

# 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**

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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 REGULAR SESSION**

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

**1991**

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## CHAPTER 626

## H.P. 1539 - L.D. 2172

**An Act to Reduce Administrative Costs of State Government and to Clarify Previous Legislative Reductions in State Government Administration**

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

**Whereas,** in Public Law 1991, chapter 622, the Legislature eliminated funding for the position of Director of the Bureau of Veterans' Services within the Department of Defense and Veterans' Services as a means, in part, to address the fiscal year 1991-92 \$105,000,000 budget deficit; and

**Whereas,** that budget bill did not remove the references to this position from the Maine Revised Statutes, which has created some ambiguity in regard to this issue; and

**Whereas,** there is an estimated \$150,000,000 revenue shortfall in the fiscal year 1992-93 budget, which must be addressed immediately; and

**Whereas,** the public interest is best served when administrative costs are cut to the greatest extent possible before direct services are cut to Maine people; and

**Whereas,** it is urgent that cuts in the administrative costs of State Government be identified as soon as possible in order to balance the state budget; 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. 2 MRSA §6, sub-§6,** as amended by PL 1989, c. 875, Pt. E, §2, is further amended to read:

**6. Range 85.** The salaries of the following state officials and employees ~~shall be~~ are within salary range 85:

~~Director of Veterans' Services;~~

Director of Civil Emergency Preparedness;

Members, Maine Unemployment Insurance Commission; and

Director of the Military Bureau.

**Sec. 2. 5 MRSA §952,** as amended by PL 1987, c. 634, §2, is further amended to read:

**§952. Department of Defense and Veterans' Services**

**1. Major policy-influencing positions.** The following positions are major policy-influencing positions within the Department of Defense and Veterans' Services. Notwithstanding any other provision of law, these positions and their successor positions ~~shall be~~ are subject to this chapter:

A. Director of the Military Bureau; and

B. Director, Maine Emergency Management Agency; and,

~~C. Director, Bureau of Veterans' Services.~~

**Sec. 3. 10 MRSA §1026-C, sub-§3,** as enacted by PL 1985, c. 344, §49, is amended to read:

**3. Mortgage eligibility.** The authority may insure mortgage payments pursuant to this section provided that the borrower ~~shall be~~ is either:

A. One or more individuals who are residents of the State and who have received from the ~~Bureau~~ Division of Veterans' Services or any successor agency certifications that they are veterans; or

B. A business organization in which at least 51% of the controlling ownership is held by one or more individuals who are residents of the State and who have received from the ~~Bureau~~ Division of Veterans' Services or any successor agency certifications that they are veterans.

**Sec. 4. 22 MRSA §4314, sub-§2,** as enacted by PL 1983, c. 577, §1, is amended to read:

**2. Financial institutions.** A treasurer of any bank, trust company, benefit association, insurance company, safe deposit company or any corporation or association receiving deposits of money, except national banks, shall, on request in writing signed by the overseer of any municipality or its agents, or by the Commissioner of Human Services or ~~his~~ the commissioner's agents or by the ~~Director of the Bureau of Veterans' Services~~ Commissioner of Defense and Veterans' Services or ~~his~~ the commissioner's agents, inform that overseer or the Department of Human Services or the ~~Bureau~~ Division of Veterans' Services of the amount deposited in the corporation or association to the credit of the person named in the request, who is a charge upon the municipality or the State, or who has applied for support to the municipality or the State.

**Sec. 5. 37-B MRSA §2, sub-§3,** as enacted by PL 1983, c. 460, §3, is amended to read:

**3. Division of Veterans' Services.** The Bureau Division of Veterans' Services.

**Sec. 6. 37-B MRSA §4**, as amended by PL 1991, c. 376, §63, is further amended to read:

#### §4. Directors of bureaus

Each bureau of the department ~~shall~~ must have a director. The Director of ~~the Military Bureau, the Director of Veterans' Services~~ and the Director of the Maine Emergency Management Agency must each be appointed by the Adjutant General and shall serve at the pleasure of the Adjutant General. ~~None of these~~ These directors may not hold any other state office for compensation. If the Adjutant General is unable to act, the Director of the Military Bureau has the civilian administrative powers and duties of the Adjutant General in the Adjutant General's capacity as Commissioner of Defense and Veterans' Services. The Director of the Military Bureau may also perform other civilian duties of the Adjutant General as assigned by the Adjutant General or the Governor. ~~The Director of Veterans' Services must be a person who served on active duty in the United States Armed Forces during any federally recognized period of conflict as defined in section 504, subsection 4, paragraph A-1, subparagraph (3), and a person qualified by experience, training and a demonstrated interest in veterans' services.~~

**Sec. 7. 37-B MRSA c. 7, first 2 lines** are repealed and the following enacted in their place:

### CHAPTER 7

#### DIVISION OF VETERANS' SERVICES

**Sec. 8. 37-B MRSA §§501 and 502**, as enacted by PL 1983, c. 460, §3, are amended to read:

##### §501. Purpose

The Bureau Division of Veterans' Services, ~~as previously established and referred to in this chapter as the "bureau division,"~~ is established and shall provide informational services, program assistance, memorial facilities and financial aid to veterans in the State and their dependents in order to insure that they receive all entitlements due under the law, are relieved to the extent possible of financial hardship, receive every opportunity for self-improvement through higher education and are afforded proper recognition for their service and sacrifice to the Nation.

##### §502. Supervisor of the Division of Veterans' Services

The Director Supervisor of the Division of Veterans' Services, ~~referred to in this chapter as the "supervisor,"~~ shall be appointed, as provided in section 4, and shall supervise the operation of the bureau division.

**Sec. 9. 37-B MRSA §503**, as amended by PL 1989, c. 502, Pt. A, §139, is further amended to read:

##### §503. Powers and duties

The director supervisor has the following powers and duties.

**1. Employment of personnel.** The director supervisor may employ, subject to the Civil Service Law, the personnel necessary to administer this chapter. All full-time permanent employees, except clerical employees, ~~shall~~ must be persons who served on active duty in the United States Armed Forces during any federally recognized period of conflict, as defined in section 504, subsection 4, paragraph A-1, subparagraph (3).

**2. Expenditures.** The director supervisor may make expenditures approved by the Adjutant General ~~which are~~ necessary to carry out this chapter.

**3. Agent.** The director supervisor shall act, upon request, as the agent of any Maine resident who has a claim against the United States for any compensation, pension, insurance, loan or other benefit accruing as a result of any federal military service and, in cooperation with all public and private agencies, shall prosecute the claim without charge.

**4. Record.** The director supervisor shall maintain a permanent record of all Maine residents who served in the armed services after December 7, 1941.

~~**5. Rules.** The director may, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, adopt reasonable rules necessary to carry out this chapter, provided that regulations pertaining to the management of the Veterans' Memorial Cemetery are not rules within the meaning of Title 5, section 8002, subsection 9.~~

**6. Other duties.** The director supervisor shall perform other duties required by this chapter.

**Sec. 10. 37-B MRSA §503-A** is enacted to read:

##### §503-A. Rules

The Commissioner of Defense and Veterans' Services may, in accordance with Title 5, chapter 375, subchapter II, adopt reasonable rules necessary to carry out this chapter, provided that regulations pertaining to the management of the Veterans' Memorial Cemetery are not rules within the meaning of Title 5, section 8002, subsection 9.

**Sec. 11. 37-B MRSA §504, sub-§1**, as amended by PL 1987, c. 141, Pt. B, §35, is further amended to read:

**1. Land acquisition.** The ~~director~~ Commissioner of Defense and Veterans' Services may acquire by eminent domain in accordance with Title 35-A, chapter 65 and with approval of the Governor, or by purchase, gift or otherwise, real estate in fee simple, or any interest therein, for use as a Veterans' Memorial Cemetery. The land ~~shall~~ may not exceed 200 acres in area and ~~shall~~ must be located near the center of population of the State.

**Sec. 12. 37-B MRSA §504, sub-§§2 and 3**, as enacted by PL 1983, c. 460, §3, are amended to read:

**2. Superintendent.** The ~~director~~ Commissioner of Defense and Veterans' Services shall appoint a competent and trustworthy cemetery superintendent and shall arrange for personnel, material and equipment ~~which is~~ necessary for adequate maintenance of the cemetery. The superintendent ~~shall~~ must be an honorably discharged war veteran or a war veteran currently a member of the armed services in nonactive or reserve status.

**3. Monuments, buildings and markers.** The ~~director~~ Commissioner of Defense and Veterans' Services shall cause to be erected a suitable monument in the center of the cemetery.

A. The monument ~~shall~~ must be suited to the topography of the land and ~~shall~~ display, on suitable flag poles, the national emblem and the state flag in accordance with the Flag Code.

B. The immediate area surrounding the monument ~~shall~~ must be prepared and reserved as a suitable place for commemorating Memorial Day and other appropriate observances. The remaining grounds ~~shall~~ must be laid out in a wheel-like pattern around the monument, expanding from the center as required. Suitable buildings may be erected for purposes ~~which the director deems~~ Commissioner of Defense and Veterans' Services determines necessary.

C. All grave markers ~~shall~~ must be flat-type granite, as furnished by the United States Department of the Army, Memorial Division, or flat-type granite facsimiles of a marker. All boxes used for burial ~~shall~~ must be protected with permanent vaults or grave liners. Stones and vaults ~~shall~~ may not be provided at state expense.

**Sec. 13. 37-B MRSA §504, sub-§4, ¶B**, as repealed and replaced by PL 1989, c. 669, §1, is amended to read:

B. The ~~Director of Veterans' Services~~ superintendent shall allow the earth burial in the cemetery of any eligible veteran who requests burial in the cemetery. The ~~director~~ superintendent shall

allow the veteran the option of crypt burial if crypt space exists. All burials must be without charge.

**Sec. 14. 37-B MRSA §504, sub-§4, ¶C**, as amended by PL 1989, c. 669, §2, is further amended to read:

C. At the dependent's request, the ~~Director of Veterans' Services~~ superintendent shall allow an eligible dependent of a veteran to be buried in the cemetery if, at the date of the dependent's death, the veteran would be eligible for burial. Dependents may be buried in the earth or placed in a crypt adjacent to the veteran without charge, provided that:

(1) If the veteran dies first, the dependents specify in writing their intention to be so buried;

(2) If the dependent dies first, the veteran specifies in writing the intention to be buried in the cemetery; or

(3) Eligible family members of servicemen members of the armed services or veterans who are permanently buried overseas, buried at sea, missing in action and declared dead, or whose bodies are inaccessible for other reasons, may be buried in this cemetery, provided that the deceased serviceman member of the armed services or veteran was eligible for the burial at the time of death.

**Sec. 15. 37-B MRSA §504, sub-§5**, as enacted by PL 1991, c. 247, is amended to read:

**5. Weekend visitation.** The ~~director~~ superintendent shall arrange visiting hours to provide public access to the cemetery at least one Saturday or Sunday each month. Regularly scheduled weekly visiting hours may be adjusted to provide for the weekend hours.

**Sec. 16. 37-B MRSA §505, sub-§1, ¶¶B to H**, as enacted by PL 1983, c. 460, §3, are amended to read:

B. Application for financial assistance under this subsection ~~shall~~ must be made to the ~~bureau~~ division on forms provided by the ~~bureau~~ division. Application may be made by the veteran or ~~his~~ that veteran's dependent or a person recognized by the ~~bureau~~ division as entitled to act on behalf of that person.

C. Eligibility for aid ~~shall be~~ is determined as follows.

(1) Financial assistance ~~shall~~ must be granted under this subsection to a veteran who is:

- (a) Single;
- (b) A resident of the State; and
- (c) In dire need.

(2) Financial assistance ~~shall~~ must be granted under this subsection to a spouse, a child, a parent or the parents of a veteran if that person is a resident and in need.

(3) Financial assistance under this subsection ~~shall~~ is not be forfeited because of temporary absence from the State.

(4) The bureau division shall give preference to applications ~~where~~ when the death or disability of the veteran is due to military service or ~~where~~ when the death or disability may be presumed to be due to military service.

D. The bureau division shall require proof of the veteran's disability and its effect on ~~his~~ the veteran's ability to provide for ~~himself~~ the veteran and ~~his~~ the veteran's dependents.

E. The bureau division shall determine the amount of financial assistance ~~to be~~ allowed under this subsection. In making that determination, the bureau division shall give consideration to the following:

- (1) The resources of the veteran and ~~his~~ the veteran's dependents, including all other income and resources available to provide the dependents with a reasonable subsistence compatible with health and decency;
- (2) Budgetary standards compiled by the ~~bureau which~~ division that reasonably reflect current costs of average standards of living; and
- (3) Other necessary expenditures and conditions applicable in each case.

F. Financial assistance approved by the bureau division and audited by the State Controller ~~shall~~ must be paid by the Treasurer of State and may, in the discretion of the bureau division, be paid to any person whom it may designate for the benefit of eligible dependents.

G. The bureau division shall administer funds appropriated for the purpose of carrying out this subsection and shall, in accordance with the Maine

Administrative Procedure Act, Title 5, chapter 375, subchapter II, adopt rules necessary to administer these funds.

H. Any person who is denied financial assistance under this subsection or who is not satisfied with the amount allotted to ~~him~~ that person by the ~~bureau~~ division may appeal to the ~~director~~ Commissioner of Defense and Veterans' Services. Each applicant for financial assistance ~~shall~~ must be advised, at the time a decision on ~~his~~ the application is made, of ~~his~~ the applicant's right of appeal and of the method and time for making the appeal. The appellant ~~shall~~ must be provided with reasonable notice and a fair hearing. At the hearing, the ~~director~~ commissioner or a member of the ~~bureau~~ division authorized by ~~him~~ the commissioner shall hear all evidence pertinent to the matter at issue and render a decision in the name of the ~~director~~ commissioner, within a reasonable time after the hearing. On request of the appellant, the ~~director~~ commissioner shall arrange for the hearing to be recorded in writing or on tape. A copy of the record ~~shall~~ must be provided to the appellant at ~~his~~ the appellant's request and expense. An appeal to the Superior Court may be ~~had~~ taken in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII.

**Sec. 17. 37-B MRSA §505, sub-§2, ¶¶B and D**, as enacted by PL 1983, c. 460, §3, are amended to read:

B. The bureau division shall pay to a spouse or child of a veteran a maximum of \$300 per year toward the cost of higher education during a period not exceeding 8 semesters of attendance or 6 consecutive academic years from the date of first entrance. The ~~director~~ supervisor may waive the limitation of 6 consecutive academic years ~~where~~ when the recipient's education has been interrupted by severe medical disability or illness making continued attendance impossible. These educational benefits ~~shall~~ must be used for the purpose of providing tuition, matriculation fees, board, room rent, books and supplies. Assistance under this subsection ~~shall~~ may not be paid to any eligible person receiving benefits under paragraph C.

D. Appropriations for the administration of this subsection ~~shall~~ must be determined from the recommendation of the ~~director~~ supervisor, who shall furnish estimates of the costs of carrying out this subsection in the same manner as for other appropriations allocated to the bureau division.

**Sec. 18. 37-B MRSA §505, sub-§4, ¶B**, as enacted by PL 1989, c. 547, §2, is amended to read:

B. The bureau division:

- (1) ~~Shall~~ **Must** have a specific expertise on radiation and toxic chemicals, particularly dioxin;
- (2) ~~Shall~~ **Must** be knowledgeable of the specific reasons for the Federal Government's policy regarding assistance to veterans relative to their exposure to radiation and toxic chemicals;
- (3) Shall develop and present a response to federal agencies concerning veterans and their exposure to radiation and toxic chemicals and, in this regard, **must** be knowledgeable of any actions being taken by other states, coordinate this State's response with any multi-state effort and, if there appears to be a lack of leadership, take a leadership role in such an effort;
- (4) Shall actively seek out veterans who may have been exposed to radiation and toxic chemicals and attempt to involve them in available programs and act as an ombudsman for them;
- (5) May develop and disseminate written materials on atomic radiation and agent orange. A booklet ~~shall~~ **must** include information on the following: the effect of exposure on veterans and their children; services available from the Veterans' Administration; how to file claims and class action suits; and the names and addresses of state, local and private agencies to which veterans may go for assistance. In developing the booklet, the bureau division shall follow the recommendations of any commission or committee that has studied agent orange and atomic radiation problems;
- (6) May attend conferences that are necessary to carry out the responsibilities in this paragraph; and
- (7) Shall, in consultation with the Commission on Vietnam and Atomic Veterans, develop 2 registries of veterans residing in the State, one for Vietnam veterans who report they were exposed to toxic chemicals while serving in the armed services and one for atomic veterans who report they were exposed to radiation while serving in the armed services. To develop the registries, the bureau division and the commission shall collect the names from existing registries and

may contact other organizations, hold public hearings or use other methods to collect the names of veterans.

**Sec. 19. 37-B MRSA §506, sub-§§1 and 4**, as enacted by PL 1983, c. 460, §3, are amended to read:

**1. Claimant or representative.** To the claimant personally, as to matters concerning ~~himself the claimant~~ alone, ~~where when~~, in the ~~director's supervisor's~~ judgment, the disclosure would not be injurious to the claimant's physical or mental health, or to the claimant's duly appointed guardian or duly authorized representative holding a power or appointment approved by the ~~director supervisor~~;

**4. Agencies engaged in health and welfare work.** To any public or private agency engaged in health, welfare, rehabilitation or child placement work, from whom a veteran or ~~his~~ that veteran's dependents have requested services, ~~where when~~, in the ~~director's supervisor's~~ judgment, disclosure is essential to the proper evaluation of the request.

**Sec. 20. 37-B MRSA §507, first ¶**, as enacted by PL 1983, c. 460, §3, is amended to read:

The bureau division may accept federal funds under any federal law now in effect or hereafter enacted ~~which that~~ makes these funds available to the states for:

**Sec. 21. 37-B MRSA §523**, as enacted by PL 1989, c. 547, §3, is amended to read:

#### §523. Membership

The commission ~~shall consist~~ consists of 8 members, 6 of whom ~~shall~~ **must** be appointed by the Governor, including 3 Vietnam veterans, one atomic veteran, one veteran appointed from a list of 3 veterans selected by the Maine Veterans' Coordinating Committee and one person knowledgeable in conducting publicity campaigns; the ~~Director of the Bureau Supervisor of the Division~~ of Veterans' Services or a designee; and the Director of Disease Control or a designee.

**Sec. 22. 37-B MRSA §527, sub-§§1 and 2**, as enacted by PL 1989, c. 547, §3, are amended to read:

**1. Division of Veterans' Services; advice.** Advise the Bureau Division of Veterans' Services on matters concerning Vietnam and atomic veterans. This ~~shall~~ **must** include giving its advice and consent on staff hired by the bureau division to provide staff assistance to the commission under section 528;

**2. Registry of Vietnam and atomic veterans.** Assist the Bureau Division of Veterans' Services in developing a registry of Vietnam veterans and a registry of atomic veterans;



**Sec. 23. 37-B MRSA §528**, as enacted by PL 1989, c. 547, §3, is amended to read:

**§528. Staff**

The Bureau Division of Veterans' Services shall provide clerical and professional staff to assist the commission.

**Sec. 24. 37-B MRSA §603**, as amended by PL 1989, c. 503, Pt. B, §172, is further amended to read:

**§603. Board of trustees**

The administration of the homes is vested in the Board of Trustees of the Maine Veterans' Homes, as authorized by Title 5, section 12004-G, subsection 34. The board ~~shall consist~~ consists of 10 members, one of whom ~~shall must~~ be the Director Supervisor of the Bureau Division of Veterans' Services, ex officio, who shall serve without term. The Governor shall appoint the remaining trustees, who ~~shall must~~ be honorably discharged war veterans. One member ~~shall must~~ be appointed from and ~~shall~~ represent each of the largest veterans' organizations, not exceeding 5, ~~which that~~ are nationally chartered and have a department in Maine. The remaining members ~~shall must~~ be appointed at large and shall serve staggered 3-year terms. The membership ~~shall must~~ be distributed across the State so that 3 reside in the southern part of the State, 3 in the central part and 3 in the northern part. In the event of a vacancy, ~~the a~~ successor ~~shall must~~ be appointed to complete the unexpired term. Each trustee shall continue to hold office until a successor is appointed and qualified.

**Sec. 25. Report to Joint Standing Committee on Appropriations and Financial Affairs.** The following departments and agencies of State Government shall prepare and report the following.

All departments and agencies of State Government, including, without limitation, each department and agency in the executive branch, the legislative and judicial departments, the Office of the Secretary of State, the Office of the Attorney General, the Office of Treasurer of State, the Office of the State Auditor, the Finance Authority of Maine, the Maine State Housing Authority and all independent agencies and institutions of higher education shall prepare a plan that, at a minimum, reduces the cost of administrative personnel by 10% in fiscal year 1991-92 and fiscal year 1992-93. The plan must state the total current number of administrative and nonadministrative personnel and the total amount of administrative salaries for the agency. In addition, the plan must include a list of administrative positions and a list of nonadministrative positions. With respect to each list, the positions must be displayed by job classification showing the number of positions in each classification and the funding source for each classification and position. The plan must specifically detail each position

to be abolished, reduced to a part-time position or combined with another position. The plan must describe how department or agency programs will be administered and how the organization will be managed as a result of the reduction in the cost of administrative personnel and salaries. The plan must specify the amount of savings to be achieved, by funding source, as a result of the reduction in administrative personnel.

For the purpose of this section, for all departments and agencies of State Government identified in this section, "administrative personnel" means employees whose primary functions involve: the management or administration of a department, department units or department programs; supervision of employees; policy development; policy implementation; execution of nondirect service responsibilities; and clerical or secretarial duties. The term "administrative personnel" does not apply to employees, such as caseworkers, motor vehicle registration employees, mental health workers and prison guards, whose duties or responsibilities primarily involve providing direct services to members of the public or clients of the State or similar types of responsibilities.

Each organization subject to this section shall provide its report no later than February 10, 1992 to the Joint Standing Committee on Appropriations and Financial Affairs. The committee shall review the agency reports and determine the amount of savings that can be incurred.

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

Effective January 31, 1992.

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**CHAPTER 627**

**S.P. 688 - L.D. 1829**

**An Act to Require that Financial Examinations of Home Service Companies Be Conducted by the Superintendent of Insurance**

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

**Sec. 1. 32 MRSA §13235, sub-§§1 and 6**, as enacted by PL 1987, c. 395, Pt. A, §212, are amended to read:

**1. Time of filing; financial statement.** Each home service company shall file with the director, annually, within 90 days of the close of its fiscal year, its annual statement in a form prescribed by or acceptable to the director. The annual statement ~~shall must~~ include a current financial statement, including a balance sheet, income statement and statement of operations cash flow