

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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
1999

Sec. 1. 36 MRSA §383, as amended by PL 1989, c. 857, §75, is repealed and the following enacted in its place:

§383. Assessors' annual return to State Tax Assessor

1. Annual return. The municipal assessors and the assessors of primary assessing areas shall make and return lists, which must be seasonably furnished by the State Tax Assessor for that purpose, all such information as to the assessment of property and collection of taxes as may be needed in the work of the State Tax Assessor, including annually the land value, exclusive of buildings and all other improvements, and the valuation of each class of property assessed in their respective jurisdictions, with the total valuation and percentage of taxation, together with a statement to the best of their knowledge and belief of the ratio, or percentage of current just value, upon which the assessments are based and itemized lists of property upon which the towns have voted to affix values for taxation purposes.

2. Assessment ratio. The State Tax Assessor may establish procedures and adopt rules, in accordance with the Maine Administrative Procedure Act, designed to ensure that the ratio certified by the municipal assessors or the assessors of primary assessing areas is accurate within 20% of the state valuation ratio last determined, unless adequate evidence is presented to the State Tax Assessor by the municipalities to justify a different assessment ratio.

3. When due. The return and lists required by subsection 1 must be returned to the State Tax Assessor no later than November 1st, annually, or 30 days after commitment of taxes, whichever is later.

4. Penalty for late filing. If the complete return and lists required by this section are not filed on time, the State Tax Assessor shall impose a penalty to be deducted from state reimbursement due to the municipality or primary assessing area under section 578. For a municipality or primary assessing area with a population of 2,000 or less, the penalty is \$50 for the first late day plus \$10 for each late day thereafter. For a municipality or primary assessing area with a population of more than 2,000, the penalty is \$100 for the first late day plus \$20 for each late day thereafter. The penalty may not exceed the total amount of reimbursement due the municipality or primary assessing area under section 578.

See title page for effective date.

CHAPTER 488

H.P. 807 - L.D. 1130

An Act to Implement the Recommendations of the Task Force to Study Telecommunications Taxation

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

Sec. 1. 36 MRSA §112, sub-§9-A is enacted to read:

9-A. Review of telecommunications taxation.

By January 1, 2001 and January 1, 2004, the assessor shall review the provisions of this Title relating to the taxation of telecommunications services including the taxation of electronic commerce. The review must include an analysis of the impact of structural and technological changes in the telecommunications industry and a review of federal and other national activities relating to the taxation of telecommunications services and electronic commerce. Before issuing a final report, the assessor shall solicit comments from the Public Utilities Commission, the Public Advocate, the Maine Science and Technology Foundation, the Department of Economic and Community Development, businesses providing and using telecommunications services and electronic commerce, organizations representing municipal officials and members of the public. The assessor shall submit a report by January 1, 2001 and January 1, 2004 to the joint standing committee of the Legislature having jurisdiction over taxation matters containing the results of the review required by this subsection, the assessor's recommendations regarding changes to the laws relating to the taxation of telecommunications services and electronic commerce and a summary of significant comments received by the assessor during the review.

This subsection is repealed January 2, 2004.

Sec. 2. 36 MRSA §1752, sub-§§7-D and 8-B are enacted to read:

7-D. Network elements. "Network elements" means features, functions and capabilities that are provided by a telecommunications carrier to another telecommunications carrier including subscriber numbers, databases, signaling systems and information sufficient for billing and collection or used in the transmission, routing or other provisions of a telecommunications service.

8-B. Prepaid calling arrangement. "Prepaid calling arrangement" means the right to purchase exclusively telecommunications services, which must be paid for in advance, that enables the origination of

calls using an access number or authorization code. The sale or recharge of the service is considered a sale within the State if the transfer for consideration takes place at the vendor's place of business in the State. If the sale or recharge of a prepaid calling arrangement does not take place at the vendor's place of business, the sale or recharge is deemed to take place at the customer's shipping address, or if there is no item shipped, at the customer's billing address or the location associated with the customer's mobile telephone number. The sale of the service is deemed to occur on the date of the transfer for consideration of the service.

Sec. 3. 36 MRSA §1752, sub-§11, ¶B, as repealed and replaced by PL 1995, c. 281, §12 and affected by §42, is amended to read:

B. "Retail sale" does not include:

- (1) Any casual sale;
- (2) Any sale by a personal representative in the settlement of an estate, unless the sale is made through a retailer, or unless the sale is made in the continuation or operation of a business;
- (3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented on a short-term basis;
- (4) The sale, to a person engaged in the business of renting video tapes and video equipment, of video tapes or video equipment for rental; ~~or~~
- (5) The sale, to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more; or
- (6) The sale, to a person engaged in the business of providing cable television services, of cable converter boxes for rental or lease.

Sec. 4. 36 MRSA §1752, sub-§17-A, ¶C, as enacted by PL 1987, c. 497, §25, is amended to read:

~~C. Telephone or telegraph service~~ Telecommunications services;

Sec. 5. 36 MRSA §1752, sub-§17-A, ¶G, as amended by PL 1993, c. 701, §4, is further amended to read:

G. Rental of video tapes and video equipment; ~~and~~

Sec. 6. 36 MRSA §1752, sub-§17-A, ¶H, as amended by PL 1995, c. 281, §14 and affected by §42, is further amended to read:

H. Rental or lease of an automobile; ~~and~~

Sec. 7. 36 MRSA §1752, sub-§17-A, ¶I is enacted to read:

I. Prepaid calling arrangements.

Sec. 8. 36 MRSA §1752, sub-§18-A, as amended by PL 1997, c. 668, §22, is repealed.

Sec. 9. 36 MRSA §1752, sub-§18-B, as amended by PL 1997, c. 668, §23, is repealed.

Sec. 10. 36 MRSA §1752, sub-§§18-C and 18-D are enacted to read:

18-C. Telecommunications equipment.
"Telecommunications equipment" means any 2-way interactive communications device, system or process for transmitting or receiving signals and capable of exchanging audio, video, data or textual information. "Telecommunications equipment" does not include computers, except those components of a computer used primarily and directly as a 2-way interactive communications device capable of exchanging audio, video, data or textual information.

18-D. Telecommunications services.
"Telecommunications services" means all telecommunications services as described in this subsection.

A. "Telecommunications services" includes:

- (1) The provision of 2-way interactive communications through the use of telecommunications equipment; or
- (2) The installation, maintenance or repair of telecommunications equipment.

B. "Telecommunications services" does not include:

- (1) Service originating or terminating outside this State;
- (2) Access services;
- (3) Directory advertising services;
- (4) The sale of unbundled network elements for use in the provision of telecommunications services;
- (5) For leases entered into on or after October 1, 1996, "telecommunications ser-

vices" does not include the lease of telecommunications equipment; or

(6) A prepaid calling arrangement.

Sec. 11. 36 MRSA §1811, 2nd ¶, as amended by PL 1977, c. 198, §6, is further amended to read:

The tax imposed upon the sale and distribution of gas, water or electricity, or ~~telephone or telegraph service~~ telecommunications services, by any public utility, the rates for which sale and distribution are established by the Public Utilities Commission, ~~shall~~ must be added to the rates so established. No tax ~~shall~~ may be imposed upon the sale or use of electrical energy, or water stored for the purpose of generating electricity, when the sale is to or by a wholly owned subsidiary by or to its parent corporation, except for electrical energy or water purchased for resale to or by such wholly owned subsidiary.

See title page for effective date.

CHAPTER 489

H.P. 189 - L.D. 267

An Act to Amend the Laws Relative to Vesting in the Maine State Retirement System and to Protect Retirement Benefits Once the Right to those Benefits has Attached

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

Sec. 1. 5 MRSA §17001, sub-§13, ¶B, as amended by PL 1995, c. 462, Pt. A, §13, is further amended to read:

B. "Earnable compensation" does not include:

(1) For any member who has 10 years of creditable service by July 1, 1993 or who has reached 60 years of age and has been in service for a minimum of one year immediately before that date, payment for more than 30 days of unused accumulated or accrued sick leave, payment for more than 30 days of unused vacation leave or payment for more than 30 days of a combination of both and, effective October 1, 1999, whether or not the member is in service on October 1, 1999, the 30-day limitation may not be decreased and the exclusion set out in subparagraph (2) may not be made applicable to such a member;

(2) For any member who is not covered by subparagraph (1), payment for any unused accumulated or accrued sick leave or payment for any unused vacation leave;

(3) Any other payment that is not compensation for actual services rendered or that is not paid at the time the actual services are rendered; or

(4) Teacher recognition grants paid pursuant to Title 20-A, section 13503-A.

A payment for unused sick leave or unused vacation leave may not be included as part of earnable compensation unless it is paid upon the member's last termination before the member applies for retirement benefits.

Sec. 2. 5 MRSA §17001, sub-§13, ¶C, as repealed and replaced by PL 1995, c. 274, §1, is repealed and the following enacted in its place:

C. The following provisions govern limitations on earnable compensation.

(1) Notwithstanding the other provisions of this subsection, for the purposes of determining average final compensation, "earnable compensation" does not include any increase that exceeds the prior year's earnable compensation by more than 5% or that results in a total increase of more than 10% during the 3-year period used in the calculation of average final compensation, unless the cost of the additional actuarial liability arising from the excess increase is paid by the employer as provided in section 17154. Any payment made under paragraph B, subparagraph (1) must be included in determining the amount of increase in the year in which the payment is made. This subparagraph does not apply to excess increases resulting from compensation paid prior to July 1, 1993, from compensation paid in accordance with an individual employment contract executed prior to July 1, 1993 or a collective bargaining agreement executed or ratified in its final form by final vote of one party to the agreement prior to July 1, 1993 for the initial term of that contract or agreement or from other action by the governing body of a school administrative unit in effect on July 1, 1993. This subparagraph does not apply to increases in compensation of state employees during fiscal year 1993-94 and fiscal year 1994-95. In all circumstances in which this subparagraph does not apply to earnable compensation of state employees and teachers, the provisions of this subparagraph that were in