

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
OCTOBER 9, 1991

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  
1991

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**PUBLIC LAWS**

**OF THE**

**STATE OF MAINE**

**AS PASSED AT THE**

**FIRST REGULAR SESSION**

**of the**

**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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1991-92                      1992-93

**AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF**

**State Harness Racing Commission**

Positions		(1.0)
Personal Services	\$7,222	\$72,154
All Other	205,271	280,741
Capital Expenditures		2,000

Provides funds for a full-time chair position beginning in fiscal year 1992-93, a range change for the State Racing Steward positions, compensation for presiding and associate judges, recodifying and printing racing laws, the expenses of the Association of Racing Commissioners International membership and related travel, annual reporting requirements and general operating expenses.

<b>DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES</b>		
<b>TOTAL</b>	<b>\$212,493</b>	<b>\$354,895</b>

**Sec. 18. Transition.** After the effective date of this Act and before July 1, 1992, the Governor shall either select a chair meeting the qualifications of the Maine Revised Statutes, Title 8, section 261, subsection 5, from the existing members or shall appoint a new member to serve as chair replacing that existing member whose term is to expire next.

Except as provided in this section, all members of the State Harness Racing Commission who are qualified and confirmed and are serving on the effective date of this Act shall continue to serve under this Act for a period at least equal to the terms under which they were previously appointed. Except as provided in Title 8, section 261-A, subsection 5, beginning in October 1991, as a current commission member's term expires, the resulting vacancy must be filled by persons meeting the qualifications specified in Title 8, section 261-A, subsection 2.

**Sec. 19. Effective date.** Section 1 takes effect on July 1, 1992.

See title page for effective date, unless otherwise indicated.

**CHAPTER 580**

**S.P. 562 - L.D. 1466**

**An Act to Amend Certain Laws Administered by the Maine State Retirement System**

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

**Sec. 1. 3 MRSA §701, sub-§3,** as enacted by PL 1985, c. 507, §1, is amended to read:

**3. Average final compensation.** "Average final compensation" means the average annual rate of earnable compensation of a member during the 3 years of creditable service, not necessarily consecutive, ~~as a Legislator~~ in which the average annual rate of earnable compensation is highest or during ~~his~~ the member's entire period of creditable service if the period is less than 3 years.

**Sec. 2. 5 MRSA §17057,** as enacted by PL 1989, c. 76, is amended to read:

**§17057. Medical information not public record**

Medical information of any kind in the possession of the retirement system, including information pertaining to diagnosis or treatment of mental or emotional disorders, ~~shall be~~ is confidential and not open to public inspection and ~~shall is~~ not be "public records" as defined in Title 1, section 402, subsection 3. Records containing medical information may be examined by the employee to whom they relate or by the State or participating local district employer of the employee for any purposes related to any claim for workers' compensation or any other benefit. The employee ~~shall~~ must be advised in writing by the retirement system of any request by the employer to examine the employee's medical records. Medical information obtained pursuant to this section ~~shall~~ must remain confidential, except as otherwise provided by law, and except when involved in ~~proceedings regarding workers' compensation~~ proceedings resulting from an appeal pursuant to section 17451 or proceedings regarding claims for other retirement benefits.

**Sec. 3. 5 MRSA §17058** is enacted to read:

**§17058. Information for administrative or judicial proceedings**

If information regarding the availability, calculation or value of any benefit is required for an administrative or judicial proceeding, the party seeking the information must file written questions requesting that information with the executive director. The executive director, or the executive director's designee, shall make a certified response to those questions within 30 days and the certified response is admissible as evidence in any administrative or judicial proceeding. A subpoena or other form of discovery directed at obtaining the information may not be issued nor may employees of the retirement system be required to testify on the subjects covered by the certified response unless there is an express finding by an administrative agency or a court that there is a compelling necessity to permit further discovery or to require testimony.

**Sec. 4. 5 MRSA §17656, sub-§1, ¶C,** as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

C. ~~All~~ If the new employer makes the election provided under paragraph B, all funds in the retirement system contributed by his the member's former employer on account of his the member's previous employment shall must be transferred to the account of the new employer and shall must be used to liquidate the liability incurred by reason of the previous employment.

**Sec. 5. 5 MRSA §17703, sub-§1**, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

**1. Time.** The repayment may not be made until the member has accumulated at least 2 continuous years of creditable service after the date of restoration to membership and must be made before the date any retirement benefit becomes effective for the member.

**Sec. 6. 5 MRSA §17852, sub-§4, ¶A**, as enacted by PL 1987, c. 652, §1, is amended to read:

A. For ~~persons~~ a person qualifying under section 17851, subsection 4, paragraph A:

(1) The total amount of the service retirement benefit is:

(a) Except as provided in division (b), 1/2 of ~~his the person's~~ average final compensation and an additional 2% of ~~his the person's~~ average final compensation for each year of membership service not included in determining qualification under section 17851, subsection 4, paragraph A; or

(b) If ~~his the~~ benefit would be greater, the part of ~~his the person's~~ service retirement benefit based upon membership service before July 1, 1976, ~~shall be~~ determined, on a pro rata basis, on ~~his the person's~~ current annual salary on the date of retirement and the part of ~~his the person's~~ service retirement benefit based upon membership service after June 30, 1976, ~~shall be~~ determined in accordance with division (a); and

(2) Upon the death of a State Police Officer who is receiving a retirement benefit after qualifying under section 17851, subsection 4, paragraph A, without optional modification, or is retired under article 3, the surviving spouse is entitled to a retirement benefit ~~which that~~ is 1/2 of the amount being paid at the time of the officer's death. The payment ~~shall~~ must continue for the remainder of the surviving spouse's lifetime ~~or until he becomes the dependent of another person.~~

For the purpose of this subparagraph, "surviving spouse" means the person the retired officer was married to at the time of retirement or, if the retired officer is divorced or widowed and remarried, the term means the person legally married to the officer at the time of the officer's death.

**Sec. 7. 5 MRSA §17852, sub-§5, ¶B**, as amended by PL 1987, c. 652, §2, is further amended to read:

B. Upon the death of a law enforcement officer of the Department of Inland Fisheries and Wildlife who is receiving a retirement benefit after qualifying under section 17851, subsection 5, without optional modification, or is retired under article 3, the surviving spouse is entitled to a retirement benefit ~~which~~ that is 1/2 of the amount being paid at the time of the officer's death. The payment ~~shall~~ must continue for the remainder of the surviving spouse's lifetime ~~or until he becomes the dependent of another person.~~

For the purpose of this paragraph, "surviving spouse" means the person the retired officer was married to at the time of retirement or, if the retired officer is divorced or widowed and remarried, the term means the person legally married to the officer at the time of the officer's death.

**Sec. 8. 5 MRSA §17852, sub-§6, ¶B**, as amended by PL 1987, c. 652, §3, is further amended to read:

B. Upon the death of a law enforcement officer of the Department of Marine Resources who is receiving a retirement benefit after qualifying under section 17851, subsection 6, without optional modification, or is retired under article 3, the surviving spouse is entitled to a retirement benefit ~~which that~~ is 1/2 of the amount being paid at the time of the officer's death. The payment ~~shall~~ must continue for the remainder of the surviving spouse's lifetime ~~or until he becomes the dependent of another person.~~

For the purpose of this paragraph, "surviving spouse" means the person the retired officer was married to at the time of retirement or, if the retired officer is divorced or widowed and remarried, the term means the person legally married to the officer at the time of the officer's death.

**Sec. 9. 5 MRSA §17927, sub-§6**, as enacted by PL 1989, c. 409, §§8 and 12, is amended to read:

**6. Return to service.** If the rehabilitation plan includes return to employment with the person's former employer, that person ~~shall~~ must be reemployed in accordance with the plan. ~~If the plan does not include reemployment with the former employer, the~~ The executive director shall notify the former employer, in writing,

that the person has completed the rehabilitation plan and is ready to return to employment. The former employer shall reemploy the person in the first available position for which that person is qualified, taking into consideration that person's prior compensation and benefits, training, education and experience, including that person's rehabilitation plan.

**Sec. 10. 5 MRSA §17927, sub-§7**, as enacted by PL 1989, c. 409, §§8 and 12, is repealed and the following enacted in its place:

**7. Other employment under system.** A person is not required to accept employment that reasonably necessitates relocation or for which the person is not qualified, taking into consideration that person's prior compensation and benefits, training, education and experience, including that person's rehabilitation plan. The disability retirement benefit may not be discontinued except as provided by section 17929 or until the person is reemployed consistent with this section.

**Sec. 11. 5 MRSA §18203-A** is enacted to read:

**§18203-A. Resumption of participation after withdrawal**

The board may establish by rule the conditions under which a local district that has withdrawn from participation in the retirement system may again contract for participation of its employees in the retirement system under this chapter or under chapter 427.

**Sec. 12. 5 MRSA §18253, sub-§1, ¶C**, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

C. ~~All~~ If the new employer makes the election provided under paragraph B, all funds in the retirement system contributed by the member's former employer on account of his the member's previous employment shall must be transferred to the account of the new employer and shall must be used to liquidate the liability incurred by reason of the previous employment.

**Sec. 13. 5 MRSA §18254-A** is enacted to read:

**§18254-A. Effect of district's resumption of participation after withdrawal**

The board may establish by rule the effect on employees of a local district that resumes participation in the retirement system after having withdrawn from participation.

**Sec. 14. 5 MRSA §18304, sub-§1**, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

**1. Time.** The repayment may not be made until the member has accumulated at least 2 continuous years of creditable service after the date of restoration to mem-

bership and must be made before the date any retirement benefit becomes effective for the member.

**Sec. 15. 5 MRSA §18527, sub-§6**, as enacted by PL 1989, c. 409, §§11 and 12, is amended to read:

**6. Return to service.** If the rehabilitation plan includes return to employment with the person's former employer, that person ~~shall~~ must be reemployed in accordance with the plan. ~~If the plan does not include reemployment with the former employer, the~~ The executive director shall notify the former employer, in writing, that the person has completed the rehabilitation plan and is ready to return to employment. The former employer shall reemploy the person in the first available position for which that person is qualified, taking into consideration that person's prior compensation and benefits, training, education and experience, including that person's rehabilitation plan.

**Sec. 16. 5 MRSA §18527, sub-§7**, as enacted by PL 1989, c. 409, §§11 and 12, is repealed and the following enacted in its place:

**7. Other employment under system.** A person is not required to accept employment that reasonably necessitates relocation or for which the person is not qualified, taking into consideration that person's prior compensation and benefits, training, education and experience, including that person's rehabilitation plan. The disability retirement benefit may not be discontinued except as provided by section 18529 or until the person is reemployed consistent with this section.

See title page for effective date.

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## CHAPTER 581

H.P. 890 - L.D. 1287

### An Act Regarding Training Costs of Police Officers

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

**25 MRSA §2808, sub-§1, ¶C**, as repealed and replaced by PL 1989, c. 454, is amended to read:

C. The term "training costs" includes the following:

- (1) The full cost of the salary, including fringe benefits, paid to the officer while in training;
- (2) The full cost of the tuition charged by the Maine Criminal Justice Academy;
- (3) The full cost of uniforms provided to the officer in training; and