

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 470

6  
7 H.P. 349

House of Representatives, February 8, 1985

8 Speaker laid before the House and on Motion of Representative  
9 Brannigan of Portland, referred to the Committee on State Government. Sent  
up for concurrence and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Gwadosky of Fairfield.

11 Cosponsored by Senator Baldacci of Penobscot and Representative  
Swazey of Bucksport.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FIVE  
16

17 AN ACT to Authorize Counties, Municipalities  
18 and Other Political Subdivisions to  
19 Purchase Deferred Compensation  
20 Instruments from Financial  
21 Institutions, Insurance Companies and  
22 Investment Firms.  
23

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

26 Sec. 1. 5 MRSA §881, as amended by PL 1983, c.  
27 791, §1, is further amended to read:

28 §881. Deferred compensation plan

29 The State or any county, city, town or other po-  
30 litical subdivision may, by contract, agree with any  
31 employee to defer, in accordance with the United  
32 States Internal Revenue Code, Section 457, a portion  
33 of that employee's compensation and subsequently,  
34 contract for, purchase or otherwise procure, as pro-  
35 vided in this chapter and in Title 30, chapter 241,

1 subchapter IV, for the purpose of funding a deferred  
2 compensation program instrument for the employee a  
3 fixed or variable life insurance or annuity contract  
4 from an insurance company licensed to contract busi-  
5 ness in this State, or shares of an investment compa-  
6 ny registered under the Investment Company Act of  
7 1940. The employee may choose the type of deferred  
8 compensation program preferred, but the State, count-  
9 ty, municipality or political subdivision shall not  
10 be restricted or bound to that choice.

11 Any county, municipality or other political sub-  
12 division, may participate in a deferred compensation  
13 program as provided in Title 30, chapter 241, sub-  
14 chapter IV.

15 Sec. 2. 5 MRSA §887, as enacted by PL 1973, c.  
16 491, is amended to read:

17 §887. Payment of premiums and purchase of shares

18 Notwithstanding any other provision of law to the  
19 contrary, those persons designated to administer the  
20 deferred compensation program are authorized to make  
21 payment of premiums for the purchase of fixed or vari-  
22 able life insurance or annuity contracts and to pur-  
23 chase investment company shares under the deferred  
24 compensation program. Under Title 30, chapter 241,  
25 subchapter IV, those persons designated to administer  
26 the deferred compensation program of a county, city  
27 or other political subdivision may purchase a de-  
28 ferred compensation instrument from a financial in-  
29 stitution, as defined in Title 9-B, section 131, sub-  
30 section 17-A. Such payments shall not be construed  
31 to be a prohibited use of the general assets of the  
32 State, county, city or other political subdivision.

33 Sec. 3. 30 MRSA c. 241, sub-c. IV is enacted to  
34 read:

35 SUBCHAPTER IV

36 FINANCES: DEFERRED COMPENSATION PROGRAM

37 §5315. Deferred compensation plan

1           Any county, municipality or other political sub-  
2 division may, by contract, agree with any employee to  
3 defer, in accordance with the United States Internal  
4 Revenue Code, Section 457, a portion of that  
5 employee's compensation and, subsequently, contract  
6 for, purchase or otherwise procure a deferred compensa-  
7 tion program for the employee, including a deferred  
8 compensation plan from a financial institution, as  
9 defined in Title 9-B, section 131, subsection 17-A, a  
10 fixed or variable life insurance or annuity contract  
11 from an insurance company licensed to contract busi-  
12 ness in this State, or shares of an investment compa-  
13 ny registered under the United States Investment Com-  
14 pany Act of 1940. The employee may choose the type  
15 of deferred compensation program preferred, but the  
16 county, municipality or other political subdivision  
17 shall not be bound or restricted to that choice.

18           §5316. Administration

19           Each county, municipality or other political sub-  
20 division may designate an office to administer a de-  
21 ferred compensation program. Payroll deductions  
22 shall be made in each instance by the appropriate  
23 payroll officer.

24           §5317. Payment of premiums

25           Notwithstanding any other provision of law to the  
26 contrary, those persons designated to administer the  
27 deferred compensation program may make payment of the  
28 premium for the purchase of fixed or variable life  
29 insurance or annuity contracts, and purchase invest-  
30 ment company shares and deferred compensation plans  
31 from financial institutions under the deferred com-  
32 penensation program.

33           §5318. Application

34           Any compensation or portion of compensation re-  
35 duced by an employee under this subchapter in con-  
36 junction with a deferred compensation program shall  
37 remain as a general, unpledged asset of the county,  
38 municipality or other political subdivision until  
39 such time as the deferred compensation program cover-  
40 ing that employee calls for distribution. Any com-  
41 penensation or portion of compensation reduced shall be

1 considered in calculating any employee benefits and  
2 it shall be subject to any withholding imposed on  
3 that employee. Any compensation or portion of com-  
4 penensation reduced shall not be subject to any income  
5 taxation until distribution is actually made to the  
6 employee.

7 §5319. Limited liability

8 The financial liability of the county, municipal-  
9 ity or other political subdivision under a deferred  
10 compensation program shall be limited in each in-  
11 stance to the amount transferred to the financial in-  
12 stitution or other company under the deferred compen-  
13 sation agreement while the employee remains employed  
14 by the county, municipality or other political subdi-  
15 vision.

16 STATEMENT OF FACT

17 This bill allows counties, municipalities and  
18 other political subdivisions to participate in de-  
19 ferred compensation programs offered by insurance  
20 companies, investment firms and financial institu-  
21 tions licensed to do business in this State. Pres-  
22 ently, only insurance companies and investment firms  
23 may provide deferred compensation plans to public em-  
24 ployees. The state deferred compensation program re-  
25 mains unchanged.

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