

# 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.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

This subsection does not apply to or limit any remedies for civil actions filed under subchapter V if one or more additional causes of action are alleged in the same civil action that do not require exhaustion of administrative remedies.

See title page for effective date.

## CHAPTER 401

H.P. 1134 - L.D. 1590

### An Act to Provide Retirement Benefit Options for Fire Marshals and Motor Vehicle Investigators

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

**Sec. 1. 5 MRSA §§17715 and 17716** are enacted to read:

#### **§17715. State fire marshals**

A state fire marshal, state fire marshal investigator or a state fire marshal inspector who elects the retirement option provided in section 17851, subsection 13 shall contribute to the retirement system or have pick-up contributions made by the employer as provided in section 17852, subsection 13.

#### **§17716. Motor vehicle investigators**

A motor vehicle investigator, senior motor vehicle investigator, principal motor vehicle investigator or chief motor vehicle investigator who elects the retirement option provided in section 17851, subsection 14 shall contribute to the retirement system or have pick-up contributions made by the employer as provided in section 17852, subsection 15.

**Sec. 2. 5 MRSA §17851, sub-§§13 and 14** are enacted to read:

**13. Fire marshals; option.** A state fire marshal, state fire marshal investigator or state fire marshal inspector qualifies for a service retirement benefit upon reaching 55 years of age after completing at least 25 years of creditable service in that capacity if notice of election of the option and payment of employee contributions and actuarial costs are made as provided in section 17852, subsection 13.

**14. Motor vehicle investigators; option.** A motor vehicle investigator, senior motor vehicle investigator, principal motor vehicle investigator or chief motor vehicle investigator qualifies for a service retirement benefit upon reaching 55 years of age after completing at least 25 years of creditable service in that capacity if notice of election of the option and

payment of employee contributions and actuarial costs are made as provided in section 17852, subsection 15.

**Sec. 3. 5 MRSA §17852, sub-§§13, 14, 15 and 16** are enacted to read:

**13. Fire marshals; option.** The retirement benefit of a person who qualifies under section 17851, subsection 13 and who retires upon or after reaching 55 years of age is computed in accordance with subsection 1 if:

A. The person was first employed as a fire marshal on or after October 1, 1997, elects the option provided in section 17851, subsection 13 and pays to the retirement system an increased employee payroll contribution in an amount that equals the full actuarial cost of electing that option; or

B. The person was first employed as a fire marshal before October 1, 1997, elects the option provided in section 17851, subsection 13 and pays to the retirement system a single payment or periodic payments of a lump sum or a combination of single and periodic payments of that amount that equals the full actuarial cost of electing that option for service before that date.

A person who requests calculation of the full actuarial cost, regardless of whether the person elects the option, must pay to the retirement system by a single lump sum payment the reasonable administrative costs of determining the full actuarial costs. Payment of the full actuarial cost related to service on or after November 1, 1997 is made as part of the employee payroll contribution.

For the purposes of this subsection, "full actuarial cost" means that the person's payment or payments must fully offset any unfunded liability that would or does result from retirement under the option provided in section 17851, subsection 13 and must fully fund the cost of the person's retirement prior to normal retirement age so that an additional employer contribution is not required.

A person who makes the election provided in section 17851, subsection 13 at any time after the date on which the person is first employed as a fire marshal must include interest, at a rate to be set by the board not to exceed regular interest by 5 or more percentage points, applied as of the date on which the person was first employed in that capacity to the contributions the person would have paid or had picked up by the employer had the person elected that option at the date of first employment.

This subsection takes effect October 1, 1997. Election to retire under this subsection is a one-time irrevocable election. A person who was first employed as a

fire marshal on or after October 1, 1997 must make the election no later than 90 days after the date of first employment. A person who was first employed in that capacity before October 1, 1997 must make the election no later than January 1, 1998.

**14. Fire marshals exercising option; retirement before 55 years of age.** For a person exercising the option provided in section 17851, subsection 13 who makes the payments required in subsection 13 and who retires before reaching 55 years of age, the retirement benefit is determined as follows.

A. For members with 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that:

(1) The amount arrived at under subsection 1 is reduced by applying to that amount the percentage that a life annuity due at 55 years of age bears to the life annuity due at the age of retirement; and

(2) For the purpose of making the computation under subparagraph (1), the board-approved tables of annuities in effect at the date of the member's retirement are used.

For the purpose of calculating creditable service under this subsection only, "creditable service" includes time during which a member participated in the voluntary cost-savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV; 10 years of combined creditable service under this Part and Title 3, chapter 29; or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board.

B. For members who do not have 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that the benefit is reduced by 6% for each year that the person's age precedes 55 years of age.

**15. Motor vehicle investigators; option.** The retirement benefit of a person who qualifies under section 17851, subsection 14 and who retires upon or after reaching 55 years of age is computed in accordance with subsection 1 if:

A. The person was first employed as a motor vehicle investigator on or after October 1, 1997, elects the option provided in section 17851, subsection 14 and pays to the retirement system an

increased employee payroll contribution in an amount that equals the full actuarial cost of electing that option; or

B. The person was first employed as a motor vehicle investigator before October 1, 1997, elects the option provided in section 17851, subsection 14 and pays to the retirement system a single payment or periodic payments of a lump sum or a combination of single and periodic payments of that amount that equals the full actuarial cost of electing that option for service before that date.

A person who requests calculation of the full actuarial cost, regardless of whether the person elects the option, must pay to the retirement system by a single lump sum payment the reasonable administrative costs of determining the full actuarial costs. Payment of the full actuarial cost related to service on or after October 1, 1997 is made as part of the employee payroll contribution.

For the purposes of this subsection, "full actuarial cost" means that the person's payment or payments must fully offset any unfunded liability that would or does result from retirement under the option provided in section 17851, subsection 14 and must fully fund the cost of the person's retirement prior to normal retirement age so that an additional employer contribution is not required.

A person who makes the election provided in section 17851, subsection 14 at any time after the date on which the person is first employed as a motor vehicle investigator must include interest, at a rate to be set by the board not to exceed regular interest by 5 or more percentage points, applied as of the date on which the person was first employed in that capacity to the contributions the person would have paid or had picked up by the employer had the person elected that option at the date of first employment.

This subsection takes effect October 1, 1997. Election to retire under this subsection is a one-time irrevocable election. A person who was first employed as a motor vehicle investigator on or after October 1, 1997 must make the election no later than 90 days after the date of first employment. A person who was first employed in that capacity before October 1, 1997 must make the election no later than January 1, 1998.

**16. Motor vehicle investigators exercising option; retirement before 55 years of age.** For a person exercising the option provided in section 17851, subsection 14 who makes the payments required in subsection 15 and who retires before reaching 55 years of age, the retirement benefit is determined as follows.

A. For members with 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that:

(1) The amount arrived at under subsection 1 is reduced by applying to that amount the percentage that a life annuity due at 55 years of age bears to the life annuity due at the age of retirement; and

(2) For the purpose of making the computation under subparagraph (1), the board-approved tables of annuities in effect at the date of the member's retirement are used.

For the purpose of calculating creditable service under this subsection only, "creditable service" includes time during which a member participated in the voluntary cost-savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV; 10 years of combined creditable service under this Part and Title 3, chapter 29; or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board.

B. For members who do not have 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that the benefit is reduced by 6% for each year that the person's age precedes 55 years of age.

**Sec. 4. Maine State Retirement System methodology.** The Maine State Retirement System shall develop a methodology for calculating the full actuarial cost, reasonable administrative cost and interest, if applicable, to be applied when a person elects to retire under the Maine Revised Statutes, Title 5, section 17851, subsection 13 or 14. The retirement system shall also establish the procedure for election under those subsections.

See title page for effective date.

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## CHAPTER 402

H.P. 1211 - L.D. 1711

### An Act Addressing Sexual Exploitation of an Abuse Victim by a Law Enforcement Officer

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

**Sec. 1. 25 MRSA §2806, sub-§1, ¶B,** as amended by PL 1993, c. 744, §12, is further amended to read:

B. May suspend or revoke the certificate issued pursuant to former section 2803, 2805 or 2805-A or section 2803-A, 2804-B, 2804-C or 2804-D of any person who:

(1) Has been found guilty of murder or any crime classified in state law as a Class A, Class B, Class C or Class D crime or a violation of any provision of the Maine Criminal Code, chapter 15, 19, 25 or 45;

(2) Has engaged in conduct that is prohibited or penalized by state law as murder or a Class A, Class B, Class C or Class D crime or by any provision of the Maine Criminal Code, chapter 15, 19, 25 or 45;

(3) Has been found guilty of conduct specified in subparagraph (2) in another state or other jurisdiction, unless that conduct is not punishable as a crime under the laws of that state or other jurisdiction in which it occurred;

(4) Has engaged in conduct specified in subparagraph (2) in another state or other jurisdiction, unless that conduct is not punishable as a crime under the laws of that state or other jurisdiction in which it occurred;

(5) Has falsified or misrepresented material facts in obtaining or maintaining the certificate; ~~or~~

(6) Has engaged in conduct that violates the standards established by the board pursuant to section 2803-B, subsection 1, ~~provided that as long as~~ the conduct, when viewed in light of the nature and purpose of the person's conduct and circumstances known to the person, involves a gross deviation from the standard of conduct that a reasonable and prudent law enforcement officer would observe in the same situation; ~~and or~~

(7) Has engaged in a sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C, or in sexual contact, as defined in Title 17-A, section 251, subsection 1, paragraph D with another person, not the person's spouse, if at the time of the sexual act or sexual contact: