

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

responsibilities and report back to the joint standing committee of the Legislature having jurisdiction over judiciary matters by December 15, 1996; and

Whereas, the law directs the Family Law Advisory Commission to seek input from the public and other interested parties; and

Whereas, the reporting deadline must be extended to allow the Family Law Advisory Commission to hold a public hearing and complete its study with the benefit of public input and comment; 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. PL 1995, c. 694, Pt. A, §16, sub-§4 is amended to read:

4. Report. The Family Law Advisory Commission shall submit a report, including any necessary implementing legislation, to the Legislature and the joint standing committee of the Legislature having jurisdiction over judiciary matters by ~~December 15, 1996~~ January 30, 1997 for consideration in the First Regular Session of the 118th Legislature. The report must include a summary of the study process, a list of participants and any recommendations, including any necessary implementing legislation.

Sec. 2. Retroactivity. This Act takes effect retroactively to December 15, 1996.

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

Effective January 28, 1997.

CHAPTER 3

H.P. 348 - L.D. 471

An Act to Fund Certain Collective Bargaining Agreements and Benefits for Certain Employees Excluded from Collective Bargaining

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

Whereas, certain obligations and expenses incident to the operation of state collective bargaining agreements will become due and payable immediately; and

Whereas, it is the responsibility of the Legislature to act upon those portions of collective bargaining agreements negotiated by the executive branch that require legislative action; and

Whereas, the Governor and the Legislature share a desire to address in a timely manner the needs of certain state employees excluded from collective bargaining units; 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:

PART A

Sec. A-1. Costs to the General Fund.

There is appropriated in Part E of this Act funding sufficient when combined with other available funds to cover the costs to the General Fund in the amount of \$2,273,115 for the fiscal year ending June 30, 1997; in the amount of \$2,562,433 for the fiscal year ending June 30, 1998; and in the amount of \$5,086,291 for the fiscal year ending June 30, 1999 to implement the economic terms of the collective bargaining agreements made by the State and the Maine State Employees Association for the administrative services bargaining unit, the operations, maintenance and support services unit, the professional and technical services unit and the supervisory services unit.

Sec. A-2. Costs to the Highway Fund.

There is allocated in Part E of this Act funding sufficient when combined with other available funds to cover the costs to the Highway Fund in the amount of \$1,405,886 for the fiscal year ending June 30, 1997; in the amount of \$1,617,465 for the fiscal year ending June 30, 1998; and in the amount of \$3,314,040 for the fiscal year ending June 30, 1999 to fund salary and benefit changes of the collective bargaining agreements made by the State and the Maine State Employees Association for the administrative services bargaining unit, the operations, maintenance and support services unit, the professional and technical services unit and the supervisory services unit.

Sec. A-3. Special account funding. Funding provided by this Act must be segregated into a

special account to be made available as needed upon the recommendation of the State Budget Officer with the approval of the Governor. The funds must include retirement costs. Positions supported from sources of funding other than the General Fund and the Highway Fund must be funded whenever possible from those other sources.

Sec. A-4. Lump sum payment. A lump sum payment equal to 2.25% of the employee's base rate paid for the first 26 paychecks in calendar year 1996 must be paid to each employee included in the administrative services bargaining unit, the operations, maintenance and support services unit, the professional and technical services unit and the supervisory services unit, consistent with the terms of the collective bargaining agreements. This sum may not be considered earnable compensation under the Maine State Retirement System.

Sec. A-5. Adjustment of salary schedules for fiscal year 1997-98. Effective at the beginning of the pay week commencing closest to July 1, 1997, the salary schedules for employees in the administrative services bargaining unit, the operations, maintenance and support services unit, the professional and technical services unit and the supervisory services unit must be adjusted by 2%, consistent with the terms of the collective bargaining agreements.

Sec. A-6. Adjustment of salary schedules for fiscal year 1998-99. Effective at the beginning of the pay week commencing closest to July 1, 1998, the salary schedules for employees in the administrative services bargaining unit, the operations, maintenance and support services unit, the professional and technical services unit and the supervisory services unit must be adjusted by 2%, consistent with the terms of the collective bargaining agreements.

Sec. A-7. Adjustment of mileage allowance. Consistent with the terms of the collective bargaining agreements, the mileage allowance rate for employees in the administrative services bargaining unit, the operations, maintenance and support services unit, the professional and technical services unit and the supervisory services unit must be increased to \$.23 per mile effective July 1, 1997 and \$.24 per mile effective July 1, 1998.

Sec. A-8. New employees; similar and equitable treatment. Employees in classifications included in the administrative services bargaining unit, the operations, maintenance and support services unit, the professional and technical services unit and the supervisory services unit who are excluded from collective bargaining pursuant to the Maine Revised Statutes, Title 26, section 979-A, subsection 6, paragraphs E and F must be given similar and

equitable treatment on a pro rata basis to that given employees covered by the collective bargaining agreements, except that nonstatus employees in acting capacity, intermittent or project positions may not receive any lump sum payment provided in section 4 of this Part.

PART B

Sec. B-1. Costs to the General Fund. There is appropriated in Part E of this Act funding sufficient when combined with other available funds to cover the costs to the General Fund in the amount of \$522,000 for the fiscal year ending June 30, 1997; in the amount of \$912,000 for the fiscal year ending June 30, 1998; and in the amount of \$1,364,000 for the fiscal year ending June 30, 1999 to implement the economic terms of the collective bargaining agreement made by the State and the American Federation of State, County and Municipal Employees -- Council #93 for the institutional services bargaining unit.

Sec. B-2. Special account funding. Funding provided by this Act must be segregated into a special account to be made available as needed upon the recommendation of the State Budget Officer with the approval of the Governor. The funds must include retirement costs. Positions supported from sources of funding other than the General Fund and Highway Fund must be funded whenever possible from those other sources.

Sec. B-3. Lump sum payment. A lump sum payment equal to 2.25% of the employee's base rate paid for the first 26 paychecks in calendar year 1996 must be paid to each employee included in the institutional services bargaining unit, consistent with the terms of the collective bargaining agreement. This sum may not be considered earnable compensation under the Maine State Retirement System.

Sec. B-4. Adjustment of salary schedules for fiscal year 1997-98. Effective at the beginning of the pay week commencing closest to July 1, 1997, the salary schedules for employees in the institutional services bargaining unit must be adjusted by 2%, consistent with the terms of the collective bargaining agreement.

Sec. B-5. Adjustment of salary schedules for fiscal year 1998-99. Effective at the beginning of the pay week commencing closest to July 1, 1998, the salary schedules for employees in the institutional services bargaining unit must be adjusted by 2%, consistent with the terms of the collective bargaining agreement.

Sec. B-6. New employees; similar and equitable treatment. Employees in classifications included in the institutional services bargaining unit

who are excluded from collective bargaining pursuant to the Maine Revised Statutes, Title 26, section 979-A, subsection 6, paragraphs E and F must be given similar and equitable treatment on a pro rata basis to that given employees covered by the collective bargaining agreement, except that nonstatus employees in acting capacity, intermittent or project positions may not receive any lump sum payment provided in section 3 of this Part.

PART C

Sec. C-1. Definition of confidential employee. For the purpose of this Act, the term "confidential employees" means those employees within the executive branch, including probationary employees, who are in positions excluded from bargaining units pursuant to the Maine Revised Statutes, Title 26, section 979-A, subsection 6, paragraphs B, C, D, I and J.

Sec. C-2. Costs to the General Fund. There is appropriated in Part E of this Act funding sufficient when combined with other available funds to cover the costs to the General Fund in the amount of \$445,377 for the fiscal year ending June 30, 1997; in the amount of \$522,944 for the fiscal year ending June 30, 1998; and in the amount of \$1,056,897 for the fiscal year ending June 30, 1999 to fund salary and benefit changes for confidential employees.

Sec. C-3. Costs to the Highway Fund. There is allocated in Part E of this Act funding sufficient when combined with other available funds to cover the costs to the Highway Fund in the amount of \$64,639 for the fiscal year ending June 30, 1997; in the amount of \$74,000 for the fiscal year ending June 30, 1998; and in the amount of \$150,000 for the fiscal year ending June 30, 1999 to fund salary and benefit changes for confidential employees.

Sec. C-4. Special account funding. Funding provided by this Act must be segregated into a special account to be made available as needed upon the recommendation of the State Budget Officer with the approval of the Governor. The funds must include retirement costs. Positions supported from sources of funding other than the General Fund and the Highway Fund must be funded whenever possible from those other sources.

Sec. C-5. Lump sum payment. A lump sum payment equal to 2.25% of the employee's base rate paid for the first 26 paychecks in calendar year 1996 must be paid to confidential employees pursuant to the Governor's directive. This sum may not be considered earnable compensation under the Maine State Retirement System.

Sec. C-6. Adjustment of salary schedules for fiscal year 1997-98. Effective at the beginning

of the pay week commencing closest to July 1, 1997, the salary schedules for confidential employees must be adjusted by 2%.

Sec. C-7. Adjustment of salary schedules for fiscal year 1998-99. Effective at the beginning of the pay week commencing closest to July 1, 1998, the salary schedules for confidential employees must be adjusted by 2%.

Sec. C-8. Employees whose salaries are subject to the Governor's adjustment or approval. The Governor is authorized to grant similar and equitable treatment consistent with this Act for those unclassified employees whose salaries are subject to the Governor's adjustment or approval.

Sec. C-9. Employees of the legislative branch. The Legislative Council may approve salary and benefit increases for employees within the legislative branch, including constitutional officers and the State Auditor, not subject to collective bargaining.

PART D

Sec. D-1. 5 MRSA §8, as amended by PL 1981, c. 710, Pt. B, is further amended to read:

§8. Mileage allowance

The State shall pay for the use of privately owned automobiles for travel by employees of the State in the business of the State such reimbursement as agreed to between the State and their certified or recognized bargaining agent. For employees and state officers and officials not subject to any such agreement, the State shall pay ~~21¢ per mile effective May 1, 1982 and 22¢ per mile effective July 1, 1982, 23¢ per mile effective July 1, 1997 and 24¢ per mile effective July 1, 1998~~ for miles actually traveled on state business. The Governor may suspend the operation of this section and require state officials and employees to travel in automobiles owned or controlled by the State, if such automobiles ~~be~~ are available.

PART E

Sec. E-1. Appropriations. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1996-97	1997-98	1998-99
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ADMINISTRATIVE AND FINANCIAL SERVICES, DEPART- MENT OF

Salary Plan

Personal Services	\$3,240,492	\$3,897,377	\$7,307,188
All Other		100,000	200,000

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

TOTAL	<u>\$3,240,492</u>	<u>\$3,997,377</u>	<u>\$7,507,188</u>
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Sec. E-2. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

	1996-97	1997-98	1998-99
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ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Salary Plan

Personal Services	\$1,470,525	\$1,691,465	\$3,464,040
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Sec. E-3. Transfer from salary plan. The salary plan program in the Department of Administrative and Financial Services may be made available as needed in allotment by financial order upon the recommendation of the State Budget Officer and the approval of the Governor to be used for the implementation of collective bargaining agreements for state employees in fiscal years 1996-97, 1997-98 and 1998-99.

Sec. E-4. Carrying clause. Any balances remaining in the General Fund and the Highway Fund salary plan accounts in the Department of Administrative and Financial Services may not lapse but must be carried forward to June 30, 1999 to be used for the purposes of this Act.

Sec. E-5. Authorization for reimbursement of costs associated with contract resolution. The Department of Administrative and Financial Services may be reimbursed from the special accounts funded by this Act for the costs of contract resolution, administration, implementation and other costs required by the process of collective bargaining and negotiation procedures.

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

Effective January 30, 1997.

CHAPTER 4

H.P. 12 - L.D. 8

An Act to Amend the Laws Specifying When an Indictment in a Criminal Case Is Not Required

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

Sec. 1. 15 MRSA §701, sub-§1, as amended by PL 1979, c. 663, §94, is repealed and the following enacted in its place:

1. Use of charging instrument other than an indictment. When a prosecution utilizing a charging instrument other than an indictment is expressly authorized by rule of court; or

Sec. 2. 17-A MRSA §9, sub-§1, as enacted by PL 1975, c. 499, §1, is amended to read:

1. All proceedings for Class A, B and C crimes ~~shall~~ **must** be prosecuted by indictment, unless indictment is waived, in which case prosecution ~~may~~ **must** be ~~by information~~ as the Supreme Judicial Court provides by rule; and

See title page for effective date.

CHAPTER 5

H.P. 20 - L.D. 45

An Act to Increase the Fees for Attachment of Real Estate and Personal Property

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

Sec. 1. 30-A MRSA §421, sub-§§4 and 5, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

4. Attachment of real estate. For the attachment of real estate at the registry of deeds, \$4 ~~\$16~~;

5. Attachment of personal property; replevin. For the attachment of personal property or for the service of a writ of replevin, \$6 ~~\$16~~, and \$2 ~~\$10~~ more for each hour after the first required for the service;

See title page for effective date.