

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

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

J.S. McCarthy Company
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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

At least ~~45~~ 30 days prior to holding a public hearing on proposed land use district boundaries, the commission shall give notice of the hearing to appropriate state and federal agencies and the owners of directly affected lands by mail, according to their names and addresses as shown on the records of the Bureau of Taxation and plantation tax assessors or, if the number of owners of directly affected lands is more than 50, by publication as specified in this subsection.

That notice must state a citation of the statutory authority under which the maps or standards are proposed to be adopted, the purpose, time and place of the hearing, the time and place where copies of the proposed maps or standards may be inspected or obtained prior to the hearing, and the manner and time within which comments may be submitted to the commission for consideration.

~~At least 30 days prior to all hearings held under this subsection, notices must be sent to appropriate state and federal agencies. Public~~ Notwithstanding Title 5, section 8053, public notice must be given by 3 2 publications in a newspaper of general circulation published in the State in the area of the proposed change to bring the proposals to the attention of interested parties, the date of the first publication to be at least 30, 17 to 24 days prior to the hearing and the last publication to be at least 3, days prior to the hearing.

At hearings, interested owners, lessees, officials, agencies and individuals may appear and be heard. They are allowed at least ~~45~~ 10 days ~~following after the close of the public hearing, or within such longer time period as the commission may direct,~~ to file written statements with the commission. Except as provided in this chapter, any hearings required or authorized under this subsection or subsection 8 must be conducted in accordance with the requirements for rulemaking set forth in Title 5, chapter 375, subchapter II; provided that the requirements of Title 5, section 8052, ~~subsection~~ subsections 5, 5-A and 7, section 8053-A, section 8056, subsections 1, 3 and 4 and, section 8056-A, section 8057, subsection 2, sections 8057-A, 8060 and 8062 do not apply to these procedures.

The commission, acting in accordance with Title 5, chapter 375, subchapter II, shall adopt, and may amend and repeal, rules for the conduct of public hearings held under this section, including adjournments and continuations of those hearings. A complete verbatim recording must be made of all hearings held pursuant to this section.

The land use district boundaries or standards must be adopted within ~~45~~ 60 days from final adjournment of the hearing.

Land use maps and standards so adopted become effective 15 days after their adoption by the commission, provided the applicable requirements of the Maine Administrative Procedure Act, Title 5, chapter 375, as modified by this chapter, are met, and provided the maps and standards are available in the appropriate registry of deeds for each county. Notice of this adoption of land use maps, standards or amendments to those maps or stan-

dards must be given by publication ~~once~~ one time in those newspapers in which notice to the public is provided for under this subsection. Notice of this adoption must also be filed with the Secretary of State indicating, in addition, that current copies of land use maps and standards are on file in the commission's offices and the method by which copies may be obtained.

Permanent land use standards so adopted are effective immediately, but must be submitted to the next regular or special session of the Legislature for approval or modification. If the Legislature fails to act, such standards continue in full force and effect.

Sec. 2. 12 MRSA §685-B, sub-§2-B, as enacted by PL 1989, c. 584, §2, is amended to read:

2-B. Determination deadline. The commission shall render its determination on ~~any~~ an application for subdivision approval within 60 days after the commission ~~receives~~ determines that the application is complete and the proposal is a permitted use within the affected district or subdistrict.

See title page for effective date.

CHAPTER 811

S.P. 742 - L.D. 1946

An Act to Establish a Consolidated Retirement Plan in the Maine State Retirement System for Participating Local Districts

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

Whereas, the principal purpose of this legislation is to establish a new consolidated retirement plan for employees of participating local districts in the Maine State Retirement System; and

Whereas, the plan will be developed by the Participating Local District Advisory Committee as set forth in this Act; and

Whereas, it is in the best interest of the employees of the participating local districts that this committee be appointed and be enabled to complete its work on this plan as soon as possible; and

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

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

Sec. 1. 5 MRSA §12004-I, sub-§78-A is enacted to read:

<u>78-A. State Retirement System</u>	<u>Participating Local District Advisory Committee</u>	<u>Not Autho- rized</u>	<u>5 MRSA §18802</u>
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Sec. 2. 5 MRSA §18201, first ¶, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

A local district may contract for the participation of its employees in the retirement system under this chapter any time before the date the board puts into operation the consolidated retirement plan for participating local districts under chapter 427. After the effective date of the consolidated plan described in chapter 427, a local district may contract for participation only in a program provided by the consolidated plan under chapter 427.

Sec. 3. 5 MRSA c. 427 is enacted to read:

CHAPTER 427

PARTICIPATING LOCAL DISTRICTS CONSOLIDATED PLAN

§18801. Plan

The board shall establish by rule a consolidated retirement plan for local districts that contract with the retirement system in accordance with section 18804.

1. Plan content. Benefits provided by the plan must be selected from benefits included in chapter 425 or this chapter and must include, but are not limited to:

A. Service retirement benefits, including:

(1) Several plans, with levels of benefits to meet the needs of various classes of employees and employers; and

(2) Portability of benefits when a member changes plans or employers;

B. Death benefits;

C. Disability retirement benefits;

D. Compulsory and optional membership requirements; and

E. A defined contribution plan consistent with the United States Internal Revenue Code.

2. Amendments. Any benefit provision selected from chapter 425 or this chapter to be included in the plan that is subsequently amended is not considered to have been amended for purposes of the plan until the rule that established the plan is amended to include the amended version of the benefit provision.

3. No reduction of benefits. The level of service retirement benefits for employees of participating local districts that adopt the plan may not be reduced with relation to either benefits based upon service before adoption of the plan or benefits based upon service after adoption of the plan.

4. Implementation of plan. The board, as part of its rules, shall set the minimum number of local districts that must contract for participation and the minimum number of members before the plan is put into operation. The rules must contain provisions relating to the transition from participation in chapter 425 to participation in this plan by local districts and for setting the date when participation of the employees of a participating local district in this plan begins.

5. Disbanded or dissolved local district. The board, as part of its rules, shall provide for the procedure to be followed regarding the membership and benefits of employees of a participating local district that disbands or is dissolved.

6. Plan design and amendments. The rules adopted by the board must be based entirely upon proposals for the consolidated retirement plan and proposed amendments to the consolidated retirement plan received from the Participating Local District Advisory Committee. The board shall adopt as a rule any proposal received from the Participating Local District Advisory Committee or return the proposal to the advisory committee with a statement setting forth the reasons for not adopting the proposal.

7. Rule-making procedure. The rules and amendments established by the board must be adopted in accordance with and subject to judicial review as set forth in chapter 375, subchapter II, to the extent chapter 375 is applicable.

§18802. Participating Local District Advisory Committee

1. Composition; appointment. The Participating Local District Advisory Committee, referred to in this chapter as the "advisory committee," is composed of the following 12 members:

A. Five voting members who are members of labor organizations that represent participating local district employees, appointed by the Governor after being nominated by their respective labor organizations as follows:

(1) One member nominated by the Maine Teachers Association;

(2) One member nominated by the American Federation of State, County and Municipal Employees;

(3) One member nominated by the Service Employees International Union;

(4) One member nominated by the International Association of Fire Fighters; and

(5) One member nominated by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America;

B. Five voting members who represent participating local districts appointed by the Governor after being nominated as follows:

(1) Three members nominated by the Maine Municipal Association; and

(2) Two members nominated by the Maine School Management Association;

C. One nonvoting member appointed by the Governor; and

D. The executive director or the executive director's designee, to serve as an ex officio nonvoting member.

2. Compensation of members. The members of the advisory committee are not entitled to receive compensation for their participation in the advisory committee's activities.

3. Chair. The executive director, or a designee, shall serve as chair.

4. Term. The terms of the members are as follows.

A. Each member, except the initial appointees, shall serve a term of 5 years.

B. A member shall continue to serve after the expiration of that member's term until a qualified successor is appointed. The member's continuation as a member does not change the expiration of that member's term.

C. The term of a member appointed to succeed a member whose term has expired expires 5 years after the expiration date of the term of the previous member, regardless of the effective date of the new appointment. There is no limit to the number of terms to which a member may be appointed.

D. The appointing authority shall appoint a person to fill a vacancy caused by death, resignation or ineligibility within 60 days. This appointment is for the unexpired portion of the term and must be made from a nomination provided by the organization the former member represented, as provided by subsection 1. With the agreement of the member being replaced and of the nominating and appointing authorities, the member being replaced shall serve until a replacement is appointed. Otherwise, a vacancy exists until a replacement is appointed.

E. The terms of the initial appointments are as follows.

(1) Members who represent participating local district employees are appointed by the Governor, one each, to terms of 1, 2, 3, 4 and 5 years.

(2) Members who represent participating local districts are appointed by the Governor, one each, to terms of 1, 2, 3, 4 and 5 years.

F. A member is considered to have resigned if:

(1) The member severs the affiliation with the organization that nominated the member in accordance with subsection 1; or

(2) The member is absent from 3 consecutive meetings of the advisory committee without good cause as determined by the advisory committee.

5. Transaction of business. The transaction of business by the advisory committee is governed as follows.

A. Seven members constitute a quorum for the transaction of any business.

B. Each member is entitled to one vote.

C. Except as provided by subsection 6, 6 affirmative votes are necessary for the passage of any resolution or any other action by the advisory committee.

6. Proposal for plan design or amendment. The advisory committee shall present to the board proposals for the consolidated retirement plan and amendments to the plan. Passage of any resolution or any other action by the advisory committee relating to proposals for the consolidated retirement plan or proposed amendments to the consolidated retirement plan requires 8 affirmative votes.

7. Repeal. This section is repealed effective June 30, 1993.

§18803. Assistance by board

1. Staff assistance. The board may authorize the retirement system staff to give assistance to the advisory committee.

2. Expenses. The board may authorize the payment of necessary expenses incurred in the operation of the advisory committee from the funds allocated for that purpose based upon a budget submitted by the advisory committee.

3. Duties of the board. Nothing in this chapter alters the duties of the board to administer the retirement plan of participating local districts.

§18804. Local district participation

A local district may contract for the participation of its employees in the retirement system under this chapter.

1. Local districts that are not municipalities. For a local district that is not a municipality, as defined in Title 1, section 72, subsection 13, the executive body of the district must approve participation and must file with the board a duly certified copy of a resolution or order, with a record of the vote of the executive body, which must include:

- A. Approval of the participation;
- B. The benefit plans that are to apply;
- C. Excluded employees, as required by subsection 3; and
- D. The name or title of the person authorized to sign the contract on behalf of the local district.

2. Local districts that are municipalities. For a local district that is a municipality, as defined in Title 1, section 72, subsection 13, the legislative body of the municipality must approve participation and must file with the board a resolution or order, certified by the clerk of the municipality, with a record of the vote of the legislative body, which must include:

- A. Approval of the participation;
- B. The benefit plans that are to apply;
- C. Excluded employees, as required by subsection 3; and
- D. The name or title of the person authorized to sign the contract on behalf of the local district.

3. Excluded employees. The local district shall designate in its approval any class of employees otherwise provided for by local pension provisions who are excluded from membership in the plan established under this chapter.

4. Date participation begins. The date when the participation of the employees of a participating local district begins is the first day of July following the date the contract is signed. This date is considered the date of establishment for a participating local district under section 17101, subsection 3.

§18805. Chief fiscal officer

The chief fiscal officer of a participating local district, in order to assist in the administration of the retirement system shall:

1. Information. Submit to the board whatever information the board prescribes about the employees of the participating local district relating to participation in the plan; and

2. Duties. Cause to be performed whatever duties the board prescribes, with respect to the employees of the participating local district.

§18806. Alternative benefits

The plan adopted under section 18801 may include benefits provided by this section.

1. Districts with employees covered by the Social Security Act. A participating local district with employees covered by the United States Social Security Act may provide service retirement benefits for employees not covered by a special plan which equal 1% of the member's average final compensation multiplied by the number of years of membership service. Members covered by this benefit shall contribute to the retirement system at the rate of 3% of earnable compensation.

2. Defined contribution plan. A participating local district may provide for the participation of its employees who are members of the system under this chapter, in a defined contribution plan that is part of the consolidated plan provided by section 18801. Employees who choose not to become members under section 18801, subsection 1, paragraph D may also participate in the defined contribution plan.

Sec. 4. Deadlines. The following schedule applies to the implementation of the various provisions of the Maine Revised Statutes, Title 5, section 18802, concerning the Participating Local District Advisory Committee.

1. All initial nominations to the advisory committee must be made no later than 30 days following the effective date of this Act. The Governor shall make the appointments from these nominees no later than 15 days after receiving the nominations and shall notify the Executive Director of the Maine State Retirement System upon making the appointments.

2. The executive director shall call the advisory committee together for its first meeting no later than 30 days after the completion of appointments.

3. The advisory committee shall present its initial proposal for the consolidated retirement plan specified in Title 5, section 18801, subsection 6, no later than 90 days after its first meeting.

4. The Board of Trustees of the Maine State Retirement System shall act on the initial consolidated retirement plan recommendation presented by the advisory committee within 60 days of its receipt, either by voting to begin the rule-making process or by returning it to the advisory committee, as provided in Title 5, section 18801, subsection 6.

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

Effective April 10, 1990.

CHAPTER 812

H.P. 1642 - L.D. 2275

An Act to Provide for the 1990 and 1991 Allocations of the State Ceiling on Private Activity Bonds

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

Whereas, the Maine Revised Statutes, Title 10, section 363 and Public Law 1989, chapter 224 make a partial allocation of the state ceiling on private activity bonds to some issuers for calendar year 1990, but leave a portion of the state ceiling unallocated and do not provide sufficient allocations for certain types of private activity bonds that may require an allocation prior to the effective date of this Act if not enacted on an emergency basis; and

Whereas, if these bond issues must be delayed due to lack of available state ceiling, the rates and terms under which these bonds may be issued may be adversely affected, resulting in increased costs to beneficiaries or even unavailability of financing for certain projects; 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. 10 MRSA §363, sub-§1-A, as amended by PL 1987, c. 668, §1, is further amended to read:

1-A. Procedure. For calendar year 1987 and each subsequent calendar year, the Legislature may establish a procedure for allocation of the entire amount of the state ceiling by allocating an amount of the state ceiling to the specific issuers designated in this section for further allocation by each specific issuer to itself or to other issuers for specific bond issues requiring an allocation of the state ceiling or for carryforward. This procedure shall ~~supersede~~ supersede the federal formula to the full extent that the United States Code, Title 26, authorizes the Legislature to vary the federal formula. Allocations may be reviewed by the Legislature periodically and unused allocations may be reallocated to other issuers, provided that, notwithstanding the existence of legislation allocating or reallocating all or any portion of the state ceiling, at any time during the period from Septem-

ber 1st to and including December 31st of any calendar year, and at any other time that the Legislature is not in session, the issuers specifically identified in subsections 4 to 8 may, by unanimous written agreement executed by representatives of each of the issuers, allocate amounts not previously allocated and reallocate unused allocations from one of the specific issuers designated in this section to another specific issuer for further allocation or carryforward, with respect to the state ceiling for that calendar year only.

Sec. 2. 20 MRSA §2237, as enacted by PL 1983, c. 399, §1, is amended to read:

§2237. Authorization for Governor to request organizations of corporations to acquire loan notes

To the extent and for the purposes contemplated by the United States Internal Revenue Code of ~~1954~~ 1986, Section ~~403, (e)~~ 150, (d), as amended, the Governor may on behalf of the State request the organization of one or more nonprofit corporations to operate exclusively for the purpose of acquiring student loan notes incurred under the United States Higher Education Act of 1965, as amended. A nonprofit corporation formed under this section shall report annually on its activities during the previous fiscal year to the joint standing committee of the Legislature having jurisdiction over economic development matters. That report must include a listing of the current directors and officers of the corporation, a summary of the corporation's purchases of loans in the secondary market during the previous fiscal year, a listing of the institutions from which loans were purchased during the previous fiscal year, a summary of the organization's direct student loans and a complete financial statement of the corporation's operations for the previous fiscal year, including a breakdown of income and costs, a breakdown of the administrative and operating costs of the corporation, a breakdown of the assets and liabilities of the corporation, total excess revenues over expenditures for the previous fiscal year and the total accumulation of these revenues, total income derived from investments during the previous fiscal year and a breakdown showing the disposition and use of excess revenues and the proceeds from investments. That report must be provided annually in writing to the committee by December 1st.

Sec. 3. 20-A MRSA §11407, as repealed and replaced by PL 1989, c. 698, §§13 and 76, is amended to read:

§11407. Authorization for Governor to request organizations of corporations to acquire loan notes

To the extent and for the purposes contemplated by the federal Internal Revenue Code of 1954, Section 103(e), as amended, and successor provisions thereto, including without limitation the federal Internal Revenue Code of 1986, Section 150(d), as amended, the Governor may on behalf of the State request the organization of one or more nonprofit corporations to operate exclusively for