

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
**FIRST SPECIAL SESSION**

August 21, 1989 to August 22, 1989

and

**SECOND REGULAR SESSION**

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
July 14, 1990

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  
1990

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**SECOND REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**January 3, 1990 to April 14, 1990**

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enacting legislation concerning Title 20-A, section 15607, subsections 1 to 12 is extended to May 1, 1990.

**Sec. E-25.** Notwithstanding any other provision of law, for the fiscal year ending June 30, 1990, any balance, up to \$50,000, remaining in the Highway Maintenance Account #01745.5 lapses to the General Fund. Any remaining balance must be carried forward until expended.

## PART F

**Sec. F-1. 26 MRSA §1193, sub-§1, ¶C** is enacted to read:

C. For the duration of an unpaid voluntary leave of absence or sabbatical leave that has been mutually agreed to by the employee and the employer.

**Sec. F-2. Continuation of health insurance.** Notwithstanding the Maine Revised Statutes, Title 5, section 285, subsection 7, and section 903, for state employees who apply prior to July 1, 1991, to participate in voluntary cost-saving programs, the State shall continue to pay health and dental insurance benefits based upon the scheduled workweek in effect prior to the participation in the voluntary program.

**Sec. F-3. Continuation of group life insurance.** Notwithstanding the Maine Revised Statutes, Title 5, section 903; Title 5, section 18056, subsection 1, paragraph A; and the rules of the Maine State Retirement System, the life, accidental death and dismemberment, supplemental and dependent insurance amounts for state employees who apply prior to July 1, 1991, to participate in voluntary cost-saving programs are based upon the scheduled hours of the employees prior to the participation in voluntary programs.

**Sec. F-4. Provision for living stipend.** If during a voluntary unpaid leave of absence or sabbatical leave a state employee's position is abolished and the employee has no "bumping rights" under the rules adopted pursuant to the Civil Service Law or bargaining agreements and the employee is determined to be ineligible for unemployment compensation under Title 26, section 1192, subsection 5, the State shall provide a living stipend in an amount equal to the amount the employee would have qualified for when the leave began if the employee is otherwise eligible for unemployment compensation subject to all other terms and provisions of Title 26, chapter 13.

**Sec. F-5. Retirement incentive for eligible employees.** Any state employee who has attained normal retirement age, as defined by Title 5, section 17001, subsection 23, who retires effective July 1, 1990, and elects to retire between the effective date of this Act and May 31, 1990, inclusive, is entitled to receive, in addition to retirement benefits under Title 5, section 17852, one of the following:

1. State payment of a percentage of spousal medical insurance premiums for 5 years at the same percentage

rate then being paid for dependent coverage for state employees. In the event that spousal medical insurance coverage is terminated, the State shall, for the remainder of the 5-year period, make a monthly cash payment equal to the amount the State would have paid if it continued paying a percentage of spousal medical insurance premiums;

2. Two cash payments of \$2900 each, to be paid on July 2, 1990, and July 1, 1991; or

3. Monthly cash payments equal to the then current percentage contribution rate for dependent coverage for state employees for a period of 5 years.

Payment of the retirement incentive is made by the employing agencies and not from the funds of the Maine State Retirement System.

**Sec. F-6. Employee incentive programs.** Notwithstanding the Maine Revised Statutes, Title 5, section 903, subsections 1 and 2, the Commissioner of Administration is authorized to offer for use prior to July 1, 1991, special voluntary employee incentive programs, including a 50% workweek option, flexible position staffing, time off without pay, one-year position leave, 2-year sabbatical leave and retirement incentive.

**Sec. F-7. Transfer of funds.** Notwithstanding any other provisions of law, funds available in non-General Fund accounts, except for Highway Fund accounts, for the fiscal year ending June 30, 1991, may be used for the General Fund commitment to the voluntary employee incentive programs.

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

Effective March 22, 1990.

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## CHAPTER 703

H.P. 1574 - L.D. 2181

### An Act to Amend the Maine Agricultural Marketing and Bargaining Act of 1973

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

**Whereas,** provisions of this Act govern the considerations of arbitrators under the Maine Agricultural Marketing and Bargaining Act of 1973; and

**Whereas,** negotiations leading to arbitration may occur before adjournment of the Legislature; 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 legisla-

tion as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 13 MRSA §1956, sub-§2**, as amended by PL 1989, c. 503, Pt. B, §70, is further amended to read:

**2. Membership.** The Maine Agricultural Bargaining Board established by Title 5, section 12004-B, subsection 7, shall consist of 5 members and 2 alternates, who shall be appointed by the Governor. One member and one alternate shall be appointed from a list of names submitted by agricultural producer organizations organized under this subchapter and chapter 81. One member and one alternate shall be appointed from a list of names submitted by processors of agricultural products. In appointing these members and alternates, the Governor shall seek to represent as many different agricultural products as possible and a member and the alternate for that member ~~shall~~ may not be associated with the same agricultural product, unless suitable persons cannot otherwise be appointed. An alternate shall serve when for any reason the respective member is unable to serve. Three members shall be representatives of the public. A public member may not hold any interest or stock or securities in any producer, dealer, processor or other person whose activities are subject to the jurisdiction of the board.

A. The term of office for all members and alternates shall be 3 years. Members selected from lists submitted by agricultural producer organizations and by processors of agricultural products may serve no more than 2 terms in succession, not to include the current term of a member serving at the time this section becomes effective. The limitation to 2 successive terms ~~shall~~ may not apply to the public members or to alternates.

B. Board members serving at the time this section becomes effective shall continue as members for the duration of their present terms. The Governor shall appoint 2 alternate members in accordance with this subsection. The initial terms of these alternates ~~shall~~ expire at the same time as that of the current respective members. The Governor shall designate one of the public members to be the board's chair. In the event of a vacancy, the Governor shall, within one month, appoint a successor to fill the unexpired term. All appointments to the board ~~shall~~ must be made in conformity with the foregoing plan. Members shall take the oath of office prescribed for state officers.

**Sec. 2. 13 MRSA §1958-B, sub-§5**, as amended by PL 1989, c. 201, §§1 and 2, is repealed and the following enacted in its place:

**5. Arbitration.** The parties shall notify the board and the Commissioner of Agriculture, Food and Rural Resources at the commencement of required mediation

and an arbitrator must be selected as provided in paragraph D. One day after the mediator recommends arbitration or one day after the conclusion of the period of further bargaining, as provided in subsection 2, each party shall submit to the arbitrator its final offer in which it shall identify all matters as to which the parties agree with contractual language setting forth these agreements, and all matters as to which the parties do not agree with contractual language setting forth the party's final offer for resolution of those disagreements.

A. For all matters submitted to arbitration, the arbitrator shall choose between the final offers of the parties. If the parties reach an agreement on the matters under arbitration before the arbitrator issues a decision, they may submit a joint final offer that the arbitrator shall accept and render as the decision. The arbitrator may hold hearings and administer oaths, examine witnesses and documents, take testimony and receive evidence, and issue subpoenas to compel the attendance of witnesses and the production of records. A person who fails to obey the subpoena of an arbitrator may be punished for contempt of court on application by the arbitrator to the Superior Court for the county in which the failure occurs. The arbitrator may utilize other information in addition to that provided by or elicited from the parties. The arbitrator shall issue a decision within 10 days of the commencement of arbitration and that decision shall be binding on the parties. If the parties reach an agreement on the matters in the arbitrator's decision prior to signing the contract, they may submit a joint final offer to the arbitrator. The arbitrator shall rescind the previous decision and accept and render the joint final offer as the decision.

B. Within 5 days of the arbitrator's decision, the board shall prepare a contract which must include all terms agreed to by the parties in bargaining or settled by voluntary or required mediation or by arbitration and must present the contract to the parties who shall sign the contract within 2 days of its presentation.

C. The commissioner, in consultation with the board, shall establish a panel of arbitrators, who must be qualified by education, training or experience to carry out the responsibilities of an arbitrator under this article.

D. Upon notification by the parties as provided in this subsection, the commissioner shall submit to the parties a list containing an odd number of names of members of the panel of arbitrators who are available for arbitration. The parties shall alternately strike names from the list until a single name is left, who shall be the arbitrator. The order of striking names must be determined by chance.

E. All costs of arbitration must be borne equally by the parties. The arbitrator shall submit a statement

of charges and expenses to the parties and to the board. Each party shall pay the arbitrator directly.

**Sec. 3. 13 MRSA §1958-B, sub-§5-A** is enacted to read:

**5-A. Criteria for arbitrator decisions.** The arbitrator shall consider the following factors in making a decision pursuant to subsection 5:

**A. Prices or projected prices for the agricultural commodity paid by competing handlers in the market area or competing market areas;**

**B. The quantity of the commodity produced or projections of production in the production area or competing market areas;**

**C. The relationship between the quantity produced and the quantity handled by the handler;**

**D. The producer's costs of production including the cost that would be involved in paying farm labor a fair wage rate;**

**E. The average consumer prices for goods and services, commonly known as the cost of living;**

**F. The impact of the award on the competitive position of the handler in the market area or competing market areas;**

**G. The impact of the award on the competitive position of the agricultural commodity in relationship to competing commodities;**

**H. A fair return on investment;**

**I. The kind, quality or grade of the commodity involved;**

**J. Prior agreements of the parties; and**

**K. Other factors which are normally or traditionally taken into consideration in determining prices, quality, quantity and the costs of other services involved.**

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

Effective March 23, 1990.

## CHAPTER 704

H.P. 1654 - L.D. 2290

### An Act to Aid in the Enforcement of Crimes Relating to Forest Fire Control

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

**Whereas,** enforcement is critical to the role of the Department of Conservation in minimizing forest fires and protecting the natural resources of the State; and

**Whereas,** since many violations of forest fire laws occur in remote areas, the most efficient means of handling these violations is through personal recognizance bonds; and

**Whereas,** the ability of fire control officers to use this mechanism was repealed last year and if re-enacted will not be in effect until well into the forest fire season; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 12 MRSA §9706, 3rd ¶,** as enacted by PL 1979, c. 545, §3, is repealed.

**Sec. 2. 12 MRSA §9707** is enacted to read:

**§9707. Acceptance of personal recognizance with deposit**

A forest ranger may accept recognizances in accordance with the following procedures:

**1. Acceptance.** A forest ranger making an arrest for any crime defined in this chapter at a point more than 50 miles distant from the nearest District Court may accept the personal recognizance of the arrested person in an amount not to exceed \$500 for the arrested person's appearance before the nearest District Court on a specified date and a deposit in money to the amount of that recognizance;

**2. Report.** The forest ranger shall report any personal recognizance with deposit accepted and forward that deposit to the District Court to which the recognizance is returnable; and

**3. Forfeiture of deposit.** If the person on bail fails to appear in the court on the day specified, either in person or by counsel, the court shall order the recognizance and money deposit forfeited and may take any other action necessary. Forfeited money collected by the court must be paid to the General Fund.

**Sec. 3. 15 MRSA §1025, first ¶,** as enacted by PL 1987, c. 758, §20, is amended to read:

A law enforcement officer may, without fee, take the personal recognizance of any defendant for appearance on a charge of a Class D or Class E crime. If authorized, a law enforcement officer may, without fee,