

# MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 1412, L.D. 1834)  
2 (New Title)

3 SECOND REGULAR SESSION  
4

5 ONE HUNDRED AND ELEVENTH LEGISLATURE  
6

7 Legislative Document

No. 2370

8  
9 H.P. 1795

House of Representatives, March 27, 1984

10 Reported by Report A from the Committee on State Government and  
11 printed under Joint Rule 2.

12 Original bill presented by Representative Gwadosky of Fairfield.

EDWIN H. PERT, Clerk

13  
14 STATE OF MAINE  
15

16 IN THE YEAR OF OUR LORD  
17 NINETEEN HUNDRED AND EIGHTY-FOUR  
18

19 AN ACT to Create Enabling Legislation for  
20 Payroll Deductions for Individual Retirement  
21 Accounts and Simplified Employee Pension Plans,  
22 to make Necessary Technical changes in the  
23 Provisions of Current Deferred Compensation  
24 Statutes, and to Authorize Counties,  
25 Municipalities and other Political Subdivisions  
26 to Purchase Deferred Compensation  
27 Instruments from Financial Institutions,  
28 Insurance Companies and Investment Firms.  
29

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

32 Sec. 1. 5 MRSA §881, as enacted by PL 1973, c.  
33 491, is amended to read:

34 §881. Deferred compensation plan

1           The State or any county, city, town or other po-  
2           litical subdivision may, by contract, agree with any  
3           employee to defer, in whole or in part, any in ac-  
4           cordance with the United States Internal Revenue  
5           Code, Section 457, a portion of that employee's com-  
6           penensation and subsequently, contract for, purchase or  
7           otherwise procure for the purpose of funding, as pro-  
8           vided in this chapter and in Title 30, chapter 241,  
9           subchapter IV, a deferred compensation program  
10           instrument for the employee a fixed or variable life  
11           insurance or annuity contract from an insurance com-  
12           pany licensed to contract business in this State, or  
13           shares of an investment company registered under the  
14           Investment Company Act of 1940. The employee may  
15           choose the type of deferred compensation program pre-  
16           ferred, but the State, county, municipality or polit-  
17           ical subdivision shall not be restricted or bound to  
18           that choice.

19           Any county, municipality or other political sub-  
20           division, may participate in a deferred compensation  
21           program as provided in Title 30, chapter 241, sub-  
22           chapter IV.

23           Sec. 2. 5 MRS.A §887, as enacted by PL 1973, c.  
24           491, is amended to read:

25           §887. Payment of premiums and purchase of shares

26           Notwithstanding any other provision of law to the  
27           contrary, those persons designated to administer the  
28           deferred compensation program are authorized to make  
29           payment of premiums for the purchase of fixed or var-  
30           iable life insurance or annuity contracts and to pur-  
31           chase investment company shares under the deferred  
32           compensation program. Under the provisions of Title  
33           30, chapter 241, subchapter IV, those persons desig-  
34           nated to administer the deferred compensation program  
35           of a county, city or other political subdivision are  
36           authorized to purchase a deferred compensation in-  
37           strument from a financial institution as defined in  
38           Title 9-B, section 131, subsection 17-A. Such pay-  
39           ments shall not be construed to be a prohibited use  
40           of the general assets of the State, county, city or  
41           other political subdivision.

42           Sec. 3. 5 MRS.A c. 68 is enacted to read:



1 plans from a financial institution as defined in Ti-  
2 tle 9-B, section 131, subsection 17-A, or any insur-  
3 ance company or investment company licensed to con-  
4 tract business in this State.

5 §893. Administration

6 Payroll deductions shall be made by the appropri-  
7 ate payroll officer of each county, municipality or  
8 other political subdivision. The Commissioner of Fi-  
9 nance and Administration shall be responsible for the  
10 administration of this chapter as it applies to state  
11 employees. Any costs incurred by the Commissioner of  
12 Finance and Administration to administer the state  
13 program shall be borne equally by state employee par-  
14 ticipants and these costs may be compensated by means  
15 of payroll deductions.

16 §894. Liability limited

17 The State, any county, municipality or other po-  
18 litical subdivision which transfers employee compen-  
19 sation to an individual retirement account shall have  
20 no liability for the funds once a proper transfer has  
21 been made.

22 Sec. 4. 30 MRSA c. 241, sub-c. IV is enacted to  
23 read:

24 SUBCHAPTER IV

25 FINANCES: DEFERRED COMPENSATION PROGRAM

26 §5315. Deferred compensation plan

27 Any county, municipality or other political sub-  
28 division may, by contract, agree with any employee to  
29 defer, in accordance with the United States Internal  
30 Revenue Code, Section 457, a portion of that  
31 employee's compensation and, subsequently, contract  
32 for, purchase or otherwise procure a deferred compen-  
33 sation program for the employee, including a deferred  
34 compensation plan from a financial institution, as  
35 defined in Title 9-B, section 131, subsection 17-A, a  
36 fixed or variable life insurance or annuity contract  
37 from an insurance company licensed to contract busi-  
38 ness in this State, or shares of an investment compa-

1 ny registered under the Investment Company Act of  
2 1940. The employee may choose the type of deferred  
3 compensation program preferred, but the county, mu-  
4 nicipality or other political subdivision shall not  
5 be bound or restricted to that choice.

6 §5316. Administration

7 Each county, municipality or other political sub-  
8 division may designate an officer to administer a de-  
9 ferred compensation program. Payroll deductions  
10 shall be made in each instance by the appropriate  
11 payroll officer.

12 §5317. Payment of premiums

13 Notwithstanding any other provision of law to the  
14 contrary, those persons designated to administer the  
15 deferred compensation program are authorized to make  
16 payment of premium for the purchase of fixed or vari-  
17 able life insurance or annuity contracts, and to pur-  
18 chase investment company shares and deferred compen-  
19 sation plans from financial institutions under the  
20 deferred compensation program.

21 §5318. Application

22 Any compensation or portion of compensation re-  
23 duced by an employee under this subchapter in con-  
24 junction with a deferred compensation program shall  
25 remain as a general, unpledged asset of the county,  
26 municipality or other political subdivision until  
27 such time as the deferred compensation program cover-  
28 ing that employee calls for distribution. Any com-  
29 ensation or portion of compensation reduced shall be  
30 considered in calculating any employee benefits and  
31 it shall be subject to any withholding imposed on  
32 that employee. Any compensation or portion of com-  
33 ensation reduced shall not be subject to any income  
34 taxation until distribution is actually made to the  
35 employee.

36 §5319. Limited liability

37 The financial liability of the county, municipal-  
38 ity or other political subdivision under a deferred  
39 compensation program shall be limited in each in-

1 stance to the amount transferred to the financial in-  
2 stitution or other company under the deferred compen-  
3 sation agreement while the employee remains employed  
4 by the county, municipality or other political subdivi-  
5 vision.

6 STATEMENT OF FACT

7 The purpose of this new draft is to authorize the  
8 State, counties, municipalities and other political  
9 subdivisions to offer individual retirement accounts  
10 and simplified employee pension fund benefits to pub-  
11 lic employees. These benefits may be paid for by  
12 public employees through payroll deductions.

13 In addition, this new draft allows counties, mu-  
14 nicipalities and other political subdivisions to partici-  
15 pate in deferred compensation programs offered by  
16 insurance companies, investment firms and financial  
17 institutions licensed to do business in Maine. Pres-  
18 ently, only insurance companies and investment firms  
19 may provide deferred compensation plans to public em-  
20 ployees. The state deferred compensation program,  
21 however, remains unchanged.

22 This new draft also makes technical changes in  
23 the state's deferred compensation law to comply with  
24 the United States Internal Revenue Service require-  
25 ments.

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