

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

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

O. The following miscellaneous information:

(1) For the following items, an explanation of the purpose for and a detailed description of the derivation shall be included:

- (a) Expected loss rate;
- (b) D-ratio;
- (c) Excess loss factors;
- (d) Excess loss adjustment amounts; and
- (e) Table of weighting and ballast values;

(2) The following information relating to the derivation of the profit and contingency loading contained in the filing shall be provided:

- (a) A complete description of the methodology used to arrive at the selected loading;
- (b) A description of alternative methodologies used or considered for use by the rating bureau in other states; and
- (c) Specific details regarding the application of the criteria used in the selection of a methodology for this filing; and

(3) Information shall also be provided on all filings by the rating bureau that have been submitted with an underwriting profit and contingency loading other than the provision used in this filing. The following information shall be listed for all such filings in the last 3 years: The State; the underwriting profit and contingency loading submitted; the loading approved; and the effective date of the rate.

For a filing made on or after July 1st in any year, the data and information required in paragraphs A, C, D, G, K and N shall be for the period ending with the immediately preceding calendar year. For a filing made prior to July 1st, the data and information required in paragraphs A, C, D, G, K and N shall be for the period ending with the second preceding calendar year.

Sec. 2. 24-A MRSA §2363, sub-§5, as enacted by PL 1987, c. 559, Pt. A, §4, is repealed.

Sec. 3. 24-A MRSA §2363, sub-§5-A is enacted to read:

5-A. Voluntary and residual market rates. If rates and rating factors for the voluntary market and the residual

market are submitted concurrently, the following information shall be included in the filing:

A. An explanation of the derivation of the rate differential, or differentials, among the voluntary market rates, the safety pool rates and the accident prevention account rates; and

B. For a filing made on or after July 1st in any year, for the 3 calendar years immediately preceding the date of filing, the actual written premium, earned premium, incurred losses, incurred loss adjustment expenses, paid losses and paid loss adjustment expenses. For a filing made prior to July 1st, the premium loss and expense information required by this paragraph shall be for the 2nd, 3rd and 4th preceding calendar years.

See title page for effective date.

CHAPTER 424

H.P. 823 - L.D. 1155

An Act to Restrict the Use of Lobster Trap Dipping Solutions

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

12 MRSA §6443 is enacted to read:

§6443. Dipping lobster traps or similar gear

No person may dip, soak or treat lobster or crab traps, warps or cars prior to use in waters of the State other than in a solution of salt and sea water except as provided in this section.

The commissioner may authorize a specified amount of dipping, soaking or treating of lobster or crab traps, warps or cars in solutions other than salt and sea water for research purposes. This authorization shall be in writing.

See title page for effective date.

CHAPTER 425

H.P. 385 - L.D. 516

An Act to Clarify the Responsibilities of School Boards

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

Whereas, local school boards are prepared to take immediate action to participate in group self-insurance

programs and plans for workers' compensation authorized by this legislation; 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. 20-A MRSA §1001, sub-§5, as enacted by PL 1981, c. 693, §§5 and 8, is repealed and the following enacted in its place:

5. Insurance premiums and employee benefits.

They may:

A. Pay the premiums on life, health, dental, disability, accident, hospitalization, major medical and such other types of insurance as may be provided to employees and their families from time to time;

B. Provide direct reimbursement of the costs incurred by employees and their family members pursuant to a direct reimbursement plan for dental costs, including endodontic, periodontic and orthodontic costs, provided that reimbursement of orthodontic costs shall be limited to 60% of the plan participant's costs.

(1) Prior to the commencement of operation of any such direct reimbursement plan or program, the school board shall adopt guidelines which embody a funding mechanism adequate to the financial needs of the plan or program and shall provide for the fixed costs of operations of the plan for the first prospective fund year. A reasonable amount sufficient to satisfy immediate claims costs shall be held in a segregated account to be used solely for this purpose.

(2) The school board or other legal entity establishing a plan or program for the purpose of direct reimbursement pursuant to this paragraph, whether or not a body corporate, may with respect to the plan or program sue or be sued; make contracts; hold and dispose of real property; borrow money, contract debts and pledge assets in the name of the plan; and perform such other actions incidental to this subparagraph as necessary.

(3) The plan or program may be established as a separate legal or administrative entity.

(4) The legal entity which establishes a plan or program which provides coverage for more than one school administrative unit with respect to the benefits authorized in this

paragraph shall adopt a plan of management which, at a minimum, provides the following:

(a) The means of establishing and maintaining a governing authority of the program, including the selection of a governing authority, which shall be a board of directors or trustees for the plan, a majority of whom shall be from the participating school administrative unit or units;

(b) That the governing authority has the responsibility with regard to fixing contributions to the plan, maintaining reserves, levying and collecting assessments for deficiencies, disposing of surplus and administering the plan in the event of its termination, liquidation or insolvency;

(c) The identification of funds and reserves by the type of benefit provided and exposure area;

(d) The basis upon which new members may be admitted to and existing members may leave the plan;

(e) That any member of a group plan or pool established for more than one school administrative unit shall prepay to the plan administrator an initial deposit equal to 25% of the annual contribution before coverage is effective;

(f) Other provisions as necessary or desirable for the operation of the plan;

(g) A provision that if the assets set aside in any group plan for more than one school administrative unit are at any time determined to be insufficient to enable the plan to discharge its legal liabilities and other obligations and to maintain sound reserves for the provision of the employee benefits provided by the plan, the governing authority shall within 90 days satisfy the deficiency or levy a prorated assessment upon the participating school administrative unit or units for the amount needed to satisfy the deficiency. The agreement among school administrative units in the group plan shall provide sanctions for failure to comply with a mandatory assessment under this subparagraph;

(5) Prior to the operation of any group or pool plan for more than one school administrative unit, the governing authority shall adopt underwriting guidelines which embody rate charges to prospective members at a level adequate to its financial needs and shall provide for the fixed costs of operations for the first prospective fund year. An amount sufficient to reasonably meet immediate claims costs shall be held in a segregated account to be used solely for this purpose. Funds determined to be necessary to fund the program on an ongoing basis shall also be held in a segregated account;

(6) Each group plan or pool established for more than one school administrative unit shall file with its members, by the last day of the 6th month following the end of the fiscal year, audited financial statements certified by an independent certified public accountant. The financial statement shall include, but is not limited to:

(a) Appropriate reserves for known claims and expenses associated with those claims;

(b) Claims incurred but not reported and expenses associated with those claims;

(c) Unearned contributions; and

(d) Reserve for bad debts.

The audited financial statement shall include information concerning the adequacy of the plan. This report shall result from a charge by the directors to the plan's actuary and auditor and shall address excess insurance charges for coverage to members, service agents' costs and costs of administration of the program.

Two additional copies of the audited financial statements shall be filed with the Superintendent of Insurance.

If a group plan or pool established for more than one school administrative unit fails to provide for the audited financial statements required, the Superintendent of Insurance shall perform or cause to be performed the audit. The group plan or pool shall reimburse the Superintendent of Insurance for the cost of the audit; and

(7) Any reimbursement plan or program for the provision of the employee benefits established and operated pursuant to this paragraph is not an insurance company, reciprocal insurer or insurer under the laws of this

State and the development, administration and provision of such plans and programs does not constitute doing an insurance business;

C. Pay premiums on liability insurance for employees and school officials; and

D. Provide such other employee benefits, directly or indirectly, to their employees as any school board determines from time to time, upon such terms and conditions and in such manner as the school board determines, subject to the requirements of all applicable laws.

Sec. 2. 20-A MRSA §1001, sub-§5-B is enacted to read:

5-B. Workers' compensation self-insurance. Notwithstanding any other provision of this section, they may participate in or cause their school administrative unit to participate in a self-insurance program or plan for workers' compensation established under and operated in accordance with the Workers' Compensation Act, Title 39, chapter 1, as amended.

Sec. 3. 20-A MRSA §15004, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§15004. Unexpended balances

The unexpended balance of all ~~moneys~~ money raised by a school administrative unit, received ~~From~~ from the State for general-purpose aid or for other educational programs; from the Federal Government directly or from the Federal Government through the State; from tuition payments made by other units, the State, or by individuals; and other receipts for school purposes shall be carried forward and credited to the unit for educational programs for the ensuing year.

Funds which are set aside for direct reimbursement programs or for workers' compensation self-insurance programs, established pursuant to section 1001, shall not be considered unexpended balances. These funds shall be carried forward to be used only for the reimbursement or self-insurance program for which they were originally dedicated.

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

Effective June 22, 1989.

CHAPTER 426

S.P. 498 - L.D. 1372

An Act Relating to Returned Check Charges