

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

tion facility by the department. However, the department may inspect the facility at any time.

§4315. Eligibility

To be eligible for a license under this chapter a person must:

- 1. Age.** Be at least 18 years of age;
- 2. High school diploma.** Have a high school diploma or equivalent education;
- 3. Additional training.** Submit evidence of completion of education or training required by rules of the department under the direct supervision of a licensed micropigmentation practitioner; and
- 4. Compliance.** Demonstrate ability to comply with the rules of the department.

§4316. Revocation; suspension; or refusal to issue

The department may revoke, suspend or refuse to issue a license or renewal or place a licensee on probation if:

- 1. Conviction.** The person has been convicted of a crime related to the practice of micropigmentation;
- 2. Deception or misrepresentation.** Has engaged in any deception or misrepresentation to the department or the public in applying for a license under this chapter or in the advertising or practice of micropigmentation;
- 3. Incompetence.** Has demonstrated negligence, incompetence or danger to the public in the practice of micropigmentation; or
- 4. Violation of rules.** Has violated any of the rules adopted by the department under this chapter.

§4317. Compliance

Beginning January 1, 1998, a person seeking to engage in the business of micropigmentation shall comply with the provisions of this chapter.

See title page for effective date.

CHAPTER 384

H.P. 1271 - L.D. 1797

An Act to Amend the Provisions of the Disability Retirement Laws Administered by the Maine State Retirement System

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

Whereas, amendments were made to the Maine State Retirement System disability laws in earlier years for the purpose of compliance with the federal Older Workers Benefit Protection Act; and

Whereas, the way in which the amendments were enacted makes it very difficult for persons who did not elect to move to the Maine State Retirement System's "no-age" disability plan to know the requirements and terms of the disability plan under which they continue to be covered; and

Whereas, other amendments to the Maine State Retirement System disability laws made for the same purpose were not made to all of the affected sections of the law, such that inconsistencies now exist; and

Whereas, certain inconsistencies in the disability laws related to Legislators and judges also exist; and

Whereas, immediate enactment of legislation is necessary to clarify application of disability laws and to resolve inconsistencies in those laws; 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. 4 MRSA §1353, sub-§1-A, ¶B, as enacted by PL 1983, c. 863, Pt. B, §§26 and 45, is repealed.

Sec. 2. 4 MRSA §1353, sub-§2, as amended by PL 1995, c. 643, §3, is further amended to read:

2. Amount. ~~Until July 1, 1996~~ When a member qualified under subsection 1 and, if applicable, subsection 1-A, paragraph A, retires, the amount of a disability retirement allowance is 59% of the member's average final compensation. The 59% level must be reviewed for cost-neutral comparability as a part of the actuarial investigation provided under Title 5, section 17107, subsection 2, paragraph E, beginning with the investigation made January 1, 1997 and every 6 years after that time. The review that takes place every 6 years must compare actual experience under the disability plans with actuarial assumptions regarding election and costs of benefits under the new options elected and identify possible options for compliance with the federal Older Workers Benefit

Protection Act that protect benefits for employees without additional cost to the State and participating local districts.

A member who by election remains covered under subsection 1 as written prior to its amendment by Public Law 1991, chapter 887, section 1 may receive a disability retirement allowance when, in addition to meeting the requirements of subsection 1, the member has not completed the eligibility requirements for retirement under section 1351, subsection 1, 1-A or 2. When such a member is entitled to receive a disability retirement allowance, the amount of the allowance is 66 2/3% of the member's average final compensation.

Sec. 3. 4 MRSA §1353, sub-§7, ¶A, as amended by PL 1991, c. 887, §3, is further amended to read:

A. The disability retirement allowance of a beneficiary must cease whenever the service retirement allowance of the beneficiary would equal or exceed the amount of the member's disability retirement allowance. For a member who by election or by having retired on disability retirement prior to October 16, 1992 remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 3, the disability retirement allowance must cease at age 70, or prior to that age, whenever the service retirement allowance would equal or exceed the amount of the disability retirement allowance.

Sec. 4. 5 MRSA §17904, sub-§1, as amended by PL 1991, c. 887, §4, is further amended to read:

1. Qualification. Except as provided in subsection 2, a member qualifies for a disability retirement benefit if the member becomes disabled while in service and before reaching normal retirement age.

Sec. 5. 5 MRSA §17905, as amended by PL 1995, c. 643, §6, is repealed and the following enacted in its place:

§17905. Computation of benefit

When a member qualified under section 17904 retires, the member is entitled to receive a disability retirement benefit equal to 66 2/3% of the member's average final compensation.

Sec. 6. 5 MRSA §17907, sub-§2, ¶A, as amended by PL 1991, c. 887, §6, is repealed and the following enacted in its place:

A. The disability retirement benefit ceases and eligibility for a service retirement benefit begins:

(1) On the last day of the month in which the 10th anniversary of the beneficiary's normal retirement age, as defined in section 17001, subsection 23, occurs; or

(2) On the last day of the month in which the service retirement benefit of the beneficiary would equal or exceed the amount of the beneficiary's disability retirement benefit, if that occurs before the 10th anniversary of the beneficiary's normal retirement age.

Sec. 7. 5 MRSA §17924, sub-§1, as amended by PL 1991, c. 887, §7, is further amended to read:

1. Qualification. Except as provided in subsection 2, a member qualifies for a disability retirement benefit if disabled while in service and, for a member who by election remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 7, before normal retirement age.

Sec. 8. 5 MRSA §17928, as amended by PL 1995, c. 643, §14, is further amended to read:

§17928. Computation of benefit

~~When~~ Until July 1, 1996, when a member qualified under section 17924 retires, after approval for disability retirement by the executive director in accordance with section 17925, the member is entitled to receive a disability retirement benefit equal to 59% of that member's average final compensation. The 59% level must be reviewed for cost-neutral comparability as a part of the actuarial investigation provided under section 17107, subsection 2, paragraph E, beginning with the investigation made January 1, 1997 and every 6 years thereafter. The review that takes place every 6 years must compare actual experience under the disability plans with actuarial assumptions regarding election and costs of benefits under the new options elected and identify possible options for compliance with the federal Older Workers Benefit Protection Act that protect benefits for employees without additional cost to the State and participating local districts.

A member who by election remains covered, as to qualification for benefits, under section 17924 as written prior to its amendment by Public Law 1991, chapter 887, section 7, qualifies for a disability retirement benefit on meeting the requirements of section 17924, subsection 1, paragraphs C and D. When a member so qualified retires after approval for disability retirement by the executive director in accordance with this Article, the member is entitled to receive a disability retirement benefit equal to 66 2/3% of the member's average final compensation.

Sec. 9. 5 MRSA §17929, sub-§2, ¶A-1 is enacted to read:

A-1. For a person who by election or by having retired on disability retirement prior to October 16, 1992, remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 9, the disability retirement benefit ceases:

(1) On the last day of the month in which the 10th anniversary of the beneficiary's normal retirement age, as defined in section 17001, subsection 23, occurs; or

(2) When the service retirement benefit of a person equals or exceeds the amount of the disability retirement benefit, if that occurs before the beneficiary's normal retirement age.

Sec. 10. 5 MRSA §18504, sub-§1, as amended by PL 1991, c. 887, §12, is further amended to read:

1. Qualification. Except as provided in subsection 2, a member qualifies for a disability retirement benefit if the member becomes disabled while in service and, for a member who by election remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 12, before normal retirement age.

Sec. 11. 5 MRSA §18505, as amended by PL 1995, c. 643, §18, is further amended by adding at the end a new paragraph to read:

A member who by election remains covered, as to qualification for benefits, under section 18504 as written prior to its amendment by Public Law 1991, chapter 887, section 12, qualifies for a disability retirement benefit on meeting the requirements of section 18504, subsection 1, paragraphs C and D. When a member so qualified retires after approval for disability retirement by the executive director in accordance with this Article, the member is entitled to receive a disability retirement benefit equal to 66 2/3% of the member's average final compensation.

Sec. 12. 5 MRSA §18507, sub-§2, ¶A, as amended by PL 1991, c. 887, §14, is further amended to read:

A. A disability retirement benefit ceases and eligibility for a service retirement benefit begins on the last day of the month in which the service retirement benefit of the beneficiary equals or exceeds the amount of the member's disability retirement benefit. For a member who by election or by having retired on disability retirement prior to October 16, 1992, remains covered un-

der this section as written prior to its amendment by Public Law 1991, chapter 887, section 14, the disability retirement benefit ceases:

(1) On the last day of the month in which the 10th anniversary of the beneficiary's normal retirement age, as defined in section 17001, subsection 23, occurs; or

(2) On the last day of the month in which the service retirement benefit of the beneficiary would equal or exceed the amount of the disability retirement benefit, if that occurs before the 10th anniversary of the beneficiary's normal retirement age.

Sec. 13. 5 MRSA §18524, sub-§1, as amended by PL 1991, c. 887, §15, is further amended to read:

1. Qualification. Except as provided in subsection 2, a member qualifies for a disability retirement benefit if disabled while in service and, for a member who by election remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 15, before normal retirement age.

Sec. 14. 5 MRSA §18528, as amended by PL 1995, c. 643, §26, is further amended by adding at the end a new paragraph to read:

A member who by election remains covered, as to qualification for benefits, under section 18524 as written prior to its amendment by Public Law 1991, chapter 887, section 15, qualifies for a disability retirement benefit on meeting the requirements of section 18524, subsection 1, paragraphs C and D. When a member so qualified retires after approval for disability retirement by the executive director in accordance with this Article, the member is entitled to receive a disability retirement benefit equal to 66 2/3% of the member's average final compensation.

Sec. 15. 5 MRSA §18529, sub-§2, ¶A-1 is enacted to read:

A-1. For a person who by election or by having retired on disability retirement prior to October 16, 1992, remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 17, the disability retirement benefit ceases:

(1) On the 10th anniversary of that person's normal retirement age, as defined in section 17001, subsection 23; or

(2) When the service retirement benefit of that person equals or exceeds the amount of the disability retirement benefit, if that oc-

curs before the beneficiary's normal retirement age.

Sec. 16. Actuarial report; implementation. Results of the actuarial investigation required in that section of this Act that amends the Maine Revised Statutes, Title 4, section 1353, subsection 2, must be submitted by January 1, 1997, or as soon as possible after that time. Reports of subsequent investigations must be submitted at 6-year intervals following January 1, 1997.

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

Effective May 31, 1997.

CHAPTER 385

H.P. 1280 - L.D. 1817

An Act to Amend the Laws Governing the Maine Health and Higher Educational Facilities Authority

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

Whereas, the activities authorized in this legislation will allow eligible borrowers under the Maine Health and Higher Educational Facilities Authority to obtain cost savings; and

Whereas, the cost savings available to eligible borrowers under the Maine Health and Higher Educational Facilities Authority are benefits that can have an immediate impact on the cost of the provision of health care and higher education services in the State; and

Whereas, the timely availability of any cost-saving measures can increase the benefit to both the State and the eligible borrowers; 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. 22 MRSA §2053, sub-§3-B is enacted to read:

3-B. Eligible entity. "Eligible entity" means a facility or institution eligible to participate in financing or other borrowing services authorized by this chapter and includes a participating community health or social service facility, a participating health care facility or a participating institution for higher education.

Sec. 2. 22 MRSA §2055, sub-§14, as amended by PL 1993, c. 390, §17, is further amended to read:

14. Apportionment. To charge to and equitably apportion among participating health care facilities and participating institutions for higher education its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter; and

Sec. 3. 22 MRSA §2055, sub-§15, as amended by PL 1993, c. 390, §18, is further amended to read:

15. Other acts. To do all things necessary or convenient to carry out the purposes of this chapter. In carrying out the purposes of this chapter, the authority may undertake a project for 2 or more participating health care facilities jointly or 2 or more participating institutions for higher education jointly, and, upon undertaking the project, all other provisions of this chapter apply to and for the benefit of the authority and such joint participants;

Sec. 4. 22 MRSA §2055, sub-§§16 and 17 are enacted to read:

16. Bulk purchases. To purchase, lease or otherwise acquire, finance, sell and transfer for, to or on behalf of itself and any eligible entities organized pursuant to the United States Internal Revenue Code, Section 501 or in partnership with any of its eligible entities organized pursuant to the United States Internal Revenue Code, Section 501 commodities necessary for the daily operation of the facilities of the eligible entities and for their employees, including, but not limited to, electricity, petroleum products, fuel oil and natural gas. For purposes authorized in this subsection, the University of Maine System and its colleges and universities are eligible participating institutions under the definition of eligible participant for the authority; and

17. Nonprofit corporation. In accordance with the limitations and restrictions of this chapter, to cause any of its powers, duties, programs or operations to be carried out by one or more nonprofit corporations. Nonprofit corporations acting at the direction of the authority must be organized and operated under the Maine Nonprofit Corporation Act. For the purposes authorized in this section the University of Maine System and its colleges and universities are eligible