

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1610

H.P. 1187

House of Representatives, March 13, 2001

**An Act to Clarify the Legal Status of Employees of the Governor Baxter
School for the Deaf.**

(EMERGENCY)

Reference to the Committee on Labor suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative WATSON of Farmingdale.

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

4 Whereas, this proposal clarifies the status, rights and
6 benefits of employees of the Governor Baxter School for the Deaf;
and

8 Whereas, in the judgment of the Legislature, these facts
10 create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
12 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

16 **Sec. 1. 5 MRSA §285, sub-§1, ¶A-1** is enacted to read:

18 A-1. Any employee of the Governor Baxter School for the
20 Deaf, unless a binding agreement signed by the employer and
22 the employee or the employee's representative otherwise
provides;

24 **Sec. 2. 5 MRSA §17001, sub-§40,** as amended by PL 1999, c. 152,
Pt. E, §3, is further amended to read:

26 **40. State employee.** "State employee" means any regular
28 classified or unclassified officer or employee in a department,
any employee of the Maine Technical College System, except those
30 who make the election provided under Title 20-A, section 12722,
32 any employee of the Governor Baxter School for the Deaf unless a
binding agreement signed by the employer and the employee or the
34 employee's representative otherwise provides, any employee of the
Northern New England Passenger Rail Authority and any employee
36 transferred from the Division of Higher Education Services to the
Finance Authority of Maine who elects to be treated as a state
employee, but does not include:

38 A. A judge, as defined in Title 4, section 1201 or 1301,
40 who is now or later may be entitled to retirement benefits
under Title 4, chapter 27 or 29;

42 B. A member of the State Police who is now entitled to
44 retirement benefits under Title 25, chapter 195; or

46 C. A Legislator who is now or later may be entitled to
retirement benefits under Title 3, chapter 29.

48 **Sec. 3. PL 1999, c. 775, §15, sub-§5** is repealed and the
50 following enacted in its place:

2 5. Personnel transferred. Classified and unclassified
3 employees assigned to the Governor Baxter School for the Deaf
4 must be transferred from state employment to the Governor Baxter
5 School for the Deaf in its capacity as an independent agency.

6 Fringe benefits from state employment of the transferred
7 personnel, including vacation and sick leave, health and life
8 insurance and retirement, remain with the transferred personnel.
9 All employees of the Governor Baxter School for the Deaf,
10 whenever hired, are eligible to participate in the state employee
11 health plan and the regular state employee plan of the Maine
12 State Retirement System.

13
14 Collective bargaining agreements between the State and bargaining
15 units comparable to those at the Governor Baxter School for the
16 Deaf do not cover the members of the bargaining units at that
17 school. The rights and benefits of employees at the Governor
18 Baxter School for the Deaf are determined by statute and by the
19 status quo existing at the school. The rights and benefits under
20 statutes, rules and collective bargaining agreements in effect on
21 the effective date of this Act or successor collective bargaining
22 agreements are evidence of the status quo that must be maintained
23 for all personnel at Governor Baxter School for the Deaf until
24 changed in accordance with applicable labor law principles. The
25 rights and benefits of personnel hired after August 11, 2000,
26 whose positions are included within a bargaining unit, are the
27 same as those of the transferred employees, once the newly hired
28 personnel are eligible employees under applicable law or the
29 applicable collective bargaining agreement, except that these
30 employees do not have seniority rights applicable to executive
31 branch bargaining units.

32
33 All personnel transferred from state employment to the Governor
34 Baxter School for the Deaf as an independent agency retain all
35 applicable seniority rights and privileges and all other rights
36 and privileges with regard to employment in state service for a
37 period of 2 years from the effective date of this Act. During
38 this 2-year period, the recall provisions of these applicable
39 laws, rules and collective bargaining agreements continue to
40 apply for all transferred personnel with layoff status to the
41 filling of any vacancy in the Governor Baxter School for the
42 Deaf. Transferred personnel who refuse recall to the Governor
43 Baxter School for the Deaf retain full recall rights to all other
44 agencies of State Government.

45
46 The Department of Administrative and Financial Services shall
47 assist the School Board of the Governor Baxter School for the
48 Deaf with the orderly implementation of the provisions of this
49 subsection.

