

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 5, 2012 to July 10, 2013**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**OCTOBER 9, 2013**

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

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**Augusta, Maine**  
**2013**

ganization. Any unexpended school funds remaining with the Treasurer of State after all the obligations have been met must be added to the Unorganized Territory Education and Services Fund, as established in the Maine Revised Statutes, Title 36, chapter 115.

**Sec. B-3. Provision of education services.** Notwithstanding any other law, this section entitles all prekindergarten to grade 5 pupils in the Town of Bancroft to attend school in Kingman Township, all grade 6 to grade 8 pupils to attend a school within Maine School Administrative District 30, all grade 9 to grade 12 pupils to attend Lee Academy and all pupils requiring special education services to obtain special education services under the direction of the Director of Special Education for the Division of State Schools - Education in Unorganized Territory. Pupils must be provided transportation at state expense to those schools. Prior approval by the Director of State Schools - Education in Unorganized Territory and the approval of tuition by the Commissioner of Education are required for a pupil to attend a school other than one listed in this section. Tuition may not exceed statutory limits. Transportation of a student who attends another school is the responsibility of the parent or legal guardian. The provisions in this section are subject to modification in response to educational conditions.

**Sec. B-4. Assessment of taxes.** The State Tax Assessor shall assess the real and personal property taxes in the Town of Bancroft as of April 1, 2015, as provided in the Maine Revised Statutes, Title 36, chapter 115.

**Sec. B-5. Referendum; certificate to Secretary of State.** This Part takes effect 90 days after its approval only for the purpose of permitting its submission by the municipal officers to the legal voters of the Town of Bancroft by ballot at the next statewide election to be held in November. This election must be called, advertised and conducted according to the Maine Revised Statutes, Title 30-A, sections 2528 and 2532. The town clerk shall prepare the required ballots on which the clerk shall reduce the subject matter of this Part to the following question:

"Shall the Town of Bancroft be deorganized?"

The voters shall indicate their opinion on this question by a cross or check mark placed against the word "Yes" or "No." Before becoming effective, this Part must be approved by at least 2/3 of the legal voters voting at the election, and the total number of votes cast for and against the acceptance of this Part at the election must equal or exceed 50% of the total number of votes cast in the town for Governor at the last gubernatorial election.

The municipal officers of the Town of Bancroft shall declare the result of the vote. The town clerk

shall file a certificate of the election result with the Secretary of State within 10 days from the date of the election.

**Sec. B-6. Effective date.** Sections 1 to 4 of this Part take effect on July 1, 2015 if deorganization is approved by the voters of the Town of Bancroft pursuant to section 5 of this Part.

Effective July 1, 2015 pending referendum.

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## CHAPTER 391

### H.P. 1034 - L.D. 1440

#### An Act To Amend the Retirement Laws Pertaining to Participating Local Districts

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

**Sec. 1. 5 MRSA §18301, sub-§5** is enacted to read:

**5. Member contributions to Participating Local District Consolidated Retirement Plan.** The board may establish by rule the rate at which members who participate in the consolidated plan described in chapter 427 contribute to that plan. Rules established pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

**Sec. 2. 5 MRSA §18309, sub-§1**, as amended by PL 2007, c. 491, §221, is further amended to read:

**1. Contribution rate.** Except as provided in ~~subsection~~ subsections 2 and 3, each firefighter, including the chief of a fire department, employed by a participating local district that provides a special retirement benefit under section 18453, subsection 4 or 5, shall contribute to the Participating Local District Retirement Program or have pick-up contributions made by the employer at a rate of 8% of earnable compensation as long as employed as a firefighter.

**Sec. 3. 5 MRSA §18309, sub-§3** is enacted to read:

**3. Member contributions to Participating Local District Consolidated Retirement Plan.** The board may establish by rule the rate at which firefighters who participate in the consolidated plan described in chapter 427 contribute to that plan. Rules adopted pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

**Sec. 4. 5 MRSA §18310, sub-§1**, as amended by PL 2007, c. 491, §222, is further amended to read:

**1. Contribution rate.** Except as provided in ~~subsection~~ subsections 2 and 3, each police officer, including the chief of a police department, employed by a participating local district that provides a special

retirement benefit under section 18453, subsection 7 or 8, shall contribute to the Participating Local District Retirement Program or have pick-up contributions made by the employer at a rate of 8% of earnable compensation as long as employed as a police officer.

**Sec. 5. 5 MRSA §18310, sub-§3** is enacted to read:

**3. Member contributions to Participating Local District Consolidated Retirement Plan.** The board may establish by rule the rate at which police officers who participate in the consolidated plan described in chapter 427 contribute to that plan. Rules adopted pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

**Sec. 6. 5 MRSA §18407, sub-§4**, as amended by PL 2009, c. 473, §§5 and 6, is further amended to read:

**4. Determination of adjustment for participating local districts not covered by chapter 427.** The cost-of-living adjustment ~~shall be~~ is determined as follows.

A. Except as provided in paragraph A-1, whenever there is a percentage increase in the Consumer Price Index from July 1st to June 30th, the board shall automatically make an equal percentage increase in retirement benefits, beginning in September, up to a maximum annual increase of 4%.

A-1. If there is a percentage decrease in the Consumer Price Index from July 1st to June 30th, the board shall set the percentage change at 0% for that September. The adjustment for the following year must be set based on the actuarially compounded Consumer Price Index for both years in a cost-neutral manner. If the Consumer Price Index in the subsequent year or years is not sufficient to allow for the adjustment to be cost-neutral for the 2 years, then the adjustment needed for cost-neutrality must continue to be applied to following years until such time as the cost-neutrality requirement is met.

B. Whenever the annual percentage change in the Consumer Price Index from July 1st to June 30th exceeds 4%, the board shall make whatever adjustments in the retirement benefits are necessary to reflect an annual increase ~~or decrease~~ of 4% and shall report that adjustment and the actual increase ~~or decrease~~ in the Consumer Price Index to the Legislature by February 1st of the following year.

C. Notwithstanding any other provision of this section, the amount of annual retirement benefit otherwise payable under this Part may not be less than the retired member received on the effective

date of his retirement or on July 1, 1977, whichever amount is greater.

**Sec. 7. 5 MRSA §18407, sub-§6**, as amended by PL 1993, c. 595, §10, is further amended to read:

**6. Eligibility.** Cost-of-living adjustments under ~~this section~~ subsection 4 must be applied to the retirement benefits of all retirees who have been retired for at least 6 months before the date that the adjustment becomes payable. Beneficiaries of deceased retirees and members are eligible for the cost-of-living adjustment at the same time the deceased retiree would have become eligible.

**Sec. 8. 5 MRSA §18407, sub-§§7 and 8** are enacted to read:

**7. Determination of adjustment for participating local districts covered by chapter 427.** The cost-of-living adjustment is determined as follows.

A. Prior to July 1, 2014, the determination of cost-of-living adjustments for retirees from participating local districts covered by chapter 427 is governed by subsection 4.

B. Except as provided in paragraph C, whenever there is a percentage increase in the Consumer Price Index from July 1st to June 30th, the board shall automatically make an equal percentage increase in retirement benefits, beginning in September, up to a maximum annual increase of 3%.

C. If there is a percentage decrease in the Consumer Price Index from July 1st to June 30th, the board shall set the percentage change at 0% for that September. The adjustment for the following year must be set based on the actuarially compounded Consumer Price Index for both years in a cost-neutral manner. If the Consumer Price Index in the subsequent year or years is not sufficient to allow for the adjustment to be cost-neutral for the 2 years, the adjustment needed for the cost-neutrality must continue to be applied to following years until such time as the cost-neutrality requirement is met.

D. Whenever the annual percentage change in the Consumer Price Index from July 1st to June 30th exceeds 3%, the board shall make whatever adjustments in the retirement benefits are necessary to reflect an annual increase of 3% and shall report that adjustment and the actual increase in the Consumer Price Index to the Legislature by February 1st of the following year.

E. Notwithstanding any other provision of this section, the amount of annual retirement benefit otherwise payable under this Part may not be less than the retirement member received on the effective date of retirement or on July 1, 1977, whichever amount is greater.

**8. Eligibility.** Cost-of-living adjustments under subsection 7 must be applied to the retirement benefits of retirees as follows.

A. For retirees who retire prior to September 1, 2015, a cost-of-living adjustment is applied if the retiree has been retired for at least 6 months before the date that the adjustment becomes payable.

B. For retirees who retire on or after September 1, 2015, a cost-of-living adjustment is applied if the retiree has been retired for at least 12 months before the date that the adjustment becomes payable.

C. A beneficiary of a deceased retiree or member is eligible for the cost-of-living adjustment at the same time the deceased retiree or member would have become eligible.

**Sec. 9. 5 MRSA §18451**, as amended by PL 2007, c. 491, §§239 to 243, is further amended to read:

**§18451. Qualification for benefits for members not covered under chapter 427**

~~A member's qualification~~ Qualification for service retirement benefits for a member not covered under chapter 427 is governed by subsection 1, 2 or 3, unless the requirements of section 18453 are satisfied, in which case, one or more of the subsections of section 18453 governs.

**1. Member in service.** A member who is in service when reaching 60 years of age, or is in service after reaching 60 years of age, qualifies for a service retirement benefit if the member:

A. Retires upon or after reaching 60 years of age and has been in service for a minimum of one year immediately before retirement;

D. Except as provided in paragraph E, has at least 10 years of creditable service, which, for the purpose of determining completion of the 10-year requirement, may include creditable service as a member of the Legislative Retirement Program; or

E. Has at least 5 years of creditable service, which, for the purposes of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program, and:

- (1) Was in service on October 1, 1999;
- (2) Had left prior to October 1, 1999 with or without withdrawing contributions and on or after October 1, 1999 returned to service; or
- (3) Was first in service on or after October 1, 1999.

**2. Member not in service.** A member who is not in service when reaching 60 years of age qualifies for a service retirement benefit if the member:

A. Retires upon or after reaching 60 years of age and, except as provided in paragraph D, has at least 10 years of creditable service, which, for the purpose of determining completion of the 10-year requirement, may include creditable service as a member of the Legislative Retirement Program; or

D. Has at least 5 years of creditable service, which, for the purposes of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program, and:

- (1) Was in service on October 1, 1999;
- (2) Had left service prior to October 1, 1999 with or without withdrawing contributions and on or after October 1, 1999 returned to service; or
- (3) Was first in service on or after October 1, 1999.

**3. Member with creditable service of 25 years or more.** A member, whether or not in service at retirement, who has completed 25 or more years of creditable service qualifies for a service retirement benefit if the member retires at any time after completing 25 years of service, which may include, for the purpose of meeting eligibility requirements, creditable service as a member of the Legislative Retirement Program under Title 3, section 701, subsection 8.

**3-A. Five-year minimum creditable service requirement for eligibility to receive service retirement benefit at applicable age; applicability.** The minimum requirement of 5 years of creditable service for eligibility to receive service retirement benefits under subsection 1, paragraph E or subsection 2, paragraph D applies only to:

- A. A member who is in service on October 1, 1999;
- B. Upon return to service, a member who had left service prior to October 1, 1999 with or without withdrawing that member's contributions and on or after October 1, 1999 returned to service; or
- C. A member who was first in service on or after October 1, 1999.

For those members to whom the 5-year minimum creditable service requirement does not apply, the 10-year minimum creditable service requirement for eligibility to receive service retirement benefits remains in effect on and after October 1, 1999.

**Sec. 10. 5 MRSA §18451-A** is enacted to read:

**§18451-A. Qualification for benefits for members covered under chapter 427**

Qualification for service retirement benefits for a member covered under chapter 427 is governed by subsection 1 or 2, unless the requirements of a special plan, as established by the board by rule, have been met.

**1. Members prior to July 1, 2014.** Qualification for a service retirement benefit for a member covered under chapter 427 who was a member of a plan provided under chapter 427 prior to July 1, 2014 is governed by section 18451.

**2. Members after June 30, 2014.** After June 30, 2014, qualification for a service retirement benefit for a member who was not covered under chapter 427 is governed as follows.

A. A member who is in service when reaching 65 years of age, or is in service after reaching 65 years of age, qualifies for a service retirement benefit if the member:

(1) Retires upon or after reaching 65 years of age and has been in service for a minimum of one year immediately before retirement; and

(2) Has at least 5 years of creditable service, which, for the purposes of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program.

B. A member who is not in service when reaching 65 years of age qualifies for a service retirement benefit if the member:

(1) Retires upon or after reaching 65 years of age; and

(2) Has at least 5 years of creditable service, which, for the purposes of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program.

C. A member, whether or not in service at retirement, who has completed 25 or more years of creditable service qualifies for a service retirement benefit if the member retires at any time after completing 25 years of service, which may include, for the purpose of meeting eligibility requirements, creditable service as a member of the Legislative Retirement Program.

**Sec. 11. 5 MRSA §18452, sub-§3,** as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

**3. Member with creditable service of 25 years or more.** The amount of the service retirement benefit for members qualified under section 18451, subsection 3, ~~shall be~~ is computed in accordance with subsection 1, except that:

A. The amount arrived at under subsection 1 ~~shall be~~ is reduced by applying to that amount the percentage that a life annuity due at ~~age 60~~ years of age bears to the life annuity due at the age of retirement.

B. For the purpose of making the computation under paragraph A, the board-approved tables of annuities in effect at the date of the member's retirement ~~shall be~~ is used.

The amount of the service retirement benefit for members qualified under section 18451-A, subsection 2, paragraph C is computed in accordance with subsection 1, except that the benefit is reduced by 6% for each year that the member's age precedes 65 years of age.

**Sec. 12. 5 MRSA §18453, first ¶,** as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

A participating local district may, by filing with the board a duly certified copy of its action, provide, in lieu of any other retirement benefit in this Part, special retirement benefit plans in this section. If a member retires after becoming qualified to retire under section 18451 or 18451-A, ~~his~~ the member's retirement benefit ~~will~~ must be computed in accordance with section 18452, if that amount is greater than the amount computed under this section.

**Sec. 13. 5 MRSA §18462, sub-§3,** as amended by PL 2001, c. 699, §6, is further amended to read:

**3. Reduction of benefits.** Upon retirement before reaching normal retirement age ~~60~~, the service retirement benefit of a member who transferred or who was restored to service subject to subsection 2 ~~shall~~ must be reduced as follows.

A. If the member transferred under the provisions of subsection 2, paragraph A, the portion of the retirement benefit based upon creditable service earned after being transferred ~~shall~~ must be reduced in accordance with section 18452, subsection 3.

C. If the member was transferred subject to subsection 2, paragraph C, the retirement benefit ~~shall~~ must be reduced in accordance with section 18452, subsection 3.

D. If the member was transferred subject to subsection 2, paragraph D, and:

(1) If the member completes the service or service and age requirements for retirement under the special plan the member was under previously, the retirement benefit ~~shall~~ may not be reduced; or

(2) If the member does not complete the service or service and age requirements for retirement under the special plan the member

was under previously, the retirement benefit ~~shall~~ **must** be reduced in accordance with section 18452, subsection 3.

**Sec. 14. 5 MRSA §18506, sub-§1**, as amended by PL 2001, c. 443, §3 and affected by §7, is further amended to read:

**1. Excess compensation.** If the compensation received from engaging in any gainful occupation by a beneficiary of a disability retirement benefit exceeds \$20,000 in calendar year 2000 or in any subsequent calendar year exceeds that amount cumulatively increased ~~or decreased~~ by the same percentage adjustments granted under section 18407, ~~subsection 4~~:

A. The excess must be deducted from the disability or service retirement benefits during the next calendar year, the deductions to be prorated on a monthly basis in an equitable manner prescribed by the board over the year or part of the year for which the benefits are received; and

B. The beneficiary shall reimburse the retirement system for any excess payments not deducted under paragraph A.

**Sec. 15. 5 MRSA §18506, sub-§3**, as amended by PL 2007, c. 491, §245, is further amended to read:

**3. Restoration to service.** If any recipient of a disability retirement benefit is restored to service, and if the total of the recipient's monthly retirement benefit for any year and the recipient's total earnable compensation for that year exceed the recipient's average final compensation at retirement, increased ~~or decreased~~ by the same percentage adjustments as have been received under section 18407, the excess must be deducted from the disability retirement benefit payments during the next calendar year.

A. The deductions must be prorated on a monthly basis over the year or part of the year for which benefits are received in an equitable manner prescribed by the board.

B. The recipient of the disability retirement benefit shall reimburse the retirement system for any excess payments not deducted under this section.

C. If the retirement benefit payments are eliminated by operation of this subsection:

(1) The person again becomes a member of the Participating Local District Retirement Program and begins contributing at the current rate; and

(2) When the person again retires, the person must receive benefits computed on the person's entire creditable service and in accordance with the law in effect at that time.

**Sec. 16. 5 MRSA §18530, sub-§2**, as amended by PL 2001, c. 443, §4 and affected by §7, is further amended to read:

**2. Compensation from employment not covered by this article.** If any person who is the recipient of a disability retirement benefit receives compensation in any year from engaging in any gainful activity or from employment with an employer whose employees are not covered by this article or chapter 423, subchapter ~~2~~ 5, article 3-A, which exceeds \$20,000, increased ~~or decreased~~ by the same percentage adjustments as are granted under section 18407, ~~subsection 4~~, or the difference between the person's disability retirement benefit for that year and the person's average final compensation at the time that the person became a recipient of a disability retirement benefit, increased ~~or decreased~~ by the same percentage adjustments as have been granted by section 18407, whichever is greater:

A. The excess must be deducted from the disability or service retirement benefits during the next calendar year; the deductions to be prorated on a monthly basis in an equitable manner prescribed by the board over the year or part of the year for which the benefits are received;

B. The person shall reimburse the retirement system for any excess payments not deducted under paragraph A. If the retirement benefit payments are eliminated by this subsection, the disability is deemed to no longer exist, the payment of the disability retirement benefit must be discontinued and, except as provided in paragraph C, all of the person's rights to benefits under this article cease;

C. If, during the first 5 years of reemployment, the person again becomes disabled, terminates employment and is not covered by any other disability program, the retirement system shall resume paying the disability retirement benefit payable prior to the reemployment with all applicable cost-of-living adjustments and shall provide rehabilitation services under section 18527 if recommended by the medical board. If the benefit payable under the other disability program is not equal to or greater than the benefit under this article, the retirement system shall pay the difference between the amount of the benefit payable under the other disability program and the amount of the benefit payable under this article. The executive director shall require examinations or tests to determine whether the person is disabled as described in section 18521; and

D. At any time before the elimination of disability retirement benefit payments by this subsection, the person may request that benefit payments be terminated and the executive director shall terminate benefit payments at the end of the month in which the request is received.

**Sec. 17. Study.** The Maine Public Employees Retirement System shall conduct a study of the Participating Local District Retirement Program and the Participating Local District Consolidated Retirement Plan administered by the Maine Public Employees Retirement System and referred to in this section as "the plans."

**1. Issues to be studied.** In conducting the study required under this section, the Maine Public Employees Retirement System shall examine issues including:

- A. The history of each of the plans;
- B. The reasoning behind, and necessity of, codifying each of the plans in the Maine Revised Statutes;
- C. The advantages and disadvantages of codifying each plan in the Maine Revised Statutes;
- D. The effect of repealing the Maine Revised Statutes, Title 5, chapters 425 and 427 on the plans and on the governance of the plans;
- E. The effect on the plans of allowing certain specific provisions of the Maine Public Employees Retirement System plans to be amended through the rule-making process; and
- F. Any other factors determined relevant by the Maine Public Employees Retirement System.

**2. Report.** The Maine Public Employees Retirement System shall report the results of its study under this section together with any recommendations to the Joint Standing Committee on Appropriations and Financial Affairs no later than January 15, 2014. Upon receipt and review of the report, the committee may submit a bill to the Second Regular Session of the 126th Legislature concerning the subject of the report.

See title page for effective date.

**CHAPTER 392  
S.P. 556 - L.D. 1491**

**An Act To Extend the Statute  
of Limitations on Certain Sex  
Crimes**

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

**Sec. 1. 17-A MRSA §8, sub-§2,** as amended by PL 1999, c. 438, §2, is further amended to read:

**2. Prosecutions** Except as provided in subsection 2-A, prosecutions for crimes other than murder or criminal homicide in the first or 2nd degree, or, if the victim had not attained the age of 16 years at the time of the crime, prosecutions for: incest; unlawful sexual contact; sexual abuse of a minor; rape or gross sexual

assault, formerly denominated as gross sexual misconduct, are subject to the following periods of limitations:

- A. A prosecution for a Class A, Class B or Class C crime must be commenced within 6 years after it is committed; and
- B. A prosecution for a Class D or Class E crime must be commenced within 3 years after it is committed.

**Sec. 2. 17-A MRSA §8, sub-§2-A** is enacted to read:

**2-A. A prosecution for a Class A, Class B or Class C crime involving unlawful sexual contact or gross sexual assault must be commenced within 8 years after it is committed.**

This subsection does not apply to a Class D crime enhanced to a Class C crime pursuant to section 1252, subsection 4-A.

**Sec. 3. Application.** This Act applies to the crimes of gross sexual assault under the Maine Revised Statutes, Title 17-A, section 253 and unlawful sexual contact under Title 17-A, section 255-A committed on or after the effective date of this Act or for which the prosecution has not yet been barred by the statute of limitations in force immediately prior to the effective date of this Act.

See title page for effective date.

**CHAPTER 393  
H.P. 1011 - L.D. 1423**

**An Act To Amend the Maine  
Medical Use of Marijuana Act  
with Regard to Excess  
Prepared Marijuana**

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

**Sec. 1. 22 MRSA §2423-A, sub-§2, ¶G,** as amended by PL 2011, c. 407, Pt. B, §16, is further amended to read:

G. Prepare food as defined in section 2152, subsection 4 containing marijuana for medical use by a qualifying patient pursuant to section 2152, subsection 4-A and section 2167; ~~and~~

**Sec. 2. 22 MRSA §2423-A, sub-§2, ¶H,** as enacted by PL 2011, c. 407, Pt. B, §16, is amended to read:

H. For the purpose of disposing of excess prepared marijuana, transfer prepared marijuana to a registered dispensary or another primary caregiver if nothing of value is ~~received~~ provided to the