

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

CHAPTER 189**H.P. 687 - L.D. 951****An Act to Maximize the State's Processing of Aquaculture Fish and to Extend the Salmon Aquaculture Monitoring, Research and Development Fund**

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

Whereas, the Salmon Aquaculture Monitoring, Research and Development Fund will be repealed on July 1, 1997 unless immediate action is taken; and

Whereas, the Salmon Aquaculture Monitoring, Research and Development Fund is essential to the continued monitoring and development of the State's valuable salmon aquaculture industry; 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. 12 MRSA §6078, sub-§9, as enacted by PL 1995, c. 609, §2, is amended to read:

9. Repeal. This section is repealed July 1, ~~1997~~ 1999.

Sec. 2. 12 MRSA §6080, sub-§6, as enacted by PL 1995, c. 609, §3, is amended to read:

6. Repeal. This section is repealed July 1, ~~1997~~ 1999.

Sec. 3. Report. The Commissioner of Marine Resources shall submit a report by February 1, 1998 to the President of the Senate, the Speaker of the House and the Joint Standing Committee on Marine Resources on strategies to maximize in-state processing of fish raised in the State's aquaculture facilities and strategies for growth of Maine's finfish aquaculture industry in a manner compatible with traditional fisheries. The report must include analyses of the following:

1. The number or poundage of fish raised in state aquaculture facilities that is processed in Maine and in other states or countries;

2. The number or poundage of fish processed in Maine and identification of the states or countries from which the fish originates;

3. The opportunities to increase Maine processing of fish raised in aquaculture facilities;

4. Market conditions and actions necessary to result in the processing in Maine of all fish raised in Maine aquaculture facilities;

5. The current state and practices of the finfish aquaculture industry in Maine, including the extent and location of lease holdings, employment, sales, consumption of Maine-based products and payment of state and local taxes;

6. The economic benefits to Maine from current activities and businesses associated with finfish aquaculture, including processing, shipping, transportation, purchases of supplies and equipment and production of food supplies for Maine and other United States citizens;

7. Strategies for Maine to increase the economic benefits derived from the State's finfish aquaculture industry and identification of those benefits; and

8. The payment or nonpayment of the production fee required under the Maine Revised Statutes, Title 12, section 6078 by people who produce salmon in areas leased from the State and the method by which those salmon are weighed and the fee is assessed.

The Joint Standing Committee on Marine Resources may report out legislation during the Second Regular Session of the 118th Legislature regarding the State's aquaculture laws.

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

Effective May 15, 1997.

CHAPTER 190**S.P. 270 - L.D. 878****An Act to Further Facilitate the Purchase of Service Credit in the Maine State Retirement System**

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

Sec. 1. 5 MRSA §17751, sub-§2, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

2. Absence without pay. The Except as provided in section 17765, the board may not allow service credit for a period of absence without pay of more than a month's duration for a full-time position.

Sec. 2. 5 MRSA §17765 is enacted to read:

§17765. Service credit for educational leave

A member may purchase service credit for the period during which the member took an unpaid or partially paid educational leave pursuant to the Maine Educational Leave Act under the following conditions.

1. Payment. The member must, before any retirement benefit becomes effective, pay into the Members' Contribution Fund by a single payment or annual direct payments to the retirement system an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional service credit purchased under this section. Payments must be made as provided in section 17701, subsection 4.

If any retirement benefit becomes effective before the completion of the payment under this subsection, the member is entitled to the additional creditable service that the total amount of payments actually made, plus regular interest on those payments to the date the retirement benefit becomes effective, bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service.

2. Limitation on use of purchased service credit. Notwithstanding any other provision of law, service credit purchased under this section may be used only for the purpose of increasing the amount of a member's service retirement benefit by inclusion of the purchased service credit and may not be used to establish a member's qualification for a service retirement benefit.

3. Return to employment. The member must have returned to state employment after completion of the educational leave.

See title page for effective date.

CHAPTER 191

H.P. 751 - L.D. 1028

An Act to Amend the Maine Probate Code

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

Sec. 1. 18-A MRSA §7-402, sub-§(c), ¶(26), as enacted by PL 1979, c. 540, §1, is amended to read:

(26) To execute and deliver all instruments ~~which that~~ will accomplish or facilitate the exercise of the powers vested in the trustee; and

Sec. 2. 18-A MRSA §7-402, sub-§(c), ¶(27) is enacted to read:

(27) To divide the funds and properties constituting a trust into 2 or more identical separate trusts that represent 2 or more fractional shares of the funds and properties being divided and to make distributions of income and principal by a method other than pro rata from the separate trusts created as the trustee determines to be in the best interest of the trust beneficiaries. In any case when a single trust has been divided by the trustee into 2 separate trusts, one of which is fully exempt from the federal generation-skipping transfer tax and one of which is fully subject to that tax, the trustee may thereafter, to the extent possible consistent with the terms of the governing instrument, determine the value of any mandatory or discretionary distributions to trust beneficiaries on the basis of the combined value of both trusts, but may satisfy those distributions by a method other than pro rata from the separate trusts in a manner designed to minimize the current and potential generation-skipping transfer tax.

See title page for effective date.

CHAPTER 192

S.P. 132 - L.D. 411

An Act to Bring Certain State Retirement Laws into Compliance with Federal Laws

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

Whereas, the federal Small Business Protection Act of 1996 amended the law regarding treatment of assets and income of deferred compensation plans for state and local employees under the United States Internal Revenue Code, Section 457 making state law inconsistent with the federal law; and

Whereas, immediate amendment of current state law is necessary to permit state and local governments to convert the provisions of existing deferred compensation plans for employees and to establish new plans consistent with federal law; and