

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.

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

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sheriffs' association and one from the county that has been certified by the United States Department of Justice under the provisions of the Private Sector Prison Industry Enhancement Certification Program; and

B. One county commissioner, to be appointed by the commissioner from a list of 3 nominated by a statewide county commissioners' association.

4. Duties. The board of directors shall:

A. Establish procedures for determining whether a county jail program complies with the requirements of the Private Sector Prison Industry Enhancement Certification Program;

B. Determine whether a program shall be designated as a cost accounting center for the purposes of the Private Sector Prison Industry Enhancement Certification Program, and determine whether any such designation previously approved shall be revoked; and

C. Monitor all designated programs to ensure continuing compliance with the rules promulgated by the United States Department of Justice under the provisions of the Private Sector Prison Industry Enhancement Certification Program.

5. Fees and costs. The board of directors may receive funds from local, county, state or federal sources and may receive grants to support its activities. The board may establish a reasonable schedule of fees to be charged to participating counties.

6. Enterprise fund. Participating counties shall establish a separate account for the operation of the program. This account shall be operated as an enterprise fund, with continuing authority to receive income and pay expenses associated with the program. All funds remaining in such accounts shall not lapse at the end of the fiscal year, but shall be carried over to the next year.

See title page for effective date.

CHAPTER 417

H.P. 1153 - L.D. 1607

An Act Concerning Substance Abuse Treatment for Probationers

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

Sec. 1. 34-A MRSA §5402, sub-§2, ¶K, as amended by PL 1985, c. 821, §28, is further amended to read:

K. Provide instruction and training courses for probation and parole officers, for Intensive Supervi-

sion Program officers and for juvenile caseworkers; and

Sec. 2. 34-A MRSA §5402, sub-§2, ¶L, as enacted by PL 1983, c. 459, §6, is amended to read:

L. Be executive officer and secretary of the board; and

Sec. 3. 34-A MRSA §5402, sub-§2, ¶M is enacted to read:

M. Aggregate the statistics contained in any reports the division receives on individual probationers and make the aggregated statistics available to other state agencies provided the data is aggregated in such a way that statistics pertaining to any individual probationer cannot be disaggregated.

See title page for effective date.

CHAPTER 418

S.P. 589 - L.D. 1651

An Act to Modify the Recruitment and Retention Adjustment Process

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

Whereas, unless this legislation is enacted as an emergency measure, recruitment and retention provisions enacted by Public Law 1987, chapter 431, will be repealed before the expiration of the 90-day period; 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. 5 MRSA §7065, sub-§2, as amended by PL 1987, c. 402, Pt. A, §§58 and 59, and c. 431, §§1 and 3, is repealed and the following enacted in its place:

2. Salary limits. No position may be assigned a salary greater than the maximum or less than the minimum rates fixed in the compensation plan except as provided by subsections 2-A and 2-B.

Sec. 2. 5 MRSA §7065, sub-§§2-A and 2-B, as enacted by PL 1987, c. 431, §§2 and 3, are repealed and the following enacted in their place:

2-A. Recruitment and retention adjustments. The director, with the agreement of the bargaining agent, if

applicable, may approve payment of recruitment and retention adjustments for occupations in State Government when the payment of a labor market adjustment is required to recruit and retain an adequate work force. Payment of a recruitment and retention adjustment may be authorized only when justified by the following conditions:

A. High turnover exists or long-term vacancies exist within State Government in the relevant occupational classifications or job series;

B. The relevant occupational classification or job series has a clear, geographically definable labor market within which the State must compete;

C. All appropriate recruitment and retention efforts have been attempted and have proven ineffective at the current levels of compensation; and

D. Comprehensive, verifiable documentation of labor market compensation levels for the relevant occupation has been compiled to determine competitive pay levels within the defined labor market. This documentation must demonstrate that a labor market disparity exists and that the disparity represents a long-term, not transitory or seasonal, problem.

This subsection is repealed on July 1, 1991.

2-B. Limitations on recruitment and retention adjustment. The payment of recruitment and retention adjustments authorized under this section is subject to this subsection.

A. The labor market adjustment shall be reviewed at least every 2 years and shall be adjusted to changes in the labor market or the overall relation of the standard pay policy to the specialized labor market.

B. If the subsequent review provided in paragraph A results in the adjustment being decreased or discontinued, no employee receiving the recruitment and retention adjustment may be subject to a reduction in pay.

This subsection is repealed on July 1, 1991.

Sec. 3. 5 MRSA §7065, sub-§2-C is enacted to read:

2-C. Recruitment and retention adjustment process. To assist the director in making a determination under subsections 2-A and 2-B, a committee shall be formed to evaluate each request from an agency or bargaining agent for a recruitment or retention adjustment. The committee shall be composed of 3 members: a representative of the Bureau of Human Resources, a representative of the employing agency or agencies and a representative of the bargaining agent, if applicable. The committee shall evaluate the request against the criteria specified in subsections 2-A and 2-B, and shall conduct studies as the committee considers necessary to evaluate the request. The committee

shall, by majority vote, provide the director and the appropriate bargaining agent with a report recommending and documenting adjustments authorized under this section. The director and the bargaining agent shall act on this report. If a funding request is necessary to implement an approved adjustment, the director shall submit the cost items for inclusion in the Governor's next operating budget within 10 days after action on the report.

This subsection is repealed on July 1, 1991.

Sec. 4. PL 1987, c. 431, §3 is repealed.

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

Effective June 22, 1989.

CHAPTER 419

H.P. 1231 - L.D. 1716

An Act Relating to Transportation of Hazardous Materials by Railroad

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

38 MRSA §1319-I, sub-§4-B, as enacted by PL 1987, c. 750, §5, is repealed and the following enacted in its place:

4-B. Fee on hazardous materials transported by railroad. Any person who transports more than 25 tons of certain hazardous materials as specified in this subsection at any one time by rail shall register annually with the department. Fees for the transportation of hazardous materials by rail shall be imposed on the registrant who first transports the materials in Maine by rail. Fees for the transportation of hazardous materials shall be determined by one of the following methods:

A. Fifteen cents per ton of hazardous materials transported by the registrant during the period of registration and shall be paid quarterly by the registrant on the basis of records certified to the department; or

B. Twenty-five thousand dollars to be paid at the time of registration.

The registrant shall select the method of payment at the time of registration. Fees shall be paid to the department and upon receipt credited to the Maine Hazardous Waste Fund. Any registrant selecting quarterly payments shall be automatically subject to the \$25,000 annual registration fee if the fee for any one quarter has not been paid to the Maine Hazardous Waste Fund within 60 days after the fee becomes due. Hazardous materials subject to the requirements of this subsection shall mean those substances identified pursuant to the federal Hazardous Materials Transportation