

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

recommended by the State Budget Officer and approved by the Governor.

Sec. 22. Adjustment of rates. The State Budget Officer after consultation with the Maine State Retirement System shall adjust the employer contribution rates on the effective date of this Act to fully fund this Act on an actuarially sound basis.

Sec. 23. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1998-99

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Salary Plan

Personal Services \$160,880

Provides funds to be held in reserve in the event that costs associated with the increase in the normal cost component of the employer contribution rate for retirement costs related to establishing the uniform special plan exceed the amounts available for state departments and agencies. Because the normal cost component of the employer contribution rate for state employees is actuarially established based on projected salaries as a rate that must be applied to actual salaries, the funds resulting from the application of the actuarially established rate constitute appropriated funds. The funds here specified constitute estimates and not appropriated funds.

Sec. 24. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

1998-99

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Salary Plan

Personal Services \$45,200

Provides funds to be held in reserve in the event that costs associated with the increase in the normal cost component of the employer contribution rate for retirement costs related to establishing the uniform special plan exceed the amounts available for state departments and agencies. Because the normal cost component of the employer contribution rate for state employees is actuarially established based on projected salaries as a rate that must be applied to actual salaries, the funds resulting from the application of the actuarially established rate constitute appropriated funds. The funds here specified constitute estimates and not appropriated funds.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect July 1, 1998, except that the section of this Act that amends the Maine Revised Statutes, Title 5, section 17855 takes effect January 1, 1999.

Effective July 1, 1998, unless otherwise indicated.

CHAPTER 770

H.P. 1362 - L.D. 1913

An Act to Clarify the Confidentiality of Public Employee Information

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

Sec. 1. 5 MRSA §7070, sub-§2, ¶E, as amended by PL 1997, c. 124, §2, is further amended to read:

E. Except as provided in section 7070-A, complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating

to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this paragraph, "final written decision" means:

- (1) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or
- (2) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days;

Sec. 2. 30-A MRSA §503, sub-§1, ¶B, as amended by PL 1991, c. 229, §2, is further amended to read:

B. County records containing the following:

- (1) Medical information of any kind, including information pertaining to the diagnosis or treatment of mental or emotional disorders;
- (2) Performance evaluations and personal references submitted in confidence;
- (3) Information pertaining to the creditworthiness of a named employee;
- (4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family; and
- (5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or

upholds discipline. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

- (a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or
- (b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; and

Sec. 3. 30-A MRSA §2702, sub-§1, ¶B, as amended by PL 1991, c. 229, §3, is further amended to read:

B. Municipal records pertaining to an identifiable employee and containing the following:

- (1) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;
- (2) Performance evaluations and personal references submitted in confidence;
- (3) Information pertaining to the creditworthiness of a named employee;
- (4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family; and
- (5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is

taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

- (a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or
- (b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; and

Sec. 4. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1998-99

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

State Mandates

All Other	\$100
Appropriates funds for 90% of the additional local costs associated with redacting employees' names from certain	

files. The Commissioner of Administrative and Financial Services shall distribute these funds pursuant to the Maine Revised Statutes, Title 30-A, section 5685. Amounts not required to fund 90% of the local costs associated with this Act must lapse to the General Fund.

See title page for effective date.

CHAPTER 771

S.P. 727 - L.D. 1969

An Act to Protect Students of Barbering, Cosmetology and Other Proprietary Schools

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

Sec. 1. 20-A MRSA §9502, sub-§§1 and 2, as amended by PL 1997, c. 266, §12, are further amended to read:

1. Application requirements; licensing; bonding and revocation of license. The application for a license required by this chapter must be made on forms furnished by the commissioner and be accompanied by a fee of \$100 and a surety bond ~~in the penal sum of \$10,000.~~ For applicants that participate in state or federal financial aid programs, except the Federal Direct Student Loan Program under the federal Higher Education Act of 1965, 20 United States Code, Section 1087a et seq., the bond must be in favor of the Finance Authority of Maine. For all other applicants, the bond must be in favor of the department. The amount of the bond for a new applicant is \$20,000. For renewal applicants, the amount of the bond must be equal to the greater of 10% of the applicant's gross receipts from tuition in the 12 months prior to the application for renewal or \$20,000.

A. A license is valid for the calendar year in which it is issued.

B. The bond must be continuous and must provide indemnification to any student suffering loss as a result of any fraud ~~or~~ misrepresentation, violation of this chapter or rules adopted under this chapter or breach of contract.

The bond must provide for written notification by the surety to the commissioner in the event of cancellation. Cancellation of the bond by the