

# 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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(4) Mailing a copy of its application to any municipality served by the rail line or in which that service may be affected.

B. After receipt of a substantially complete application and compliance by the applicant with the notice requirements of this subsection, the department shall hold a public hearing on any application covered by this subsection, in accordance with its rules.

C. Any party affected by the application has the right to intervene in a proceeding under this section. Intervention of other parties shall be granted liberally in order that a complete record may be developed.

4. Procedure for existing operations. An entity which intends only to continue existing operations shall proceed in accordance with this subsection.

A. After receipt of a substantially complete application, the department shall provide notice of the application and opportunity for hearing on any application covered by this subsection by sending an accurate and understandable summary of the application to a newspaper of general circulation in each area affected by the rail service for publication at the applicant's expense.

B. The department may hold a public hearing on the application and shall hold a hearing when a request for a hearing shows a substantial likelihood that the application may be denied or granted with qualifications under the criteria of subsection 2 and the hearing is requested by:

(1) A shipper or shippers whose traffic on the railroad line totaled 500 tons in the year preceding the application;

(2) Any municipality having a siding, terminal, station or agency station of the railroad line within its bounds; or

(3) A petition of 25 individuals who state that they are affected by the operation of the railroad.

The hearing shall be subject to the rules of the department.

5. Approval. At the conclusion of the proceedings and within 30 days of the conclusion of the public hearing, if any, the department shall:

A. Approve the application as filed;

B. Approve the application with conditions as the department determines necessary to assure that the investment of state funds in providing assistance for

the rail service will be consistent with the public interest; or

C. Deny the application.

Approval shall be valid for a year. In the case of denial, reapplication shall be in accordance with the rules of the department. Approval may be revoked in case of noncompliance with any conditions.

6. Temporary approval. When the commissioner determines that the public interest requires immediate financial assistance from the State to a railroad, the department may issue temporary approval for a period not to exceed 90 days without notice or hearing.

7. Appeal. Any applicant or intervenor aggrieved by the decision of the department under subsection 5 has a right to judicial review in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII.

8. Rules. The department shall promulgate rules concerning the implementation and enforcement of this section.

9. Existing operations; temporary approval. Any ongoing as of the effective date of this section, as long as the ownership or management of that operation is not transferred to another entity, shall be deemed approved until March 1, 1990.

10. Consolidation of hearings. The Department may consolidate any hearing under this section with another hearing concerning railroad service by the same entity in the same area.

See title page for effective date.

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## CHAPTER 399

H.P. 1062 - L.D. 1484

### An Act to Fund the Maine State Retirement System for Certain Employees Previously Covered by the County Retirement System

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

**Sec. 1. 5 MRSA §17056, sub-§1**, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

**1. Transfer to state employee account.** Notwithstanding ~~section sections 18202 and 18408, if, before September 19, 1987, the county commissioners of a county elect to adopt this section;~~ funds held by the retirement system to the credit of employees of any Superior Court ~~within that county~~ who became employees of the State pursuant to Public Law 1975, chapters 383 and 408, shall be transferred on the records of the retirement system to the state employee account.

**Sec. 2. 5 MRSA §17056, sub-§2**, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

**Sec. 3. 5 MRSA §17056, sub-§3, ¶B**, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

B. Creditable service for former employees of any Superior Court ~~within a county which elects to adopt this section~~ who retired after July 1, 1976, shall be determined as if all their service had been rendered as state employees.

**Sec. 4. 5 MRSA §17056, sub-§4, ¶B**, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

B. The counties ~~which have elected to adopt this section~~ shall provide funds necessary to fulfill this obligation from the retirement allowance funds of those counties.

**Sec. 5. Effective date.** The higher rate of retirement benefits due employees under the provisions of this Act shall commence October 1, 1989.

See title page for effective date.

## CHAPTER 400

H.P. 1024 - L.D. 1425

### An Act to Establish the Child Welfare Advisory Committee and to Redesignate the Bureau of Social Services as the Bureau of Child and Family Services

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

**Sec. 1. 5 MRSA §940, sub-§1, ¶C**, as enacted by PL 1983, c. 729, §4, is amended to read:

C. Director, Bureau of ~~Social~~ Child and Family Services;

**Sec. 2. 5 MRSA §12004-I, sub-§37-A** is enacted to read:

<u>37-A. Human</u>	<u>Child Welfare</u>	<u>Expenses Only</u>	<u>22 MRSA</u>
<u>Services: Child</u>	<u>Advisory</u>		<u>§4089</u>
<u>and Family Services</u>	<u>Committee</u>		

**Sec. 3. 22 MRSA §1, 3rd ¶**, as amended by PL 1985, c. 785, Pt. B, §82, is further amended to read:

The commissioner may employ any bureau and division heads, deputies, assistants and employees who may be necessary to carry out the work of the department. All personnel of the department shall be under the immediate supervision, direction and control of the commissioner. These personnel shall be employed subject to the Civil Service Law, except the: Deputy Commissioner; Director,

Bureau of ~~Social~~ Child and Family Services; Director, Bureau of Maine's Elderly; Director, Bureau of Health; Director, Bureau of Rehabilitation; Director, Bureau of Income Maintenance; Director, State Health Planning and Development Agency; Director, Bureau of Medical Services; and Assistant Deputy Commissioners.

**Sec. 4. 22 MRSA §9, sub-§2**, as repealed and replaced by PL 1983, c. 292, is amended to read:

**2. Sliding fee scale.** The department may establish a sliding fee scale for the provision of community-based purchased services administered by the Bureau of ~~Social~~ Child and Family Services.

A. The sliding fee scale shall be based on gross family income and family size.

B. Any fees charged as a result of implementing this subsection shall be paid to the provider of the service and shall be used by the provider for additional services of the same or related type for which the fees were paid.

**Sec. 5. 22 MRSA §3291, sub-§§1 and 4**, as amended by PL 1989, c. 175, §4, are further amended to read:

**1. Bureau.** "Bureau" means the Bureau of ~~Social~~ Child and Family Services with respect to chapters 958-A and 1071, and the Bureau of ~~Social~~ Child and Family Services or the Bureau of Medical Services with respect to section 7703 and the Bureau of Medical Services with respect to section 1828.

**4. Director.** "Director" means the Director of the Bureau of ~~Social~~ Child and Family Services with respect to confidential information derived from chapters 958-A and 1071, and the Director of the Bureau of Medical Services or the Director of the Bureau of ~~Social~~ Child and Family Services with respect to confidential information derived from section 7703 and the Director of the Bureau of Medical Services with respect to confidential information derived from section 1828.

**Sec. 6. 22 MRSA c. 1071, sub-c. X**, as enacted by PL 1987, c. 511, Pt. A, §4 is repealed.

**Sec. 7. 22 MRSA c. 1071, sub-c. X-A** is enacted to read:

### SUBCHAPTER X-A

#### CHILD WELFARE SERVICES

##### §4087. Child welfare services ombudsman

**1. Office established.** The Office of Child Welfare Services Ombudsman is established within the Executive Department and is autonomous from any other state agency. Its purpose is to represent the best interests of individuals involved in the State's child welfare system as a class and to investigate and resolve complaints against state agencies that