

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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

J.S. McCarthy Company
Augusta, Maine
1995

A. The federal officer must receive training in Maine criminal law and Maine law on the use of force; and

B. The Immigration and Naturalization Service of the Department of Justice and the United States Customs Service of the Department of the Treasury shall develop policies governing their employees, including training policies.

The policies and training must be approved by, and the policies filed with, the Board of Trustees of the Criminal Justice Academy.

See title page for effective date.

CHAPTER 424

H.P. 920 - L.D. 1296

An Act to Increase Venture Capital Access to State Businesses

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

Sec. 1. 10 MRSA §1026-N is enacted to read:

§1026-N. Maine Economic Development Venture Capital Revolving Investment Program

1. Established. The Maine Economic Development Venture Capital Revolving Investment Program, referred to in this section as the "program," is established to provide venture capital to businesses that need assistance in order to create or retain jobs. The Maine Economic Development Venture Capital Revolving Investment Program Fund, referred to in this section as the "fund," is established as a revolving fund, into which must be deposited all amounts appropriated to the program, interest and investment earnings on the fund and any amounts repaid to the program by participating venture capital funds.

2. Eligible venture capital funds. Money in the fund may be invested in one or more private, professionally managed venture capital funds located in the State capable of providing venture capital to businesses in order to create and protect jobs and with an established track record of management success and risk diversification. To be eligible for investments from the fund, a private venture capital fund must:

A. Apply to the authority. The application must describe the private venture capital fund and its funding sources, the region it serves, its methods and criteria for qualifying investments, including any targeted investing and economic development strategy, its expertise in venture capital assistance and investing in small and emerging

businesses, the method by which it will leverage funds from other sources than those received from the fund and other information the authority determines necessary;

B. Have a strategy for the creation and retention of jobs, an effective small business marketing and technical assistance plan and enough expert assistance available to it to underwrite, document and service investments and to assist the businesses in which it invests;

C. Be determined by the authority to be able to prudently and effectively administer venture capital investments; and

D. Propose performance standards and goals and a process for monitoring compliance with proposed measurement and goals.

3. Disbursements from fund. If an application is approved, the authority shall determine the amount to be invested in the private venture capital fund, taking into account:

A. The size of the region served by the private venture capital fund and the expected demand for venture capital investments in that region; and

B. The demand for venture capital investments from other eligible private venture capital funds in relation to the total amount available in the fund and whether an eligible private venture capital fund will serve a geographic area or segment of potential businesses not served by other applicants.

Funds must be disbursed directly to and retained by the eligible private venture capital fund in accordance with a contract of investment between the private venture capital fund and the authority. All money invested in the private venture capital fund by the authority must be held in the name of the authority. Investment earnings on amounts invested by the authority must be credited to the authority and periodically paid to the authority.

4. Investment contract. A private venture capital fund that has been approved for participation in the program may enter into a contract with the authority. The contract governs the administration of the program and the use of funds. The contract must provide that a private venture capital fund shall, at a minimum, conform to the following terms and conditions:

A. The private venture capital fund shall certify that it will use funds only for eligible purposes;

B. An officer or employee of the private venture capital fund may not participate in any way in, or have any influence over, a decision on a project in which that officer, employee or member has a direct or indirect personal financial interest;

C. If the private venture capital fund breaches its contract with the authority or ceases to operate an investment program in substantial conformance with its proposal to the authority, the authority may require immediate repayment to the authority of any investment made to it from the fund; and

D. Other terms and conditions that the authority determines appropriate.

5. Administrative costs. A private venture capital fund may not use any money disbursed from the fund by the authority for administrative expenses or load charges. The authority shall review and approve a private venture capital fund's administrative expenses on an annual basis. The authority may establish by rule reasonable administrative fees for its administration of the fund.

6. Eligible investments. In order for a private venture capital fund to be eligible for venture capital investment under the program, it must invest at least 80% of its funds in businesses that meet all eligibility for a tax credit certificate pursuant to section 1100-T, subsection 2, paragraphs B and E.

7. Reports. A private venture capital fund shall report at least semiannually to the authority on the businesses in which the private venture capital fund invests and the administration of the program. The report must include a description of each business, the amount, type and terms of assistance the business received, the number of jobs that were created or retained and other information the authority requires. The report must contain an accounting of the investment portfolio and any investments that are in default, as well as an accounting of the private venture capital fund's administrative and technical assistance expenses incurred and charged.

8. Audit. The authority shall review annually each private venture capital fund's participation in the program and, in its discretion, may require an independent audit at the expense of the private venture capital fund. If the authority determines that a private venture capital fund has used funds for ineligible purposes, the private venture capital fund shall repay those funds to the authority for deposit into the fund.

9. Rules. The authority shall adopt rules governing the program pursuant to Title 5, chapter 375.

Sec. 2. 10 MRSA §1100-T, sub-§2, ¶D, as amended by PL 1991, c. 854, Pt. A, §8, is further amended to read:

D. The investment with respect to which any individual is applying for a tax credit certificate may not be more than an aggregate of \$100,000 in any one business in any 3 consecutive calendar years, except that this paragraph does not limit other investment by any applicant for which that applicant is not applying for a tax credit certificate.

Sec. 3. 10 MRSA §1100-T, sub-§2-A is enacted to read:

2-A. Eligibility of private venture capital funds for tax credit certificate. The authority shall adopt rules in accordance with the Maine Administrative Procedure Act to implement application of the program to investment in a private venture capital fund. Without limitation, the requirements for eligibility for a tax credit certificate for investment in a private venture capital fund include the following.

A. A tax credit certificate may be issued in an amount not more than 30% of the amount of cash actually invested in a private venture capital fund in any calendar year.

B. Each state business in which the private venture capital fund invests must be a manufacturer; must provide a service that is sold or rendered, or is projected to be sold or rendered, predominantly outside of the State; or must bring capital into the State, as determined by the authority.

C. Aggregate investment eligible for tax credits may not be more than \$600,000 for any one private venture capital fund as of the date of issuance of a tax credit certificate.

D. The investment with respect to which any individual is applying for a tax credit certificate may not be more than an aggregate of \$100,000 in any one private venture capital fund in any 3 consecutive calendar years, except that this paragraph does not limit other investment by any applicant for which that applicant is not applying for a tax credit certificate.

E. Each business receiving an investment from a private venture capital fund must have annual gross sales of \$2,000,000 or less and the operation of the business must be the full-time professional activity of the principal owner, as determined by the authority. The principal owner and principal owner's spouse, parents, brothers, sisters and children are not eligible for a credit for investment in that business or the private venture capital fund.

F. Each investment received by a business from a private venture capital fund must be expended on plant maintenance and construction, equipment, research and development or working capital for the business or on such other business activity as may be approved by the authority.

G. The authority shall establish limits on repayment of the investment by an individual in and the investments made by a private venture capital fund. The investments must be at risk in the private venture capital fund and the business, respectively.

H. The investors qualifying for the credit must collectively own less than 1/2 of the private venture capital fund and less than 1/2 of any business in which an investment is made by the private venture capital fund.

Sec. 4. 10 MRSA §1100-T, sub-§4, as amended by PL 1991, c. 854, Pt. A, §11, is further amended to read:

4. Total of credits authorized. The authority may issue tax credit certificates to investors eligible pursuant to subsection 2 in an aggregate amount not to exceed \$2,000,000 up to and including calendar year 1996, \$3,000,000 up to and including calendar year 1997, \$4,000,000 up to and including calendar year 1998, \$5,000,000 up to and including calendar year 1999, \$6,000,000 up to and including calendar year 2000, and not to exceed \$7,000,000 thereafter. In addition, the authority may issue tax credit certificates to investors eligible pursuant to subsection 2-A in an aggregate amount not to exceed \$1,000,000.

See title page for effective date.

CHAPTER 425

H.P. 602 - L.D. 812

An Act to Amend the Laws Specifying the Place of Imprisonment

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

Sec. 1. 17-A MRSA §1203, sub-§1, ¶C, as enacted by PL 1989, c. 925, §10, is repealed.

Sec. 2. 17-A MRSA §1252, sub-§1, ¶C, as enacted by PL 1989, c. 925, §11, is repealed.

See title page for effective date.

CHAPTER 426

H.P. 465 - L.D. 631

An Act to Increase Access to the Legislature and Government Services for Persons Who Are Deaf or Hard of Hearing and to Make Progress towards Compliance with the Americans with Disabilities Act

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

Sec. 1. 5 MRSA §48, as amended by PL 1993, c. 708, Pt. J, §1, is further amended to read:

§48. Interpreter service for the deaf and hard of hearing

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms ~~shall~~ have the following meanings.

A. "Compensation" means the fee for an interpreter's time of service as provided by an appointed qualified interpreter.

A-1. "Client" means a person who is deaf, hard of hearing ~~impaired~~ or hearing who is rendered interpreting services by a privileged interpreter.

A-2. "Confidential communication" means a communication that a client has a reasonable expectation is not being disclosed to persons other than a privileged interpreter and any client to whom the communication is intended to be made.

B. "Deaf person" means a person whose sense of hearing is nonfunctional for the purpose of ~~ordinary~~ communication and who must depend primarily upon visual communication.

C. "Directory" means a listing of all qualified interpreters in the State.

D. "~~Hearing-impaired~~ Hard-of-hearing person" means a person ~~whose sense of hearing is defective, but still functional, with or without amplification~~ who has a hearing loss resulting in a functional loss, but not to the extent that the person must depend primarily upon visual communication.

E. "Interpreting agency" means an agency whose function is to provide qualified interpreter services for a fee, including travel expenses.

E-1. "Privileged interpreter" means a person identified by clients as necessary to facilitate accurate communication between the clients and