

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
November 22, 2003

SECOND REGULAR SESSION
January 7, 2004 to January 30, 2004

The General Effective Date For
Second Regular Session
Non-Emergency Laws Is
April 30, 2004

SECOND SPECIAL SESSION
February 3, 2004 to April 30, 2004

The General Effective Date For
Second Special Session
Non-Emergency Laws Is
July 30, 2004

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2004

Initiative: Deallocates funds through a restructuring of bonds issued in June 2004.

Highway Fund	2003-04	2004-05
All Other	\$0	(\$577,778)
Highway Fund Total	\$0	(\$577,778)

TRANSPORTATION, DEPARTMENT OF	2003-04	2004-05
DEPARTMENT TOTALS	\$0	(\$902,778)
HIGHWAY FUND	\$0	(\$902,778)
DEPARTMENT TOTAL - ALL FUNDS	\$0	(\$902,778)

TREASURER OF STATE, OFFICE OF

Debt Service - Treasury

Initiative: Deappropriates funds through a restructuring of bonds issued in June 2004.

General Fund	2003-04	2004-05
All Other	\$0	(\$8,144,097)
General Fund Total	\$0	(\$8,144,097)

TREASURER OF STATE, OFFICE OF	2003-04	2004-05
DEPARTMENT TOTALS	\$0	(\$8,144,097)
GENERAL FUND	\$0	(\$8,144,097)
DEPARTMENT TOTAL - ALL FUNDS	\$0	(\$8,144,097)

SECTION TOTALS	2003-04	2004-05
GENERAL FUND	\$0	(\$144,097)
HIGHWAY FUND	0	(902,778)
SECTION TOTAL - ALL FUNDS	\$0	(\$1,046,875)

PART III

Sec. III-1. 35-A MRSA §7104-B, sub-§6, as enacted by PL 1999, c. 409, §2, is amended to read:

6. Coordination with federal funds. Qualified Except as provided in paragraph A, qualified schools and qualified libraries shall apply for any federal discounts available pursuant to the federal Telecommunications Act of 1996. The level of discount, pursuant to subsection 4, is determined by the commission.

A. A qualified library is not required to apply for a federal discount pursuant to the federal Telecommunications Act of 1996 if the library determines that satisfying conditions for receiving that discount would substantially compromise the library's standards or mission. If the qualified library does not receive a federal discount as a result of a determination made in accordance with this paragraph, the commission shall estab-

lish an enhanced level of discount pursuant to subsection 4 to ensure the library is not substantially disadvantaged by that determination. The commission shall establish a level of discount that mitigates, to the maximum extent the commission determines appropriate, the financial impact on the library resulting from its not receiving the federal discount.

See title page for effective date, unless otherwise indicated.

CHAPTER 674

H.P. 1471 - L.D. 1964

An Act To Protect Forest Products, Loggers and Haulers

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

Sec. 1. 26 MRSA §1351, as enacted by PL 2003, c. 670, §3, is amended to read:

§1351. Legislative findings

The Legislature finds that Maine's forest products industry is a vital component of Maine's economy and has a direct relationship to the economic health and welfare of workers, communities and businesses. Central to the viability of the forest products industry is a stable workforce of loggers and wood haulers available to harvest wood from Maine's forests and bring the wood to mills and other wood-using industry. The erosion of the logger and wood hauler infrastructure in any major region of the State can have a serious negative effect on wood products manufacturing throughout the State. The Legislature further finds that, based upon patterns and configurations of forest landownership, the harvesting and hauling of forest products are performed by numerous loggers and truckers who, in many cases, are not able individually to bargain effectively with forest landowners who possess overwhelming market power. The Legislature finds that such market power exists whenever ~~a~~ one forest landowner owns, possesses or acquires economic control over more than 400,000 acres in a labor market area, which acreage constitutes more than 30% of the total land area in that labor market area. Accordingly, the Legislature finds it necessary, in the absence of sufficiently vigorous competitive market forces, to displace competition as provided in this chapter. The inequity of power in determining compensation and the lack of opportunity to join together in bargaining over compensation can result in unfair contract rates for the services of loggers and wood haulers. The Legislature finds evidence of unfairness in the fact that contract rates for

harvesting and hauling services are considerably lower on the land of such owners. The Legislature finds that it is in the public interest to ensure a reasonable rate of compensation for harvesting and hauling services and therefore creates in this chapter a process whereby the State displaces existing market forces and, upon request, sets the rates of compensation for such services.

Sec. 2. 26 MRSA §1352, sub-§5, ¶A, as enacted by PL 2003, c. 670, §3, is amended to read:

A. A person that owns directly or through affiliated persons, or possesses economic control over, more than 400,000 acres in a labor market area, which acreage constitutes more than 30% of the total land area in that labor market area; or

Sec. 3. 26 MRSA §1352, sub-§10, as enacted by PL 2003, c. 670, §3, is amended to read:

10. Person. "Person" includes one or more individuals, partnerships, corporations, limited liability corporations, business organizations and associations.

See title page for effective date.

CHAPTER 675

H.P. 1336 - L.D. 1814

An Act Concerning Disability Retirement Benefits under the Maine State Retirement System

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

Sec. 1. 5 MRSA §17907, sub-§2, ¶B, as amended by PL 1987, c. 256, §17, is further amended to read:

B. After the disability has continued for 5 years, the disability of the beneficiary must render ~~him~~ the beneficiary unable to engage in any substantially gainful activity for which the beneficiary is qualified by training, education or experience. For purposes of this paragraph, the ability to engage in substantially gainful activity is demonstrated by the ability to perform work resulting in annual earnings that exceed \$20,000 or 80% of the recipient's average final compensation at retirement, whichever is greater, adjusted by the same percentage adjustments granted under section 17806.

(1) The executive director may require, once each year, a recipient of a disability retirement benefit to undergo medical examinations or tests, conducted in accor-

dance with section 17903, to determine the disability of the beneficiary.

(2) If the beneficiary refuses to submit to the examination or tests under subparagraph (1), ~~his~~ the beneficiary's disability retirement benefit ~~shall be~~ is discontinued until ~~he~~ the beneficiary withdraws the refusal.

(3) If the beneficiary's refusal under subparagraph (2) continues for one year, all ~~his~~ the beneficiary's rights to any further benefits under this article ~~shall~~ cease.

(4) If it is determined, on the basis of the examination or tests under subparagraph (1), that the disability of a beneficiary no longer exists, the payment of ~~his~~ the beneficiary's disability retirement benefit ~~shall cease~~ ceases;

Sec. 2. 5 MRSA §17929, sub-§2, ¶B, as amended by PL 1995, c. 643, §15, is further amended to read:

B. The executive director may require, once each year, that the person undergo examinations or tests, conducted in accordance with section 17926, to determine the person's disability. The executive director may refer the records documenting the results of the examinations or tests and the person's file to the medical board for medical consultation regarding rehabilitation in accordance with section 17106, subsection 3, paragraph E.

(1) After the disability has continued for 2 years, the disability must render the person unable to engage in any substantially gainful activity that is consistent with the person's training, education or experience and average final compensation adjusted by the same percentage adjustment as has been received under section 17806. The disability retirement benefit continues if the person can effectively demonstrate to the executive director that the person is actively seeking work. For the purposes of this subparagraph, the ability to engage in substantially gainful activity is demonstrated by the ability to perform work resulting in annual earnings that exceed \$20,000 or 80% of the recipient's average final compensation at retirement, whichever is greater, adjusted by the same percentage adjustments granted under section 17806.

(2) If the person refuses to submit to the examinations or tests under this paragraph, the disability retirement benefit is discon-