenue Code, and has requested the said board to reduce his compensation by a stated amount, which amount shall be equal to the amount of the premium of tax-sheltered annuity contract purchased by the said board for the benefit of the employee, the director shall authorize a salary payment for such employee which shall represent the difference between (1) the salary to which the employee would be entitled but for the voluntary reduction in salary for the purpose of purchasing a tax-sheltered annuity in his behalf and (2) the amount of the reduction from salary so authorized by the employee; the director shall authorize such salary payment notwithstanding that the amount so authorized may not fall on any intermediate salary rate in the compensation plan for the class of position or may be below the minimum salary rate in the compensation plan for such class, provided that any amount authorized which is below the minimum salary rate is attributable solely to the employee's voluntary reduction in salary for the purpose of purchasing "tax-sheltered annuity in his behalf."

Any reduction in salary requested by a certified employee of the Department of Educational and Cultural Services for the purpose of purchase of a tax-sheltered annuity may be in the form of a reduction from present salary at the range and step for his class of position, in the form of a waiver of a salary increase to which he otherwise would be entitled, or a combination of reduction from present salary and waiver of scheduled increase but in all

cases the total amount of reduction shall be not greater than the maximum amount permitted under the Internal Revenue Code.

Sec. 3. R. S., T. 5, § 1001, sub-§ 9, amended. The last sentence of subsection 9 of section 1001 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 186 of the public laws of 1965, is amended to read as follows:

Any money paid by a school administrative unit under an annuity contract for the benefit of an employee **or any money paid by the State under an annuity contract for the benefit of certified employees of the Maine Department of Educational and Cultural Services for a tax-sheltered annuity available under the Internal Revenue Code** shall be considered part of the employee's earnable compensation.

Sec. 4. R. S., T. 5, § 1151, sub-§ 2, amended. The next to the last paragraph of subsection 2 of section 1151 of Title 5 of the Revised Statutes, as enacted by section 2 of chapter 186 of the public laws of 1965, is amended to read as follows:

Any money paid by a school administrative unit as a premium for an annuity contract for the benefit of an employee **or any money paid by the State as a premium for an annuity contract for the benefit of a certified employee of the Maine Department of Educational and Cultural Services for a tax-sheltered annuity available under the Internal Revenue Code**, shall be considered part of said employee's annual compensation.

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

STATEMENT OF FACT

The purpose of this bill is reflected in the emergency preamble.