

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1513

H.P. 1106

House of Representatives, April 2, 2003

An Act To Update the Department of Defense, Veterans and Emergency Management Laws

Submitted by the Department of Defense, Veterans and Emergency Management pursuant to Joint Rule 204.

Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CLARK of Millinocket.
Cosponsored by Senator MAYO of Sagadahoc.

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

4 **Sec. 1. 5 MRSA §17652, sub-§4** is enacted to read:

6 4. Active state service. A member of the Maine National
Guard on active state service for more than 15 days pursuant to
8 Title 37-B after September 1, 1995 may elect to be a member of
the Maine State Retirement System and may pay contributions or
10 have pick-up contributions made on or receive any service credit
for the period from September 1, 1995. A member of the Maine
12 National Guard on active state service pursuant to Title 37-B who
does not elect to participate in the Maine State Retirement
14 System or is not eligible to participate in the Maine State
Retirement System shall participate in the United States Social
16 Security System. A member of the Maine National Guard on active
state service pursuant to Title 37-B may participate in the
18 tax-deferred arrangement of Title 5, chapter 67.

20 **Sec. 2. 37-B MRSA §3, sub-§1, ¶D**, as amended by PL 2001, c.
662, §14, is further amended by amending subparagraph (15) to
read:

22 (15) The Adjutant General may receive personal
24 property from the United States Department of Defense
that the Secretary of Defense has determined is
26 suitable for use by agencies in law enforcement
activities, including counter-drug activities, and in
28 excess of the needs of the Department of Defense
pursuant to 10 United States Code, Section 2576a, and
30 transfer ownership of that personal property to state,
county and municipal law enforcement agencies
32 notwithstanding any other provision of law. The
34 Adjutant General may receive excess personal property
from the United States Department of Defense for use by
36 the department, notwithstanding any other provision of
law.

38 **Sec. 3. 37-B MRSA §389**, as enacted by PL 2001, c. 662, §40,
is repealed and the following enacted in its place:

40 **§389. Stay of proceeding for military members**

42 **1. Stay of proceeding.** A member of the National Guard or
44 the Reserves of the United States Armed Forces may at any stage
of any action or proceeding in any court or administrative
46 hearing in which the member is involved, either as plaintiff,
defendant or attorney, during the period of any military service
48 or within 60 days after any military service, at the discretion
of the court, case management officer or administrative hearing
50 officer, by the member's own motion or motion of the court, case

2 management officer or administrative hearing officer, be stayed
4 unless, in the opinion of the court, case management officer or
6 the administrative hearing officer, the ability of the plaintiff
to prosecute the action, the defendant to conduct the defendant's
defense or the attorney to represent either party is not
materially affected by reason of the member's military service.

8 2. Appearance. An application for a stay of a court or
10 administrative proceeding pursuant to the Soldiers' and Sailors'
12 Civil Relief Act of 1940, 50 United States Code, as amended, or
this section does not constitute an appearance for any purpose.

14 Sec. 4. 37-B MRSA §509 is enacted to read:

16 §509. Confidentiality of military service records

18 1. Certificate of release. A certificate of release or
20 discharge from active duty issued by the United States Government
22 and filed for safekeeping with any state, county or local
24 government authority is confidential for a period of 75 years
26 following its filing. During that 75-year period, it is unlawful
for a person to permit inspection of the record, to disclose
information contained in the record or to issue a copy of all or
any part of the record except as authorized by this section or by
court order.

28 2. Identification. Upon presentation of proper
30 identification, any of the following persons may examine a record
filed pursuant to this section and obtain free of charge a copy
or certified copy of all or part of the record:

32 A. The person who is the subject of the record;

34 B. The spouse or next of kin of the person who is the
36 subject of the record;

38 C. A person named in an appropriate power of attorney
executed by the person who is the subject of the record;

40 D. The administrator, executor, guardian or legal
42 representative of the person who is the subject of the
record;

44 E. An attorney for any person specified in paragraphs A to
46 D of this subsection; or

48 F. A civilian employee or military member of the department
when in the conduct of official duties.

2 3. Records. Records kept pursuant to this section may not
3 be reproduced or used in whole or in part for any commercial or
4 speculative purposes.

5 4. Disclose. An individual, agency or court that obtains
6 information pursuant to this section may not disseminate or
7 disclose the information or any part of this information except
8 as authorized in this section or otherwise by law.

10 **Sec. 5. 37-B MRSA §744, sub-§1, ¶C,** as amended by PL 2001, c.
11 662, §79, is further amended to read:

12 C. Notwithstanding any other provision of law or
13 regulation, make financial grants to meet necessary expenses
14 or serious needs of individuals or families caused by the
15 disaster that cannot otherwise adequately be met. A grant to
16 an individual or family may not exceed in the aggregate for
17 any single major disaster declared by the President the
18 amount established by the Federal Government for the limit
19 on grants to individuals under ~~the individual and family~~
20 ~~grant program~~ any federal disaster assistance program for
21 individuals and families.

22 **Sec. 6. 37-B MRSA §744, sub-§4, ¶A,** as enacted by PL 1983, c.
23 460, §3, is amended to read:

24 A. Whenever the Governor has declared a disaster emergency
25 to exist under the laws of this State, or the President has
26 declared a major disaster or emergency to exist in this
27 State, the Governor may:

28 (1) Notwithstanding any other provision of law,
29 through the use of state departments or agencies or the
30 use of any of the state's instrumentalities, clear or
31 remove from publicly-owned or privately-owned land or
32 water, debris and wreckage ~~which~~ that may threaten
33 public health or safety, or public or private property;
34 ~~and~~

35 (2) Accept funds from the Federal Government and
36 utilize those funds to make grants to any local
37 government for the purpose of removing debris or
38 wreckage from publicly-owned or privately-owned land or
39 ~~water;~~ and

40 (3) Notwithstanding any other provision of law, agree
41 to indemnify the Federal Government against any claim
42 arising from debris and wreckage removal from private
43 property.

2 **Sec. 7. 37-B MRSA §783, first ¶**, as amended by PL 2001, c. 614,
§15 and c. 662, §84, is repealed and the following enacted in its
4 place:

6 Each municipality, county and regional emergency management
agency shall prepare and keep a current disaster emergency plan
8 for the area subject to its jurisdiction. That plan must
include, without limitation:

10 **Sec. 8. 37-B MRSA §1131, sub-§2, ¶A**, as enacted by PL 2001, c.
662, §99, is amended to read:

12 A. ~~The Adjutant-General or the Adjutant-General's Director~~
14 ~~of the Maine Emergency Management Agency or the director's~~
designee;

16 **Sec. 9. 37-B MRSA §1131, sub-§2, ¶¶J to L**, as enacted by PL
18 2001, c. 662, §99, are amended to read:

20 J. The ~~Meteorologist~~ Meteorologists-in-Charge of the
National Weather Service ~~Forecast Office~~ Offices in ~~Gray~~
22 this State or the designee of the ~~Meteorologist~~
Meteorologists-in-Charge;

24 K. Representatives from private commerce and industry,
26 including, but not limited to, the major hydroelectric power
generators, as determined by the cochairs of the commission;
28 and

30 L. A representative of the public, appointed by the
Governor;

32 **Sec. 10. 37-B MRSA §1131, sub-§2, ¶¶M and N** are enacted to
34 read:

36 M. The Commissioner of Human Services or the commissioner's
designee; and

38 N. The director of the Senator George J. Mitchell Center
40 for Environmental and Watershed Research at the University
42 of Maine, or the director's designee.

44 **Sec. 11. 37-B MRSA §1131, sub-§§3 and 4**, as enacted by PL 2001,
c. 662, §99, are amended to read:

46 3. **Chair.** The District Chief of the United States
Geological Survey Water Resources Division Maine District Office
48 and the ~~Adjutant-General or the Adjutant-General's Director~~
of the Maine Emergency Management Agency or the director's designee
50 shall act as cochairs of the commission.

