

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

**SECOND SPECIAL SESSION**

December 12, 1991 to January 7, 1992

**SECOND REGULAR SESSION**

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J.S. McCarthy Company  
Augusta, Maine  
1992

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

**AS PASSED AT THE**  
**SECOND SPECIAL SESSION**

**of the**  
**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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## CHAPTER 619

H.P. 1405 - L.D. 1987

**An Act Related to Membership in the Maine State Retirement System for Part-time, Seasonal and Temporary Employees**

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

**Whereas,** regulations issued by the Internal Revenue Service require changes in Maine's retirement system laws before January 1, 1991 in order to avoid state and employee payments into the United States Social Security System; 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 §17001, sub-§1,** as amended by PL 1987, c. 739, §§1 and 48, is further amended to read:

**1. Accumulated contributions.** "Accumulated contributions" means the sum of all the amounts contributed by the member or picked up by the employer from the compensation of a member and credited to the member's individual account in the Members' Contribution Fund, plus regular interest on the member's account, as provided in subchapter IV, article 2, except that, for a member with less than 10 years of creditable service, if the amounts contributed by the member or picked up by the employer do not equal 7.5% of the member's compensation for service as a part-time, seasonal or temporary employee for service rendered after December 31, 1991, "accumulated contributions" includes as much of the employer's contribution in the Retirement Allowance Fund as is needed to reach 7.5% of the member's compensation for service as a part-time, seasonal or temporary employee.

**Sec. 2. 5 MRSA §17001, sub-§13, ¶E** is enacted to read:

E. "Earnable compensation" of a part-time, seasonal or temporary employee is the sum of amounts computed under paragraphs A, B, C and D adjusted to reflect the wages or salary that the member would have been paid if the member had been employed, at the member's rate of pay, for the number of days or hours that a permanent full-time employee of the same employer would have been employed.

**Sec. 3. 5 MRSA §17001, sub-§26-A** is enacted to read:

**26-A. Part-time, seasonal or temporary employee.** "Part-time, seasonal or temporary employee" means an employee whose employment position is part-time, seasonal or temporary as defined in 26 CFR Part 31.

**Sec. 4. 5 MRSA §17001, sub-§43** is enacted to read:

**43. 26 CFR Part 31.** "26 CFR Part 31" means 26 Code of Federal Regulations, Part 31, as amended effective July 1, 1991, or as hereafter amended.

**Sec. 5. 5 MRSA §17156,** as amended by PL 1989, c. 95, §1, is further amended to read:

**§17156. Rate of interest**

The board shall, from time to time, by order, set the rate of regular interest at a percent rate compounded periodically determined by the board to be equitable, both to members and to the taxpayers of the State, provided that the interest credited to a member with less than 10 years of creditable service on contributions related to compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must at least equal the yield of a 10-year United States treasury bond on the last business day of the previous calendar year reduced by administrative expenses.

**Sec. 6. 5 MRSA §17653,** as enacted by PL 1985, c. 801, §§5 and 7, is repealed and the following enacted in its place:

**§17653. Denial of membership rights**

**1. Board of trustees.** The board may deny membership to any class of employees whose compensation is set on any basis other than a per annum basis and that is not required by 26 CFR Part 31 to be covered by a public employee retirement system or the United States Social Security System.

**2. Maine Technical College System.** The Maine Technical College System may deny membership to adjunct faculty members and part-time, seasonal or temporary employees.

**Sec. 7. 5 MRSA §17705, sub-§2, ¶B,** as enacted by PL 1987, c. 256, §6, is amended to read:

B. No interest may be added to the member's account for any period beyond the 5th anniversary of the date of the member's termination of service, except that interest on accumulated contributions related to a member's compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must be added as required by 26 CFR Part 31.

**Sec. 8. 5 MRSA §17705, sub-§2, ¶¶D and E**, as amended by PL 1987, c. 739, §§18 and 48, are further amended to read:

D. ~~Only~~ Except when inclusion of a portion of employer contributions is required by paragraph F, only accumulated contributions made by a particular member or picked up by the employer may be refunded to that member under this section.

E. The member must have properly applied for a refund of accumulated contributions, ~~provided except that rules adopted by the board may provide for the retirement system may make an automatic refund of contributions if the member has not properly applied for a refund and the amount of accumulated contributions is less than \$650. In the case of a part-time, seasonal or temporary employee the \$650 limitation does not apply.~~

**Sec. 9. 5 MRSA §17705, sub-§2, ¶F** is enacted to read:

F. The amount of the refund of accumulated contributions related to a member's compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must be at least equal to 7.5% of the member's compensation for that service plus interest as provided by section 17156. The right to a refund under this paragraph is nonforfeitable until the member has accrued 10 years of creditable service but does not constitute a right to a retirement benefit.

**Sec. 10. 5 MRSA §17953, sub-§1**, as amended by PL 1991, c. 469, §2, is further amended to read:

**1. Refund of contributions.** The amount of the qualifying member's accumulated contributions, as determined under section 17705, is paid:

A. To the qualifying member's designated beneficiary, if any;

B. If the qualifying member is not survived by a designated beneficiary, to the first listed of the following relatives alive at the qualifying member's death:

- (1) Surviving spouse;
- (2) Child or children, regardless of age, sharing equally among themselves; or
- (3) The older parent; or

C. To the qualifying member's estate.

**Sec. 11. 5 MRSA §18201, sub-§3**, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

**3. Exempt employees.** The local district shall designate in its approval any class of employees, ~~otherwise provided for by local pension provisions, who are that the district determines to be exempt from this Part.~~

**Sec. 12. 5 MRSA §18251, sub-§1**, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

**1. Compulsory membership.** Membership is compulsory for all employees entering the service of a participating local district after the date of establishment for the participating local district, ~~but not for employees exempted under except as otherwise provided by subsection 2; under section 18201, subsection 3; or under section 18252; or section 18256.~~

**Sec. 13. 5 MRSA §18256**, as enacted by PL 1985, c. 801, §§5 and 7, is repealed and the following enacted in its place:

**§18256. Denial of membership rights**

**1. Board of trustees.** The board may deny membership to any class of employees whose compensation is set on any basis other than a per annum basis and that is not required by 26 CFR Part 31 to be covered by a public employee retirement system or United States Social Security System.

**2. Local district.** A participating local district may deny membership to part-time, seasonal and temporary employees to the extent and in the manner provided by board rules.

**Sec. 14. 5 MRSA §18306, sub-§2, ¶B**, as enacted by PL 1987, c. 256, §25, is amended to read:

B. No interest may be added to the member's account for any period beyond the 5th anniversary of the date of the member's termination of service, except that interest on accumulated contributions related to a member's compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must be added as required by 26 CFR Part 31.

**Sec. 15. 5 MRSA §18306, sub-§2, ¶¶D and E**, as amended by PL 1987, c. 739, §§36 and 48, are further amended to read:

D. ~~Only~~ Except when inclusion of a portion of employer contributions is required by paragraph F, only accumulated contributions made by a particular member or picked up by the employer may be refunded to that member under this section.

E. The member must have properly applied for a refund of accumulated contributions, ~~provided except that rules adopted by the board may provide for the retirement system may make an automatic refund of contributions if the member has not prop-~~

erly applied for a refund and the amount of accumulated contributions is less than \$650. In the case of a part-time, seasonal or temporary employee the \$650 limitation does not apply.

**Sec. 16. 5 MRSA §18306, sub-§2, ¶F** is enacted to read:

F. The amount of the refund of accumulated contributions related to a member's compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must be at least equal to 7.5% of the member's compensation for such service plus interest as provided by section 17156. The right to a refund under this paragraph is nonforfeitable until the member has accrued 10 years of creditable service but does not constitute a right to a retirement benefit.

**Sec. 17. 5 MRSA §18553, sub-§1**, as amended by PL 1991, c. 469, §5, is further amended to read:

**1. Refund of contributions.** The amount of the qualifying member's accumulated contributions, as determined under section 18306, is paid:

A. To the qualifying member's designated beneficiary, if any;

B. If the qualifying member is not survived by a designated beneficiary, to the first listed of the following relatives, if any are alive at the qualifying member's death:

- (1) Surviving spouse;
- (2) Child or children, regardless of age, sharing equally among themselves; and
- (3) The older parent; or

C. To the qualifying member's estate.

**Sec. 18. Repeal.** If the Executive Director of the Maine State Retirement System certifies that 26 Code of Federal Regulations, Part 31 is amended in a way that the retirement laws in effect on December 15, 1991 related to part-time, seasonal or temporary employees comply with federal law without requiring the State to contribute to the United States Social Security System for those employees, the sections of this Act that amend those laws are repealed. The Maine State Retirement System shall immediately notify the joint standing committee of the Legislature having jurisdiction over aging, retirement and veterans matters if that certification is made.

**Sec. 19. Review.** The Joint Standing Committee on Aging, Retirement and Veterans shall, by March 15, 1992, review changes made in the retirement laws in this Act and any changes made in federal requirements re-

lated to retirement coverage of part-time, seasonal or temporary employees and may report out legislation to make any changes it recommends in those laws.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect December 31, 1991.

Effective December 31, 1991.

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## CHAPTER 620

H.P. 1406 - L.D. 1988

### An Act to Exempt from Sales Tax Snowmobiles and All-terrain Vehicles That Are Registered Outside the State

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

**Whereas**, recent amendments to the laws governing registration of snowmobiles and all-terrain vehicles inadvertently required the imposition of a sales tax on snowmobiles from other jurisdictions; and

**Whereas**, it is vital to correct this situation immediately; 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:**

**36 MRSA §1760, sub-§45**, as amended by PL 1991, c. 546, §22, is further amended to read:

**45. Certain property purchased outside the State.** Sales of property purchased and used by the present owner outside the State:

A. If the property is an automobile, as defined in Title 29, section 1, and if the owner was, at the time of purchase, a resident of the other state and either employed or registered to vote there;

A-1. If the property is a watercraft ~~which~~, snowmobile or all-terrain vehicle that is registered outside the State by an owner who at the time of purchase was a resident of another state and the watercraft, snowmobile or all-terrain vehicle is present in the State not more than 30 days during the 12 months following its purchase; or