

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND ELEVENTH LEGISLATURE

**SECOND SPECIAL SESSION**

November 18, 1983

AND AT THE

**SECOND REGULAR SESSION**

January 4, 1984 to April 25, 1984

AND AT THE

**THIRD SPECIAL SESSION**

September 4, 1984 to September 11, 1984

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH  
IN ACCORDANCE WITH MAINE REVISED STATUTES  
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1986

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
THIRD SPECIAL SESSION  
of the  
ONE HUNDRED AND ELEVENTH LEGISLATURE  
1983

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

Effective September 19, 1984, unless otherwise indicated.

## CHAPTER 863

S.P. 932 - L.D. 2490

AN ACT Making Appropriations and Changing Certain Provisions of the Law Necessary for the Proper Operation of State Government for the Fiscal Year Ending June 30, 1985.

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

Whereas, the 90-day period may not terminate until after certain expenses and liabilities become due; 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:

### PART A

Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

APPROPRIATIONS FROM  
GENERAL FUND  
1984-85

#### STATE, DEPARTMENT OF

Administration-Secretary of State

All Other \$125,000

The funds to be  
used as follows:  
\$5,000 for

1984-85

printing copies  
of the Constitu-  
tion of Maine;  
\$60,000 for con-  
ducting of June  
referenda elec-  
tion; and  
\$60,000 for con-  
ducting of No-  
vember referenda  
election.

PART B

Sec. 1. 2 MRSA §6-A, sub-§1, as repealed and re-  
placed by PL 1983, c. 853, Pt. C, §1, is amended to  
read:

1. Chairman. The salary of the chairman of the  
commission shall be ~~\$45,236~~ \$48,400.

Sec. 2. 2 MRSA §6-A, sub-§2, as enacted by PL  
1983, c. 853, Pt. C, §2, is amended to read:

2. Commission members. The salary of members of  
the commission shall be ~~\$43,736~~ \$46,800.

Sec. 3. 2 MRSA §6-A, sub-§5 is enacted to read:

5. Retirement contribution. The State shall pay  
the mandatory retirement contribution required by Ti-  
tle 5, section 1095, subsection 1, for commissioners  
who elect to become members of the Maine State Re-  
tirement System. Payment shall be made as provided  
in Title 5, section 1062, subsection 2, paragraph G.  
A commissioner may elect at the time of appointment  
to receive a 5% salary increase instead of state pay-  
ment of the retirement contribution.

Membership in the Maine State Retirement System is  
optional.

Sec. 4. 2 MRSA §7, sub-§2, as amended by PL  
1983, c. 853, Pt. C, §3, is repealed and the follow-  
ing enacted in its place:

2. Regulatory boards. Notwithstanding section 6  
or any other provision of law, the salaries of the  
Workers' Compensation Commission commissioners shall  
be:

A. For the chairman, \$46,210;

B. For the members, \$45,030.

The State shall pay the mandatory retirement contribution required by Title 5, section 1095, subsection 1, for commissioners who elect to become members of the Maine State Retirement System. Payment shall be made as authorized by Title 5, section 1062, subsection 2, paragraph G. A commissioner may elect to receive a 5% salary increase instead of state payment of the retirement contribution. A commissioner electing to receive the salary increase shall so notify his appointing authority in writing on or before January 1, 1985. The salary increase shall be effective at the start of the pay week closest to January 1, 1985. New commissioners shall exercise the option at the time of appointment.

Membership in the Maine State Retirement System is optional.

Sec. 5. 4 MRSA §4, sub-§§1 and 2, as enacted by PL 1983, c. 853, Pt. C, §§4 and 18, are amended to read:

1. Chief justice; salary. The Chief Justice of the Supreme Judicial Court shall receive ~~an annual~~ a salary equal to 105% of the salary of an Associate Justice of the Supreme Judicial Court.

2. Associate justice; salary. Each Associate Justice of the Supreme Judicial Court shall receive ~~an annual~~ a salary as follows:

- A. For the period from December 1, 1984, to June 30, 1985, \$29,806;
- B. For fiscal year 1986, \$58,760;
- C. For fiscal year 1987, \$65,224;
- D. For fiscal year 1988, \$71,746; and
- E. For fiscal year 1989, and annually thereafter, \$77,300.

Sec. 6. 4 MRSA §102, sub-§§1 and 2, as enacted by PL 1983, c. 853, Pt. C, §§7 and 18, are amended to read:

1. Chief justice; salary. The Chief Justice of the Superior Court shall receive ~~an annual~~ a salary equal to 105% of the salary of an Associate Justice of the Superior Court.

2. Justice; salary. Each Justice of the Superior Court shall receive ~~an annual~~ a salary as follows:

- A. For the period from December 1, 1984, to June 30, 1985, \$29,339;
- B. For fiscal year 1986, \$57,841;
- C. For fiscal year 1987, \$63,625;
- D. For fiscal year 1988, \$68,715; and
- E. For fiscal year 1989 and annually thereafter, \$73,100<sub>7</sub>.

Sec. 7. 4 MRSA §157, as amended by PL 1983, c. 825, §2 and as repealed and replaced by PL 1983, c. 853, Pt. C, §§10 and 18, is repealed and the following enacted in its place:

§157. Judges; appointment; salary; expenses; full-time duties

1. Appointment. District Court Judges shall be appointed as follows.

A. The Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary and to confirmation by the Legislature, shall appoint to the District Court 7 judges at large and 15 judges. At least one judge shall be appointed in each district who shall be a resident of the district, except that in District 3 there shall be 2 judges appointed who shall be residents of the district and in District 9 there shall be 2 judges appointed who shall be residents of the district. Each District Court Judge shall have a term of office of 7 years.

To be eligible for appointment as a District Judge, a person shall be a member of the bar of the State. The term "District Judge" shall include the Chief Judge, Deputy Chief Judge, the judges appointed from the districts and the judges at large.

B. The Chief Justice of the Supreme Judicial Court shall designate one of the judges as Chief Judge. The Chief Judge, with the advice and consent of the Chief Justice of the Supreme Judicial Court, shall designate one of the District Court Judges as Deputy Chief Judge.

2. Chief Judge; salary. The Chief Judge of the District Court shall receive a salary equal to 105% of the salary of an Associate Judge of the District Court.

3. Deputy Chief Judge; salary. The Deputy Chief Judge of the District Court shall receive a salary equal to 102.5% of the salary of an Associate Judge of the District Court.

4. Associate Judge; salary. Each Associate Judge of the District Court shall receive a salary as follows:

A. For the period from December 1, 1984, to June 30, 1985, \$28,233;

B. For fiscal year 1986, \$55,659;

C. For fiscal year 1987, \$61,225;

D. For fiscal year 1988, \$66,123; and

E. For fiscal year 1989, and annually thereafter, \$70,176.

5. Expenses. Each judge shall be reimbursed by the State, upon presentation to the State Controller of a detailed statement, for those expenses approved by the Chief Judge as actually and reasonably incurred in the performance of his duties.

6. Full-time duties. A District Court Judge shall devote full time to his judicial duties. During his term of office, he shall not practice law, nor shall he be the partner or associate of any person in the practice of law.

7. Exception. The salary provisions of this section shall not apply to judges who have retired prior to December 1, 1984.

Sec. 8. 4 MRSA §1201, sub-§§3, 5, 8 and 9, as enacted by PL 1983, c. 853, §§15 and 18, are amended to read:

3. Average final compensation. "Average final compensation" means a member's average annual rate of earnable compensation, before the member attains the age of 71, during the 3 years, not necessarily consecutive, of highest compensation for creditable service as a judge or during the entire period of creditable service, if the period is less than 3 years.

5. Board of trustees. "Board of trustees" means the Board of Trustees of the Maine State Retirement System board provided for in section 1231.



8. Creditable service. "Creditable service" means any period of employment membership service and prior service as a judge which is credited towards retirement in accordance with subchapter IV.

9. Earnable compensation. "Earnable compensation" means the annual salary of as a judge. Any money paid by the State under an annuity contract for the future benefit of a judge shall be considered part of the judge's earnable compensation. The earnable compensation of a member retired with a disability retirement allowance under section 1353 shall be assumed, for the purposes of determining benefits under this chapter, to be continued after his date of termination of service at the same rate as received immediately prior thereto, subject to the same percentage adjustments, if any, that may apply to the amount of retirement allowance of the beneficiary under section 1358.

Sec. 9. 4 MRSA §1201, sub-§16-A is enacted to read:

16-A. Prior service. "Prior service" means all service before December 1, 1984, as a judge.

Sec. 10. 4 MRSA §1201, sub-§17, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

17. Regular interest. "Regular interest" means interest at the rate which the board of trustees Board of Trustees of the Maine State Retirement System sets from time to time, in accordance with Title 5, section 1061, subsection 2.

Sec. 11. 4 MRSA §1203, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

§1203. Exemption from taxation and execution

A person's right to a retirement allowance or the return of contributions, the retirement allowance itself, any optional benefit or death benefit or any other right accrued or accruing to any person under this chapter and the moneys in the fund created under this chapter, shall be exempt from any state, county or municipal tax to the same extent that exists in the Maine State Retirement System and shall not be subject to execution, garnishment, attachment or other process, except as provided by this section. These rights shall be unassignable, except as provided by this chapter.

A member's retirement allowance shall be available to satisfy any child support obligation which is otherwise enforceable by execution, garnishment, attachment, assignment or other process. A member's accumulated contributions, which are refundable under section 1305, shall be available to satisfy any child support obligation which is otherwise enforceable by execution, garnishment, attachment, assignment or other process.

Sec. 12. 4 MRSA §1231, first ¶, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

The Board of Trustees of the Maine Judicial Retirement System is responsible for the proper operation and implementation of the Maine Judicial Retirement System shall consist of those persons who are members of the Board of Trustees of the Maine State Retirement System. The Board of Trustees of the Maine Judicial Retirement System is responsible for the proper operation and implementation of the Maine Judicial Retirement System under this chapter.

Sec. 13. 4 MRSA §1231, sub-§§3, 4 and 5 are enacted to read:

3. Expenses. The trustees shall be compensated, as provided in chapter 379, from the funds of the Maine Judicial Retirement System.

4. Oath. Each trustee shall, within 10 days after the effective date of this Act and thereafter, within 10 days after his appointment or election, take an oath of office to faithfully discharge the duties of a trustee, in the form prescribed by the Constitution of Maine. Such oath shall be subscribed to by the trustee making it, certified by the officer before whom it is taken and immediately filed in the office of the Secretary of State.

5. Quorum. Each voting trustee shall be entitled to one vote in the board of trustees. Four trustees shall constitute a quorum for the transaction of any business. Four votes shall be necessary for any resolution or action by the board of trustees at any meeting of the board.

Sec. 14. 4 MRSA §1234, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

§1234. Medical board

The Medical Board of the Maine State Retirement System shall be the Medical Board of the Maine Judi-

cial Retirement System. The medical board shall arrange for and pass upon all medical examinations required under this chapter with respect to disability retirements and shall report in writing to the Supreme Judicial Court, its conclusions and recommendations upon all the matters referred to it. If required, other physicians may be employed to report on special cases.

Sec. 15. 4 MRSA §1236 is enacted to read:

§1236. Legal adviser

The Attorney General or an assistant designated by him shall be legal adviser of the Board of Trustees of the Maine Judicial Retirement System.

Sec. 16. 4 MRSA §1254, as enacted by PL 1983, c. 852, Pt. C, §§15 and 18, is amended to read:

§1254. Investments

The board of trustees may combine funds from the Maine Judicial Retirement System and the Maine State Retirement System for investment purposes. The assets and funds of the Maine State Retirement System and the assets and funds of the Maine Judicial Retirement System shall not be combined for benefit payment purposes or for administrative expenses.

Sec. 17. 4 MRSA §1255, sub-§2, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

2. Intent. It is the intent of the Legislature that there shall be appropriated and transferred annually to the Maine Judicial Retirement System the funds necessary to meet the system's long-term and short-term financial obligations based on the actuarial assumptions established by the board of trustees upon the advice of the actuary. The goal of the actuarial assumptions shall be to achieve a fully funded system. The system's unfunded liability for members formerly subject to sections 5, 103 and 157-A, shall be repaid to the system from funded by annual appropriations over the funding period of the system. This section shall not apply to justices and judges who retired prior to December 1, 1984.

Sec. 18. 4 MRSA §1301, 3rd ¶, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

The State Court Administrator shall submit to the board a statement showing the name, title, compensation, sex, date of birth and length of service of

each member and any other information as the board may require at such times as the board may require.

Sec. 19. 4 MRSA §1302, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

§1302. Creditable service

Creditable service for the purpose of determining benefits under this chapter shall be allowed as follows:

1. Membership service. All judicial service of a member as a judge after November 30, 1984, and prior to the member's 71st birthday, for which contributions are made shall be allowed as creditable service.

1-A. Prior service. All service of a member as a judge before December 1, 1984, shall be allowed as creditable service.

2. Disability retirement service. The period following the termination of service for which a beneficiary receives disability retirement allowance payments under section 1353 shall be allowed as creditable membership service.

3. Maine state retirement system service. Creditable service as a member of the Maine State Retirement System shall be allowed as creditable service of the Maine Judicial Retirement System as follows.

A. Any member who has not ~~withdraw~~ withdrawn his accumulated contributions with the Maine State Retirement System may, upon appointment as a judge, have his Maine State Retirement System contributions and membership service transferred to his account with the Maine Judicial Retirement System and all creditable service resulting from his membership in the Maine State Retirement System shall be creditable service in the Maine Judicial Retirement System.

All funds in the Maine State Retirement System contributed by the ~~State~~ employer on account of his ~~state~~ employment shall be transferred to ~~his account with~~ the Maine Judicial Retirement System and shall be used to liquidate the liability incurred by reason of his previous employment. The State shall make such contributions, from time to time, as may be necessary to provide the benefits under the Maine Judicial Retirement System for the member as have accrued to him by reason of

his previous employment and may accrue to him by reason of his membership in the Maine Judicial Retirement System.

B. Any member who has withdrawn his accumulated contributions from the Maine State Retirement System may, subsequent to appointment as a judge and prior to the date any retirement allowance becomes effective for him, deposit in the fund by a single payment or by an increased rate of contribution an amount equal to the accumulated contributions withdrawn by him together with interest at 2% greater than regular interest from the date of withdrawal to the date of ~~deposit~~ repayment. If repayment is made in installments, interest shall continue to accrue on the outstanding balance. The member shall be entitled to all creditable service that he acquired during his previous membership. In the event any retirement allowance becomes effective before ~~the completion of the deposit~~ repayment is completed, the member shall be entitled to credit for that portion of the total of such previous creditable service which the total amount of ~~deposit~~ payments actually made bears to the single deposit total amount, including interest at 2% greater than regular interest from the date of ~~payment~~ withdrawal to the date the retirement allowance becomes effective; ~~if paid on the date of restoration to membership.~~

C. Service credited in accordance with this ~~section~~ subsection may not be used to meet the eligibility requirements for retirement in section 1351.

D. No person may receive benefits under both the Maine Judicial Retirement System and the Maine State Retirement System based upon the same period of service.

4. Amount of service per year. The board shall establish by rule the amount of creditable service to be granted for service rendered during a year, subject to the following conditions.

A. No credit may be allowed for a period of absence without pay of more than one month's duration; and

B. No more than one year of service may be credited for all service in one calendar year.

Sec. 20. 4 MRSA §1303, sub-§1, as enacted by PL 1983, c. 853, Pt.C, §§15 and 18, is amended to read:

1. Payment. For each member, who has not attained the age of 71, the State shall pay annually into the fund an amount known as the employer contribution.

Sec. 21. 4 MRSA §1304, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

§1304. Employees' contributions

Each member in service, prior to attaining age 71, shall contribute at a rate of 6.5% of earnable compensation.

Sec. 22. 4 MRSA §1351, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

§1351. Eligibility for retirement

Upon written application to the board setting forth the date upon which he chooses to retire, any member ~~with contributions on deposit in the fund~~ may retire upon meeting one of the following:

1. Age 60. Any member may retire on or after his 60th birthday if he has at least 10 years of creditable service as a judge;

2. Age 70. Any member in service may retire on or after his 70th birthday, provided that he has been in service, as a judge, for at least one year immediately before retirement; or

3. Early retirement. Any member who has completed at least 25 years of creditable service, as a judge, may retire any time before his 60th birthday. The retirement allowance shall be determined in accordance with section 1352, except that it shall be reduced by multiplying the retirement allowance by a fraction which represents the ratio of the amount of a life annuity due at age 60 to the amount of a life annuity due at the age of retirement. The tables of annuities in effect at the date of retirement shall be used for this purpose.

Sec. 23. 4 MRSA §1352, sub-§1, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

1. Amount. The service retirement allowance of a member shall be determined under the provisions of this chapter in effect on the member's date of final termination of service. Subject to the maximum benefit provided for in subsection 3 and the minimum benefit provided for in subsection 4, the total amount

of the retirement allowance of a member retired in accordance with section 1351 shall be equal to the sum of:

A.  $1/50$  of the member's average final compensation multiplied by the number of years of his ~~creditable~~ creditable membership service, beginning December 1, 1984 and creditable service allowed under section 1302, subsection 3; and

B. The earned benefit for prior service as a judge ~~prior to December 1, 1984~~, as determined by subsection 2.

Sec. 24. 4 MRSA §1352, sub-§4, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is repealed and the following enacted in its place:

4. Minimum benefit. Each judge in service on December 1, 1984, who is 50 years of age or older on that date shall be entitled to an annual minimum benefit equal to 75% of the salary as of June 30, 1984, for the position from which the judge retired, increased July 1st of each year as follows:

A. On July 1, 1984 and each year through July 1, 1989, by 6% compounded annually; and

B. On July 1990, and each year thereafter, the total is increased by an amount equal to the cost-of-living factor granted the previous September, as determined pursuant to section 1358, compounded annually.

Sec. 25. 4 MRSA §1352, sub-§§5 and 6 are enacted to read:

5. Termination of benefits. The service retirement benefit of a judge shall cease upon his return to service as a judge. A judge returned to service shall continue to earn credit toward retirement.

6. Service beyond age 70. Membership service and earnable compensation of a judge who has attained the age of 71, shall not be used to calculate retirement benefits.

Sec. 26. 4 MRSA §1353, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

§1353. Disability retirement

1. Conditions. Any member, who becomes disabled, while in service may receive a disability re-

tirement allowance by order of at least 5 Justices of the Supreme Judicial Court or upon written application to the executive director, review and report of the application by the medical board and approval of that application by a majority at least 5 of the Justices of the Supreme Judicial Court the executive director if the following conditions are met:

A. He is less than 70 years old He has not completed the eligibility requirements for retirement under section 1351, subsection 1 or 2; and

B. He became mentally or physically incapacitated to the extent that it is impossible for him to perform his duties as a judge, and the incapacity is expected to be permanent, as shown by medical examination or tests. The examination or tests shall be conducted by a qualified physician mutually agreed upon by the executive director and member, at an agreed upon place, and the costs shall be paid by the Maine Judicial Retirement System.

1-A. Eligibility for disability.

A. A member with less than 5 years of continuous creditable service immediately preceding his application for a disability allowance is not eligible for that disability retirement allowance if that disability is the result of a physical or mental condition which existed prior to the persons latest membership in the system, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty.

B. Any person who becomes a member of the Maine Judicial Retirement System after December 1, 1984, shall submit a statement of his health to the executive director on forms prescribed by the executive director. If the executive director determines that additional information is necessary to determine the extent of any preexisting disability of the employee, the executive director may require that a medical examination or tests be submitted as evidence of that member's health. Any such examination or tests shall be conducted at a place mutually agreed upon and the costs thereof shall be paid by the Maine Judicial Retirement System. This statement of health or examination or test result shall only be utilized in determining eligibility for a disability retirement allowance pursuant to paragraph A. Any member subject to this paragraph who does not



submit a statement of health as required, prior to his application for disability benefits in accordance with this section, will not be eligible for those benefits unless he establishes to the satisfaction of the Chief Justice of the Supreme Judicial Court that he meets the qualifications of paragraph A.

2. Amount. The amount of a disability retirement allowance shall be 66 2/3% of the member's average final compensation. Any member entitled to this benefit who was serving as a judge on November 30, 1984, may elect to have his disability benefits calculated in accordance with chapter 29, instead of this subsection.

3. Commencement. Disability retirement allowance payments shall commence at the date of termination of active service of the member. Termination of active service shall create a vacancy on the court.

4. Continuance. Payment of a disability retirement allowance shall continue subject to subsection 7 and the following conditions.

A. During the first 5-years, the allowance shall continue as long as the beneficiary cannot perform the duties of a judge.

B. After that period, the allowance shall continue only if the beneficiary is unable to engage in any substantially gainful activities for which he is qualified by training, education or experience.

C. The Chief Justice of the Supreme Judicial Court executive director may require the beneficiary to undergo annual medical examinations or tests for the purpose of determining whether the beneficiary is incapacitated. These examinations or tests shall be conducted by a qualified physician, mutually agreed upon by the executive director and beneficiary, at a place also mutually agreed upon, and the costs of the examination or tests shall be paid by the Maine Judicial Retirement System. If the beneficiary refuses to submit to an examination or tests, his disability allowance shall cease until he agrees to the examination or tests. If his refusal continues for one year, all rights to any further benefits under this section shall terminate.

D. For purposes of this subsection, the disability beneficiary's average final compensation at

retirement shall be used to determine his earning capacity, and in the relation to his ability to engage in a substantially gainful activity. It shall be adjusted by the same percentage, if any, as applied to the beneficiary's retirement allowance under section 1358.

5. Earnings. The Chief Justice of the Supreme Judicial Court executive director may require each disability beneficiary to submit an annual statement of earnings received from any gainful occupation during that year. For any year during which the total of those earnings and the disability allowance exceeds the current salary of the position which he last held, the excess shall be deducted from any disability retirement allowance payments made to the beneficiary during the next calendar year. These deductions shall be prorated on a monthly basis, in an equitable manner prescribed by the board, over the year or part of the year for which benefits are received. The beneficiary shall be liable to responsible for reimbursing the Maine Judicial Retirement System for any excess earnings not so deducted.

If a beneficiary does not submit an earnings statement within 30 days of receiving a request from the Chief Justice of the Supreme Judicial Court executive director, his disability retirement allowance shall be discontinued until the statement is submitted. If the statement is not submitted within one year of receiving a request, all his rights to any further benefits shall cease.

6. Reduction. The disability retirement allowance shall be reduced if a disability beneficiary is receiving or has received payments for the same disability under the workers' compensation law, or similar law, except for amounts which may be paid or payable under Title 39, section 56 or 56-A.

The total of the allowance, not including adjustments under section 1358 and the payment described in the preceding paragraph, shall not exceed 80% of the beneficiary's average final compensation. The disability retirement allowance shall in no event be reduced below the actuarial equivalent of the beneficiary's accumulated contributions at the time of retirement.

If the disability beneficiary has received a lump-sum settlement of workers' compensation benefits, any portion of that settlement not attributable to vocational rehabilitation, attorneys' fees or medical expenses shall reduce the disability retirement allowance in the same manner and amount as monthly work-

ers' compensation benefits. The reduction shall be prorated on a monthly basis in an equitable manner prescribed by the board.

If amounts paid or payable under workers' compensation or the amount of the lump-sum settlement or its attribution are in dispute, those disputes shall be settled by a single member of the Workers' Compensation Commission as provided under Title 39. Determinations of the commissioner may be appealed in the manner provided by Title 39, section 103-B.

7. Change to service retirement.

A. The disability retirement allowance of a beneficiary shall cease at age 70, or prior thereto, whenever the service retirement allowance of the beneficiary would equal or exceed the amount of his disability retirement allowance.

B. A service retirement allowance shall be paid to the beneficiary commencing on the date of termination of the disability retirement allowance as determined in paragraph A.

Sec. 27. 4 MRSA §1354, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is repealed.

Sec. 28. 4 MRSA §1355, sub-§1, ¶B, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

B. In lieu of accepting the payment provided in paragraph A, the first of the following persons, who is designated a beneficiary by the member or former member, may elect, if eligible, to receive the benefits described in paragraph C:

- (1) The spouse;
- (2) The child or children;
- (3) The mother or father; or
- (4) The mother and father.

If no designation was made, or if the designated beneficiary did not survive the member or former member, the first of the following listed persons, if any, alive at the death of the member or former member, may elect to receive the benefits in paragraph C:

- (1) The spouse;
- (2) The child or children; or
- (3) The parents or parent.

Sec. 29. 4 MRSA §1355, sub-§2, ¶A, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

A. If a member or former member who receives a disability retirement allowance dies after completing the conditions for service retirement under any of the provisions of this chapter, but before a service retirement allowance becomes effective, the first of the following persons: Designated beneficiary; spouse; mother; or father who survives the member or former member may receive a reduced retirement allowance under option 2 of section 1357 as if the deceased had died on the date his retirement allowance became effective.

{1} If this reduced allowance is less than \$10 per month, the beneficiary may elect, before the allowance begins, to receive a lump sum which is the actuarial equivalent at the date of death of the deceased's retirement allowance payments.

(2) If the designated beneficiary is the spouse, child or children, mother or father, he may elect to receive benefits under subsection 1, instead of the option 2 benefit.

(3) The first listed person who is not a designated beneficiary may elect, before the allowance begins, to receive the deceased's accumulated contributions in a lump sum.

Sec. 30. 4 MRSA §1355, sub-§3, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

3. Election of benefits. The benefits described in this section shall be ~~in lieu~~ instead of any benefits payable under section 1355-A or section 1356.

Any person entitled to receive benefits under this section may elect, before benefit payments begin, to receive benefits under section 1355-A or section 1356 instead of these benefits, if all requirements of ~~that the applicable~~ section are complied with.

Sec. 31. 4 MRSA §1355-A, sub-§1, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

1. Benefit. Notwithstanding the provisions of section 1355, any eligible spouse and child or children of a judge who was in service prior to August December 1, 1984, shall, upon the death of that judge, be entitled to a minimum benefit of 1/2 the retirement benefit of the judge, determined in accordance with section 1352, on the assumption that retirement of the judge had taken place on the date of his death. If more than one child is eligible for this benefit, it shall be divided equally among them. This benefit shall continue as long as the spouse or child or children remain eligible.

Sec. 32. 4 MRSA §1355-A, sub-§§3 and 4 are enacted to read:

3. Election of benefits. The benefits described in this section shall be instead of any benefits payable under either section 1355 or section 1356.

Any person entitled to receive benefits under this section may elect, before benefit payments begin, to receive benefits under section 1355 or section 1356 instead of these benefits, if all requirements of that section are complied with.

4. Cost-of-living adjustments. Payments made under subsection 1 shall be adjusted pursuant to section 1358 in the same manner as retirement allowances.

Sec. 33. 4 MRSA §1356, sub-§2, ¶B, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

B. The benefits provided by subsection 1, paragraph B shall be paid until:

(1) The spouse dies, in which case the payments shall continue to the child or children until they die or ~~until~~ the youngest child no longer meets meet the definition of "child" "or children" in section 1201; or

(2) The child or children die or ~~the youngest child no longer meets meet~~ the definition of "child" "or children" in section 1201, in which case, the payment to the spouse shall be reduced to 2/3 of the deceased's average final compensation until the spouse dies.

Sec. 34. 4 MRSA §1356, sub-§3, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

3. Election of benefits. The benefits provided by this section shall be ~~in lieu~~ instead of any benefits payable under section 1355 or section 1355-A.

Any person entitled to receive benefits under this section may elect, before benefit payments begin, to receive benefits under section 1355 or section 1355-A, instead of these benefits, if all requirements of the applicable section are complied with.

Sec. 35. 4 MRSA §1357, sub-§2, ¶¶B and C, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, are amended to read:

B. Option 2. During ~~his~~ the beneficiary's life, a monthly benefit equal to the amount of the monthly benefit being received by the retiree at the time of his death;

C. Option 3. During ~~his~~ the beneficiary's life, a monthly benefit equal to 1/2 of the amount of the monthly benefit being received by the retiree at the time of his death; or

Sec. 36. 4 MRSA §1358, sub-§1, ¶A, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

A. The board shall automatically adjust allowances, beginning in September 1985, and each September thereafter, by any percentage change in the Consumer Price Index from July 1st through June 30th, but only ~~up~~ to a maximum annual adjustment increase or decrease of 4%. The board shall determine the cost of these adjustments and shall include them in their budget requests, if necessary.

Sec. 37. 4 MRSA §1359, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is repealed.

Sec. 38. 4 MRSA §1401, sub-§1, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

1. Currently effective annual salary. "Currently effective annual salary" means the annual salary on June 30, 1984, of the position from which the judge retired, or if he died in office, the position he held at death, increased on July 1, 1984, and each succeeding July 1st, by 6% of the salary, as adjusted, on the immediately preceding June 30th.

Sec. 39. 4 MRSA §1404, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

§1404. Regular retirement benefits

Any judge who resigned his office or ceased to serve at the expiration of any term thereof, after attaining the age of 70 years and after having served on the Supreme Judicial Court, the Superior Court, the District Court, the Administrative Court or any combination of that service, for at least 7 years, or after attaining the age of 65 years and after having served as a judge on those courts for at least 12 years, or after attaining the age of 60 years and after having served as a judge on those courts for at least 20 years, shall receive annually during the remainder of his life, whether or not he is appointed an Active Retired Justice, a retirement benefit equal to  $\frac{3}{4}$  of the currently effective annual salary to be paid in the same manner as the salaries of the judges of that court from which he retired were paid prior to December 1, 1984. The right of any judge drawing a retirement benefit to continue to receive it shall cease immediately if he acts as attorney or counsel or in any action or legal proceeding in which the State is an adverse party or has any interest adverse to the person or persons in whose behalf he acts.

Sec. 40. 4 MRSA §1405, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

§1405. Disability benefits

Any judge who, prior to his retirement age was unable, by reason of failing health, to perform his duties and who was retired by majority of the Justices justices of the Supreme Judicial Court court upon which he was sitting when retired shall receive annually during the remainder of his life a retirement benefit equal to  $\frac{3}{4}$  of the currently effective annual salary to be paid in the same manner as the salaries of the judges of that court from which he retired were paid prior to July 1, 1984.

Sec. 41. 5 MRSA §1001, sub-§10, as amended by PL 1969, c. 504, §11-A, is amended to read:

10. Employee. "Employee" shall mean any regular classified or unclassified officer or employee in a department, including for the purposes of this chapter, teachers in the public schools, but shall not include any Justice of the Superior Court or Supreme Judicial Court who is now or may be later entitled to retirement benefits under Title 47, section 57, and Ti-

the 47 section 103, nor shall it include any Judge of the District Court judge, as defined in Title 4, section 1201 or 1301, who is now or may be later entitled to retirement benefits under Title 4, chapter 527 or 29, nor shall it include any member of the State Police who is now entitled to retirement benefits under Title 25, chapter 195. Persons serving during any probationary period required under the Personnel Law and rules of the Personnel Board shall be deemed regular employees for purposes of this definition. In all cases of doubt, the board of trustees shall determine whether any person is an employee as defined in this chapter.

Sec. 42. 5 MRSA §12004, sub-§7, ¶A, as enacted by PL 1983, c. 812, §39, is amended to read:

A. This classification includes the following boards:

NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE
(1) Maine Turnpike Authority	Legislative Per Diem	23 MRSA §1965
(2) Maine Port Authority	\$25/day	23 MRSA §4420
(3) Maine Health and Higher Educational Facilities Authority	Expenses only	22 MRSA §2054
(4) Maine School Building Authority	Expenses only	20-A MRSA §15704
(5) Finance Authority of Maine	Legislative Per Diem	10 MRSA §964
(6) Maine State Housing Authority	Legislative Per Diem	30 MRSA §4601-A
(7) Board of Trustees, Maine State Retirement System	\$50/day	5 MRSA §1031
(8) <u>Board of Trustees, Maine Judicial Retirement System</u>	<u>\$50/day</u>	<u>4</u> <u>MRSA §1231</u>

Sec. 43. 39 MRSA §91, sub-§3, as repealed and replaced by PL 1983, c. 853, Pt. C, §16, is amended to read:



3. Salary; expenses; retirement. Salaries commissioners are as provided in Title 2, section 7, subsection 2. Members of the commission shall receive their actual, necessary, cash expenses while away from their offices on official business of the commission. Commissioners who elect to join the Maine State Retirement System may shall receive credit for their creditable service as a member of the Maine State Retirement System prior to July 1, 1983, provided they make a deposit in the Members Contribution Fund as provided in Title 5, section 1094, subsection 10 and for any service as a commissioner from July 1, 1983 to November 30, 1984 without further contribution by the members. Service shall be credited in accordance with the provisions of Title 5, section 1094, subsection 10. Any service as a commissioner from July 1, 1983 to November 30, 1984 shall be allowed as creditable service for all purposes in the Maine State Retirement System without further contribution.

Sec. 44. Appropriation. The following funds are appropriated from the General Fund for the fiscal year ending June 30, 1985, to carry out the purposes of this Act.

1984-85

WORKERS' COMPENSATION COMMISSION

Workers' Compensation Commission

Personal Services	215,200
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Provides funds for salary increases to the commissioner and associate commissioners effective December 1, 1984. Also provides funds to be used only to compensate the Maine State Retirement System for the creditable service of Workers' Compensation Commission Commissioners for the period of July 1, 1983, through June 30, 1985.

Total

\$215,200

JUDICIAL DEPARTMENT

1984-85

## Administrative Courts

Personal Services	\$762,685
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Provides funds to be used only to compensate the Maine State Retirement System for the costs of implementing the Maine Judicial Retirement System for the period December 1, 1984, through June 30, 1985.

Total	<u>\$762,685</u>
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TOTAL	<u>\$977,885</u>
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Sec. 45. Effective date. This Part shall take effect on December 1, 1984.

PART C

Study. There is created a Joint Select Committee on the Unorganized Territory. The committee shall be composed of 11 members as follows: Two members of the joint standing committee of the Legislature having jurisdiction over energy and natural resources; 2 members of the joint standing committee of the Legislature having jurisdiction over local and county government; 2 members of the joint standing committee of the Legislature having jurisdiction over taxation; one member of the Legislature who represents the unorganized territory; and 4 other members of the Legislature. Three of the members shall be appointed by the President of the Senate. Eight of the members shall be appointed by the Speaker of the House of Representatives.

The committee shall review the organization, administration, funding and delivery of services to the unorganized territory. The committee shall review the methods used for estimating the cost of each component and shall identify alternative methods of providing and funding municipal services in the unorganized territory, including the advisability of organizing the unorganized territory.

The committee shall submit its report and any legislation necessary to accomplish its recommendation to the First Regular Session of the 112th Legislature by January 1, 1985.

#### PART D

Sec. 1. 36 MRSA §§3220 to 3222, as enacted by PL 1983, c. 817, §8, are repealed.

Sec. 2. 36 MRSA c. 463, as enacted by PL 1983, c. 817, §12, is repealed.

Sec. 3. 36 MRSA c. 463-A is enacted to read:

#### CHAPTER 463-A

#### REGIONAL FUEL TAX AGREEMENT

##### §3311. Purpose and principles

1. Agreement. This chapter authorizes the State Tax Assessor to enter into a regional fuel tax agreement referred to in this chapter as the "agreement."

2. Purpose. It is the purpose of this chapter to:

A. Promote and encourage the fullest and most efficient use of the highway system by making uniform the administration of motor fuels consumption taxation laws with respect to motor vehicles operated interstate;

B. Enable participating jurisdictions to act cooperatively and provide mutual assistance in the administration and collection of motor fuels consumption taxes; and

C. Establish and maintain the concept of one administering base jurisdiction for each taxpayer to provide that a taxpayer's base jurisdiction will be the administrator of the agreement and execute its provisions with respect to the taxpayer.

3. Principles. The Legislature, in authorizing this agreement, recognizes that regional administration of fuels consumption tax laws will contribute to more efficient administration and collection of taxes which are owed to the participating jurisdictions. A regional agreement is intended to result in increased

tax collection as well as a system which will reduce taxpayer burdens through the establishment of one base jurisdiction and the elimination of the need for the taxpayer to maintain licensing arrangements with multiple jurisdictions.

§3312. Authority of the State Tax Assessor

1. Agreement. The State Tax Assessor, with the advice of the Commissioner of Transportation and the Secretary of State and the approval of the Governor, may enter into agreements with other states, the District of Columbia and the Canadian provinces, providing for the reciprocal enforcement of the fuel tax laws imposed by the participating jurisdictions and empowering the duly authorized officer of any participating jurisdiction which extends like authority to officers or employees of this State, to sue for the collection of the jurisdiction's fuel taxes in the courts of this State. The agreement shall become effective on the date provided by the State Tax Assessor according to subsection 3.

2. Report. The State Tax Assessor, with the advice of the Commissioner of Transportation and the Secretary of State, shall prepare an annual report to the Legislature by January 1st of each year. The report shall evaluate the effectiveness of the agreement and shall describe, explain and justify any rules promulgated pursuant to this chapter. This report shall be submitted to the joint standing committee of the Legislature having jurisdiction over transportation, the joint standing committee of the Legislature having jurisdiction over taxation and the Legislative Council.

3. Rules. The State Tax Assessor shall promulgate rules pursuant to this chapter which shall provide at least the following:

A. The effective date for implementation of the agreement;

B. Transitional provisions relating to the effectiveness of licenses and reporting requirements when the agreement becomes effective, as well as when the State ceases to participate in the agreement;

C. All rules necessary to implement the agreement authorized by this chapter; and

D. An opportunity for public notice and hearing before agreeing to changes in the agreement.

§3313. Scope of the agreement; conflict

The agreement authorized by this chapter applies to the taxes levied in accordance with chapters 453 and 459. To the extent that this chapter or the rules promulgated pursuant to this chapter are inconsistent with chapters 453 and 459, this chapter shall prevail.

§3314. Content of the agreement

1. Effective date. The agreement shall provide that it shall become effective on the date specified by the State Tax Assessor pursuant to section 3312.

2. Tax rate. The agreement shall provide that the tax rate to be collected under this chapter, with regard to fuel consumed in this State, shall be the applicable rate specified by the Legislature pursuant to chapters 451 to 459.

3. Appeal. The agreement shall provide for an appeal by the taxpayer of decisions of participating jurisdictions. In this State, appeal of the decisions of the State Tax Assessor pursuant to this chapter may be appealed in the same manner as decisions under chapters 453 and 459.

Sec. 4. PL 1983, c. 817, §14, is repealed and the following enacted in its place:

Sec. 14. Effective date. This Act shall take effect October 1, 1984.

PART E

Allocation. There is allocated from the Alcoholism Prevention Education Treatment and Research Fund for the fiscal year ending June 30, 1985, to the departments listed, the sums identified below.

1984-85

CORRECTIONS, DEPARTMENT OF

All Other	\$ 6,000
Department of Corrections	
Total	<u>\$ 6,000</u>

1984-85

HUMAN SERVICES, DEPARTMENT OF

All Other \$55,875

Department of Human Services  
Total \$55,875MENTAL HEALTH AND MENTAL  
RETARDATION, DEPARTMENT OF

All Other \$ 7,500

Department of Mental Health  
and Mental Retardation  
Total \$ 7,500

TOTAL ALLOCATION \$69,375

The above allocations are to provide financial support to those nonprofit alcoholism service agencies which are not eligible to receive reimbursement for their services under the new alcoholism treatment insurance.

PART F

PL 1983, c. 824, Pt. Q, under the caption "EXECUTIVE DEPARTMENT," that part relating to "Office of Energy Resources" is amended to read:

Office of Energy Resources	
Personal Services	\$8,548
Provides state	
match for Federal	
at Highway	
Administration	
funds for continuation of the	
Rideshare Coordinator position	
from August,	
1984 to January,	
1985.	

1984-85

All Other

41,272

Provides \$2,000  
in state match-  
ing funds for  
continuation of  
the Rideshare  
Program; \$25,000  
for loan subsi-  
dies for 16 vans  
and \$14,272 for  
energy audits on  
residential care  
facilities.

#### PART G

Telecommunications, Department of the Attorney General. No agreements relating to the replacement or substantial modification of existing telecommunication systems or equipment may be entered into by the Department of the Attorney General without the specific prior approval of the Joint Standing Committee on Appropriations and Financial Affairs.

#### PART H

Sec. 1. Appropriation from the General Fund. There is appropriated from the General Fund to the Judicial Department the sum of \$570,560 for the fiscal year ending June 30, 1985, to provide for increased personal service costs.

Sec. 2. Legislative intent. In consideration of the additional personal services appropriation from the General Fund provided for in section 1 of this Part, it is the intent of the Legislature that no salary or benefit adjustments covering any period prior to July 1, 1985, shall be negotiated for judicial employees under Public Law 1983, chapter 702.

#### PART I

PL 1983, c. 479, §32, is amended by striking out all of the last line and inserting in its place the following:

These funds  
shall not lapse  
June 30, 1984

but shall carry  
forward until  
December 31,  
1984 to be used  
for the same  
purpose.

Total \$100,000

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved, except for Part B which shall become effective December 1, 1984 and Part D which shall become effective October 1, 1984.

Effective September 19, 1984, unless otherwise indicated.

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## CHAPTER 864

H.P. 1891 - L.D. 2488

AN ACT to Allow the Establishment of  
Generation and Transmission Cooperatives for  
the Purpose of Reducing Borrowing Costs for  
Ratepayers.

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

Whereas, Eastern Maine Electric Cooperative, Inc., has purchased an interest in a generating plant and the financing of that purchase, currently to be obtained by the agency through which the purchase was made, entails a high interest cost; and

Whereas, Eastern Maine Electric Cooperative, Inc., may borrow directly at a lower cost, thus producing potential savings of millions of dollars for its ratepayers over the life of the financing; and

Whereas, scheduling of debt requires prompt action in order to permit direct borrowing so as to realize these savings; and

Whereas, the Rural Electrification Administration and the National Rural Utilities Cooperative Finance Corporation require that direct borrowing of this kind must be accomplished through a generation and transmission cooperative; and