

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION

July 29, 2005

SECOND REGULAR SESSION

January 4, 2006 to May 24, 2006

THE GENERAL EFFECTIVE DATE FOR

SECOND SPECIAL SESSION

NON-EMERGENCY LAWS IS

OCTOBER 28, 2005

THE GENERAL EFFECTIVE DATE FOR

SECOND REGULAR SESSION

NON-EMERGENCY LAWS IS

AUGUST 23, 2006

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

Penmor Lithographers

Lewiston, Maine

2006

CHAPTER 499

H.P. 1343 - L.D. 1902

An Act Concerning Energy
Conservation in Schools

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

Sec. 1. 20-A MRSA §15915, sub-§1, as amended by PL 2001, c. 376, §1, is further amended to read:

1. Initial agreement. Any school administrative unit may enter into an agreement of up to ~~20~~ 15 years with a private party, such as an energy service or 3rd-party financing company, for the design, installation, operation, maintenance and financing of energy conservation or combined energy conservation and air quality improvements at existing school administrative unit facilities. The school administrative unit's costs to enter into such an agreement are not applicable to the unit's school construction project costs, the debt service on which is eligible for subsidy purposes under section 15907. Such an agreement is deemed to be a professional service, which is not subject to the competitive bidding requirements of Title 5, section 1743-A, if the agreement:

- A. Provides for operation or maintenance of the improvement for at least 5 years or the entire term of the financing agreement if longer than 5 years;
- B. Requires a guaranty by the contractor that the improvement will meet performance criteria set forth in the agreement for at least 5 years or for the entire term of the financing agreement if longer than 5 years; and
- C. Has a total contract cost, excluding interest and operating and maintenance costs, of less than ~~\$1,000,000~~ \$2,000,000 for any school building.

A school administrative unit may select contractors for these professional services on the basis of a request for qualifications or a request for proposals and it is not required to use a competitive method set forth in this chapter and Title 5, section 1743-A and Private and Special Law 1999, chapter 79. The selection process must include at a minimum a request for qualifications or a request for proposals that is advertised in a newspaper of general circulation in the school administrative unit and a newspaper of general circulation in the City of Augusta. The school administrative unit shall interview not ~~less~~ fewer than 3 service providers unless a smaller number of service providers responds to the request for qualifications or requests for proposals. The performance criteria in the agreement is subject to approval by the Department of

Administrative and Financial Services, Bureau of General Services. A request for qualifications or proposals may not contain terms that require service providers to have more than 3 years of experience in the energy conservation field or the use of equipment that is not generally available to service providers or terms that are otherwise included for the purpose of bias or favoritism toward a particular service provider. Objections to the terms of a request for qualifications or proposals under this subsection are deemed waived if not delivered in writing to the office of the superintendent of schools in that school administrative unit within 21 days of the last publication of the newspaper advertisement.

See title page for effective date.

CHAPTER 500

H.P. 1318 - L.D. 1878

An Act To Protect Small Payroll
Processors

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

Sec. 1. 10 MRSA §980-D is enacted to read:

§980-D. Payroll Processor Recovery Fund

The Payroll Processor Recovery Fund, referred to in this section as "the fund," is created. The fund must be deposited with and maintained by the authority. The fund must be administered by the Director of the Office of Consumer Credit Regulation within the Department of Professional and Financial Regulation, referred to in this section as "the fund administrator," in accordance with the provisions of chapter 222. All money received by the authority from the fund administrator for the purpose of providing a source of recovery for employers injured by a payroll processor's failure to pay taxes or unemployment premiums must be credited to the fund. A portion of the interest earned on money in the fund may be used to pay the fund maintenance expenses of the authority; the balance must be credited to the fund. The balance in the fund must revert to the fund administrator if the need for the fund is obviated.

Sec. 2. 10 MRSA §1495, sub-§1-A, as enacted by PL 2003, c. 668, §1 and affected by §12, is amended to read:

1-A. Administrator. "Administrator" means, except in cases in which the payroll processor is a supervised financial organization or a wholly owned subsidiary of a supervised financial organization as defined by Title 9-A, section 1-301, subsection 38-A, the Director of the Office of Consumer Credit

Regulation within the Department of Professional and Financial Regulation. In cases in which the payroll processor is a supervised financial organization or a wholly owned subsidiary of a supervised financial organization as defined by Title 9-A, section 1-301, subsection 38-A, "administrator" means the Superintendent of Financial Institutions within the Department of Professional and Financial Regulation. For the purposes of this subsection, "supervised financial organization" has the same meaning as in Title 9-A, section 1-301, subsection 38-A.

Sec. 3. 10 MRSA §1495-E, sub-§2, as amended by PL 2005, c. 278, §4, is further amended to read:

2. Modification of bond requirement. ~~If bonding is unavailable under the terms and conditions of subsection 1, the~~ The administrator, within the administrator's discretion, may modify ~~these~~ terms and conditions specified in subsection 1 or may permit submission of an irrevocable letter of credit or other alternative form of security so as to ensure the maximum practicable or appropriate protection for employers.

Sec. 4. 10 MRSA §1495-E, sub-§2-A is enacted to read:

2-A. Alternative security; Payroll Processor Recovery Fund. The Director of the Office of Consumer Credit Regulation within the Department of Professional and Financial Regulation, referred to in this subsection as "the fund administrator," shall administer the Payroll Processor Recovery Fund, established in section 980-D and referred to in this section as "the fund." Participation in the fund must be made available to any payroll processor that is not a supervised financial organization as defined in Title 9-A, section 1-301, subsection 38-A or a wholly owned subsidiary of such a supervised financial organization. The fund administrator may increase the fund, replenish the fund and seek reimbursement for the fund administrator's initial deposit into the fund through annual or special assessments against payroll processors using the fund. Before being eligible to participate in the fund, a payroll processor must provide a \$10,000 surety bond or irrevocable letter of credit in a form acceptable to the fund administrator. Assessments into the fund must be in amounts equal to 1% of the balance of bond coverage required pursuant to this section. An initial deposit into the fund must be made by the fund administrator in an amount not less than 1/2 of the maximum amount of a surety bond or other security required pursuant to subsection 1. All amounts assessed by the fund administrator must be paid into the fund until the fund reaches the maximum amount of a surety bond or other security required pursuant to subsection 1, after which time assessments must be equally divided between payments into the

fund and payments to the fund administrator until the fund administrator is reimbursed for the fund administrator's initial deposit into the fund. If an employer's loss due to a participating payroll processor's failure to pay taxes or unemployment insurance premiums is demonstrated to the satisfaction of the fund administrator, the fund administrator shall require release of funds to the fund administrator for the benefit of the employer. If employer losses exceed the maximum amount recoverable pursuant to this subsection, funds are distributed to employers on a pro rata basis, based on the magnitude of the demonstrated loss. In the event an initial claim is made against the fund, any other claims arising within 45 days of the initial claim must be treated as having arisen on the same day as the initial claim for purposes of allocating recoveries to affected employers. Total funds released as a result of the failure of any one payroll processor to pay taxes or unemployment insurance premiums may not exceed 50% of the current fund balance. Fund proceeds must be used only for recovery of unpaid taxes and unemployment insurance premiums and may not be used for any other purpose.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

**PROFESSIONAL AND FINANCIAL REGULATION,
DEPARTMENT OF**

Office of Consumer Credit Regulation 0091

Initiative: Allocates funds for the initial deposit into the Payroll Processor Recovery Fund.

OTHER SPECIAL REVENUE		
FUNDS	2005-06	2006-07
All Other	\$0	\$250,000
<hr/>		
OTHER SPECIAL REVENUE		
FUNDS TOTAL	\$0	\$250,000

See title page for effective date.

CHAPTER 501

H.P. 1238 - L.D. 1730

**An Act To Ensure Business Equity in
Commercial Vehicle Registration**

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

Sec. 1. 29-A MRSA §513, sub-§1-A is enacted to read:

1-A. Registration required. Special mobile equipment used on public ways, including, but not limited to, equipment that is rented from a location in this State or outside this State, regardless of whether