

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

SECOND REGULAR SESSION
January 7, 1998 to March 31, 1998

SECOND SPECIAL SESSION
April 1, 1998 to April 9, 1998

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1998

SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 9, 1998

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

opportunities in the school district. Members of the committee may include teachers, art teachers, parents, art administrators, school administrators, business people, artists, school board members and students;

2. Orientation and training. Provide for the local arts education committee to participate in orientation and training sessions;

3. Plan. Implement, evaluate and report to the Maine Arts Commission on the plan; and

4. Resources. Allocate Maine Arts Commission resources according to a per-pupil cost formula in the first year of the plan.

Sec. 2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1998-99

MAINE ARTS COMMISSION

Arts - Sponsored Program

All Other \$150,000

Provides funds to implement the Arts in Education Program.

See title page for effective date.

CHAPTER 763

H.P. 1395 - L.D. 1949

An Act to Allow Maine Technical College System Employees Represented by the Maine Education Association Faculty and Administrative Units to Participate in a Defined Contribution Retirement Plan

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

Sec. 1. 5 MRSA §285, sub-§7, as amended by PL 1997, c. 24, Pt. C, §1 and c. 80, §4, is repealed and the following enacted in its place:

7. Payment by State. Except as otherwise provided in this subsection, the State, through the commission, shall pay 100% of only the employee's share of the individual premium for the standard plan identified and offered by the commission and available to the employee as authorized by the commission, except for Legislators, for whom the State shall pay 50% of the health plan premium for dependent coverage. For any person appointed to a

position after November 1, 1981 who is employed less than full time, the State shall pay a share of the employee's share reduced pro rata to reflect the reduced number of work hours. The State may not pay any portion of the health plan premium for a blind person eligible for the group health plan under subsection 1, paragraph H.

For persons who were first employed before July 1, 1991, the State shall pay 100% of only the retiree's share of the premiums for the standard plan identified and offered by the commission and available to the retiree, as authorized by the commission for persons who were previously eligible for this health plan pursuant to subsection 1, paragraph A and who have subsequently become eligible pursuant to subsection 1, paragraph G.

For persons who were first employed by the State after July 1, 1991, the State shall pay a pro rata share portion of only the retiree's share of the premiums for the standard plan identified and offered by the commission and available to the retiree, as authorized by the commission for persons who were previously eligible for this health plan pursuant to subsection 1, paragraph A and who have subsequently become eligible pursuant to subsection 1, paragraph G based on the total number of years of participation in the group health plan prior to retirement as follows:

<u>Years of Participation</u>	<u>State Portion</u>
<u>10 or more years</u>	<u>100% group health plan premium</u>
<u>9 but less than 10 years</u>	<u>90% group health plan premium</u>
<u>8 but less than 9 years</u>	<u>80% group health plan premium</u>
<u>7 but less than 8 years</u>	<u>70% group health plan premium</u>
<u>6 but less than 7 years</u>	<u>60% group health plan premium</u>
<u>5 but less than 6 years</u>	<u>50% group health plan premium</u>
<u>Less than 5 years</u>	<u>No contribution</u>

Pursuant to Title 20-A, section 12722, subsection 5, this subsection applies to participants in the defined contribution plan offered by the Maine Technical College System Board of Trustees under Title 20-A, section 12722.

Sec. 2. 5 MRSA §17001, sub-§40, as amended by PL 1989, c. 698, §§3 and 76, is further amended to read:

40. State employee. "State employee" means any regular classified or unclassified officer or employee in a department, any employee of the Maine Technical College System, except those who make the election provided under Title 20-A, section 12722.

and any employee transferred from the Division of Higher Education Services to the Finance Authority of Maine who elects to be treated as a state employee, but does not include:

- A. A judge, as defined in Title 4, section 1201 or 1301, who is now or later may be entitled to retirement benefits under Title 4, chapter 27 or 29;
- B. A member of the State Police who is now entitled to retirement benefits under Title 25, chapter 195; or
- C. A Legislator who is now or later may be entitled to retirement benefits under Title 3, chapter 29.

Sec. 3. 5 MRSA §17652, sub-§3 is enacted to read:

3. Certain employees of the Maine Technical College System. Notwithstanding section 17651, membership in the retirement system is optional for employees of the Maine Technical College System who are eligible to participate in a retirement plan pursuant to Title 20-A, section 12722.

Sec. 4. 20-A MRSA §12722 is enacted to read:

§12722. Defined contribution retirement plan

1. Eligibility; plan contents. Subject to applicable bargaining agreements, the board of trustees may authorize persons employed in the faculty and instructors and the administrative staff bargaining units to participate in a defined contribution retirement plan offered by the board of trustees instead of any plan offered by the Maine State Retirement System. The defined contribution retirement plan must include the requirement that any disbursement of the accumulated assets in a person's defined contribution plan account or accounts must include pay out of at least 40% of the assets as a life annuity. The defined contributions retirement plan must also offer an option providing a life annuity pay out to a surviving spouse.

2. Election periods. Election to participate in either the defined contribution plan authorized in subsection 1 or any plan offered by the Maine State Retirement System must be as follows.

- A. An eligible person who is employed by the system, its colleges or subsidiaries on August 31, 1998 or on the last day of the month in which authorization pursuant to subsection 1 occurs, whichever is later, may make a one-time irrevocable election to participate in the defined contribution plan offered by the board of trustees instead of any plan offered by the Maine State

Retirement System. Any information regarding an employee's membership in the Maine State Retirement System that is needed for this election must be requested from the Maine State Retirement System by an eligible person no later than November 30, 1998 or 90 days following the date of authorization pursuant to subsection 1, whichever is later, except that an eligible person may decline in writing to the employing institution to request information from the Maine State Retirement System pursuant to this subsection. An eligible person who chooses to make an election pursuant to this subsection shall make that election in writing no later than 90 days following the mailing by the Maine State Retirement System to that person of the requested membership information or the date the eligible person declines in writing to request the information and shall file notice of that election with the administrative officer of the employing institution. The employing institution shall notify the Maine State Retirement System of the election in accordance with procedures established by the Executive Director of the Maine State Retirement System. This notification must specify the date on which the person's participation in the defined contribution plan is effective.

B. An eligible person who is first employed by the system, its colleges or subsidiaries on or after September 1, 1998 or after the date of authorization pursuant to subsection 1, whichever is later, is considered to be a participant in the defined contribution plan offered by the board of trustees unless that person makes a one-time irrevocable election to participate in the Maine State Retirement System. The election must be made in writing no later than 30 days after the date of hire in an eligible position or November 30, 1998, whichever is later, and notice of the election must be filed with the administrative officer of the employing institution. The employing institution shall notify the Maine State Retirement System of the election in accordance with procedures established by the Executive Director of the Maine State Retirement System. Participation in the Maine State Retirement System pursuant to an election under this paragraph is effective as of the date of hire, and the system shall remit all required contributions to the Maine State Retirement System retroactive to the date of hire.

3. Maine State Retirement System members. An eligible person who becomes a participant in the defined contribution plan offered by the board of trustees and who is a member of the Maine State Retirement System at the time participation in the defined contribution plan begins may apply for a refund of accumulated contributions from the Maine

State Retirement System pursuant to Title 5, section 17705, except that any such person who has less than 10 years of creditable service as of the date specified in the notification in subsection 2, paragraph A or the date of hire pursuant to subsection 2, paragraph B shall apply for a refund of accumulated contributions. Participation in the defined contribution plan offered by the board of trustees pursuant to this section is considered a termination of service for purposes of Title 5, section 17705 as of the date specified in the notification in subsection 2, paragraph A or the date of hire pursuant to subsection 2, paragraph B, except that, if an application is made for refund of accumulated contributions under an election pursuant to subsection 2, paragraph A, payment must be made no later than 90 days after receipt of the application by the Maine State Retirement System. Service rendered while a participant in the defined contribution plan offered by the board of trustees does not constitute service for a Maine State Retirement System member who does not withdraw contributions from the Maine State Retirement System nor is the member considered to be in service for purposes of Title 5, chapter 423, subchapter V, articles 3-A, 4 and 5 or, if the recipient of a service retirement benefit, restored to service for purposes of Title 5, section 17855.

4. No service credit for defined contribution plan participation. At no time may an employee who participates in the defined contribution plan offered by the board of trustees pay contributions or pick-up contributions to the Maine State Retirement System or receive Maine State Retirement System service credit for any time during which the employee participated in the defined contribution plan.

5. Retiree health benefits. For purposes of Title 5, section 285, subsection 7, participants in the defined contribution plan offered by the board of trustees must be treated as persons who were previously eligible pursuant to Title 5, section 285, subsection 1, paragraph A if those persons have terminated employment with the system, its colleges and subsidiaries, if that employment represents the last place of employment in which those persons are eligible for health insurance coverage under Title 5, section 285 and if those persons are at least 60 years of age, except for termination due to disability when those persons are receiving disability benefits under a disability benefit program provided by the board of trustees under subsection 6. The board of trustees is responsible for payment of the State's share of health plan premiums under Title 5, section 285, subsection 7 for defined contribution plan participants if the requirements of this subsection are met.

6. Disability benefits. For employees covered under the defined contribution plan, the board of trustees shall provide a disability benefit program, the cost of which must be paid by the board of trustees.

At a minimum, that program must establish eligibility criteria, provide coverage for physical and mental disabilities and provide a level of benefits at least equal to 60% of the employee's annual compensation.

7. Administration. The board of trustees and the Maine State Retirement System shall administer this section as follows.

A. The board of trustees is responsible for providing an employee with information as to membership under the Maine State Retirement System and as to coverage under the defined contribution plan offered by the board of trustees to assist the employee in making an election decision. The Maine State Retirement System shall provide the board of trustees with information as to membership in the Maine State Retirement System.

B. The board of trustees is responsible for determining eligibility and providing procedures for making an election under this section, for maintaining all records relevant to the election process and an individual employee's election, for informing the Maine State Retirement System as to employee elections in accordance with procedures established by the Executive Director of the Maine State Retirement System and for making all administrative decisions, including the final administrative decision, in any dispute related to an employee's election or to any issue as to the plan offered by the board of trustees. Neither the Maine State Retirement System nor the Board of Trustees of the Maine State Retirement System has responsibility or jurisdiction to make the final administrative decision with respect to any of these matters. The Maine State Retirement System is responsible only to ensure that its records accurately reflect the information provided by the board of trustees, the board of trustees' decision as to any of these matters and the legally recognized outcome of any dispute related to any of these matters.

C. With respect to matters related to participation and membership in the Maine State Retirement System other than those specified in paragraph B, the Maine State Retirement System and the Board of Trustees of the Maine State Retirement System retain responsibility and authority according to applicable retirement system law and rules as to the system and its employees to whom this section applies, including the authority to make final administrative decisions.

Sec. 5. Payment of unfunded liability; administrative costs and retiree health insurance premiums. The Maine Technical College System shall make contributions toward payment of

the unfunded liability costs and administrative costs to the Maine State Retirement System and payment of the retiree health insurance premiums to the Department of Administrative and Financial Services on behalf of Maine Technical College System employees who elect to participate in a defined contribution plan offered by the Board of Trustees of the Maine Technical College System as provided in the Maine Revised Statutes, Title 20-A, section 12722, subsection 2 at the same percentage as the Maine Technical College System contributes on behalf of its employees who are active members of the retirement system.

Sec. 6. Salary increases from collective bargaining. The Department of Administrative and Financial Services shall work with representatives of the Maine Technical College System and representatives of the technical college bargaining units to develop long-term strategies to create funding methods for future salary increases resulting from the technical college collective bargaining process.

Sec. 7 Effective date. This Act takes effect September 1, 1998.

Effective September 1, 1998.

CHAPTER 764

H.P. 1438 - L.D. 2002

An Act to Delay the Implementation of Performance Budgeting for State Government

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

Whereas, Public Law 1995, chapter 705 and Public Law 1997, chapter 184 required the implementation of performance budgeting in State Government; and

Whereas, this bill delays the implementation to allow the departments and agencies of State Government to further refine their strategic plans and to solicit additional input from the Legislature; and

Whereas, several of the deadlines that are extended would occur prior to the expiration of the 90-day period; 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. 5 MRSA §1710-K, sub-§1, as amended by PL 1997, c. 184, §2, is further amended to read:

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

A. "Commission" means the Commission on Performance Budgeting.

B. "Measurable objective" means a specific quantifiable outcome that defines how an agency will achieve its goals and that defines the actual impact on the public being served rather than the level of effort expended by the agency. The use of a measurable objective is a tool to assess the effectiveness of an agency's performance and the public benefit derived.

C. "Performance budgeting" means the method for developing and finalizing an agency's request for appropriations or allocations derived from its strategic plan and consistent with an agency's statutory responsibilities. Performance budgeting allocates resources based on the achievement of measurable objectives, which in turn are related to the agency's mission and goals.

~~D. "Policy area" means a broad functional category into which executive departments, state agencies, organizations, corporations, associations or programs and subprograms are grouped according to the degree to which they share the same or similar goals; encompass activities that share a common purpose; have common or similar customers; have common or similar measurable objectives; and may be analyzed by similar methods as defined by the State Budget Officer and the Legislative Council or the council's designee.~~

E. "Program" means a grouping of activities and expected results that are directed toward the accomplishment of a set of goals and objectives consistent with statutorily defined missions and ~~represent~~ represents a department, bureau, division or operational entity to which the Legislature appropriates or allocates resources as defined by the State Budget Officer and the Legislative Council or the council's designee Legislature.

F. "State agency" means a an executive department, executive agency, independent agency, organization, corporation or association that receives a direct appropriation or allocation from the State or is required to comply with chapter