

# MAINE STATE LEGISLATURE

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**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.

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Twin City Printery  
Lewiston, Maine  
1987

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

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

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Sec. 2. 26 MRSA §931, first ¶, as enacted by PL 1985, c. 294, §§2 and 3, is amended to read:

The State Board of Arbitration and Conciliation, in this subchapter called the "board," shall consist of 3 members appointed by the Governor, from time to time upon the expiration of the terms of the several members, for terms of 3 years. One member shall be an employer of labor or selected from some association representing employers of labor, and another shall be an employee or selected from some bona fide trade or labor union. The 3rd member shall be chairman of the board and shall represent the public interests of the State. Vacancies occurring during a term shall be filled for the unexpired term. Members of the board shall each receive \$50 \$75 a day for their services for the time actually employed in the discharge of their official duties. They shall receive their traveling and all other necessary expenses. The costs for services rendered and expenses incurred by the State Board of Arbitration and Conciliation shall be paid by the State from an appropriation for the board which shall be included in the budget of the Maine Labor Relations Board. Authorization for services rendered and expenditures incurred by the State Board of Arbitration and Conciliation shall be the responsibility of the Executive Director of the Maine Labor Relations Board who shall, annually, on or before July 1st, make a report of the activities of the State Board of Arbitration and Conciliation to the Governor. The board shall from time to time make rules of procedure as it deems necessary.

Effective September 29, 1987.

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## CHAPTER 461

H.P. 249 — L.D. 322

### AN ACT to Allow Reasonable Attorneys Fees for Court Appointed Counsel on Appeals by the State to any Federal Court.

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

15 MRSA §2115-A, sub-§9 is enacted to read:

9. Appeals to Federal Court; fees and costs. The Law Court shall allow reasonable attorneys fees for court appointed counsel when the State appeals a judgment to any Federal Court or to the United States Supreme Court on certiorari. Any fees allowed pursuant to this subsection shall be paid out of the accounts of the Judicial Department.

Effective September 29, 1987.

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## CHAPTER 462

H.P. 248 — L.D. 321

### AN ACT to Open Maine Libraries to Modern Information Technology.

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

27 MRSA §39 is enacted to read:

#### §39. Statewide Library Information System

1. Statement of policy. The Legislature declares that it is the policy of the State that cooperation among Maine libraries of all types should be fostered and encouraged. The sharing of library holdings enriches the economic, educational and cultural life of each Maine community. Citizen access to materials purchased with public dollars requires that materials be identifiable by title and physical location. It is in the public interest that the Maine State Library Bureau promote and assist access by recording the holdings of Maine libraries in a form accessible by modern information technology. In this way, the educational and informational resources of the State will be available to every citizen.

2. Legislative intent. Recognizing the value of broad citizen access to library materials and recognizing that automated records are essential to the use of technology, the State assigns to the Maine State Library Bureau the responsibility of collecting the holding records of libraries throughout Maine and making them accessible in machine-readable form. It is the State's intent that these records be shared with any citizen or library on request. It is the intent of the Legislature to provide the Maine State Library Bureau with the resources necessary to carry out this section.

Effective September 29, 1987.

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## CHAPTER 463

H.P. 196 — L.D. 248

### AN ACT Concerning the Calculation of the Insured Value Factor in Public Tuition Payments to Private Schools.

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

20-A MRSA §5806, sub-§2, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

2. Maximum allowable tuition. The maximum allowable tuition charged to a school administrative unit by a private school shall be the rate established under subsection 1 or the state average per public secondary stu-

dent cost as adjusted, whichever is lower, plus an insured value factor. The insured value factor shall be computed by dividing 5% of the insured value of school buildings and equipment by the average number of pupils enrolled in the school on October 1st and April 1st of the year immediately before the school year for which the tuition charge is computed. It may not exceed 7.5% 10% of a school's legal tuition rate per student in any one year beginning with the 1988-89 school year.

For the 1988-89 school year only the state share of the increase in the insured value factor shall be paid in the year of allocation.

Effective September 29, 1987.

## CHAPTER 464

S.P. 439 — L.D. 1334

### AN ACT to Improve Fire Prevention Activity of Railroads.

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

Sec. 1. 12 MRSA §9405, sub-§§1 to 6 are enacted to read:

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Clear" means to cut and burn or to remove from the right-of-way.

B. "Inflammable materials" include grass, weeds, brush, logs, waste railroad ties, refuse material, debris and all materials which burn easily.

C. "Right-of-way" means a distance not less than 25 feet away from the track measured horizontally from each outer rail or the entire width of a railroad company's ownership, whichever is less.

2. Right-of-way clearance plan. Every railroad company, prior to October 1st of each year, shall submit a plan to clear its right-of-way of inflammable materials to the Bureau of Forestry, subject to approval by the director, setting forth the company's plans for clearance of its right-of-way during the following calendar year. That plan shall set forth action to be taken by the company to clear its right-of-way. The plan shall include the following:

A. A description of action to be taken;

B. A timetable of operations;

C. The location of operations, identified by mile-post number where available; and

D. Such other information as the director, by rule, shall require.

3. Action by the director. In addition to any other action authorized by law, the director shall:

A. Receive and review right-of-way clearance plans as submitted pursuant to this section. He has the authority to make alterations or amendments to any plan prior to approval and to request a refile of the plan. If the plan contains the information required by this section and the director determines that execution of the plan will sufficiently control the hazard of fire on the railroad right-of-way, the director shall notify the company by December 31st of the calendar year that its plan has been approved.

If it is determined by the director that the execution of the plan will not sufficiently control the fire hazard on the railroad right-of-way, he shall notify the railroad within 21 days of receiving the plan. The railroad will in turn have 21 days to submit a revised plan. A final approved plan shall be adopted by December 31st of each calendar year. The director, if determined necessary, may extend the deadline for filing of an approved plan;

B. Inspect annually or more frequently the company's right-of-way;

C. Monitor plan compliance; and

D. Suspend the execution of any plan and order the refile of an amended plan within 14 days of any determination that conditions giving rise to a fire hazard have so changed, or that new information has been made available, since the date of plan approval as to require a plan amendment.

4. Compliance. The railroad shall comply with all of the terms of the approved plan. If failure to comply with the plan is the result of circumstances beyond the control of the railroad, those circumstances shall constitute an affirmative defense to any action for violation of this subsection.

5. Filing fee. The owner of the right-of-way shall be assessed an annual filing fee of \$2 per mile of right-of-way within this State which is payable upon submission of the plan. Refiled or amended plans shall be exempt from any such fee. All revenues derived from filing fees shall be deposited in a special revenue account in the Bureau of Forestry, to be used to carry out the purposes of this chapter. This account shall be allocated by the Legislature.

6. Rules. The director shall have general supervision over compliance with this section. Subject to any applicable requirement of the Maine Administrative Procedure Act, Title 5, chapter 375, the director shall make rules, prescribe forms and make suitable orders as to procedures adopted to assure compliance with this