

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
**FIRST REGULAR SESSION**

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
SEPTEMBER 30, 1989

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

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J.S. McCarthy Company  
Augusta, Maine  
1989

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

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**1989**

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dependent children are designated beneficiaries, the benefit shall be divided equally among them. When a dependent child ceases to meet the definition of dependent child, the benefit shall be divided among the remaining dependent children or paid to the remaining dependent child. Payment of the benefit shall continue until the remaining dependent child dies or ceases to meet the definition of "dependent child" under section 17001, subsection 12.

**Sec. 8. 5 MRSA §18506, sub-§2, ¶E,** as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

E. Any dispute about amounts paid or payable under workers' compensation or about the amount of the lump-sum settlement and its ~~proration~~ attributions shall be determined, on petition, by a single member of the Workers' Compensation Commission, in accordance with Title 39. These determinations may be appealed under Title 39, section 103-B.

See title page for effective date.

## CHAPTER 79

S.P. 204 - L.D. 482

### An Act Relating to Benefits for Members of the Maine State Retirement System Who Transfer from Positions Under Special Plans to Positions Not Under Special Plans

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

**Sec. 1. 5 MRSA §17857, sub-§§2 and 3,** as enacted by PL 1985, c. 801, §§5 and 7, are repealed and the following enacted in their place:

**2. Additional creditable service.** Additional creditable service is earned by a former participant in a special plan as follows.

A. A member who has completed the service requirements for retirement under a special plan may transfer to a position not under a special plan and earn service credit for additional service retirement benefits.

(1) The part of the member's service retirement benefit based upon membership service before being transferred shall be computed according to the formula for computing benefits under the special plan that the member was under previously.

(2) The part of the member's benefit based upon membership service after being transferred shall be computed in accordance with section 17852, subsection 1.

B. A person who retires under a special plan and is later restored to service under section 17855 in a position not under a special plan may earn service credit for additional service retirement benefits.

(1) Upon subsequent retirement, the part of the member's service retirement benefit based upon membership service before the member's initial retirement shall be computed according to the formula for computing benefits under the special plan that the member was under previously.

(2) The part of the member's benefit based upon membership service after being restored to service shall be computed in accordance with section 17852, subsection 1.

C. A member who has not completed the service requirements for retirement under a special plan may transfer to a position not under a special plan and shall receive service retirement benefits as follows.

(1) If the benefit is greater, the part of the member's service retirement benefit based upon membership service before being transferred shall be computed according to the formula for computing benefits under the special plan that the member was under previously.

(2) The part of the member's benefit based upon membership service after being transferred shall be computed in accordance with section 17852, subsection 1.

D. A member who has not completed the service requirements for retirement under a special plan, on becoming disabled as defined in section 17901, and on becoming reemployed in a position not under a special plan shall on retirement receive retirement benefits as follows.

(1) The part of the member's service retirement based on membership service before becoming disabled shall be computed according to the formula for computing benefits under the member's previous special plan.

(2) The part of the member's service retirement based on membership service after becoming reemployed in a position not under a special plan shall be computed according to the formula for computing benefits under the member's previous special plan.

(3) If the member is found to be no longer disabled, as defined in section 17901, the member may:

(a) Return to a position under the member's previous special plan; or

(b) Remain in the position which is not under a special plan and have the part of the member's service retirement benefit based on post-disability service computed in accordance with section 17852, subsection 1.

(4) The executive director may require that a member subject to this paragraph undergo medical examinations or tests once each year to determine the member's disability in accordance with section 17903.

(a) If the member refuses to submit to the examination or tests under this subparagraph, the member's retirement benefit shall be based on section 17852, subsection 1, until the member withdraws the refusal.

(b) If the member's refusal under division (a) continues for one year, all the member's rights to any further benefits under this paragraph shall cease.

**3. Reduction of benefits.** Upon retirement before reaching age 60, the service retirement benefit of a member who transferred or who was restored to service subject to subsection 2 shall be reduced as follows.

A. If the member transferred under the provisions of subsection 2, paragraph A:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before being transferred shall be reduced in accordance with section 17852, subsection 4, paragraph C or section 17852, subsection 10, paragraph C; and

(2) The portion of the retirement benefit based upon creditable service earned after being transferred shall be reduced in accordance with section 17852, subsection 3.

B. If the member was a retiree restored to service subject to subsection 2, paragraph B:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before the member's initial retirement shall be reduced in accordance with section 17852, subsection 4, paragraph C or section 17852, subsection 10, paragraph C; and

(2) The portion of the retirement benefit based upon creditable service earned after being restored to service shall be reduced in accordance with section 17852, subsection 3.

C. If the member was transferred subject to subsection 2, paragraph C, the retirement benefit shall be reduced in accordance with section 17852, subsection 3.

D. If the member was transferred subject to subsection 2, paragraph D, and:

(1) If the member completes the service or service and age requirements for retirement under the special plan that the member was under previously, if applicable, the retirement benefit shall be reduced in accordance with section 17852, subsection 4, paragraph C or section 17852, subsection 10, paragraph C; or

(2) If the member does not complete the service or service and age requirements for retirement under the special plan that the member was under previously, the retirement benefit shall be reduced in accordance with section 17852, subsection 3.

**Sec. 2. 5 MRSA §17857, sub-§4,** as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

**4. Computation of benefit.** The computation of the retirement benefit shall be based upon the ~~person's~~ member's average final compensation, as defined in section 17001, subsection 4.

**Sec. 3. 5 MRSA §18462** is enacted to read:

**§18462. Transfer from special plan**

A participating local district may provide, by filing with the board a duly certified copy of its action, an additional benefit for employees under special plans who transfer to positions not under special plans. The benefits under subsection 2, paragraphs A and B are not applicable to employees of participating local districts which have not adopted the provisions of section 18453, subsection 10 or 11.

**1. Special plan defined.** As used in this section, unless the context otherwise indicates, "special plan" means any of the retirement programs in section 18453, subsections 2 to 9.

**2. Additional creditable service.** Additional creditable service is earned by a former participant in a special plan as follows.

A. A member who has completed the service requirements for retirement under a special plan may transfer to a position not under a special plan and earn service credit for additional service retirement benefits.

(1) The part of a member's service retirement benefit based upon membership service before being transferred shall be computed according to the formula for comput-

ing benefits under the special plan that the member was under previously.

(2) The part of the member's benefit based upon membership service after being transferred shall be computed in accordance with section 18452, subsection 1.

B. A person who retires under a special plan and is later restored to service under section 18457 in a position not under a special plan may earn service credit for additional service retirement benefits.

(1) Upon subsequent retirement, the part of the member's service retirement benefit based upon membership service before the member's initial retirement shall be computed according to the formula for computing benefits under the special plan that the member was under previously.

(2) The part of the member's benefit based upon membership service after being restored to service shall be computed in accordance with section 18452, subsection 1.

C. A member who has not completed the service requirements for retirement under a special plan may transfer to a position not under a special plan and shall receive service retirement benefits as follows.

(1) If the benefit is greater, the part of the member's service retirement benefit based upon membership service before being transferred shall be computed according to the formula for computing benefits under the special plan that the member was under previously.

(2) The part of the member's benefit based upon membership service after being transferred shall be computed in accordance with section 18452, subsection 1.

D. A member who has not completed the service requirements for retirement under a special plan, on becoming disabled as defined in section 18501, and on becoming reemployed in a position not under a special plan shall on retirement receive retirement benefits as follows.

(1) The part of the member's service retirement based on membership service before becoming disabled shall be computed according to the formula for computing benefits under the member's previous special plan.

(2) The part of the member's service retirement based on membership service after becoming reemployed in a position not under a special plan shall be computed according to

the formula for computing benefits under the members's previous special plan.

(3) If the member is found to be no longer disabled, as defined in section 18501, the member may:

(a) Return to a position under the member's previous special plan; or

(b) Remain in the position which is not under a special plan and have the part of the member's service retirement benefit based on post-disability service computed in accordance with section 18452, subsection 1.

(4) The executive director may require that a member subject to this paragraph undergo medical examinations or tests once each year to determine the member's disability in accordance with section 18503.

(a) If the member refuses to submit to the examination or tests under this subparagraph, the member's retirement benefit shall be based on section 17852, subsection 1, until the member withdraws the refusal.

(b) If the member's refusal under division (a) continues for one year, all the member's rights to any further benefits under this paragraph shall cease.

**3. Reduction of benefits.** Upon retirement before reaching age 60, the service retirement benefit of a member who transferred or who was restored to service subject to subsection 2 shall be reduced as follows.

A. If the member transferred under the provisions of subsection 2, paragraph A, the portion of the retirement benefit based upon creditable service earned after being transferred shall be reduced in accordance with section 18452, subsection 3.

B. If the member was a retiree restored to service subject to subsection 2, paragraph B, the portion of the retirement benefit based upon creditable service earned after being restored to service shall be reduced in accordance with section 18452, subsection 3.

C. If the member was transferred subject to subsection 2, paragraph C, the retirement benefit shall be reduced in accordance with section 18452, subsection 3.

D. If the member was transferred subject to subsection 2, paragraph D, and:

(1) If the member completes the service or service and age requirements for retirement under the special plan the member was under previously, the retirement benefit shall not be reduced; or

(2) If the member does not complete the service or service and age requirements for retirement under the special plan the member was under previously, the retirement benefit shall be reduced in accordance with section 18452, subsection 3.

**4. Computation of benefit.** The computation of the retirement benefit shall be based upon the member's average final compensation, as defined in section 17001, subsection 4.

See title page for effective date.

## CHAPTER 80

H.P. 104 - L.D. 141

### An Act to Provide Credit for Braille Courses

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

20-A MRSA §4707 is enacted to read:

**§4707. Instruction in Braille and Nemeth Code**

Schools may offer instruction in Braille and Nemeth Code as part of the school curriculum. When Braille or Nemeth Code courses are offered, schools shall determine appropriate credit for completion of those courses.

See title page for effective date.

## CHAPTER 81

S.P. 210 - L.D. 488

### An Act to Amend the Motor Vehicle Laws

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

29 MRSA §363, 1st ¶, as amended by PL 1983, c. 455, §15, is further amended to read:

Any person licensed under this subchapter, excepting those holding a transporter license or only a loaner license, may, upon the sale, lease or exchange of a motor vehicle or trailer, attach to the rear of ~~such~~ that motor vehicle or trailer a temporary registration plate and the purchaser of ~~such~~ that motor vehicle or trailer may operate the same for a period not to exceed 14 consecutive days thereafter without payment of a regular fee. If the purchaser of ~~such~~ the

vehicle or trailer is a nonresident member of the Armed Services Forces, ~~said~~ the purchaser may operate the same vehicle or trailer a period not to exceed 20 consecutive days thereafter without payment of a regular fee. If, at the end of this initial period, a Maine resident who is unable to comply with the requirements of chapter 21 and a nonresident who has applied for, but not yet received, a registration certificate from ~~his~~ the nonresident's home state, the Secretary of State may further extend this period without charge for not more than 20 additional days. A temporary registration plate may not be used on a loaded truck without a written permit from the Secretary of State. Any person licensed under this subchapter, excepting those holding a transporter license or only a loaner license, shall not attach to the rear of a house trailer or mobile home any temporary registration plate unless the operator of the vehicle hauling the trailer has in ~~his~~ the person's possession the written certificate from the tax collector required by section 354, subsection 5. Temporary registration plates issued under this section for motorcycles shall be the same size as the regular motorcycle plates.

See title page for effective date.

## CHAPTER 82

H.P. 561 - L.D. 759

### An Act to Make Records of Quasi-judicial Proceedings Confidential

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

32 MRSA §13006 is enacted to read:

**§13006. Confidentiality**

All hearings and records of hearings conducted by the grievance committee or the professional standards committee of any state or regional professional real estate association or board are confidential and are exempt from discovery.

See title page for effective date.

## CHAPTER 83

H.P. 567 - L.D. 771

### An Act to Make Technical Corrections in the Laws Concerning Gasoline Stations

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

**Sec. 1. 10 MRSA §1661-A**, as enacted by PL 1987, cc. 615 and 718, is repealed and the following enacted in its place: