

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 25, 2002

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
2002

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

Sec. 1. 20-A MRSA §11613, first ¶, as amended by PL 2001, c. 70, §7, is further amended to read:

The authority shall establish the need of a student for a Maine State Grant for an academic year for which the student applies. A student is considered to have a need to qualify for a grant if the total of the expected family contribution, together with any Pell Grant established pursuant to the Higher Education Act of 1965, Title IV, as amended, United States Code, Title 20, and a Maine State Grant does not exceed 75% of the cost of attendance at the institution the student attends. This section does not require that a student receive or apply for or be eligible for a Pell Grant but only that a student be eligible for a Pell Grant provided, however, that the amount of any Pell Grant that a student is entitled to receive must be included in calculating the amount of a Maine State Grant whether or not the student receives the Pell Grant.

See title page for effective date.

CHAPTER 481

S.P. 655 - L.D. 1834

An Act to Ensure Continued Reporting of Tax Incentive Recipients

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

Sec. 1. 5 MRSA §12004-I, sub-§6-E, as enacted by PL 1997, c. 761, §1, is repealed.

Sec. 2. 5 MRSA §13070-J, as amended by PL 1999, c. 790, Pt. A, §3, is further amended to read:

§13070-J. Business reporting associated with eligibility for public subsidies and incentives

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

~~A. "Commission" means the Economic Development Incentive Commission established in section 12004-I, subsection 6-E.~~

B. "Commissioner" means the Commissioner of Economic and Community Development.

C. "Department" means the Department of Economic and Community Development.

D. "Economic development incentive" means:

- (1) Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;
- (2) The Governor's Training Initiative Program under Title 26, chapter 25, subchapter IV;
- (3) Municipal tax increment financing under Title 30-A, chapter 207;
- (4) The jobs and investment tax credit under Title 36, section 5215;
- (5) The research expense tax credit under Title 36, section 5219-K;
- (6) Reimbursement for taxes paid on certain business property under Title 36, chapter 915; or
- (7) Employment tax increment financing under Title 36, chapter 917.

E. "Economic development proposal" means proposed legislation that establishes a new program or that expands an existing program that:

- (1) Is intended to encourage significant business expansion or retention in the State; and
- (2) Contains a tax expenditure, as defined in section 1664, or a budget expenditure with a cost that is estimated to exceed \$100,000 per year.

2. Disclosure. Each applicant for an economic development incentive described in subsection 1, paragraph D, subparagraphs (1) to (4) and (7) shall at a minimum identify in writing:

A. The public purpose that will be served by the ~~employer~~ business through use of the economic development incentive and the specific uses to which the benefits will be put; and

B. The goals of the ~~employer~~ business for the number, type and wage levels of jobs to be created or retained as a result of the economic development incentive received.

Applications filed under this subsection are public records for purposes of Title 1, chapter 13.

3. Report. Annually, ~~an employer~~ a business receiving an economic development incentive, the value of which exceeds \$10,000 in one year, shall submit a written report to the commissioner no later than August 1st of the following year containing but not limited to the following information:

- A. The amount of assistance received by the employer business in the preceding year from each economic development incentive and the uses to which that assistance has been put;
- B. The total amount of assistance received from all economic assistance programs;
- C. The number, type and wage level of jobs created or retained as a result of an economic development incentive;
- D. Current employment levels for the employer business for all operations within the State, the number of employees in each job classification and the average wages and benefits for each classification;
- E. Any changes in employment levels that have occurred over the preceding year; and
- F. An assessment of how the employer business has performed with respect to the public purpose identified in subsection 2, paragraph A, if applicable.

The department shall mail report forms by May 15th of each year to every employer business required to file a report under this subsection. Reports filed under this subsection are public records for purposes of Title 1, chapter 13.

4. Agency reports. The following agencies shall submit the following reports.

- A. The State Tax Assessor shall submit a report by October 1st annually to the Legislature ~~and the commission~~ identifying the amount of public funds spent and the amount of revenues foregone as the result of economic development incentives. The report must identify the amount of the economic development incentives under the jurisdiction of the Bureau of Revenue Services received by each employer business to the extent permitted under Title 36, section 191 and other provisions of law concerning the confidentiality of information.
- B. The Commissioner of Labor shall report by October 1st annually to the Legislature ~~and the commission~~ on the amount of public funds spent on workforce development and training programs directly benefiting businesses in the State. The report must identify the amount of economic development incentives under the jurisdiction of the Department of Labor received by each employer business and the public benefit resulting from those economic development incentives.
- C. The Maine Technical College System shall report by October 1st annually to the Legislature

~~and the commission~~ on the amount of public funds spent on job training programs directly benefiting businesses in the State. The report must identify the amount of economic development incentives under the jurisdiction of the system received by each employer business and the public benefit resulting from those economic development incentives.

D. The department shall report by October 1st annually to the Legislature ~~and the commission~~ on the amount of public funds spent for the direct benefit of businesses in the State under municipal tax increment financing, employment tax increment financing and the Governor's training initiative. The report must identify the amount of economic development incentives under the jurisdiction of the department received by each employer business and the public benefit resulting from those economic development incentives.

E. The department shall report by October 1st annually to the State Tax Assessor a listing of employers businesses that have failed to submit reports required under subsection 3. The report must document that each employer business included in the report was provided with reasonable official notification of its noncompliance and that its failure to submit the required report within 30 days would result in the withholding and potential forfeiture of reimbursements for which the employer business may be eligible under Title 36, chapter 915. The notification must be in the form of a letter posted by certified mail before August 15th of the reporting year. If the department subsequently receives a report from the employer business, the department shall so notify the State Tax Assessor.

F. Prior to any forfeiture of benefits under Title 36, section 6652, subsection 3, the department shall make a written determination that the report required by subsection 3 either has not been received or is not in an acceptable form. A copy of that written determination, including the reasons for the determination, must be mailed to the claimant by certified mail. The determination made by the department constitutes final agency action that is subject to review by the Superior Court in accordance with the Maine Administrative Procedure Act, except that sections 11006 and 11007 do not apply. The Superior Court shall conduct a de novo hearing and make a de novo determination as to whether the claimant has filed a report in substantial compliance with this section. The Superior Court shall make its own determination as to all questions of fact and law. The Superior Court shall enter such orders and decrees as the case may require. In the event

that the department's determination is appealed to Superior Court pursuant to this paragraph, forfeiture of the claimant's right to receive reimbursement of taxes under Title 36, chapter 915 may not occur unless the Superior Court, subject to any appeal to the Law Court, finds that the claimant had not substantially complied with the reporting requirements of this section.

5. Rules. Rules adopted by the commissioner under this section are routine technical rules as defined in chapter 375, subchapter II-A.

Sec. 3. 5 MRSA §13070-K, as enacted by PL 1997, c. 761, §2, is amended to read:

§13070-K. Economic development incentive contract

If the commissioner enters into a contractual relationship with ~~an employer~~ a business regarding the provision of an economic development incentive in return for the ~~employer's~~ business's agreement to locate, expand or retain its facilities in the State, that contract must contain a statement of the State's expected public benefit from its investment of public funds.

Sec. 4. 5 MRSA §13070-L, as amended by PL 1999, c. 768, §3, is repealed.

Sec. 5. 5 MRSA §13070-M, as amended by PL 1999, c. 768, §4, is repealed.

See title page for effective date.

CHAPTER 482

H.P. 1496 - L.D. 1999

**An Act to Clarify Recent
Amendments to the Maine Consumer
Credit Code**

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

Whereas, in Public Law 2001, chapter 82 the Legislature amended the law to provide customers with the option of deferring a first payment of interest on the purchase of an automobile for a period of up to 12 months so as to allow customers the same options available to consumers in other states and to allow new car automobile dealers in the State to compete effectively by providing to Maine consumers the same products offered by dealers in neighboring states; and

Whereas, a question has arisen as to the interpretation of the language contained in Public Law 2001, chapter 82; and

Whereas, the Department of Professional and Financial Regulation has issued Joint Advisory Ruling #109, which addresses the questions raised in connection with that law; and

Whereas, a delay in amending the law will affect transactions occurring daily throughout the State to the detriment of consumers and businesses; 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. 9-A MRSA §3-308, sub-§3, as amended by PL 2001, c. 82, §1, is further amended to read:

3. A schedule of payments may provide for the deferral of the first periodic payment subsequent to any down payment for a period of not more than 12 months, except that interest or costs may not accrue in connection with the deferral of the first periodic payment if the deferral is for a period of time in excess of 90 days;

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective February 21, 2002.

CHAPTER 483

H.P. 1457 - L.D. 1954

**An Act to Repeal the Sunset
Provision Regarding the State Police
Providing Services at Cost to
Governmental and Nongovernmental
Entities**

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

Whereas, current law allowing the State Police to provide services to governmental and nongovernmental entities at cost will expire on July 30, 2002; and