

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Twin City Printery
Lewiston, Maine
1987

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

be frivolous did so knowing the charge to be frivolous, it shall state its findings of fact and shall issue an order requiring that person to pay the reasonable attorneys fees and double the amount of other reasonable costs incurred by the person against whom the charge was made in defending against the charge before the board. Where it is disputed, reasonableness shall be determined by the board. The order shall also require that person to reimburse the State for the per diem payments made to board members for their attendance at the hearing on the charge. Failure to comply with such an order is a violation of this article.

Effective September 29, 1987.

CHAPTER 156

S.P. 314 — L.D. 916

AN ACT to Extend the Freeze on Maximum Weekly Benefits Under the Workers' Compensation Act.

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

Sec. 1. 39 MRS A §53-A, as enacted by PL 1985, c. 372, Pt. A, §15, is amended to read:

§53-A. Maximum benefit levels

The maximum weekly benefit payable under section 54-A, 55-A or 58-A is \$447.92. Beginning on ~~July 1, 1988~~ August 1, 1988, this maximum benefit level shall be adjusted annually so that it continues to bear the same percentage relationship to the state average weekly wage, as computed by the Maine Unemployment Insurance Commission, as it did on ~~July 1, 1987~~ August 1, 1987.

Sec. 2. Application. This Act shall apply only as to injuries occurring on or after June 30, 1985.

Effective September 29, 1987.

CHAPTER 157

S.P. 403 — L.D. 1243

AN ACT to Clarify the Law Relating to Restitution for Victims of Crime by Expressly Providing that Cities, Counties and other Governmental Entities can be Victims and that Organizations may be Ordered to Pay Restitution.

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

Whereas, the Legislature has declared in the Maine Revised Statutes, Title 17-A, section 1321, that repay-

ment, in whole or in part, to the victim by a person convicted of a crime may operate to rehabilitate the offender in certain instances; and

Whereas, the Legislature has recognized the need to encourage the compensation of crime victims by the person most responsible for the victim's loss, that is, the offender; and

Whereas, restitution by the offender may serve to reinforce the offender's sense of responsibility for the crime and to provide him the opportunity to pay his debts to society and to his victim in a constructive manner; and

Whereas, the term "victim" as it is now defined in the Maine Revised Statutes, Title 17-A, section 1322, subsection 7, includes an organization and a human being but does not include cities, towns, counties and other governmental entities; and

Whereas, towns, cities, counties, departments and agencies of the State, and other governmental entities within the meaning of Title 17-A, section 2, subsection 13, frequently suffer economic loss as a result of crimes, as do human beings or organizations within the meaning of Title 17-A, section 2, subsection 19; and

Whereas, in the year 1986, the Department of the Attorney General prosecuted thefts of government property valued between \$70,000 to \$100,000; and

Whereas, it is unclear whether under Title 17-A, chapter 54, courts have authority to order restitution, when appropriate, to governmental entities that are victims of crime; and

Whereas, it is desirable to clarify as soon as possible that courts in Maine do have authority to order criminal offenders to make restitution to governmental entities; and

Whereas, the Maine Criminal Code contains a chapter on fraud which includes criminal conduct by businesses; and

Whereas, the Maine Criminal Code now does not include restitution as a sentencing alternative for organizations such as corporations, partnerships or other business entities convicted of a crime; and

Whereas, restitution, which would prevent an organization from keeping funds obtained as a result of a crime, would have a direct economic impact and be of significant deterrent value; 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:

Sec. 1. 17-A MRSA §1152, sub-§3, as amended by PL 1977, c. 53, §2, is repealed and the following enacted in its place:

3. Every organization convicted of a crime shall be sentenced to one of the following:

A. Unconditional discharge as authorized by chapter 49;

B. A suspended fine with probation as authorized by chapter 49;

C. A fine as authorized by chapter 53. Subject to the limitations of section 1302, such a fine may be imposed in addition to the sentencing alternatives in paragraphs B and D; or

D. A sanction authorized by section 1153. This sanction may be imposed in addition to the sentencing alternatives in paragraphs B and C.

Sec. 2. 17-A MRSA §1152, sub-§3-A is enacted to read:

3-A. Every organization convicted of a crime may be required to make restitution as authorized by chapter 54. Subject to the limitations of chapter 54, restitution may be imposed as a condition of probation or may be imposed in addition to any other sentencing alternative included within subsection 3, with the exception of an unconditional discharge.

Sec. 3. 17-A MRSA §1322, sub-§§3, 5 and 7, as enacted by PL 1977, c. 455, §3, are amended to read:

3. Economic loss. "Economic loss" means includes economic detriment consisting ~~only~~ of property loss, allowable expense, work loss, replacement services loss and, if injury causes death, dependent's economic loss; and dependent's replacement services loss ~~and property loss~~. Noneconomic detriment is not loss. Economic detriment is loss although caused by pain and suffering or physical impairment.

A. Allowable expense. "Allowable expense" means reasonable charges incurred for reasonably needed products, services and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training and other remedial treatment and care, and nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing. The term includes a total charge not in excess of \$500 for expenses in any way related to funeral, cremation and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semiprivate accommodations, unless other accommodations are medically required.

B. Dependent's economic loss. "Dependent's economic loss" means loss after decedent's death of contributions of things of economic value to his dependents, not including services they would have received from the decedent if he had not suffered the fatal injury, less expenses of the dependents avoided by reason of decedent's death.

C. Dependent's replacement services loss. "Dependent's replacement loss" means loss reasonably incurred by dependents after decedent's death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if he had not suffered the fatal injury, less expenses of the dependents avoided by reason of decedent's death and not subtracted in calculating dependent's economic loss.

D. Property loss. "Property loss" means the value of property taken from the victim, or of property destroyed or otherwise broken or harmed. A property loss shall include the value of taxes or other obligations due to the government that have not been paid.

E. Replacement services loss. "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of himself or his family, if he had not been injured.

F. Work loss. "Work loss" means loss of income from work the injured person would have performed if he had not been injured and expenses reasonably incurred by him in obtaining services in lieu of those he would have performed for income, reduced by any income for substitute work actually performed by him or by income he would have earned in available appropriate substitute work he was capable of performing but unreasonably failed to undertake.

5. Offender. "Offender" means any natural person or organization convicted of a crime.

7. Victim. "Victim" means a government that suffers economic loss or a person who suffers personal injury, death or economic loss as a result of a crime or the good faith effort of any person to prevent a crime.

Sec. 4. 17-A MRSA §1323, sub-§3 is enacted to read:

3. Restitution required. In any prosecution for a crime committed prior to the effective date of this chapter, or any amendment to this chapter, the court may, with the consent of the defendant, require the defendant to make restitution in accordance with this chapter as amended.

Sec. 5. 17-A MRSA §1325, sub-§3 is enacted to read:

3. Exception. The provisions of subsection 2, paragraph D, do not apply to an offender which is an organization.

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

Effective May 22, 1987.

CHAPTER 158

H.P. 840 — L.D. 1131

AN ACT Relating to the Membership of the Waldo County Budget Committee.

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

Whereas, legislation was passed in 1985 which provided for a budget committee of municipal officials to approve the Waldo county budget; and

Whereas, this legislation provided for all members to be elected in 1985 and every 2 years thereafter; and

Whereas, it is desired to increase the length of the terms to 3 years and to stagger the times when the terms shall end; and

Whereas, the budget committee is to be elected at least 90 days prior to the end of the county's fiscal year which is at the end of the calendar year; 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:

Sec. 1. 30 MRSA §1403, sub-§1, as repealed and replaced by PL 1985, c. 737, Pt. A, §85, is amended to read:

1. **Membership.** The budget committee shall consist of 9 members, 3 members from each commissioner district selected as provided for in this section and 3 county commissioners who shall serve on the committee in an advisory capacity only and shall not vote on any committee matters.

In ~~1985~~ 1987, and thereafter, at least 90 days prior to the end of every other fiscal year, the 9 members shall be elected by the following procedure.

A. The county commissioners shall notify all municipal officers in the county to caucus by county commissioner districts at a specified date, time and place for the purpose of nominating at least 3 one municipal officers officer from each district as candidates a candidate for the county budget committee; ex-

cept that in 1987, at least 3 municipal officers shall be nominated from each district. The county commissioners shall serve as nonvoting moderators for their district caucuses. Nominations shall be received from the floor. The 3-nominees nominee receiving the most votes shall be approved. Any other nominees who receive a majority vote of those present shall also be approved. The names of those duly approved shall be recorded and forwarded to the county commissioners to be placed on a written ballot.

B. The county commissioners shall have written ballots printed with the names of those candidates selected in their districts in accordance with paragraph A. The county commissioners shall distribute these ballots to each municipality. Each commissioner district shall require a separate ballot and each ballot shall specify each candidate's full name and municipality. The municipal officers shall vote as a board for 3 one budget committee members member from the candidates on the ballot and return the ballot to the county commissioners by a certain date; except that in 1987, the municipal officers shall vote as a board for 3 budget committee members. The ballots shall be counted at a regular meeting of the county commissioners. Each vote shall be weighed according to that municipality's population as a proportion of the district's total population, except that no municipality may have more than one budget committee member. The county commissioners shall notify each municipality, in writing, of the results of the election and shall certify the results to the Secretary of State.

Sec. 2. 30 MRSA §1403, sub-§3, as repealed and replaced by PL 1985, c. 737, Pt. A, §85, is repealed and the following enacted to read:

3. **Term of office.** The term of office shall be 3 years, provided that a budget committee member remains a municipal officer in his municipality; except that of those elected in 1987, one from each district shall be elected for a term of 3 years; one from each district shall be elected for a term of 2 years; and one from each district shall be elected for a term of one year.

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

Effective May 22, 1987.

CHAPTER 159

H.P. 1197 — L.D. 1631

AN ACT to Provide Assistance to Victims of Natural Disasters.

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