

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 6, 2016 to April 29, 2016**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 29, 2016**

**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**  
**2016**

**Sec. 3. 36 MRSA §5122, sub-§2, ¶BB,** as amended by PL 2015, c. 300, Pt. A, §40, is further amended to read:

BB. The amount of pension benefits to the extent included in federal adjusted gross income under a military retirement plan as defined in paragraph M ~~¶~~ M-1 or M-2 that exceed the amount of military retirement plan pension benefits deducted under paragraph M ~~¶~~ M-1 or M-2 and that are received by a person who practices as a licensed dentist in this State for an average of at least 20 hours per week during the tax year and who accepts patients who receive benefits under the MaineCare program administered under Title 22, chapter 855;

**Sec. 4. Retroactivity.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 5122, subsection 2, paragraph M-1 applies retroactively to June 30, 2015.

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

Effective March 1, 2016.

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**CHAPTER 383**

**S.P. 567 - L.D. 1469**

**An Act To Promote Private Fund-raising for the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf**

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

**Sec. 1. 20-A MRSA §7413** is enacted to read:

**§7413. Private support organization**

**1. Designation of private support organization.** The executive director shall designate a nonprofit organization as the private support organization for the school. The designated organization must be incorporated as a nonprofit corporation under the laws of the State, and its sole purpose, as reflected in its bylaws, must be to organize and foster support for the school and the school's programs.

**2. Nonvoting member on board of directors.** The executive director, or the executive director's designee, shall serve as a nonvoting ex officio member of the private support organization's board of directors.

**3. Plan of work.** The executive director shall negotiate an annual memorandum of understanding between the school and the private support organiza-

tion that outlines a plan of work identifying priority projects of mutual benefit and cooperation.

**4. Use of property.** The executive director may permit the appropriate use of fixed property, equipment and facilities of the school by the private support organization. Such use must be directly in keeping with the purpose of the private support organization as set out in subsection 1 and must comply with all appropriate state policies and procedures.

See title page for effective date.

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**CHAPTER 384**

**H.P. 690 - L.D. 995**

**An Act To Amend the Laws Governing Participating Local Districts in the Maine Public Employees Retirement System**

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

**Sec. 1. 5 MRSA §17103, sub-§6,** as amended by PL 2009, c. 322, §2, is further amended to read:

**6. Rights, credits and privileges; decisions.** The board shall in all cases make the final and determining administrative decision in all matters affecting the rights, credits and privileges of all members of all programs of the retirement system whether in participating local districts or in the state service. The board has no jurisdiction to hear a matter or make an administrative decision regarding a claim of an employee of a local plan for which membership is optional pursuant to section 18252, if that claim applies to a time when the employee was not a member of the retirement system.

Whenever the board finds that, because of an error or omission on the part of the employer of a member or retired member, a member or retired member is required to make a payment or payments to the retirement system, the board may waive payment of all or part of the amount due from the member or retired member. In these instances of recovery of overpayments from members of the retirement system, the retirement system is governed by section 17054, subsection 3.

**Sec. 2. 5 MRSA §18251, sub-§§6 and 7** are enacted to read:

**6. Limitations on claims for participation.** If an employee claims that the employee was not offered participation in the program at the commencement of or during the course of employment with the participating local district, that claim must be commenced

within 6 years of the date upon which the employee was first eligible for participation in the program.

**7. Participation in other retirement plans.** If an employee requests and is allowed retroactive participation in the program, and during the time for which these retroactive retirement benefits are sought the participating local district offered and the employee participated in another retirement plan, all contributions made to the alternative plan by the employer and all earnings made on employer and employee contributions must be paid to the retirement system, up to the amount that the employer is required by the retirement system to pay to fund retroactive benefits under the program. In the event the funds available in the employee's alternative retirement plan account are not sufficient to fund the employer's required contributions to the retirement system, the employer shall pay any remaining employer contributions required by the retirement system to fund retroactive benefits under the program.

**Sec. 3. 5 MRSA §18804, sub-§§5 and 6** are enacted to read:

**5. Limitations on claims for participation.** If an employee claims that the employee was not offered membership at the commencement of or during the course of employment with the local district, that claim must be commenced within 6 years of the date upon which the employee was first eligible for membership.

**6. Participation in other retirement plans.** If an employee requests and is allowed retroactive membership, and during the time for which these retroactive retirement benefits are sought the local district offered and the employee participated in another retirement plan, all contributions made to the alternative plan by the employer and all earnings made on employer and employee contributions must be paid to the retirement system, up to the amount that the employer is required by the retirement system to pay to fund retroactive benefits under the plan. In the event the funds available in the employee's alternative retirement plan account are not sufficient to fund the employer's required contributions to the retirement system, the employer shall pay any remaining employer contributions required by the retirement system to fund retroactive benefits under the plan.

See title page for effective date.

**CHAPTER 385  
H.P. 704 - L.D. 1021**

**An Act To Amend the Laws  
Pertaining to the Maine  
Public Employees Retirement  
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 intent of the Legislature in Public Law 2015, chapter 267, the so-called biennial budget, was to include language permitting members of the Maine Public Employees Retirement System who were subject to a merit pay and longevity pay freeze in fiscal year 2011-12 and fiscal year 2012-13 to include those lost wages in their retirement benefit calculations by paying the necessary member contributions; and

**Whereas,** the language included in Public Law 2015, chapter 267 as enacted inadvertently omitted fiscal year 2011-12; and

**Whereas,** this legislation includes language to correct the error and allow those members affected to receive their full benefit in a more timely manner; 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. 2 MRSA §1-A, sub-§1, ¶D,** as enacted by PL 1985, c. 801, §§1 and 7, is amended to read:

D. Whatever adjustments are made under Title 5, ~~sections section 17806 and 18407 shall~~ must be applied to payments made under this section.

**Sec. 2. 5 MRSA §17001, sub-§4, ¶A,** as amended by PL 2009, c. 630, §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