

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 11, 2000

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
2000

- (1) Combustion to generate electricity, industrial heat or steam;
- (2) Mulch for landscaping and soil amendment but not for landfill;
- (3) Composting of sewer sludge;
- (4) Creation of medium density fiberboard, resin adhesives or other building products; or
- (5) Conversion to ethanol or other forms of fuel derived from the residue.

<u>At least 30 miles but less than 50 miles</u>	<u>\$4</u>
<u>At least 50 miles but less than 70 miles</u>	<u>\$5</u>
<u>At least 70 miles</u>	<u>\$6</u>

A taxpayer that includes a facility or that owns or is affiliated with a facility may not claim a credit under this section. The maximum credit allowed is \$6 per ton. The credit authorized by this section may not reduce the tax below zero. The aggregate amount of credits authorized under this section may not exceed \$500,000.

"Authorized consumption" does not include a landfill deposit and does not include conversion to electricity, industrial heat or steam for a taxpayer's own use or for use by an affiliated entity.

C. "Facility" means a business that is regularly engaged in the authorized consumption of wood processing residue that is transported to the business. "Facility" may include a generator of electric power or steam, a distributor of landscaping mulch, a sewerage treatment plant, a manufacturer of building products derived from wood processing residue, an ethanol producer or a plant that produces residue-derived fuel.

D. "Taxpayer" means a business that produces merchantable lumber or secondary wood products.

E. "Wood processing residue" means bark and woody material generated in this State by a taxpayer as a by-product from the taxpayer's ordinary production of merchantable lumber or secondary wood products. "Wood processing residue" may include bark, sawdust, shavings and wood chips. "Wood processing residue" does not include limbs, tops and other slash material from logging operations, wood chips harvested directly from whole trees or material with an average moisture content greater than 55%.

2. Credit allowed. A taxpayer is allowed a credit against the tax imposed in this Part to be computed as provided in this subsection. For each ton of wood processing residue transported and delivered to a facility for authorized consumption, the credit equals the credit cap less the amount received from the facility for the wood processing residue delivered. The credit cap equals:

<u>Distance from the point of generation to the facility</u>	<u>Dollars per ton of allowable credit</u>
<u>Under 30 miles</u>	<u>\$3</u>

3. Period of application. The credit allowed by this section applies to wood processing residue that is transported and delivered during the period from July 1, 2000 to June 30, 2001 to a facility for authorized consumption. The credit must be taken during the tax year in which the transport and delivery occurs.

4. Rule-making authority. The Commissioner of Conservation, in consultation with the state economist, shall monitor, on a quarterly basis, the effectiveness of this section and, if necessary, adopt rules to ensure fair market interactions between taxpayers and facilities. The rules may contain provisions for suspension of the credit if the commissioner finds the existence of anticompetitive market conditions. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

See title page for effective date.

CHAPTER 756

H.P. 1878 - L.D. 2614

An Act to Establish Consistent Requirements in Maine State Retirement System Plans for Minimum Creditable Service for Eligibility to Receive Retirement Benefits

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

Sec. 1. 3 MRSA §851, sub-§§1 and 1-A, as amended by PL 1993, c. 410, Pt. L, §3-A, are repealed.

Sec. 2. 3 MRSA §851, sub-§§1-B and 1-C are enacted to read:

1-B. At least 10 years of creditable service or 60 years of age on July 1, 1993. A member who on

July 1, 1993, whether or not in service on that date, had 10 years of creditable service or who on July 1, 1993 had reached 60 years of age and was then in service may retire at 60 years of age or thereafter, whether or not the member is in service at retirement. Creditable service as a member of the Maine State Retirement System may be combined with creditable service as a member of the Maine Legislative Retirement System for the purpose of determining the completion of 10 years of creditable service.

1-C. Less than 10 years of creditable service on July 1, 1993. A member who on July 1, 1993 had less than 10 years of creditable service and who was in service on October 1, 1999; who had left service prior to October 1, 1999 with or without withdrawing contributions and on or after October 1, 1999 returned to service; or who first enters service on or after October 1, 1999 may retire at 62 years of age or thereafter, whether or not the member is in service at retirement, as long as the member has at the time of retirement at least 5 years of creditable service. Creditable service as a member of the Maine State Retirement System may be combined with creditable service as a member of the Maine Legislative Retirement System for the purpose of determining the completion of 5 years of creditable service.

Sec. 3. 3 MRSA §851, sub-§§2 and 2-A, as corrected by RR 1999, c. 1, §1, are amended to read:

2. Early retirement; 10 years of creditable service on July 1, 1993. Any member, whether or not in service at retirement, who on July 1, 1993 had at least 10 years of creditable service and who has completed at least 25 years of creditable service; may retire any time before the member's 60th birthday. Creditable service as a member of the Maine State Retirement System ~~after service may be combined with creditable service~~ as a member of the Maine Legislative Retirement System ~~is used in for the purpose of~~ determining the completion of 25 years of creditable service. The retirement allowance is determined in accordance with section 852, except that it is reduced by multiplying the retirement allowance by a fraction that represents the ratio of the amount of a life annuity due at age 60 years to the amount of a life annuity due at the age of retirement. The tables of annuities in effect at the date of retirement are used for this purpose.

~~This subsection applies to members who, on July 1, 1993, have 10 years of creditable service.~~

2-A. Early retirement; less than 10 years creditable service on July 1, 1993. Any member, whether or not in service at retirement, who on July 1, 1993 had less than 10 years of creditable service and who has completed at least 25 years of creditable service may retire any time before the member's 62nd

birthday. Creditable service as a member of the Maine State Retirement System ~~after service may be combined with creditable service~~ as a member of the Maine Legislative Retirement System ~~is used in for the purpose of~~ determining the completion of 25 years of creditable service. The retirement allowance is determined in accordance with section 852, except that it is reduced by 6% for each year that the member's age precedes age 62. ~~The tables of annuities in effect at the date of retirement are used for this purpose.~~

~~This subsection applies to members who, on July 1, 1993, do not have 10 years of creditable service.~~

Sec. 4. 3 MRSA §851, sub-§2-B is enacted to read:

2-B. Five-year minimum creditable service requirement for eligibility to receive a service retirement benefit at applicable age; applicability. The minimum requirement of 5 years of creditable service for eligibility to receive service retirement benefits under subsection 1-C applies only to:

A. A member who was in service on October 1, 1999;

B. Upon return to service, a member who had left service prior to October 1, 1999 with or without withdrawing that member's contributions and who on or after October 1, 1999 returned to service; or

C. A member who was first in service on or after October 1, 1999.

For those members to whom the 5-year minimum creditable service requirement does not apply, the 10-year minimum creditable service requirement for eligibility to receive service retirement benefits remains in effect on and after October 1, 1999.

Sec. 5. 4 MRSA §1351, sub-§1, as amended by PL 1993, c. 410, Pt. L, §5, is further amended to read:

1. Age 60; at least 10 years of creditable service on July 1, 1993. Any member who on July 1, 1993 had at least 10 years of creditable service may retire on or after the member's 60th birthday ~~if the member has at least 10 years of creditable service.~~ This subsection applies to members who, on July 1, 1993, have 10 years of creditable service.

Sec. 6. 4 MRSA §1351, sub-§1-A, as amended by PL 1993, c. 410, Pt. L, §6, is further amended to read:

1-A. Age 62; less than 10 years of creditable service on July 1, 1993. Any member who on July 1, 1993 had less than 10 years of creditable service may

retire on or after the member's 62nd birthday if ~~the member has at least 10 years of creditable service. This subsection applies to members who, on July 1, 1993, do not have 10 years of creditable service.~~

A. The member has at least 10 years of creditable service; or

B. The member has at least 5 years of creditable service and:

(1) Was in service on October 1, 1999;

(2) Had left service prior to October 1, 1999 with or without withdrawing contributions and on or after October 1, 1999 returned to service; or

(3) Was first in service on or after October 1, 1999.

Sec. 7. 4 MRSA §1351, sub-§2-A is enacted to read:

2-A. Five-year minimum creditable service requirement for eligibility to receive a service retirement benefit at applicable age; applicability. The minimum requirement of 5 years of creditable service for eligibility to receive service retirement benefits under subsection 1-A applies only to:

A. A member who was in service on October 1, 1999;

B. Upon return to service, a member who had left service prior to October 1, 1999 with or without withdrawing that member's contributions and on or after October 1, 1999 returned to service; or

C. A member who was first in service on or after October 1, 1999.

For those members to whom the 5-year minimum creditable service requirement does not apply, the 10-year minimum creditable service requirement for eligibility to receive service retirement benefits remains in effect on and after October 1, 1999.

Sec. 8. 4 MRSA §1351, sub-§3, as amended by PL 1993, c. 410, Pt. L, §7, is further amended to read:

3. Early retirement; at least 10 years of creditable service on July 1, 1993. Any member ~~who, whether or not in service at retirement, who on July 1, 1993 had at least 10 years of creditable service and who has completed at least 25 years of creditable service~~ may retire any time before the member's 60th birthday. The retirement allowance is determined in accordance with section 1352, except that it is reduced by multiplying the retirement allowance by a fraction

that represents the ratio of the amount of a life annuity due at age 60 to the amount of a life annuity due at the age of retirement. The tables of annuities in effect at the date of retirement are used for this purpose.

~~This subsection applies to members who, on July 1, 1993, have 10 years of creditable service.~~ 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, section F-6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV 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.

Sec. 9. 4 MRSA §1351, sub-§3-A, as repealed and replaced by PL 1993, c. 410, Pt. L, §8, is amended to read:

3-A. Early retirement; less than 10 years creditable service on July 1, 1993. Any member, whether or not in service at retirement, who on July 1, 1993 had less than 10 years of creditable service and who has completed at least 25 years of creditable service may retire any time before the member's 62nd birthday. The retirement allowance is determined in accordance with section 1352, except that the benefit is reduced by 6% for each year that the member's age precedes age 62.

~~This subsection applies to members who, on July 1, 1993, do not have 10 years of creditable service.~~

Sec. 10. 5 MRSA §17851, sub-§1-B, as enacted by PL 1999, c. 489, §7, is amended to read:

1-B. Member in service at retirement; 10 years of creditable service on July 1, 1993. A member who on July 1, 1993, had 10 years of creditable service and who is in service at retirement, or a member who on July 1, 1993 had reached 60 years of age and had been in service for a minimum of one year immediately before July 1, 1993 and has been in service for a minimum of one year immediately before retirement, qualifies for a service retirement benefit if the member retires upon or after reaching 60 years of age. ~~The~~ For the purpose of determining completion of the 10-year requirement, the 10 years of creditable service may include creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8 before becoming a member of the retirement system.

A. Effective October 1, 1999, the creditable service and age requirements of this subsection may not be increased for a member who on or before

October 1, 1999 met either of the requirements for eligibility for service retirement benefits under this subsection, whether or not the member is in service on October 1, 1999.

B. 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, or 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.

Sec. 11. 5 MRSA §17851, sub-§1-C, ¶¶A and B, as enacted by PL 1999, c. 489, §7, are amended to read:

A. Has been in service for a minimum of one year immediately before retirement or has at least 10 years of creditable service, which, for the purpose of determining completion of the 10-year requirement, may include creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8, ~~before becoming a member of the retirement system~~; or

B. Effective October 1, 1999, is in service on October 1, 1999 and had fewer than 10 years of creditable service on July 1, 1993, including any person who was not in service on July 1, 1993, and:

(1) Is in service upon or after reaching 62 years of age;

(2) Has been in service for a minimum of one year immediately before retirement or has at least 5 years of creditable service, which, for the purpose of determining completion of the 5-year requirement, may include creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8, ~~before becoming a member of the retirement system~~; and

(3) Meets the applicability requirements of subsection 3-A.

Sec. 12. 5 MRSA §17851, sub-§2-B, as enacted by PL 1999, c. 489, §10, is amended to read:

2-B. Member not in service at retirement; 10 years of creditable service on July 1, 1993. A member who on July 1, 1993 had 10 years of creditable service and who is not in service at retirement qualifies for a service retirement benefit upon or after reaching 60 years of age. The For the purpose of determining completion of the 10-year requirement, the 10 years of creditable service may include creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8 ~~before becoming a member of the retirement system.~~

A. Effective October 1, 1999, the creditable service and age requirements of this subsection may not be increased for a member who on or before October 1, 1999 met the creditable service requirements for eligibility for service retirement benefits under this subsection, whether or not the member is in service on October 1, 1999.

B. 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, or 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.

Sec. 13. 5 MRSA §17851, sub-§2-C, ¶¶A and B, as enacted by PL 1999, c. 489, §10, are amended to read:

A. Has at least 10 years of creditable service, which, for the purpose of determining completion of the 10-year requirement, may include creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8, ~~before becoming a member of the retirement system~~; or

B. Effective October 1, 1999, is in service on October 1, 1999, had left service prior to October 1, 1999 with or without withdrawing that member's contributions and on or after October 1, 1999 returns to service or is first in service on or after October 1, 1999 and:

(1) Has reached 62 years of age; and

(2) Has at least 5 years of creditable service, which, for the purpose of determining completion of the 5-year requirement, may include creditable service as a member of

the Maine Legislative Retirement System under Title 3, section 701, subsection 8, ~~before becoming a member of the retirement system.~~

Sec. 14. 5 MRSA §17851, sub-§3, as amended by PL 1999, c. 489, §11, is further amended to read:

3. Member with creditable service of 25 years or more whether or not in service at retirement. A member, whether or not in service at retirement, who has completed 25 or more years of creditable service qualifies for a service retirement benefit if the member retires at any time after completing 25 years of service, which may include, for the purpose of meeting eligibility requirements determining completion of the 25-year requirement, creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8 ~~before becoming a member of the retirement system.~~

C. Effective October 1, 1999, the number of years required to qualify for a service retirement benefit under this subsection may not be increased for members who on October 1, 1999 have met the creditable service requirement for eligibility to receive a service retirement benefit under subsection 1-B; subsection 2-B; subsection 1-C, paragraph A; subsection 1-C, paragraph B; subsection 2-C, paragraph A; or subsection 2-C, paragraph B, or who, after October 1, 1999, meet the creditable service requirement for eligibility to receive a service retirement benefit under subsection 1-C, paragraph B or subsection 2-C, paragraph B.

Sec. 15. 5 MRSA §17851, sub-§3-A, ¶¶B and C, as enacted by PL 1999, c. 489, §12, are amended to read:

B. Upon return to service, a member who had left service prior to October 1, 1999 with or without withdrawing that member's contributions and on or after October 1, 1999 returns to service; or

C. A member who is first in service on or after October 1, 1999.

Sec. 16. 5 MRSA §18451, sub-§1, ¶A, as amended by PL 1989, c. 78, §5, is further amended to read:

A. Retires upon or after reaching 60 years of age; and has been in service for a minimum of one year immediately before retirement;

Sec. 17. 5 MRSA §18451, sub-§1, ¶B, as amended by PL 1989, c. 78, §5, is repealed.

Sec. 18. 5 MRSA §18451, sub-§1, ¶¶D and E are enacted to read:

D. Except as provided in paragraph E, has at least 10 years of creditable service, which, for the purpose of determining completion of the 10-year requirement, may include creditable service as a member of the Maine Legislative Retirement System; or

E. Has at least 5 years of creditable service, which, for the purposes of determining completion of the 5-year requirement, may include creditable service as a member of the Maine Legislative Retirement System, and:

(1) Was in service on October 1, 1999;

(2) Had left prior to October 1, 1999 with or without withdrawing contributions and on or after October 1, 1999 returned to service; or

(3) Was first in service on or after October 1, 1999.

Sec. 19. 5 MRSA §18451, sub-§2, ¶A, as amended by PL 1989, c. 78, §6, is further amended to read:

A. Retires upon or after reaching 60 years of age; and, except as provided in paragraph D, has at least 10 years of creditable service, which, for the purpose of determining completion of the 10-year requirement, may include creditable service as a member of the Maine Legislative Retirement System; or

Sec. 20. 5 MRSA §18451, sub-§2, ¶B, as amended by PL 1989, c. 78, §6, is repealed.

Sec. 21. 5 MRSA §18451, sub-§2, ¶D is enacted to read:

D. Has at least 5 years of creditable service, which, for the purposes of determining completion of the 5-year requirement, may include creditable service as a member of the Maine Legislative Retirement System, and:

(1) Was in service on October 1, 1999;

(2) Had left service prior to October 1, 1999 with or without withdrawing contributions and on or after October 1, 1999 returned to service; or

(3) Was first in service on or after October 1, 1999.

Sec. 22. 5 MRSA §18451, sub-§3, as repealed and replaced by PL 1987, c. 256, §38, is amended to read:

3. Member with creditable service of 25 years or more. A member, whether or not in service at retirement, who has completed 25 or more years of creditable service qualifies for a service retirement benefit if ~~he~~ the member retires at any time after completing 25 years of service, which may include, for the purpose of meeting eligibility requirements, creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8, ~~before becoming a member of the Maine State Retirement System.~~

Sec. 23. 5 MRSA §18451, sub-§3-A is enacted to read:

3-A. Five-year minimum creditable service requirement for eligibility to receive service retirement benefit at applicable age; applicability. The minimum requirement of 5 years of creditable service for eligibility to receive service retirement benefits under subsection 1, paragraph E or subsection 2, paragraph D applies only to:

A. A member who is in service on October 1, 1999;

B. Upon return to service, a member who had left service prior to October 1, 1999 with or without withdrawing that member's contributions and on or after October 1, 1999 returned to service; or

C. A member who was first in service on or after October 1, 1999.

For those members to whom the 5-year minimum creditable service requirement does not apply, the 10-year minimum creditable service requirement for eligibility to receive service retirement benefits remains in effect on and after October 1, 1999.

Sec. 24. Expenditures in excess of allocations. Expenditures of funds required by this Act other than the General Fund are authorized to exceed legislative allocations during the fiscal year ending June 30, 2001. Appropriate adjustments to basic work programs facilitating these expenditures in excess of allocations must be recommended by the State Budget Officer and approved by the Governor.

Sec. 25. Adjustment of rates. After consultation with the Maine State Retirement System, the State Budget Officer shall adjust the normal cost component of the employer contribution rates on the

effective date of this Act to fully fund this Act on an actuarially sound basis.

See title page for effective date.

CHAPTER 757

H.P. 1923 - L.D. 2669

An Act to Implement the Tax Policy Recommendations of the Task Force Created to Review Smart Growth Patterns of Development

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

Sec. 1. 36 MRSA §2013, sub-§§2 and 3, as amended by PL 1993, c. 151, §1, are further amended to read:

2. Refund authorized. Any person, association of persons, firm or corporation ~~who that purchases electricity, or that purchases or leases depreciable machinery or equipment, for use in commercial agricultural production, commercial fishing or commercial aquacultural production must be refunded the amount of sales tax paid by upon presenting to the State Tax Assessor evidence that the machinery or equipment complies with the definitions of subsection 4 the purchase is eligible for refund under this section.~~

Evidence required by the ~~State Tax Assessor~~ assessor may include a copy or copies of that portion of the purchaser's or lessee's most recent filing under the United States Internal Revenue Code that indicates that the purchaser or lessee is engaged in commercial agricultural production, commercial fishing or commercial aquacultural production and that the purchased machinery or equipment is depreciable for those purposes or would be depreciable for those purposes if owned by the lessee.

In the event that any piece of machinery or equipment is only partially depreciable under the United States Internal Revenue Code, any reimbursement of the sales tax must be prorated accordingly.

Application for refunds must be filed with the ~~State Tax Assessor~~ assessor within 36 months of the date of purchase or execution of the lease.

3. Purchases made free of tax with certificate. Sales tax ~~is not~~ need not be paid on the purchase of electricity or of a single item of machinery or equipment if the purchaser has the certification of obtained a certificate from the State Tax Assessor assessor stating that the purchaser is engaged in commercial agricultural production, commercial fishing or commercial aquacultural production and that autho-