

# 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

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

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

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J.S. McCarthy Company  
Augusta, Maine  
1989

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION  
of the  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
1989

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EDUCATIONAL AND CULTURAL SERVICES, DEPARTMENT OF		
TOTAL	\$5,523,000	\$5,523,000
TOTAL ALLOCATIONS - PART E	\$5,523,000	\$5,523,000

## PART F

**30-A MRSA §5683** is enacted to read:

**§5683. Property tax relief**

**1. Scope.** This section establishes a revenue-sharing program that distributes surplus funds from the General Fund during times of prosperity to municipalities experiencing an inordinate amount of growth. The revenue-sharing funds are specifically dedicated to assisting these municipalities in meeting the unusually high costs associated with the capital construction and infrastructure necessary to accommodate growth and development.

**2. Definitions.** For the purposes of computing the revenue distributions from the Property Tax Relief Fund, the following terms have the following meanings.

**A.** "Population" means the population as determined by the latest federal decennial census or the population as determined and certified by the Department of Human Services, whichever is more recent. For the purposes of this section, the department is authorized and required to determine the population of each municipality at least once every year.

**3. Property Tax Relief Fund established.** There is established the Property Tax Relief Fund for the purpose of distributing unanticipated surplus revenues accruing in the General Fund to municipalities experiencing high rates of population growth. The purpose of the fund is to assist municipalities in meeting their infrastructure needs.

The State Controller shall at the close of each fiscal year transfer from the unappropriated surplus of the General Fund to the Property Tax Relief Fund an amount not to exceed 1/2 of the balance remaining after all other required transfers have been made from the excess of total General Fund revenues received over accepted estimates in that fiscal year.

General Fund revenue estimates may be made once during the First Regular Session of the Legislature and adjustments to these accepted revenue estimates may be made once during the Second Regular Session of the Legislature without mandatory transfer of funds to the Property Tax Relief Fund. If adjustments are made to those initial estimates presented to each regular session of the Legislature, an amount equal to 1/2 of the excess of the estimated revenue over the amounts required by law to be set aside for other purposes must be appropriated to the Property Tax Relief Fund.

The fund shall not exceed \$25,000,000 and shall not lapse, but shall remain a continuing carrying account to carry out the purpose of this section.

**4. Distributions from Property Tax Relief Fund.** Money credited to the Property Tax Relief Fund shall be distributed to each municipality in an amount equal to the ratio of the population in each municipality to the population in the State as a whole.

**5. Restrictions on use of funds.** Funds distributed to municipalities pursuant to this section shall be expended only after the municipal legislative body has authorized the expenditure in the annual municipal budget. Funds shall be expended only for the following purposes:

**A.** For capital construction and improvements, land acquisitions, capital equipment acquisitions or other nonrecurring purposes;

**B.** For purposes for which bonds have been previously authorized but not yet issued, in order to eliminate the need to incur the indebtedness; and

**C.** For the local share of state, federal or privately financed capital construction and improvement projects.

**6. Treasurer of State.** The Treasurer of State shall distribute the balance in the Property Tax Relief Fund as of July 1, 1989, on or before September 15, 1989, and thereafter the balance in the fund on July 1st of each year shall be distributed on or before September 15th of each following year.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect on July 1, 1989, except as otherwise indicated.

Effective July 1, 1989, unless otherwise indicated.

## CHAPTER 535

## H.P. 534 - L.D. 731

## An Act to Amend the Definition of Employer to Include Governmental Entities

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

**26 MRSA §592**, as amended by PL 1985, c. 112, §2, is further amended to read:

**§592. Charge by employer prohibited**

No employer may require any employee or accepted applicant for employment to bear the medical expense of an examination when that examination is ordered or required by the employer. No employer may require any employee or ~~accepted~~ accepted applicant for employment to bear the expense of an eye examination ordered or required by the employer which is performed by a person licensed to perform the examinations, except that if an employer orders or requires the eye examination to be performed by a specific type of eye care provider, or specific provider, the employer must

pay for the examination only when performed by that specific type of eye care provider or specific provider. An employer may pay for an examination under this section directly, through group health insurance coverage of the employee or otherwise, as long as the employee is not ultimately required to bear the expense of that examination. Any employer who violates this section commits a civil violation for which a forfeiture not to exceed \$50 for each and every violation may be adjudged. It is the duty of the director to enforce this section. Notwithstanding section 591, subsection 2, for the purposes of this section, the term "employer" includes the State, a county, a municipality, a quasi-municipal corporation or any other public employer. For the purposes of this section, the term "accepted applicant" means an applicant who has been offered a job by the employer.

See title page for effective date.

## CHAPTER 536

### H.P. 609 - L.D. 833

#### An Act Relating to Drug Testing

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

Sec. 1. 26 MRSA c. 7, sub-c. III-A is enacted to read:

#### SUBCHAPTER III-A

#### SUBSTANCE ABUSE TESTING

##### §681. Purpose; applicability

1. Purpose. This subchapter is intended to:

A. Protect the privacy rights of individual employees in the State from undue invasion by employers through the use of substance abuse tests while allowing the use of tests when the employer has a compelling reason to administer a test;

B. Ensure that, when substance abuse tests are used, proper test procedures are employed to protect the privacy rights of employees and applicants and to achieve reliable and accurate results; and

C. Ensure that an employee with a substance abuse problem receives an opportunity for rehabilitation and treatment of the disease and returns to work as quickly as possible.

2. Employer discretion. This subchapter does not require or encourage employers to conduct substance abuse testing of employees or applicants. An employer who chooses to conduct such testing is limited by this subchapter, but may establish policies which are supplemental to and not inconsistent with this subchapter.

3. Collective bargaining agreements. This subchapter does not prevent the negotiation of collective bargaining agreements that provide greater protection to employees or applicants than is provided by this subchapter.

4. Home rule authority preempted. No municipality may enact any ordinance under its home rule authority regulating an employer's use of substance abuse tests.

5. Contracts for work out of State. All employment contracts subject to the laws of this State shall include an agreement that this subchapter will apply to any employer who hires employees to work outside the State.

6. Medical examinations. This subchapter does not prevent an employer from requiring or performing medical examinations of employees or applicants or from conducting medical screenings to monitor exposure to toxic or other harmful substances in the workplace, provided that these examinations are not used to avoid the restrictions of this subchapter. No such examination may include the use of any substance abuse test except in compliance with this subchapter.

7. Other discipline unaffected. This subchapter does not prevent an employer from establishing rules related to the possession or use of substances of abuse by employees, including convictions for drug-related offenses, and taking action based upon a violation of any of those rules, except when a substance abuse test is required, requested or suggested by the employer or used as the basis for any disciplinary action.

8. Federal law; exceptions. This subchapter does not apply to the extent it is preempted by any federal law, rule or regulation. This subchapter does not apply in any way to:

A. Nuclear electrical generating facilities and their employees, including independent contractors and employees of independent contractors who are working at nuclear electrical generating facilities; and

B. Intrastate motor carriers subject to rules adopted under Title 29, section 2707, provided that the carrier's use of substance abuse tests is conducted in compliance with the 49 Code of Federal Regulations, Subtitle A, Part 40, governing the use of substance abuse tests by interstate motor carriers.

##### §682. Definitions

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

1. Applicant. "Applicant" means any person seeking employment from an employer. The term includes any person using an employment agency's services.

2. Employee. "Employee" means a person who is permitted, required or directed by any employer to engage in any employment for consideration of direct gain or profit.