

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE

**FIRST SPECIAL SESSION**

October 9, 1987 to October 10, 1987

**SECOND SPECIAL SESSION**

October 21, 1987 to November 20, 1987

and the

**SECOND REGULAR SESSION**

January 6, 1988 to May 5, 1988

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  
1988

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST AND SECOND SPECIAL SESSIONS  
and  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

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All Other	5,040
Provides funds for insurance for licensed respite care providers.	
DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION	
TOTAL	<u>\$11,040</u>

Effective August 4, 1988.

## CHAPTER 779

H.P. 1915 — L.D. 2614

### AN ACT to Amend the Rehabilitation System under the Workers' Compensation Act.

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

Whereas, the Workers' Compensation Act was substantially revised within the past year to bring down the cost of claims for insurers; and

Whereas, in light of these changes injured workers are entitled to an effective rehabilitation system that will meet their needs; and

Whereas, there is no available information regarding some aspects of the rehabilitation system that potentially could be abused; 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.** 39 MRSA §81, first ¶, as enacted by PL 1985, c. 372, Pt. A, §29, is amended to read:

The purpose of this subchapter is restoration of the injured employee to gainful suitable employment, to the maximum extent practicable, consistent with the priorities listed in section 86. To further that purpose, it is the shared responsibility of all parties involved to cooperate in developing a rehabilitation process designed to promote reemployment at a level of earnings commensurate with the employee's ability to perform under present conditions, consistent with the priorities of section 86.

**Sec. 2.** 39 MRSA §82, sub-§3, ¶¶A and E, as enacted by PL 1985, c. 372, Pt. A, §29, are amended to read:

A. The administrator is responsible for the receipt of reports and other information required under this subchapter and may require supplementary informa-

tion needed to fulfill the purposes of this subchapter. The administrator shall collect data on reemployment trends for injured workers.

E. The commission shall not provide direct rehabilitation services. Rehabilitation services under this subchapter shall be provided by private and public rehabilitation counselors, governmental agencies, in-house rehabilitation counselors and others approved by the administrator as qualified to provide rehabilitation services under the commission's rules. The administrator shall consider a rehabilitation counselor's rate of successfully placing rehabilitated employees in jobs relative to the placement rates of other counselors in the State as fundamental in deciding whether to approve the counselor as qualified. The administrator shall compile annually a list of approved providers of rehabilitation services, except that in-house rehabilitation counselors shall not appear on the list, and shall make this list available to the parties.

**Sec. 3.** 39 MRSA §82-A is enacted to read:

#### §82-A. Initial report

Before any rehabilitation services may be provided for an injured worker, the rehabilitation provider must supply the Workers' Compensation Commission with the following:

1. Preliminary information. Preliminary information on the injured worker on forms provided by the commission; and

2. Informed consent. An informed consent form provided by the commission and signed by the injured worker. Before an injured worker can sign the form, the rehabilitation provider must explain to the injured worker:

A. The rehabilitation rights and options available to an injured worker; and

B. Information requested by the Workers' Compensation Commission.

**Sec. 4.** 39 MRSA §83, sub-§8 is enacted to read:

8. Outside services provided. Persons or firms providing services concerning workers injured after January 1, 1986 shall disclose information about services provided in connection with workers' compensation claims upon request of the commission. The commission shall adopt rules under the Maine Administrative Procedure Act, Title 5, chapter 375, to implement this subsection. The commission may collect information to clarify the cost, nature, amount and results of services provided to insurers and injured employees. The commission shall have the power to subpoena information. Information collected under this subsection shall remain confidential and for the use of the commission only.

Sec. 5. 39 MRSA §84-A, is enacted to read:

§84-A. Employer rehabilitation programs

Employers who provide rehabilitation services to injured workers under this Act must report to the commission on their rehabilitation efforts. The commission shall adopt rules under the Maine Administrative Procedure Act, Title 5, chapter 375, to implement this section. The information shall include, but not be limited to:

1. Number of injured workers. The number of injured workers using rehabilitation services;

2. Type, duration and cost. The type, duration and cost of rehabilitation services; and

3. Status, skill levels, salaries and tasks. The status of rehabilitated employees including preinjury and post-injury jobs, skill levels, salaries and tasks.

Sec. 6. 39 MRSA §86, as enacted by PL 1985, c. 372, Pt. A, §29, is amended to read:

§86. Rehabilitation priorities

The following priorities shall be used in evaluating alternative rehabilitation plans. Retraining may be allowed within any priority. No higher numbered priority may be utilized unless all lower numbered priorities have been determined by the rehabilitation counselor to be unlikely to result in a suitable job placement for the injured employee that is consistent with the priorities listed in this section. If a lower number numbered priority is clearly inappropriate for the employee, the next higher numbered priority shall be utilized as follows:

1. Former job. Return of the employee to his preinjury job with the same employer; The employee may be retrained if necessary to achieve this return;

2. Modified job. Return of the employee to his preinjury job with the same employer ~~and with the modification of tasks or of the workplace.~~ The tasks or the workplace may be modified and the employee retrained if necessary to achieve this return;

3. New job. Return to employment with the preinjury employer in a different position; The employee may be retrained if necessary;

4. On-the-job training with preinjury employer. Return to employment with the preinjury employer for on-the-job training;

5. New employer. Employment with a new employer; Retraining may be allowed if necessary;

6. On-the-job training with new employer. On-the-job training with a new employer; or

7. Career retraining. A goal-oriented period of formal training which is designed to lead to employment in another career field.

Sec. 7. **Legislative study on rehabilitation.** The Legislative Council shall establish a Subcommittee on Rehabilitation to study the use of vocational rehabilitation and retraining under the Workers' Compensation Act. The subcommittee shall consist of 7 members as follows: Four members of the House of Representatives, appointed by the Speaker of the House, 3 of whom shall represent the Joint Standing Committee on Labor and one representing the Joint Standing Committee on Human Resources; 3 members of the Senate, appointed by the President of the Senate, 2 representing the Joint Standing Committee on Labor and one representing the Joint Standing Committee on Human Resources.

The subcommittee shall hold an organizational meeting at the call of the chairman of the Legislative Council by May 1, 1988. At this meeting, the subcommittee shall elect a chairman from within the membership.

Members of the subcommittee shall receive the legislative per diem for each day's attendance at committee meetings and reimbursement for necessary expenses. The subcommittee may request staff assistance from the Legislative Council and may consult with vocational rehabilitation or retraining experts whenever suitable. All state agencies shall cooperate fully with the subcommittee to further the purposes of this section.

The subcommittee shall hold 3 public hearings throughout the State and conduct a comprehensive study of the current system of providing vocational rehabilitation to injured workers within the State, including the following:

1. Vocational rehabilitation conducted under the Workers' Compensation Act, including the following aspects of that system:

A. The current and potential roles of private and public rehabilitation providers evaluating the suitability of injured workers for rehabilitation and the development of rehabilitation plans;

B. The implications of requiring an insurance carrier to pay reasonable rehabilitation costs;

C. The implications of private rehabilitation providers working on behalf of both the injured worker and insurance carriers through medical management; and

D. Any other aspects of the system that may pose problems currently or in the future or that may benefit from changes and result in increased efficiency and effectiveness of the workers' compensation rehabilitation system;

2. Vocational rehabilitation conducted by the Bureau of Rehabilitation;

3. Vocational rehabilitation conducted by private providers;

4. Issues and problems raised by the interaction of vocational rehabilitation efforts under the Workers' Compensation Act by the Bureau of Rehabilitation and private providers; and

5. Identification and evaluation of alternative vocational rehabilitation models in use or proposed by other states or foreign countries and their potential suitability for application in the State, including the option of requiring employers to provide vocational-technical retraining to injured employees.

The subcommittee shall report its findings, together with any legislative recommendations, to the First Regular Session of the 114th Legislature no later than December 1, 1989.

**Sec. 8. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	<u>1987-88</u>	<u>1988-89</u>
<u>LEGISLATURE</u>		
Subcommittee on Rehabilitation		
Personal Services	\$ 770	\$ 3,465
All Other	700	46,000
 Total	 <u>\$1,470</u>	 <u>\$49,465</u>
Provides funds for per diem and related expenses for a 7-member subcommittee to meet 8 times and hold 3 public hearings. The cost of 2 consultants and an extensive outreach program are included in this study.		

WORKERS' COMPENSATION COMMISSION

Office of Employment Rehabilitation		
Positions		(3)
Personal Services		\$74,008
All Other		8,000
Capital Expenditures		16,675
 Total		 <u>\$98,683</u>
Provides funds for one Administrative Assistant, one Data Entry Specialist and one Planning and Research Associate II to perform the additional data gathering, compilation, analysis and worker education required.		

TOTAL APPROPRIATIONS	<u>\$1,470</u>	<u>\$150,268</u>
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**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective April 26, 1988.

## CHAPTER 780

H.P. 1941 — L.D. 2639

### AN ACT to Revise the Salaries of Certain County Officers.

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

Whereas, it has become necessary to revise the salaries of certain county officials; and

Whereas, it is desired to have these revisions retroactive to January 1, 1988; 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 §2, sub-§1,** as repealed and replaced by PL 1987, c. 391, is repealed and the following enacted in its place:

1. County officers' salaries. Notwithstanding other sections of this chapter, counties that are not required to obtain legislative approval of their budgets under section 253, shall not be required to obtain legislative approval of the salaries of county officers under this section. The county commissioners, treasurers, sheriffs, judges of probate, registers of probate and registers of deeds in those counties whose budgets require legislative approval under section 253, shall receive annual salaries from the county treasury, in weekly, biweekly or monthly payments, as follows:

<u>A. Androscoggin County:</u>	<u>1988</u>
<u>(1) Commissioners</u>	
<u>(a) Chairman</u>	<u>\$ 5,755</u>
<u>(b) Members</u>	<u>4,926</u>
<u>(2) Treasurer</u>	<u>18,500</u>
<u>(3) Sheriff</u>	<u>24,617</u>
<u>(4) Judge of Probate</u>	<u>11,173</u>
<u>(5) Register of Probate</u>	<u>12,444</u>
<u>(6) Register of Deeds</u>	<u>21,570</u>
<u>B. Aroostook County:</u>	