

# 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

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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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be named therein and shall not be reimported into the United States by any person, or in such other amount and upon such other conditions as may be established by the commissioner; or if the packer is regularly engaged in the business of exporting sardines, the packer may provide one bond in the amount of \$10,000 to cover all such exports; conditioned that such sardines shall be exported to a foreign country and shall not be reimported to the United States by any person and that the packer will inform the commissioner of the value and the foreign country of destination of each shipment in writing prior to release of the embargo and such additional documentary evidence as the commissioner may require within 45 days of the date of such shipment. A packer shall be deemed regularly engaged in the business of exporting sardines if the packer makes 2 or more shipments in any one year.

Shipments to United States military procurement agencies which do not meet market requirements within the United States, its territories and possessions as specified by the Maine Sardine Law shall not be deemed as being exported to a foreign country.

~~Sardines not packed specifically for export which satisfy the requirements of the Maine Food Law, but not the requirements of the Maine Sardine Law, may be exported by complying with the shipping carton marking and bonding provisions of this section.~~

**Sec. 2. 32 MRSA §4159**, as amended by PL 1985, c. 268, §6, is repealed and the following enacted in its place:

**§4159. Sale or packing of herring**

The sale and packing of herring is subject to the following.

**1. Human consumption and bait purposes.** If there is a buyer of herring for processing for human consumption within a reasonable distance of the place where the herring are caught that is available at the time they are offered for sale and ready and willing to purchase at a price acceptable to the seller, it is unlawful for any person, firm or corporation to sell, offer for sale or transfer in any manner herring that are 4 1/2 inches in length or longer, when measured from one extreme to the other, to any person, firm or corporation for purposes other than for human consumption or bait, unless those herring are not desirable for processing for human consumption.

**2. Fish meal or oil.** It is unlawful for any person, firm or corporation to process herring that are 4 1/2 inches in length or longer, when measured from one extreme to the other, for use as fish meal or oil.

**3. Canning, packing or processing.** No person, firm or corporation may can, pack or otherwise process those herring other than for human consumption, except as provided in this section.

**4. Processing, transfer or sale of by-products.** Nothing in this section may prohibit the processing, transfer or sale of herring cuttings, by-products or waste.

**Sec. 3. 36 MRSA §4693, sub-§1**, as enacted by PL 1987, c. 333, §2, is amended to read:

**1. Council established.** The Maine Sardine Council, as established by Title 5, section ~~4204~~ 12004-H, subsection 9 ~~8~~, shall consist of not more than 9 nor less than 5 ~~3~~ members to be appointed by the Commissioner of Marine Resources. Fifty-one percent of the members of the council shall constitute a quorum and the affirmative vote of at least 51% of the members shall be necessary for the transaction of all business and the carrying out of the duties of the council. The members shall be sardine packers, operating within the State, who have been actively engaged in packing sardines for not less than 2 years and each shall be so actively engaged during his continuance in office. A person shall be considered actively engaged in packing sardines if ~~he~~ that person has derived, during the period, a substantial portion of his income from packing sardines, or has been the director or manager of an entity that derives a substantial portion of its income from packing sardines.

See title page for effective date.

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## CHAPTER 483

H.P. 1217 - L.D. 1689

### An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Laws

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

**Whereas**, the 90-day period will terminate before the beginning of the next fiscal year; and

**Whereas**, certain obligations and expenses incident to the operation of departments and agencies will become due and payable on or immediately after July 1, 1989; and

**Whereas**, certain independent agencies will terminate unless continued by Act of the Legislature prior to June 30, 1989; 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:**

#### PART A

**Sec. 1. 2 MRSA §6, sub-§3**, as amended by PL 1987, c. 715, §1, is further amended to read:

**3. Range 89.** The salaries of the following state officials and employees shall be within salary range 89:

Director of Public Improvements;  
 State Budget Officer;  
 State Controller;  
 Director of the Bureau of Forestry;  
 Chief of the State Police;  
 Director, State Planning Office;  
 Director, Energy Resources Office;  
 Public Advocate;  
 Commissioner of Defense and Veterans' Services;  
and  
 Director of Human Resources; ~~and~~ .  
~~Executive Director, Retirement System.~~

**Sec. 2.** 2 MRSA §6-D is enacted to read:

**§6-D. Salary of the Executive Director of the Maine State Retirement System**

Notwithstanding Title 5, section 17105, subsection 3, paragraph C, the salary of the Executive Director of the Maine State Retirement System shall be established by the Board of Trustees of the Maine State Retirement System and may not exceed the maximum rate of salary which may be received by a state employee.

**Sec. 3.** 3 MRSA c. 23, as amended, is repealed.

**Sec. 4.** 3 MRSA c. 33 is enacted to read:

**CHAPTER 33**

**JUSTIFICATION OF STATE GOVERNMENT PROGRAMS**

**§921. Short title**

This chapter shall be known and may be cited as the "Maine Sunset Act."

**§922. Scope**

This Act provides for a system of periodic justification of agencies and independent agencies of State Government in order to evaluate their efficacy and performance. Only those agencies, independent agencies or parts thereof which receive support from the General Fund or that are established, created or incorporated by reference in the Maine Revised Statutes are subject to the provisions of this chapter. The financial and programmatic review shall include, but not be limited to, a review of agency management and organization, program delivery, statutory mandate and fiscal accountability.

**§923. Definitions**

**1. Agency.** "Agency" means a governmental entity subject to review pursuant to this chapter, but not subject to automatic termination.

**2. Committee.** "Committee" means the joint standing committee of the Legislature having jurisdiction over audit and program review matters.

**3. Independent agency.** "Independent agency" means a governmental entity subject to review pursuant to this chapter and to automatic termination unless continued by Act of the Legislature.

**§924. Justification reports**

**1. Report required.** Each agency and independent agency shall prepare and submit to the Legislature, through the committee, a justification report no later than March 31st of the calendar year prior to the review year specified in section 927.

**2. Contents of justification reports.** Each report shall include the following information, in a concise but complete manner:

A. Enabling or authorizing law or other relevant mandate;

B. A description of the program, including its priorities, objectives, effectiveness, operation, communication lines, population served, staffing and future plans;

C. A financial summary;

D. A list of related programs having similar or complementary objectives; and

E. Any other information specifically requested.

**§925. Committee analysis and recommendations**

**1. Objectives.** For each agency and independent agency subject to review pursuant to this chapter, the committee may conduct an analysis which shall include, but not be limited to, an evaluation of the justification report and the extent to which the legislative mandate and objectives of the agency or independent agency have been achieved. The Legislative Council shall provide the committee with assistance as required for the purposes of this subsection.

**2. Findings and recommendations.** The committee shall submit to the Legislature the findings, recommendations and legislation required to implement its study of the agencies and independent agencies scheduled in section 927 by the dates listed in section 927.

The committee shall submit to the Legislature its evaluations and analyses of justification reports of unscheduled agencies submitted pursuant to section 928 no later than 14 months after those reports are submitted to the Legislature.

3. Maine Historical Society. Notwithstanding the fact that the Maine Historical Society is a private, nonprofit corporation, it shall be reviewed by the committee no later than June 30, 1997, and at least every 10 years thereafter, as long as it receives an appropriation from the State. The termination provisions of this chapter shall not apply to the Maine Historical Society.

**§926. Termination of independent agencies**

1. Termination process. Unless continued by Act of the Legislature prior to June 30th of the year specified in section 927, each independent agency shall be accorded a grace period of not more than one year from June 30th of the year specified in section 927, in which to complete its business prior to termination. During the grace period, the statutory powers and duties of the independent agency shall not be limited or reduced.

2. Disposition of property, funds and records. During the period of grace, the Legislature shall determine the disposition of:

A. All property, including any land, buildings, equipment and supplies used by the independent agency;

B. All funds remaining in any account of the independent agency; and

C. All records resulting from the activities of the independent agency.

3. Expiration of grace period. Upon the expiration of the grace period, the independent agency shall cease its activities and terminate.

**§927. Justification schedules and termination dates**

The committee shall submit its evaluation, analysis and recommendations regarding the following agencies and independent agencies to the Legislature no later than June 30th of the years specified in this section.

**1. 1990.**

A. Agencies:

- (1) Department of Finance;
- (2) Office of Treasurer of State;
- (3) Department of Audit;
- (4) Department of Administration, except for the Bureau of Human Resources, Bureau of Employee Relations, Bureau of Public Improvements and the state employee health insurance program;
- (5) Department of Public Safety, but limited to the Bureau of Capitol Security;
- (6) Board of Emergency Municipal Finance;

(7) Finance Authority of Maine; and

(8) Maine Municipal Bond Bank;

B. Independent agencies:

(1) State Liquor Commission;

(2) Capitol Planning Commission; and

(3) Educational Leave Advisory Board.

**2. 1991.**

A. Agencies:

(1) Department of Agriculture, Food and Rural Resources;

(2) Department of Defense and Veterans' Services; and

(3) Department of the Attorney General.

B. Independent agencies:

(1) Maine Blueberry Commission;

(2) Blueberry Advisory Committee;

(3) Seed Potato Board;

(4) Maine Milk Commission;

(5) State Harness Racing Commission;

(6) Maine Agricultural Bargaining Board;

(7) State Board of Veterinary Medicine;

(8) Maine Dairy and Nutrition Council;

(9) Board of Pesticides Control;

(10) State Planning Office;

(11) State Lottery Commission;

(12) Maine Dairy Promotions Board;

(13) Maine High-Risk Insurance Organization;

(14) State Board of Property Tax Review;

(15) Maine Vocational-Technical Institute System;

(16) Maine Commission for Women; and

(17) Maine Human Rights Commission.

**3. 1992.****A. Agencies:**

- (1) Department of Transportation;
- (2) Department of Public Safety, except for the Bureau of Capitol Security;
- (3) Department of the Secretary of State;
- (4) Maine Turnpike Authority; and
- (5) Maine Educational Loan Authority.

**B. Independent agencies:**

- (1) Maine State Pilotage Commission;
- (2) State Board of Registration for Professional Engineers; and
- (3) State Board of Registration for Land Surveyors.

**4. 1993.****A. Agency:**

- (1) Department of Human Services, including the Office of Emergency Medical Services.

**B. Independent agencies:**

- (1) State Board of Funeral Service;
- (2) Board of Hearing Aid Dealers and Fitters;
- (3) Maine Human Services Council; and
- (4) Advisory Commission on Radioactive Waste.

**5. 1994.****A. Agencies:**

- (1) Department of Mental Health and Mental Retardation;
- (2) Maine Indian Tribal-State Commission; and
- (3) Department of Corrections.

**B. Independent agencies:**

- (1) Board of Chiropractic Examination and Registration;
- (2) Board of Dental Examiners;

(3) Nursing Home Administrators Licensing Board;

(4) Board of Registration in Medicine;

(5) State Board of Nursing;

(6) State Board of Optometry;

(7) Board of Osteopathic Examination and Registration;

(8) Board of the Maine Children's Trust Fund;

(9) Examiners of Podiatrists;

(10) Maine Medical Laboratory Commission;

(11) State Planning and Advisory Council on Developmental Disabilities;

(12) Maine Committee on the Problems of the Mentally Retarded;

(13) Governor's Committee on Employment of the Handicapped; and

(14) Division of Community Services.

**6. 1995.****A. Agencies:**

- (1) Department of Conservation;
- (2) Department of Inland Fisheries and Wildlife; and
- (3) Baxter State Park Authority.

**B. Independent agencies:**

- (1) Advisory Board for Licensure of Water Treatment Plant Operators;
- (2) Keep Maine Scenic Committee;
- (3) Office of Energy Resources;
- (4) Saco River Corridor Commission;
- (5) State Soil and Water Conservation Commission;
- (6) Acupuncture Licensing Board;
- (7) Board of Licensing of Auctioneers;
- (8) Board of Licensing of Dietetic Practice; and

(9) Board of Commercial Driver Education.

**7. 1996.**

**A. Agencies:**

(1) Department of Environmental Protection; and

(2) Department of Marine Resources.

**B. Independent agencies:**

(1) Maine Sardine Council;

(2) Atlantic Sea Run Salmon Commission;

(3) Public Utilities Commission;

(4) Atlantic States Marine Fisheries Commission;

(5) Maine Development Foundation;

(6) Board of Directors, Maine Municipal and Rural Electrification Cooperative Agency;

(7) Lobster Advisory Council;

(8) Board of Environmental Protection; and

(9) Board of Underground Oil Storage Tank Installers.

**8. 1997.**

**A. Agencies:**

(1) Department of Professional and Financial Regulation; and

(2) Maine Low-level Radioactive Waste Authority.

**B. Independent agencies:**

(1) Real Estate Commission;

(2) Maine Athletic Commission;

(3) State Claims Commission;

(4) Board of Examiners on Speech Pathology and Audiology;

(5) Maine State Board for Licensure of Architects and Landscape Architects;

(6) State Board of Barbers;

(7) State Board of Cosmetology;

(8) Manufactured Housing Board;

(9) State Board of Substance Abuse Counselors;

(10) State Board of Licensure for Professional Foresters;

(11) State Board of Certification for Geologists and Soil Scientists;

(12) Board of Examiners in Physical Therapy;

(13) Oil and Solid Fuel Board; and

(14) Plumbers' Examining Board.

**9. 1998.**

**A. Agencies:**

(1) The Department of Educational and Cultural Services;

(2) Maine State Housing Authority; and

(3) Maine Health and Higher Educational Facilities Authority.

**B. Independent agencies:**

(1) Maine Conservation School;

(2) Office of State Historian;

(3) Maine Arts Commission;

(4) Maine State Museum Commission;

(5) Maine Historic Preservation Commission;

(6) Maine Health Care Finance Commission;

(7) Maine Health Facilities Authority;

(8) Board of Occupational Therapy Practice;

(9) Board of Respiratory Care Practitioners; and

(10) Radiologic Technology Board of Examiners.

**10. 1999.**

**A. Agency:**

(1) Department of Economic and Community Development.



B. Independent agencies:

- (1) Board of Trustees of the University of Maine System;
- (2) Board of Trustees of the Maine Maritime Academy;
- (3) State Government Internship Program Advisory Committee;
- (4) Arborist Examining Board;
- (5) State Board of Examiners of Psychologists;
- (6) Board of Commissioners of the Profession of Pharmacy; and
- (7) Alcohol and Drug Abuse Planning Committee.

11. 2000.A. Agencies:

- (1) Maine State Retirement System;
- (2) Department of Labor; and
- (3) Department of Administration, but limited to the Bureau of Human Resources, Bureau of Employee Relations, Bureau of Public Improvements and the state employee health insurance program.

B. Independent agencies:

- (1) State Civil Service Appeals Board;
- (2) Maine Labor Relations Board;
- (3) Workers' Compensation Commission;
- (4) Board of Accountancy;
- (5) State Board of Social Worker Licensure;
- (6) Electricians' Examining Board;
- (7) Maine Occupational Information Coordinating Committee; and
- (8) State Employee Health Commission.

§928. Special sunset reviews

Any agency or independent agency designated by joint resolution of the Legislature for review in addition to those already scheduled shall submit justification reports to the Legislature following the passage of the joint resolution as directed by the committee.

The committee may review any aspect or element of any agency or independent agency scheduled for review under this Act when the committee determines it necessary.

§929. Future or reorganized agencies and independent agencies

The Legislature shall establish schedules for the submittal of periodic justification reports by agencies and independent agencies created or substantially reorganized after the effective date of this chapter and for the termination of independent agencies created or substantially reorganized after the effective date of this chapter. All such agencies or independent agencies shall be subject to the provisions of this chapter.

§930. Legislative Council

The Legislative Council shall be responsible for and, subject to the approval of the Legislature, shall issue rules necessary for the efficient administration of this chapter.

§931. Legal claims

Termination, modification or establishment of agencies or independent agencies as a result of the review required by this chapter shall not extinguish any legal claims against the State, any state employee or state agency or independent agency. The provisions of this chapter shall not relieve the State or any agency or independent agency of responsibility for making timely payment of the principal and interest of any debt issued in the form of a bond or note.

§932. Review

The Legislature shall review the provisions and effects of this chapter no later than June 30, 1999, and at least once every 10 years thereafter.

**Sec. 5. 5 MRSA §21, sub-§4,** as enacted by PL 1985, c. 167, is amended to read:

**4. State employee.** "State employee" means any employee ~~subject to chapters 51 to 57, of an agency, independent agency or parts of agencies which receive support from the General Fund or that are established, created or incorporated by reference to the laws,~~ except nonpartisan staff of the Legislature.

**Sec. 6. 5 MRSA §21, sub-§6** is enacted to read:

**6. Legislative inquiry.** "Legislative inquiry" means any request made by a legislative committee or individual Legislator, to a state employee for public information or their personal opinion.

**Sec. 7. 5 MRSA §22,** as enacted by PL 1985, c. 167, is amended to read:

§22. Right to provide testimony

~~Every state employee has~~ State employees have the right to represent ~~himself~~ themselves and testify before a

legislative committee on ~~his~~ their own time. ~~No State employees have the right to respond to any legislative inquiry. A state employee who complies with this chapter may shall not~~ be denied the right to testify before a legislative committee.

**Sec. 8. 5 MRSA §285, sub-§5**, as repealed and replaced by PL 1987, c. 731, §4, is amended to read:

**5. Purchase of policies.** The commission shall purchase, by competitive bidding, from one or more insurance companies or nonprofit organizations, or both, a policy or policies of group accident and sickness or health insurance, including major medical insurance, to provide the benefits specified by this section. The purchase of policies by the commission shall be accomplished by use of a written contract which shall be fully executed within 90 calendar days of notification of bid acceptance from the commission to the insurer. In extenuating circumstances, the Commissioner of Administration may grant a waiver to that 90-day limit. Notwithstanding this subsection, with the consent of the policyholder and of the insurer and at the sole discretion of the commission, existing policies of insurance covering at least 1,000 of the employees defined as eligible by this section may be amended to provide the benefits specified by this section and assigned to the Commissioner of Administration for the benefit of all those eligible under this section. The company or companies or nonprofit organizations must be licensed under the laws of the State. The policy provisions shall be subject to and as provided for by the insurance laws of this State.

**Sec. 9. 5 MRSA §285-A, sub-§1**, as enacted by PL 1987, c. 731, §6, is amended to read:

**1. Establishment.** The State Employee Health Commission is established to serve as trustees of the group accident and sickness or health insurance in this subchapter and to advise the ~~Director of State Employee Health~~ director of the state employee health insurance program on health insurance issues and ~~other~~ the Director of the Bureau of State Employee Health on issues concerning employee health and wellness, the ~~employee assistance program~~ State Employee Assistance Program and the use of the State Employee Health Internal Service Fund Account, section 956.

**Sec. 10. 5 MRSA §723**, as amended by PL 1985, c. 785, Pt. B, §21, is further amended to read:

**§723. Educational Leave Advisory Board**

The Educational Leave Advisory Board, established by section ~~42004~~ 12004-I, subsection ~~40~~ 11, shall advise and consult with the Bureau of Human Resources to review and authorize all educational leave requests from classified and unclassified state employees for durations of more than one week. The board shall consist of ~~3~~ 5 members as follows: The Director of Human Resources who shall serve as ~~chairman~~ chair of the board; the Commissioner of Educational and Cultural Services or ~~his~~ a designee; ~~the manager of human resource development within the Bureau of Human Resources~~; and ~~one member~~ 2 members who shall be a state

~~employee employees, at least one of whom shall be a state employee as defined in Title 26, section 979-A, subsection 6.~~ Each state employee member is to be appointed by the Governor to serve for a term of 3 years. Members of the board shall be compensated as provided in chapter 379.

**Sec. 11. 5 MRSA §954**, as enacted by PL 1985, c. 785, Pt. C, §1, is amended to read:

**§954. Bureau of State Employee Health**

The Bureau of State Employee Health is established within the Department of Administration to promote the health and safety of state employees by working with the Office of Employee Relations, other bureaus and departments in the Executive Department, and state employees and their representatives to mutually establish policies and provide programs to minimize the risk of injury to and incidence of illness among state employees and to ~~provide and administer health insurance for state employees and~~ conserve public funds by minimizing the direct and indirect costs associated with injury and illness. The bureau shall be responsible for the administration of the State Employee Assistance Program, Title 22, chapter 254-A.

The bureau shall also administer a first aid and health service in the State House complex for state employees and State House visitors.

**Sec. 12. 5 MRSA §955, 3rd ¶**, as amended by PL 1987, c. 731, §8, is further amended to read:

The director shall work with the Bureau of Employee Relations, the State Employee Health Commission established in section 285-A, and other labor management groups to maximize the involvement of state employees and their representatives in the planning and execution of all programs under the charge of the bureau, including, but not limited to, the health ~~insurance~~ and wellness issues, the employee assistance program and the planning and use of the State Employee Health Internal Service Fund Account.

**Sec. 13. 5 MRSA §1731** as repealed and replaced by PL 1985, c. 785, Pt. C, §2, is amended to read:

**§1731. Reserve fund for self-insured retention losses**

A reserve fund, in this chapter called the "fund," is created to indemnify the State for self-insured retention losses and related loss adjustment expenses from those perils insured against under a deductible or self-insured retention program, as recommended by the director and approved by the commissioner. With the approval of the commissioner, the fund may be used for loss prevention programs administered by either the Risk Management Division or the Bureau of State Employee Health. The total amount of the fund provided for loss prevention programs in any given year may not exceed 5% of the fund as of July 1st of that fiscal year. The fund shall be a continuing fund and shall not lapse. Funds provided from the reserve fund to the Bureau of State Employee Health shall be similarly nonlapsing and shall be carried forward through the Bureau of State Employee Health Internal Service Fund Account.

As approved by the commissioner, up to 15% of the amount of the fund as of July 1st of each fiscal year may be used to ensure the prompt payment of workers' compensation claims for state agencies as required by law. Any funds so transferred shall be repaid to the fund by use of a written agreement which specifies reimbursement within the same biennium in which the transfer was made.

**Sec. 14. 5 MRSA §1742, sub-§7**, as amended by PL 1973, c. 154, §2, is further amended to read:

**7. Approve plans for public improvements.** To approve all proposals, plans, specifications and contracts for public improvements which the State of ~~Maine~~ or any of its agencies hold in fee or by leasehold interest and for school administrative unit projects costing in excess of ~~\$25,000~~ \$100,000. The commissioner shall, upon the request of a school administrative unit, provide consultation for any public improvement regardless of cost;

**Sec. 15. 5 MRSA §1742, sub-§22**, as amended by PL 1987, c. 733, §1 and c. 741, §1, is repealed.

**Sec. 16. 5 MRSA §1742-C** is enacted to read:

**§1742-C. Institutions of higher education**

The Department of Administration, through the Bureau of Public Improvements, shall provide the following services to institutions of higher education.

**1. University of Maine System.** Notwithstanding section 1742, the Bureau of Public Improvements is not required to provide services to the University of Maine System.

**2. Maine Vocational-Technical Institute System; Maine Maritime Academy.** The Bureau of Public Improvements shall provide any of the services set out in section 1742, subsections 1 to 9, 12 to 14, 19 and 23 to the Maine Vocational-Technical Institute System and the Maine Maritime Academy. Application of section 1742, subsection 23 to these institutions is limited to all public improvements:

A. Costing \$25,000 or more; or

B. Costing less than \$25,000 when building codes or other legal requirements exist.

**Sec. 17. 5 MRSA §1743-A**, as enacted by PL 1973, c. 154, §3, is amended to read:

**§1743-A. Competitive bids; advertisement**

Any contract for the construction, major alteration or repair of school buildings involving a total cost in excess of ~~\$25,000~~ \$100,000, except contracts for professional, architectural and engineering services, shall be awarded by competitive bids. The school district directors, school committee, building committee or whatever agency has responsibility for the construction, major alteration or repair shall, after consultation with the State Director of the Bureau of Public Improvements, seek sealed proposals. Sealed propos-

als shall be addressed to the responsible agency and shall remain sealed until publicly opened in the presence of the responsible agency or a committee thereof at such time as the responsible agency may direct. Competitive bids may be waived in individual cases involving unusual circumstances with the written approval of the Director of the Bureau of Public Improvements and the Commissioner of Educational and Cultural Services.

**Sec. 18. 5 MRSA §1745**, as repealed and replaced by PL 1977, c. 303, §2, is amended to read:

**§1745. Advertisement for sealed proposals; bonds**

The trustees, commissioners or other persons in charge of any public improvement in an amount in excess of ~~\$25,000~~ \$100,000, which is subject to chapters 141 to 155 shall, after consultation with the Director of the Bureau of Public Improvements, advertise for sealed proposals not less than 2 weeks in such papers as the Governor may direct. The last advertisement shall be at least one week before the time named therein for the closing of such bids. Sealed proposals for any public improvements shall be addressed to the trustees, commissioners or such other persons having the construction in charge and shall remain sealed until opened at the time and place stated in the advertisement or as the Governor may direct.

If a public improvement has been properly advertised in accordance with this chapter, and no proposals have been received from a qualified person who has been bonded in accordance with the requirements of Title 14, section 871, the Director of the Bureau of Public Improvements is authorized to accept proposals from persons that are not bonded in accordance with the requirements of Title 14, section 871. The Director of the Bureau of Public Improvements is authorized to set reasonable standards to ensure the interest of the State in the consideration of persons mentioned in this paragraph.

**Sec. 19. 5 MRSA §1746**, as amended by PL 1973, c. 223, is further amended by inserting at the end a new paragraph to read:

The Director of the Bureau of Public Improvements may approve contracts with a provision for daily financial incentive for projects completed before the scheduled date when it can be demonstrated that the early completion will result in a financial savings to the owner or to the State. The financial incentive may not be greater than the projected daily rate of savings to the owner or the State.

**Sec. 20. 5 MRSA §1747** is repealed and the following enacted in its place:

**§1747. Questionnaire as prebid qualification**

The public official may require, from any person proposing to bid on public work duly advertised, a standard form of questionnaire and financial statement, containing a complete statement of the person's financial ability and experience in performing public work, before furnishing that

person with plans and specifications for the proposed public work advertised.

The Director of the Bureau of Public Improvements, after consultation with the appropriate department head or superintendent of schools, may refuse to release plans and specifications to a contractor for the purpose of bidding on a project:

**1. Untimely completion.** If the contractor has not completed in a timely manner a prior construction project or projects and the resulting noncompletion clearly reflects disregard for the completion date and has created a hardship for the owner;

**2. Incomplete work.** If that contractor has a history of inability to complete similar work;

**3. Insufficient resources.** If, in the opinion of the director, the contractor does not have sufficient resources to successfully complete the work; or

**4. Misconduct.** If the contractor has been convicted of collusion or fraud or any other civil or criminal violation relating to construction projects.

**Sec. 21. 5 MRSA §1749, first ¶,** as amended by PL 1971, c. 543, §22, is repealed and the following enacted in its place:

Any contractor dissatisfied with the Director of the Bureau of Public Improvements' decision under section 1747 may appeal the decision to the Commissioner of Administration within 5 calendar days of the receipt of notice from the director that the contractor has been excluded from receiving plans and specifications or the director has refused to accept the contractor's bid. The appeal process shall be conducted at the discretion of the commissioner, but must be completed and a final decision rendered within 5 calendar days after the contractor's written notice of appeal unless extended by the commissioner. The decision of the commissioner shall be final and binding. Any contractor who requests a hearing under this section shall be allowed to receive plans and specifications for a particular duly advertised public improvement and bid on that improvement. The bid of any contractor submitted under this section may be disallowed upon final decision of the commissioner.

**Sec. 22. 5 MRSA §1892, first ¶,** as amended by PL 1987, c. 701, §1, is further amended to read:

The board shall consist of ~~44~~ 15 voting members and advisory members appointed as provided in this section. For the purpose of this section, the word "designee" means a person in a major policy-influencing position as defined in chapter 71.

**Sec. 23. 5 MRSA §1892, sub-§1,** as amended by PL 1987, c. 701, §§2 and 3, is further amended to read:

**1. Voting members.** The voting members of the board shall consist of:

A. The Commissioner of Administration or ~~his~~ the commissioner's designee;

B. The Commissioner of Finance or ~~his~~ the commissioner's designee;

C. The Commissioner of Human Services or ~~his~~ the commissioner's designee;

D. The Commissioner of Labor or ~~his~~ the commissioner's designee;

E. The Commissioner of Transportation or ~~his~~ the commissioner's designee;

F. The Deputy Secretary of State, Division of Motor Vehicles;

G. One member appointed by the Governor from the Office of the Governor;

H. Two members appointed by the Governor representing the remaining state agencies of State Government;

I. Two members, appointed by the Governor who are administrators or managers of data processing systems in the private sector;

J. The Commissioner of Economic and Community Development or the commissioner's designee;

K. The Executive Director of the Maine State Housing Authority or the director's designee; ~~and~~

L. The Executive Director of the Finance Authority of Maine or the director's designee; ~~and~~

M. The Executive Director of the Maine State Retirement System or the director's designee.

**Sec. 24. 5 MRSA §12004-G, sub-§25,** as enacted by PL 1987, c. 786, §5, is amended to read:

25. Labor State Apprenticeship and Training Council Expenses Only 26 MRSA §1002

**Sec. 25. 5 MRSA §17102, sub-§1-A** is enacted to read:

**1-A. Retirement system employees ineligible.** The executive director and the employees of the retirement system may not serve on the board of trustees.

**Sec. 26. 5 MRSA §17102, sub-§6,** as enacted by PL 1985, c. 801, §§5 and 7, is repealed and the following enacted in its place:

**6. Compensation.** The trustees shall be compensated, as provided in chapter 379, from the funds of the retirement system. For the purposes of this subsection, "administrative leave" means an excused absence from work

during the employee's normal work schedule for which the employee does not receive a reduction in compensation, except that it does not include the use of earned vacation time specified by the employment contract; "public employee trustee" means a trustee selected or elected according to subsection 1, paragraph B, C or E, or an employee as that term is defined by section 17001, subsection 14. Notwithstanding section 12004-F, subsection 9, certain trustees shall be compensated as follows. The employer of a public employee trustee shall grant administrative leave at the request of that trustee in order for that trustee to attend an activity compensable under section 12002-B. If administrative leave is granted to the trustee, then the trustee shall not receive per diem authorized under chapter 379 and an amount equal to the legislative per diem which would otherwise be paid from the funds of the retirement system to the trustee shall be paid directly to that person's employer, unless the employer is the State.

**Sec. 27. 5 MRSA §17103, sub-§§7 and 8,** as enacted by PL 1985, c. 801, §§5 and 7, are amended to read:

**7. Administrative and financial decisions.** The board shall make the final decision on all matters pertaining to administration, actuarial assumptions, actuarial recommendations and the reserves and the investments of the retirement system. The board is exempt from the requirements of chapters 143, 153 and 155, except that the board shall comply with all payroll and personnel processing requirements in chapter 143, with health and safety requirements and programs of the Bureau of Public Improvements and is subject to the requirements of section 1742, subsection 19. The Department of Finance and the Department of Administration shall provide survivor benefit payroll, retirement payroll and contribution refund services and, at their option, may provide other services under these chapters to the Maine State Retirement System at the request of the board. When the board utilizes the services under these chapters, it shall comply with the requirements and procedures of those services.

A. ~~Where~~ If the decision is related to or results in rules, rules shall be adopted as provided in subsection 4.

B. ~~Where~~ If the decision determines the rights, credits or privileges of an individual member or group of members, the determination shall be considered an adjudicatory proceeding under chapter 375, subchapter IV and shall be made only after the giving of notice as required in that subchapter and after hearing if a hearing is requested by a person whose rights, credits or privileges are to be determined. Any hearing shall be conducted in accordance with ~~the provisions of~~ chapter 375.

**8. Executive director.** The board shall appoint an executive director whose salary shall be set by the board subject to the requirements of Title 2, section 6-D.

**Sec. 28. 5 MRSA §17103, sub-§11, ¶B,** as amended by PL 1987, c. 247, §5, is further amended to read:

B. Any proposed legislation amending the retirement system law which the board recommends to improve the retirement system; ~~and~~

**Sec. 29. 5 MRSA §17103, sub-§11, ¶C,** as enacted by PL 1987, c. 247, §6, is amended to read:

C. A discussion of the progress toward meeting the goals of chapter 161 ; and

**Sec. 30. 5 MRSA §17103, sub-§11, ¶D** is enacted to read:

D. A review of the operations of the retirement system, including a summary of administrative expenses and improvements in the delivery of services to members of the retirement system.

**Sec. 31. 14 MRSA §871, sub-§3,** as amended by PL 1985, c. 554, §2, is further amended to read:

**3. Surety bonds.** ~~Unless specifically exempted by statute, Except as provided in Title 5, section 1745,~~ before any contract, exceeding ~~\$25,000~~ \$50,000 in amount, for the construction, alteration or repair of any public building or other public improvement or public work, including highways, is awarded to any person by the State or by any political subdivision or quasi-municipal corporation, or by any public authority, such person shall furnish to the State or to such other contracting body, as the case may be, the following surety bonds:

A. A performance bond in an amount equal to the full contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions thereof. Such bond shall be solely for the protection of the State or the contracting body awarding the contract, as the case may be; and

B. A payment bond in an amount equal to the full amount of the contract solely for the protection of claimants supplying labor or materials to the contractor or his subcontractor in the prosecution of the work provided for in such contract. The term "materials" shall include rental of equipment.

When required by the contracting authority, the contractor shall furnish bid security in an amount which the contracting authority considers sufficient to guarantee that if the work is awarded the contractor will contract with the contracting agency.

The bid security may be in the form of United States postal money order, official bank checks, cashiers' checks, certificates of deposit, certified checks, money in escrow, bonds from parties other than bonding companies subject to an adequate financial standing documented by a financial statement of the party giving the surety, bond or bonds from a surety company or companies duly authorized to do business in the State.

The bid security may be required at the discretion of the contracting authority to assure that the contractor is bondable.

The bid securities other than bid bonds shall be returned to the respective unsuccessful bidders. The bid security of the successful bidder shall be returned to the contractor upon the execution and delivery to the contracting agency of the contract and performance and payment bonds, in terms satisfactory to the contracting agency for the due execution of the work.

In the case of contracts on behalf of the State, the bonds shall be payable to the State and deposited with the contracting authority. In the case of all other contracts subject to this section, the bonds shall be payable to and deposited with the contracting body awarding the contract.

**Sec. 32. 22 MRSA §42, sub-§3**, as amended by PL 1987, c. 737, Pt. C, §§64 and 106, and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

**3. Plumbing and subsurface waste water disposal.** The department, with the advice and consent of the Plumbers' Examining Board, shall adopt minimum rules relating to plumbing and subsurface sewage disposal systems and the installation and inspection thereof by reference a nationally recognized plumbing code. The department, with the advice and consent of the Plumbers' Examining Board, may adopt, as necessary, amendments to that code. The department shall adopt minimum rules relating to subsurface sewage disposal systems. All rules, including installation and inspection rules, must be consistent with Title 30-A, chapter 185, subchapter III, and Title 32, chapter 49, but this does not preempt the authority of municipalities under Title 30-A, section 3001, to adopt more restrictive ordinances; and shall hold hearings on the first Tuesday of February of each year for the purpose of considering changes in the rules pertaining to plumbing and subsurface sewage disposal systems and the installation and inspection thereof. These rules may regulate the location of water supply wells to provide minimum separation distances from subsurface sewage disposal systems. The department may require a deed covenant or deed restriction when determined necessary.

Any person who violates the rules adopted under this subsection, or who violates a municipal ordinance adopted pursuant to Title 30-A, sections 4201 and 4211 or uses a subsurface waste water disposal system not in compliance with rules applicable at the time of installation or modification shall be penalized in accordance with Title 30-A, section 4506. Enforcement of the rules shall be the responsibility of the municipalities rather than the department. The department or a municipality may seek to enjoin violations of the rules or municipal ordinances. In the prosecution of a violation by a municipality, the court shall award reasonable attorney's fees to a municipality if that municipality is the prevailing party, unless the court finds that special circumstances make the award of these fees unjust.

**Sec. 33. 22 MRSA §4008, sub-§3, ¶F**, as amended by PL 1987, c. 744, §7, is further amended to read:

F. ~~Where~~ When the information concerns teachers and other professional personnel issued certificates under Title 20-A, persons employed by schools approved pursuant to Title 20-A or any employees of schools operated by the Department of Educational and Cultural Services, the information shall be disclosed to the Commissioner of Educational and Cultural Services. ~~This paragraph is repealed on June 30, 1989, pending review by the joint standing committee having jurisdiction over audit and program review and unless continued by legislative Act.~~

**Sec. 34. 22 MRSA c. 1071, sub-c. XII** is enacted to read:

## SUBCHAPTER XII

### HOSPITAL-BASED SUSPECTED CHILD ABUSE AND NEGLECT COMMITTEES

#### §4091. Purpose

The purpose of this subchapter is to encourage the implementation of statewide standards to be developed by the Department of Human Services and participating hospitals for the identification and management of suspected child abuse and neglect cases presented at hospitals by providing financial support for the establishment of hospital-based suspected child abuse and neglect committees.

#### §4092. Definitions

As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Case plan prescription. "Case plan prescription" means a plan developed by the family support team.

2. Family support team. "Family support team" means a specialized team of professionals evaluating children who are suspected victims of child abuse and neglect as defined in section 4002, subsection 1. Evaluations shall include a family diagnosis and recommendations for treatment and follow-up.

3. Protocols. "Protocols" means procedures developed for the interaction of the suspected child abuse and neglect committee and family support team.

4. Suspected child abuse and neglect committee. "Suspected child abuse and neglect committee" means a committee representing public and private community agencies, hospital departments and the department which are directly involved in providing services to suspected victims of child abuse and the victims' families.

#### §4093. Hospital-based suspected child abuse and neglect committees

Each hospital may establish a suspected child abuse and neglect committee and family support team under this subchapter. The committee shall meet regularly to provide

the ongoing development and monitoring of the specialized family support team and the approval of protocols. These hospitals shall serve as a resource to other institutions desiring to form such a program.

The family support team shall be coordinated by a team manager who shall be hired by the participating hospital. The team shall be available to evaluate children who are the suspected victims of abuse and neglect. The department shall contract for the services of the family support team manager.

The family support team shall provide a multidisciplinary approach for suspected child abuse cases that are initially identified in hospital emergency rooms, inpatient pediatric departments and ambulatory clinics. The child protective staff of the Bureau of Social Services shall participate on the teams. The team shall report immediately to the department as required in section 4011.

The team shall review the nature, extent and severity of abuse or neglect and the needs of the child and other family members. The team shall develop a case plan prescription for the treatment, management and follow-up of the child abuse victims and their families, and shall forward these recommendations to the department.

**Sec. 35. 26 MRSA §63, sub-§1, ¶B**, as enacted by PL 1985, c. 372, Pt. A, §7, is repealed.

**Sec. 36. 26 MRSA §63, sub-§1, ¶C**, as enacted by PL 1985, c. 372, Pt. A, §7, is amended to read:

C. No loan may be made in an amount in excess of \$15,000 \$50,000 to any single applicant, ~~nor~~ or at a an fixed interest rate in excess of a rate equal to 2 percentage points below the prime rate in effect in the Boston metropolitan area; 3%. The maximum term of an individual loan shall be 10 years. The Commissioner of Labor may waive the limitation on the amount, the duration, or both, of a loan to address severe circumstances, as funds are available;

**Sec. 37. 26 MRSA §142, sub-§8**, as enacted by PL 1973, c. 33, §2, is repealed and the following enacted in its place:

**8. Water under pressure.** Vessels for containing water under pressure, including those containing air, the compression of which serves only as a cushion, when none of the following limitations is exceeded:

A. A design pressure of 300 pressure pounds per square inch; or

B. A design temperature of 210° Fahrenheit;

**Sec. 38. 26 MRSA §178, sub-§1**, as amended by PL 1981, c. 348, §§1 and 2, is repealed and the following enacted in its place:

**1. Licenses.** In order to safeguard life, health and property, the Board of Boiler Rules shall provide for the

mandatory licensing of stationary steam engineers and boiler operators.

Those persons operating boilers exempt under section 142 and those persons employed by companies under the jurisdiction of the Public Utilities Commission or the United States Atomic Energy Commission shall be exempt from the licensing requirements.

**Sec. 39. 26 MRSA §243**, as amended by PL 1971, c. 620, §13, is further amended to read:

#### **§243. Insurance**

~~In case~~ When a boiler is insured and inspected by a duly accredited insurance company licensed to do business in this State, a copy of the record of each internal inspection of ~~such~~ the boiler shall be filed with the bureau.

~~In case~~ When an insurance company cancels insurance upon any boiler requiring inspection under section 244 which is not exempt by under section 142 or the policy expires and is not renewed, notice shall immediately be given to the bureau. Any insurance company shall ~~likewise~~ likewise notify ~~said~~ the bureau immediately upon ~~the placing of insurance on such insuring a boiler pursuant to this section.~~

**Sec. 40. 26 MRSA §246, sub-§5** is amended to read:

**5. Copies of rules.** To publish and distribute, among boiler manufacturers and others requesting them, copies of the rules adopted by the board at a cost sufficient only to cover the printing and mailing expenses of distribution; and

**Sec. 41. 26 MRSA §474, 3rd ¶**, as amended by PL 1985, c. 310, is further amended to read:

Any order or decision of the board or any rule formulated by the board shall be subject to review by the Superior Court pursuant to Title 5, section 8058 or chapter 375, ~~chapter~~ subchapter VII.

**Sec. 42. 26 MRSA §490-G, sub-§7**, as enacted by PL 1977, c. 543, §4, is amended to read:

**7. Copies of rules.** To publish and distribute among elevator and tramway owners, lessees, manufacturers, repair companies and others requesting them, copies of the rules as adopted by the board, at a cost sufficient only to cover the printing and mailing expenses of distribution, except those rules which are American National Standards Institute ~~standard~~ standards, which must be obtained from the publisher.

**Sec. 43. 26 MRSA §1001, sub-§2**, as amended by PL 1985, c. 821, §§16 and 17, is further amended to read:

**2. Apprentice agreement.** "Apprentice agreement" shall mean a written agreement entered into by an apprentice or organization of employees with an employer or with an association of employers or organizations of employees, which agreement provides for ~~his~~ the apprentice's participa-

tion in a definite ~~sequence~~ sequence of job training, and for such related and supplemental instruction as may be deemed necessary to qualify as a journeyman in the particular trade affected.

**Sec. 44. 26 MRSA §1002**, as amended by PL 1985, c. 821, §§16 and 17, is further amended to read:

**§1002. State Apprenticeship and Training Council**

The State Apprenticeship and Training Council, as established by Title 5, section ~~12004~~ 12004-G, subsection ~~8~~ 25, shall be composed of ~~41~~ 12 members to be appointed by the Governor and made up as follows: 4 members shall be representatives of employees and shall be bona fide members of a recognized major labor organization; 4 members shall be representatives of employers and shall be bona fide employers or authorized representatives of bona fide employers; ~~and 3~~ 2 members shall be representatives of the public ~~and shall be~~, selected from neither industrial employers nor employees, nor shall they be directly concerned with any particular industrial employer or employee; ~~and 2 members who shall represent the interests of women, minorities and aid to families with dependent children recipients in apprenticeship.~~ The appointments shall be made so that the term of one member of each group shall expire each year. Each member shall hold office until his successor a successor is appointed and qualified, and any vacancy shall be filled by appointment for the unexpired portion of the term. The chairman chair and secretary of the council shall be named by the members of the council and the chairman chair shall be a member of the council. The Associate Commissioner of Vocational Education, the Director of the Bureau of Labor Standards and the Commissioner of Labor and the director of apprenticeship training of the Maine Vocational-Technical Institute System shall be ex officio members of the council without vote. The members of the council shall be compensated according to the provisions of Title 5, chapter 379.

The budget request of the council shall be incorporated in the overall budget of the Bureau of Labor Standards, and the director shall be responsible for the disbursement of these funds according to council policy. The director shall be responsible for the selection and supervision of all personnel who may be employed by the council.

The council shall:

**1. Establish standards.** Establish standards, through joint action of employers and employees, and assist in the development of apprenticeship programs in conformity with this chapter and generally encourage and promote the establishment of apprenticeship programs;

**2. Registration.** Register or terminate or cancel the registration of apprenticeship programs and apprenticeship agreements;

**3. Certificates of completion.** Issue such certificates of completion of apprenticeship as shall be authorized by the council to apprentices who have been certified by a joint

apprenticeship committee or employer as satisfactorily completing their training;

**4. Records.** Keep a record of apprenticeship programs and apprentice agreements, including the number of women in apprenticeships by trade and the number of women apprentices in occupations that are nontraditional for women;

**5. Cooperate with others.** Cooperate with the State Department of Educational and Cultural Services, the Board of Trustees of the Maine Vocational-Technical Institute System and the local school authorities in the organization and establishment of classes of related and supplemental instruction for apprentices employed under approved agreements;

**6. Rules and regulations.** Issue such rules ~~and regulations~~, pursuant to Title 5, ~~section 8051 et seq.~~ chapter 372, subchapter II, as may be necessary to carry out the intent and purpose of this chapter;

**7. Reports.** Make a report to the Governor of its activities and the results thereof, including those activities specifically undertaken to increase the participation of women and recipients of aid to families with dependent children, which report shall be incorporated in the biennial report of the Director of the Bureau of Labor Standards; ~~and~~

**8. Prison industries programs.** Cooperate and consult with the Department of Corrections to develop policies concerning the issues of job safety for prisoners involved in prison industries programs, work release programs and job displacement created by such programs and to develop opportunities for jobs in the prison industries programs consistent with Title 34-A, section 1403, subsection 9 :; and

**9. Commitment to apprenticeships for women and recipients of aid to families with dependent children.** Cooperate, consult and coordinate with the Maine Commission for Women, the advisory council to the Maine Aid to Families with Dependent Children Coordinating Committee, established by Title 22, section 3773, and other relevant groups to identify the obstacles which may prevent the greater participation of women and of aid to families with dependent children recipients in apprenticeships, and the necessary measures to be taken to overcome them.

Meetings of the council shall be held quarterly and as often as is necessary in the opinion of the majority of the council. The ~~chairman chair~~ shall designate the time and place of the meetings and the secretary shall notify all council members at least one week in advance of each meeting. A majority of the membership of the council shall constitute a quorum, provided that each group has at least one representative present.

**Sec. 45. 26 MRSA §1004, sub-§3**, as amended by PL 1971, c. 610, §21, is further amended to read:



3. **Hours.** A statement of educational subjects to be studied and mastered. Where formal classroom instruction can be established by the State Department of Educational and Cultural Services Board of Trustees of the Maine Vocational-Technical Institute System a statement that such classes shall operate at least 144 hours per year;

**Sec. 46. 26 MRSA §1005-A** is enacted to read:

**§1005-A. Preapprenticeship training**

The State Apprenticeship and Training Council shall assist the Department of Educational and Cultural Services, the State's vocational-technical institutes and other groups which may wish to establish preapprenticeship training programs, in developing training courses, the successful completion of which will enable a participant to meet the qualifying standards for the apprenticeship or apprenticeships for which the participant has expressed a serious interest. All preapprenticeship training programs are subject to approval by the council.

**Sec. 47. 26 MRSA §1006** is amended to read:

**§1006. Local, regional and state joint apprenticeship committees**

Local and state joint apprenticeship committees may be approved, in any trade or group of trades, in cities, regions of the state or trade areas, by the council, whenever the apprentice training needs of such trade or group of trades or such regions justify such establishment. Such These local, regional or state joint apprenticeship committees shall be composed of an equal number of employer and employee representatives selected by the respective local or state employer and employee organizations in such the trade or groups of trades; and such advisory members representing local boards or other agencies as may be deemed advisable. Each local, regional or state joint apprenticeship committee will include an even number of members with expertise in issues related to women, minorities or aid to families with dependent children recipients in apprenticeships who shall be voting members, 1/2 to be chosen by the employer representatives and 1/2 to be chosen by the employee representatives. In a trade or groups of trades in which there is no bona fide employer or employee organization, a joint committee may be composed of persons known to represent the interests of employers and of employees respectively, or a state joint apprenticeship committee may be approved as the joint committee in such trade or group of trades. Subject to the review of the council and in accordance with the standards established by the council, such committees may devise standards for apprenticeship agreements and give such aid as may be necessary in their operation in their respective trades and localities. The activities of the committees shall be in compliance with all applicable affirmative action rules adopted by the council.

**Sec. 48. 26 MRSA c. 11, sub-c. II,** as amended, is repealed.

**Sec. 49. 26 MRSA §1082, sub-§5,** as amended by PL 1983, c. 812, §164, is further amended to read:

5. **Advisory council.** The Commissioner of Labor shall appoint a state advisory council, as established by Title 5, section 12004, subsection 10, consisting of not more than 9 members composed of an equal number of employer representatives and employee representatives who may fairly be regarded as representative because of their vocation, employment or affiliations and an equal number of members representing the general public. ~~Such The~~ council shall meet no less than ~~4~~ <sup>3</sup> times a year and shall aid the commissioner in formulating policies and discussing problems related to the administration of this chapter and in ~~assuring~~ <sup>ensuring</sup> impartiality and freedom from political influence in the solution of ~~such those~~ problems. The advisory council may also make recommendations to the Legislature for ~~such those~~ changes in this chapter as in their opinion will aid in accomplishing the objectives of this chapter. Each member of the advisory council shall be compensated according to the provisions of Title 5, chapter 379.

**Sec. 50. 32 MRSA §1202, sub-§1, ¶C,** as enacted by PL 1987, c. 395, Pt. B, §7, is amended to read:

C. For a limited electrician's license, a person must meet the following requirements.

(1) A limited electrician in water pumps shall have 90 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 2,000 hours of experience. The privileges of practice shall be restricted to electrical work between the branch circuits and power supplies.

(2) A limited electrician in outdoor signs, including sign lighting, shall have 90 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 2,000 hours of experience. The privileges of practice do not include branch circuit wiring.

(3) A limited electrician in gasoline dispensing shall have 90 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 2,000 hours of experience. The privileges of practice shall be restricted to electrical work between the branch circuit and the power supply.

(4) A limited electrician in traffic signals, including outdoor lighting of traffic signals, shall have 90 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 2,000 hours of experience.

(5) A limited electrician in house wiring shall have 225 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 4,000 hours of experience. Privileges of prac-

tice shall be restricted to one-family and 2-family dwellings, including modular and mobile homes. Any person having a limited license in mobile homes prior to the effective date of this section shall automatically be licensed as a limited electrician in house wiring.

(6) A limited electrician in refrigeration shall have 270 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 6,000 hours of experience. Graduates of a Maine vocational-technical institute electrical program in refrigeration approved by the Electricians' Examining Board or from an accredited institution shall be credited with 4,000 hours of experience upon graduation. Privileges of practice shall be restricted to all associated wire from the loadside of distribution.

(7) A limited electrician in low energy, including fire alarms, shall have 270 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 4,000 hours of experience. Any person having a limited license in fire alarms or experience in the installation of low-energy electronics, as defined by the National Electrical Code, prior to the effective date of this section, shall automatically be licensed as a limited electrician in low energy.

**Sec. 51. 32 MRSA §3402**, as amended by PL 1985, c. 785, Pt. B, §138, is further amended to read:

#### §3402. Employees

The commissioner, with the advice and consent of the board, may appoint, subject to the Civil Service Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the department and under the administrative and supervisory direction of the commissioner.

Plumbing State plumbing inspectors appointed under this section shall have the same powers throughout the several counties of the State as sheriffs have in their respective counties, relating to enforcement of this chapter and rules promulgated under this chapter. If any state plumbing inspector finds any plumbing installation in any building or structure which does not comply with the adopted state plumbing code that inspector shall, with the consent of the local plumbing inspector, order that the installation be removed or remedied and that order must be complied with immediately by the owner or occupant of the premises or building or the installer of the plumbing in violation. If any state plumbing inspector finds any plumbing installation in any building or structure which creates a danger to other property or to the public, the inspector may forbid use of the building or structure by serving a written order upon the

owner and the occupant, if any, to vacate within a reasonable period of time to be stated in the order.

Any person ordered by a state plumbing inspector to correct a plumbing deficiency or to vacate a building or structure may appeal the order to the Plumbers' Examining Board by filing with that board within 48 hours of receipt of the order a written notice of appeal. The board shall review that appeal and issue its written decision within 10 days after receipt of the notice of appeal. If the board upholds the inspector's order, it shall prescribe the time period for the requisite correction specified in its written decision or the time within which that person must vacate the building or structure. The decision must be complied with, unless appealed as provided. Any person ordered by the board to correct a plumbing deficiency or to vacate a building or structure may appeal the order to the Superior Court pursuant to the Maine Rules of Civil Procedure, Rule 80B, by filing a petition for review within 48 hours of receipt of the order. The order by the Plumbers' Examining Board shall not be stayed unless by order of the Superior Court for good cause.

Upon the failure of any person to carry out the final order, the Plumbers' Examining Board may petition the Superior Court for the county in which the premises or building is located from an injunction to enforce that order. If the court determines upon hearing the petition that a lawful final order was issued, it shall order compliance.

In addition to any other powers, state plumbing inspectors shall have the right of entry during usual business hours to inspect any and all buildings and premises in the performance of their duties. They may enter any building only with the permission of the owner, occupant or person having control of the building or pursuant to an order of court.

**Sec. 52. 32 MRSA §12213**, as enacted by PL 1987, c. 489, §2, is amended to read:

#### §12213. Appointment

The Board of Accountancy, as established by Title 5, section ~~42004~~ 12004-A, subsection 1, shall be within the Department of Professional and Financial Regulation. The board shall consist of 5 members appointed by the Governor. Each member of the board shall be a citizen of the United States and a resident of this State. Three members shall be holders of certificates issued under section ~~42252~~ 12227 and of currently valid permits issued under section ~~12251~~ and shall have had, as their principal occupation, active practice as certified public accountants for at least the 5 preceding years. One member shall hold a certificate issued under section ~~42273~~ 12239, currently valid permit issued under section 12251 and shall have had, as ~~his~~ a principal occupation, active practice as a noncertified public accountant for at least the 5 preceding years. One member of the board shall be a representative of the public. Appointments shall be for 3-year terms and the term of one member, other than the member registered under section ~~42273~~ 12239 and the public member's term, shall expire each calendar year and appointments of less than 3 years may be made in order to comply

with this limitation. Any vacancy occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of ~~his~~ the term of office, a member shall continue to serve until ~~his~~ a successor has been appointed and has qualified and the successor's term shall be 3 years from the date of the expiration, regardless of the date of ~~his~~ appointment. No person may be eligible to serve more than 3 full consecutive terms provided that, for this purpose only, a period actually served which exceeds 1/2 of the 3-year term shall be deemed a full term. The Governor shall remove any member of the board for cause.

**Sec. 53. 32 MRSA §12214, sub-§1**, as enacted by PL 1987, c. 489, §2, is amended to read:

**1. Organization.** The board shall elect annually from among its members a ~~chairman~~ chair and a secretary who shall be a certified public accountant. The board shall meet at such times and places as may be fixed by the board or at the call of the ~~chairman~~ chair or a majority of the board members. Three members of the board shall constitute a quorum for the transaction of business, provided that at least one of the 3 members present is the public member or the member who is registered under section ~~42273~~ 12239. The board may have a seal. The board shall retain or arrange for the retention of all applications and all documents under oath that are filed with the board and also records of its proceedings and it shall maintain a registry of the names and addresses of all licensees under this chapter. In any proceeding in court, civil or criminal, arising out of or founded upon any provisions of this chapter, copies of any of the records certified as true copies under the seal of the board shall be admissible in evidence as tending to prove the contents of those records.

**Sec. 54. 32 MRSA §12251, sub-§5**, as enacted by PL 1987, c. 489, §8, is amended to read:

**5. Renewal.** An applicant for renewal of a permit under this section shall show that ~~he has fulfilled~~ requirements of continuing professional education consisting of not less than 12 hours in each one-year period and not less than 72 hours in any 3-year period have been fulfilled. The board shall establish by rule the number of hours of continuing professional education required in each one-year period and 3-year period and shall not require more than 120 hours in each 3-year period. That education shall consist of the general kinds and in such subjects as shall have been specified by the board by rule. The board may provide by rule that fulfillment of continuing professional education requirements of other states will be accepted in lieu of the foregoing. The board may also provide by rule for prorated continuing professional education requirements to be met by applicants whose initial permits were issued less than one year prior to the renewal date, ~~and it.~~ The board may prescribe by rule special lesser continuing education requirements to be met by applicants for permit renewal whose prior permits lapsed prior to their applications for renewal, ~~and regarding whom it would in consequence be inequitable to require a full compliance with all requirements of continuing professional education that would otherwise have been applicable to the period of lapse.~~ The board in its discretion, may renew a permit to practice despite failure to furnish evidence of

satisfaction of requirements of continuing professional education only upon condition that the applicant follow a particular program or schedule of continuing professional education. In issuing rules and individual orders in respect of requirements of continuing professional education, the board in its discretion may use and rely, among other things, upon guidelines and pronouncements of recognized educational and professional organizations; may prescribe for content, duration and organization of courses; may take into account any impediments to interstate practice of public accountancy which may result from differences in those requirements in other states; and may provide for relaxation or suspension of those requirements in regard to applicants who certify that they do not intend to engage in the practice of public accountancy.

**Sec. 55. 39 MRSA §25**, as amended by PL 1987, c. 402, Pt. A, §208, is repealed.

**Sec. 56. 39 MRSA §62-A, sub-§2**, as enacted by PL 1979, c. 496, §2, is amended to read:

**2. Notification.** Before approving or awarding any compensation as limited in subsection 1, the commission shall request that the Department of ~~Manpower Affairs~~ Labor:

- A. Inform the commission as to whether the claimant is receiving unemployment benefits;
- B. Notify the commission in the event that the claimant subsequently applies for and receives unemployment benefits; and
- C. Notify the commission whenever the claimant ceases to receive unemployment benefits.

Whenever the Department of ~~Manpower Affairs~~ Labor so notifies the commission, the commission shall notify the employer and employee, advise them of both the requirements of this section and the difference the employer shall make in the employee's compensation. Upon receipt of this information, the employer shall appropriately decrease the compensation or, if the claimant has ceased to receive unemployment benefits, appropriately increase the compensation.

**Sec. 57. 39 MRSA §91, sub-§1**, as amended by PL 1987, c. 559, Pt. B, §39, is further amended to read:

**1. Membership; term.** The Workers' Compensation Commission, as established in this section, shall consist of 12 members, who shall be persons learned in the law and members of good standing of the bar of this State. They shall be appointed by the Governor within 60 days after a vacancy occurs or a new commissioner is authorized, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary and to confirmation by the Legislature. One of the commissioners, to be designated by the Governor as ~~chairman~~ chair, shall be appointed for the term of ~~5~~ 7 years from the date of the chair's appointment and the other commissioners for a term of ~~4~~ 6 years each from the date of their respective appointments.

**Sec. 58. 39 MRSA §91, sub-§2**, as enacted by PL 1983, c. 479, §14, is amended to read:

**2. Vacancies; removal.** Commissioners shall hold office for the terms provided in subsection 1, unless removed, and until their successors are appointed and qualified. They shall be sworn, and for inefficiency, willful neglect of duty or for malfeasance in office may be removed by the Governor, only with the review and concurrence of the joint standing committee of the Legislature having jurisdiction over judiciary upon hearing in executive session, or by impeachment. Before removing a commissioner, the Governor shall notify the President of the Senate and the Speaker of the House of Representatives of the removal, and the reasons for the removal. ~~In case of a vacancy occurring through death, resignation or removal, the Governor shall appoint a successor for the whole term of the member whose place he takes, subject to removal.~~ In case the office of ~~chairman~~ chair becomes vacant, the senior appointed commissioner shall act as ~~chairman~~ chair until the Governor makes an appointment to fill the vacancy.

**Sec. 59. Transfer of information and tour guide position.** Upon the retirement of the incumbent holding the position of information and tour guide as of May 1, 1989, this position shall be transferred from the Bureau of Public Improvements to the Maine State Museum.

**Sec. 60. Legislative intent.** In providing for a checklist of potentially available support services for job training participants entering the system, the Legislature intends to ensure adequate information about and opportunity to express need for the services available under the state job training program known as the "Maine Training Initiative." Approval or denial of each service for which a participant has expressed a need does not have to be decided at the initial interview, but may be determined during the formulation of the participant's employability development plan.

**Sec. 61. Telecommunication reserve account established.** There is established an account for the purpose of reorganizing the payment of costs associated with the central telephone switchboard in accordance with Part B of this Act. Any department or agency that cannot absorb its pro rata share of these additional costs, based on funds budgeted for fiscal year 1989-90 and fiscal year 1990-91, may apply to the Bureau of the Budget for use of the money in this fund.

**Sec. 62. Transition clause; modifying the 10-year review cycle for some independent agencies.** If an independent agency listed in the Maine Revised Statutes, Title 3, section 927, has been assigned a review date for a period which constitutes more or less than 10 years from the date of original review, it is for the sole reason of logical consolidation and reorganization of the review schedule. Nothing in this Act regarding these independent agencies may be construed as terminating or modifying the existence of the independent agency. Neither shall this restructuring of the review schedule be construed as modifying the powers, privileges, rights or liabilities of any independent agencies that were in effect immediately prior to the effective date of this Act. Each independent agency listed in the Maine Revised

Statutes, Title 3, section 927, is declared to continue in existence, and all rules, licenses, contracts, resolutions and official actions in effect or outstanding immediately prior to the effective date of this Act shall be unaffected by this Act.

**Sec. 63. Application.** Notwithstanding section 27 of this Part, the Board of Trustees of the Maine State Retirement System shall be subject to the requirements of the Maine Revised Statutes, Title 5, chapters 143, 153 and 155, until such time as the board represents to the Department of Administration and the Department of Finance that all necessary rules are promulgated and procedures are established for the proper operation of the system or until January 1, 1990, whichever is earlier.

**PART B**

**Sec. 1. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1989-90	1990-91
<b>ADMINISTRATION, DEPARTMENT OF</b>		
<b>Bureau of Public Improvements</b>		
Positions	(-7)	(-7)
Personal Services	(\$145,667)	(\$147,513)
Transfers 7 positions involved with the central telephone switchboard to the telecommunications division within the Office of Information Services.		
<b>Bureau of Human Resources</b>		
All Other	(\$1,697)	(\$1,697)
Transfers funds used to fund the State Civil Service Appeals Board to the commissioner's office.		
<b>Office of the Commissioner</b>		
All Other	\$1,697	\$1,697
Provides funds for the State Civil Service Appeals Board transferred from the Bureau of Human Resources.		
<b>DEPARTMENT OF ADMINISTRATION</b>		
<b>TOTAL</b>	<u>(\$145,667)</u>	<u>(\$147,513)</u>

FINANCE, DEPARTMENT OF

Bureau of the Budget

Telecommunications Reserve Account

All Other \$50,000

Provides funds for a reserve account to assist agencies in paying their share of central telephone switchboard operator salaries. These funds shall carry forward until June 30, 1991.

DEPARTMENT OF FINANCE TOTAL \$50,000

TOTAL APPROPRIATIONS (\$95,667) (\$147,513)

**Sec. 2. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

1989-90 1990-91

ADMINISTRATION, DEPARTMENT OF

Office of Information Services

Telecommunications Division

Positions (7)  
Personal Services \$145,667 \$147,513

Allocates funds for the transfer of 7 positions involved with the central telephone switchboard.

DEPARTMENT OF ADMINISTRATION TOTAL \$145,667 \$147,513

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Plumbers' Examining Board

Positions (2)  
Personal Services \$47,000  
All Other 10,000  
Capital Expenditures 3,000  
TOTAL \$60,000

Allocates dedicated revenue, received from permit fees from the administration of Maine's internal plumbing code, which is transferred from the Department of Human Services to the Plumbers' Examining Board by this Act.

In addition, by July 1, 1989, the Department of Human Services shall transfer \$60,000 from the control over plumbing account to the Plumbers' Examining Board within the Department of Professional and Financial Regulation to support a State Plumbing Inspector position and a Clerk-typist III position needed by the board to administer the State's internal plumbing code.

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION TOTAL \$60,000

TOTAL ALLOCATIONS \$145,667 \$207,513

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

Effective June 27, 1989.

CHAPTER 484

H.P. 1225 - L.D. 1697

An Act to Protect Tenant's Rights by Authorizing Municipalities to Escrow Certain Funds under the General Assistance Laws

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

**Sec. 1. 14 MRSA §6001, sub-§3, ¶¶B and C,** as enacted by PL 1981, c. 428, §1, are amended to read:

B. Complained as an individual, or a complaint has been made in ~~his~~ that individual's behalf, in good faith, of conditions affecting ~~his~~ that individual's dwelling unit which may constitute a violation of a building, housing, sanitary or other code, ordinance, regulation or statute, presently or hereafter adopted, to a body charged with enforcement of that code, ordinance, regulation or statute, or such a body has filed a notice or complaint of such a violation; ~~or~~

C. Complained in writing or made a written request, in good faith, to the landlord or ~~his~~ the landlord's agent to make repairs on the premises as required by any applicable building, housing or sanitary code, or by section 6021, or as required by the rental agreement between the parties; ~~;~~ or

**Sec. 2. 14 MRSA §6001, sub-§3, ¶D** is enacted to read:

D. Been the beneficiary of general assistance paid into escrow pursuant to Title 22, section 4325. This paragraph is repealed on October 1, 1991.