

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

SECOND REGULAR SESSION
January 6, 2010 to April 12, 2010

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 12, 2010

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

Augusta, Maine
2010

under this chapter. The institution's organizational documents must address the powers and duties of officers.

Sec. B-4. 9-B MRSA §352, sub-§5, as amended by PL 2005, c. 543, Pt. D, §4 and affected by §18, is further amended to read:

5. Rights of dissenting investors. The rights of investors dissenting to the merger or consolidation are those specified in Title 13-C or Title 31, chapter ~~13~~, 15 ~~or~~, 19 ~~or~~ 21, depending upon the organizational form of the institution. To the extent that dissenters' rights are not addressed in Title 31 or these rights are less beneficial to the dissenting investors than those rights listed in the institution's organizational documents, the organizational documents govern.

Sec. B-5. 9-B MRSA §1222, sub-§1, as amended by PL 2005, c. 543, Pt. D, §5 and affected by §18, is further amended to read:

1. Organization. A merchant bank must be organized pursuant to chapter 31 and must be managed and governed pursuant to this Title and the applicable provisions of Title 13-C and Title 31, chapters ~~13~~, 15 ~~and~~, 19 ~~and~~ 21, depending upon the organizational form selected.

Sec. B-6. 10 MRSA §1521, sub-§2-B, as amended by PL 2003, c. 344, Pt. A, §4, is further amended to read:

2-B. Limited liability company name. "Limited liability company name" includes a limited liability company name, reserved name, assumed name or registered name as those terms are used in Title 31, sections ~~603-A 1508~~ to ~~606-A 1511~~.

Sec. B-7. 31 MRSA §7, as amended by PL 2007, c. 535, Pt. A, §3 and affected by §7, is further amended to read:

§7. Inapplicable to corporations, limited partnerships or limited liability companies

Sections 1 and 2 do not apply to corporations, limited partnerships or limited liability companies. A corporation desiring to do business under an assumed name shall file a statement as provided in Title 13-C, section 404. A limited partnership desiring to do business under an assumed name shall file a statement as provided in section 1308, subsection 2. A limited liability company desiring to do business under an assumed name shall file a statement as provided in section ~~605-A 1510~~.

Sec. B-8. 31 MRSA §876, as amended by PL 2005, c. 543, Pt. D, §17 and affected by §18, is further amended to read:

§876. Application to existing foreign limited liability partnerships; definition

All foreign limited liability partnerships qualified as foreign corporations or limited partnerships or limited liability companies before September 1, 1996 are governed by this Act on and after September 1, 1996. By December 1, 1996 a partner of each foreign limited liability partnership shall file with the Secretary of State an application for authority to do business in this State under this Act and shall cancel the partnership's authority to do business in this State under chapter 19, ~~former~~ chapter 13 or former Title 13-A. If the foreign limited liability partnership fails to file the new application for authority to do business in this State by December 1, 1996, it must be treated as a general partnership without the status of a limited liability partnership with respect to any business conducted in this State between December 1, 1996 and the date on which it files that application.

Sec. B-9. 36 MRSA §5180, sub-§1, as enacted by PL 1999, c. 414, §41, is amended to read:

1. Classified as partnership. For purposes of taxation pursuant to this Part, a limited liability company formed under Title 31, ~~former~~ chapter 13 ~~or~~ chapter 21 or qualified to do business in this State as a foreign limited liability company is classified as a partnership, unless classified otherwise for federal income tax purposes, in which case the limited liability company is classified in the same manner as it is classified for federal income tax purposes.

Sec. B-10. 36 MRSA §5180, sub-§2, as enacted by PL 1999, c. 414, §41, is repealed.

Effective July 1, 2011.

CHAPTER 630

S.P. 683 - L.D. 1776

An Act To Protect Retirement Income

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

Whereas, there are members of the retirement system who are subject to furloughs and who may be planning to retire for fiscal years ending June 30, 2010 and June 30, 2011; 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. 5 MRSA §17001, sub-§4, ¶A, as amended by PL 2009, c. 571, Pt. RRR, §1, is further amended to read:

A. The average annual rate of earnable compensation of a member during the 3 years of creditable service as an employee in Maine, not necessarily consecutive, in which the member's annual rate of earnable compensation is highest. However, if a member is subject to a temporary layoff or other time off without pay as a result of a Governor's Executive Order, time off without pay or loss of pay pursuant to the agreements of February 15, 1991, October 23, 1991 and June 11, 1993 between the Executive Department and the American Federation of State, County and Municipal Employees, Council 93, time off without pay pursuant to the agreement of June 11, 1993 between the Executive Department and the Maine State Employees Association, days off without pay as authorized by legislative action or days off without pay resulting from any executive order declaring or continuing a state of emergency relating to the lack of an enacted budget document for fiscal years ending June 30, 1992 and June 30, 1993, or, if a member elects to make the payments as set forth in section 17704-B, as a result of days off without pay or for days worked for which the level of pay is reduced as the result of the freezing of merit pay and longevity pay as authorized by legislative action, by the State Court Administrator or from executive order for the fiscal year beginning July 1, 2002, July 1, 2009 or July 1, 2010, or a combination thereof, or, if a member is subject to days off without pay, not to exceed 10 days in each fiscal year ending June 30, 1992 and June 30, 1993, as a result of actions taken by local school administrative units to offset school subsidy reductions, or, if a member is subject to days off without pay during the fiscal year beginning July 1, 2009 or July 1, 2010, as a result of actions taken by a local school administrative unit and the member elects to make the payments as set forth in section 17704-B or, notwithstanding section 18202, as a result of actions of a participating local district to offset reductions in municipal revenue sharing or a combination thereof, for the fiscal years ending June 30, 1992 and June 30, 1993, or, if a member is subject to days off without pay during the fiscal year beginning July 1, 2009 or July 1, 2010, as a result of actions of a participating local district and the member elects to make the payments as set forth in section 18305-C, the 3-year average final compensation must be determined as if the member had not been temporarily laid off, reduced in pay or provided days off without pay; or

Sec. 2. 5 MRSA §18305-C is enacted to read:

§18305-C. Back contributions for certain days off without pay

1. Election. If the retirement system determines at the time a member retires that the member's benefit would be increased as a result of the inclusion of compensation that would have been paid for days off without pay in fiscal year 2009-10 or 2010-11, or a combination thereof, as provided in section 17001, subsection 4, paragraph A, the retirement system shall advise the member of that result and shall allow the member to elect to have that compensation included in the calculation of the member's benefit and to make payments as set forth in subsection 2.

2. Payment. The amount that a member who makes the election permitted in subsection 1 must pay is the amount equal to the employee contribution that member would have made on compensation that would have been paid to that member on the days off without pay during fiscal year 2009-10 or 2010-11, or a combination thereof, as provided in section 17001, subsection 4, paragraph A, plus interest at the same rate as that required for repayment of withdrawn contributions pursuant to section 18304. If the member elects to make the payment, the retirement system shall withhold the required amount from the member's first retirement benefit check.

3. Benefit calculation. If a member fails to make the election within 31 days of the notification provided under subsection 1, the retirement system shall calculate the member's retirement benefit without inclusion of compensation that would have been paid for days off without pay during fiscal year 2009-10 or 2010-11, or a combination thereof, as provided in section 17001, subsection 4, paragraph A.

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

Effective April 9, 2010.

CHAPTER 631

S.P. 719 - L.D. 1811

An Act To Amend the Maine Medical Marijuana Act

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

Whereas, Initiated Bill 2009, chapter 1 was passed by the voters of the State in November 2009, establishing a new law to provide protections under state law for registered qualifying patients who use