

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 12, 2009

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

Augusta, Maine
2009

D. The present actuarial cost of the future benefit subsidy for retired state employees and teachers must be paid 1/2 by the employee and 1/2 by the employer. Payments as calculated and assessed by the Commissioner of Administrative and Financial Services must be remitted on a regular and periodic basis to the Bureau of Human Resources' State Employee Health Dedicated Revenue Account established in Title 5, section 286-A.

4. Pension plan. The task force shall design the pension plan component of the plan in accordance with this subsection and may propose additional variations on the plan.

A. Every member of the plan must contribute to both Social Security and Medicare, and the employer of each member must contribute the employer's share of Social Security and Medicare.

B. Each active member of the plan must be entitled to a supplemental defined benefit pension calculated as a percentage of base compensation for each year of service. Base compensation equals the income received in the 5th highest calendar year of service. Benefits are vested after 6 years.

C. Normal pension benefits commence after 30 years of service or at 62 years of age, whichever occurs first.

D. A member who separates from service before normal retirement may:

(1) If the member has at least 6 years of service in the plan, leave the member's contributions and interest on account in the plan until the member retires at 62 years of age, with those benefits adjusted each year by an amount equal to the Consumer Price Index, up to an annual maximum of 3.5%;

(2) Withdraw 1.5 times the amount of the member's own contributions, plus 6% interest, with the option to roll the amount withdrawn into a tax-sheltered account;

(3) Purchase one or more irrevocable annuities, or, with a spouse, joint life annuities, to commence at any future time and to end either at death or at the annuitant's normal retirement age for Social Security. The annuity values must equal 1.8 times the member's own contributions plus 6% interest. The Maine Public Employees Retirement System may serve as the annuity underwriter; or

(4) Use a combination of the options under subparagraphs (2) and (3).

5. Disability plan. The task force shall design a disability component of the plan whose structure and benefits are integrated with Social Security but are

otherwise modeled on disability benefits currently available to employees hired on or before December 31, 2010.

6. Cost of the plans. The combined actuarial cost of the retiree health insurance, the supplemental defined pension benefits and the disability provisions of the plan must be divided equally between the member and the member's employer and calculated as a percent of payroll for each member; and be it further

Sec. 2. Report. Resolved: That the task force shall submit a report on its design of the plan, together with any necessary implementing legislation, to the Joint Standing Committee on Labor by March 1, 2010. After receipt and review of the report, the joint standing committee may report out a bill to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 112

H.P. 597 - L.D. 866

Resolve, To Examine Data Discrepancies and Adequately Identify and Serve Children with Brain Injuries

Sec. 1. Review data. Resolved: That the Department of Education shall review the 2004 study of members of MaineCare under 18 years of age who were identified with a diagnosis of brain injury and compare it to the 2007 Office of Special Services data that indicated only 81 children statewide identified as having a brain injury; and be it further

Sec. 2. Evaluation. Resolved: That the Department of Education shall, in consultation with the Department of Health and Human Services, educators and pediatricians, evaluate the steps needed to better identify, educate and coordinate services consistent with best evidence-based practices for students with brain injuries in order to maximize each child's recovery and education. The department shall also investigate available tests for educators in order to develop a plan for annual health screening of children and youth in schools that includes a set of questions designed specifically to identify possible brain injury; and be it further

Sec. 3. Report. Resolved: That the Department of Education shall report to the Joint Standing Committee on Education and Cultural Affairs by February 15, 2010 with its findings, recommendations and suggested legislation. The Joint Standing Committee on Education and Cultural Affairs is authorized to submit legislation on screening and educating children

with brain injuries to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 113

S.P. 188 - L.D. 489

Resolve, Regarding Continuity of Care in the Child Development Services System

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

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, immediate resolution of eligibility and other issues is necessary for children with disabilities affected by this resolve; and

Whereas, the Department of Education must engage in emergency major substantive rulemaking to resolve these issues for children with disabilities; and

Whereas, there is an immediate need to ensure that emergency implementation of rules be undertaken to minimize any harm that might come to children as a result of application of current practices; and

Whereas, immediate enactment of this resolve is necessary to direct the Department of Education to engage in emergency major substantive rulemaking to resolve these issues; 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

Sec. 1. Department of Education to amend rules. Resolved: That, in order to ensure continuity of care, the Department of Education shall amend its rules governing special education to provide that:

1. The Individualized Educational Program Team make a determination about extended school year services at every Individualized Educational Program Team meeting;

2. The Individualized Educational Program Team may make a determination about extended school year services based on available data, including information about a child's disability, even if an interruption in service has not occurred;

3. In accordance with the federal Individuals with Disabilities Education Improvement Act of 2004, 20 United States Code, Sections 1400 to 1485 (2008), a regional site may not unilaterally limit the duration of extended school year services; and

4. Initial evaluations for special education must include procedures to determine whether a child is a child with a disability, as defined in 20 United States Code, Section 1401 (2008), within 60 calendar days of receiving parental consent for children in the Child Development Services System and within 45 school days of receiving parental consent for children in public schools and that the department may, as part of the rule-making process and in a manner consistent with major substantive rulemaking, further amend its rules to adjust timelines in the Child Development Services System to be consistent with this section; and be it further

Sec. 2. Emergency major substantive rules. Resolved: That the Department of Education shall adopt emergency major substantive rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A as soon as practicable but not later than June 30, 2009 to implement the provisions of section 1.

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

Effective June 9, 2009.

CHAPTER 114

H.P. 349 - L.D. 494

Resolve, Regarding Legislative Review of Portions of Chapter 22: Standards for Outdoor Application of Pesticides by Powered Equipment in Order To Minimize Off-target Deposition, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control

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

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and