

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 2016 to August 2, 2017

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
NOVEMBER 1, 2017

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

Augusta, Maine
2017

Sec. 1. 35-A MRSA §3210, sub-§3-A, ¶A, as corrected by RR 2007, c. 2, §20, is amended to read:

A. Except as provided in paragraph B, beginning January 1, 2008, as a condition of licensing pursuant to section 3203, each competitive electricity provider in this State must demonstrate in a manner satisfactory to the commission that the percentage of its portfolio of supply sources for retail electricity sales in this State accounted for by new renewable capacity resources is as follows:

- (1) One percent for the period from January 1, 2008 to December 31, 2008;
- (2) Two percent for the period from January 1, 2009 to December 31, 2009;
- (3) Three percent for the period from January 1, 2010 to December 31, 2010;
- (4) Four percent for the period from January 1, 2011 to December 31, 2011;
- (5) Five percent for the period from January 1, 2012 to December 31, 2012;
- (6) Six percent for the period from January 1, 2013 to December 31, 2013;
- (7) Seven percent for the period from January 1, 2014 to December 31, 2014;
- (8) Eight percent for the period from January 1, 2015 to December 31, 2015;
- (9) Nine percent for the period from January 1, 2016 to December 31, 2016; and
- (10) Ten percent for the period from January 1, 2017 to December 31, ~~2017~~ 2022.

New renewable capacity resources used to satisfy the requirements of this paragraph may not be used to satisfy the requirements of subsection 3.

See title page for effective date.

CHAPTER 292

H.P. 1036 - L.D. 1512

An Act To Protect the Health and Safety of First Responders

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

Sec. 1. 22 MRSA §832-A is enacted to read:

§832-A. Emergency blood-borne pathogen testing

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Aggressive blood-borne pathogen" means a blood-borne pathogen whose pathology is such that a person who has been exposed to the pathogen must receive medical treatment to have a chance to effectively neutralize the pathogen.

B. "Body fluids" means body fluids that are excreted or secreted from the body, including, but not limited to, urine, feces, blood or saliva.

C. "Emergency medical care provider" has the same meaning as in Title 17-A, section 752-C, subsection 2.

D. "Firefighter" has the same meaning as in Title 17-A, section 752-E, subsection 2.

E. "First responder" means a law enforcement officer, firefighter or emergency medical care provider.

F. "Law enforcement officer" has the same meaning as in Title 17-A, section 2, subsection 17.

2. Testing; expedited hearing. When a first responder has been exposed to a person's body fluids in the course of the first responder's official duties, the first responder or the first responder's designee may ask the person whose body fluids were the source of exposure to the first responder to submit to a blood test. If the person refuses, the first responder may petition the court and, if there is reasonable cause to suspect that the person's body fluids might contain an aggressive blood-borne pathogen, the court may order that a hearing be held in accordance with the procedures set forth in section 832, except that:

A. Upon receipt by the District Court of the petition, the court shall schedule a hearing to be held within 72 hours of the filing of the petition;

B. Any appeal of the District Court's decision must be filed no later than 24 hours following the court's decision; and

C. Upon receipt by the Superior Court of an appeal under paragraph B, the court shall schedule a hearing to be held within 72 hours.

See title page for effective date.

CHAPTER 293

H.P. 1135 - L.D. 1644

An Act To Fund the Agreement with Executive Branch Employees

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

Whereas, certain obligations and expenses incident to the operation of state collective bargaining agreements will become due and payable immediately; and

Whereas, it is the responsibility of the Legislature to act upon those portions of collective bargaining agreements negotiated by the executive branch that require legislative action; and

Whereas, the Governor and the Legislature share a desire to address in a timely manner the needs of certain state employees excluded from collective bargaining units; 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. Adjustment of salary schedules for fiscal years 2017-18 and 2018-19. Effective at the beginning of the pay weeks commencing closest to September 1, 2017 and July 1, 2018, the salary schedules for the executive branch employees in bargaining units represented by the Maine State Troopers Association and the Maine State Law Enforcement Association must be adjusted consistent with the terms of any tentative agreements ratified prior to September 1, 2017.

Sec. 2. Adjustment of salary schedules for fiscal years 2017-18 and 2018-19. The salary schedules for the executive branch employees in bargaining units represented by the American Federation of State, County and Municipal Employees and the Maine State Employees Association must be adjusted consistent with the terms of any tentative agreements ratified prior to September 1, 2017.

Sec. 3. Addition of new steps for certain employees in fiscal years 2017-18 and 2018-19. Effective at the beginning of the pay periods commencing closest to January 1, 2018, September 1, 2018 and January 1, 2019, the salary schedules for certain employees of the executive branch in bargaining units represented by the Maine State Law Enforcement Association must be adjusted by eliminating the first step and adding a new top step or adding a new top step for those employees at the last step so that employees are paid at the new rates to which they are assigned in the modified salary schedule, consistent with the terms of the applicable tentative collective bargaining agreements ratified prior to September 1, 2017.

Sec. 4. New, temporary and seasonal employees; similar and equitable treatment. The

Governor is authorized to grant similar and equitable treatment consistent with this Act for employees in classifications included in bargaining units subject to collective bargaining agreements described in section 7 of this Act who are excluded from collective bargaining pursuant to the Maine Revised Statutes, Title 26, section 979-A, subsection 6, paragraphs E and F.

Sec. 5. Confidential employees; similar and equitable treatment. The Governor is authorized to grant similar and equitable treatment consistent with this Act for confidential employees. For the purposes of this section, "confidential employees" means those employees within the executive branch, including probationary employees, who are in positions excluded from bargaining units pursuant to the Maine Revised Statutes, Title 26, section 979-A, subsection 6, paragraphs B, C, D, I and J.

Sec. 6. Employee salaries subject to Governor's adjustment or approval. The Governor is authorized to grant similar and equitable treatment consistent with this Act for those unclassified employees whose salaries are subject to the Governor's adjustment or approval.

Sec. 7. Costs to General Fund and Highway Fund. Costs to the General Fund and Highway Fund must be provided in all or part through a transfer of Personal Services appropriations within and between departments and agencies from the Salary Plan program, General Fund account in the Department of Administrative and Financial Services up to \$8,000,000 for the fiscal year ending June 30, 2018 and up to \$12,000,000 for the fiscal year ending June 30, 2019 to implement the economic terms of the collective bargaining agreements made in the months of June through September of calendar year 2017 by the State and the American Federation of State, County and Municipal Employees, the Maine State Troopers Association, the Maine State Law Enforcement Association and the Maine State Employees Association, to provide equitable treatment of employees excluded from bargaining pursuant to the Maine Revised Statutes, Title 26, section 979-A, subsection 6, paragraphs E and F and, notwithstanding Title 26, section 979-D, subsection 1, paragraph E, subparagraph (3), to implement equitable adjustments for confidential employees.

Sec. 8. Transfer of Personal Services appropriations between programs and departments. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, available balances in the General Fund for Personal Services in fiscal year 2017-18 and fiscal year 2018-19 may be transferred by financial order between programs and departments within the General Fund upon recommendation of the State Budget Officer and approval of the Governor to be used for costs associated

with collective bargaining agreements for state employees.

Sec. 9. Transfer from Salary Plan program and special account funding. The Salary Plan program, General Fund account in the Department of Administrative and Financial Services may be made available as needed in allotment by financial order upon the recommendation of the State Budget Officer and approval of the Governor to be used for the implementation of the collective bargaining agreements for state employees and for other economic items contained in this Act in fiscal years 2017-18 and 2018-19. Positions supported from sources of funding other than the General Fund and the Highway Fund must be funded from those other sources.

Sec. 10. Transfer of Personal Services allocations between programs and departments. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, available balances in the Highway Fund for Personal Services in fiscal year 2017-18 and fiscal year 2018-19 may be transferred by financial order between programs and departments within the Highway Fund upon recommendation of the State Budget Officer and approval of the Governor to be used for costs associated with collective bargaining agreements for state employees.

Sec. 11. Authorization for reimbursement of costs associated with contract resolution. The Department of Administrative and Financial Services may be reimbursed from the Salary Plan program, General Fund account in the Department of Administrative and Financial Services for the costs of contract resolution, administration and implementation and other costs required by the process of collective bargaining and negotiation procedures.

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

Effective July 24, 2017.

CHAPTER 294

H.P. 597 - L.D. 848

An Act To Support Law Enforcement Officers and First Responders Diagnosed with Post-traumatic Stress Disorder

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of

all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 39-A MRSA §201, sub-§3, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is repealed.

Sec. 2. 39-A MRSA §201, sub-§3-A is enacted to read:

3-A. Mental injury caused by mental stress. Mental injury resulting from work-related stress does not arise out of and in the course of employment unless:

A. It is demonstrated by clear and convincing evidence that:

(1) The work stress was extraordinary and unusual in comparison to pressures and tensions experienced by the average employee; and

(2) The work stress, and not some other source of stress, was the predominant cause of the mental injury.

The amount of work stress must be measured by objective standards and actual events rather than any misperceptions by the employee; or

B. The employee is a law enforcement officer, firefighter or emergency medical services person and is diagnosed by an allopathic physician or an osteopathic physician licensed under Title 32, chapter 48 or chapter 36, respectively, with a specialization in psychiatry or a psychologist licensed under Title 32, chapter 56 as having post-traumatic stress disorder that resulted from work stress, that the work stress was extraordinary and unusual compared with that experienced by the average employee and the work stress and not some other source of stress was the predominant cause of the post-traumatic stress disorder, in which case the post-traumatic stress disorder is presumed to have arisen out of and in the course of the worker's employment. This presumption may be rebutted by clear and convincing evidence to the contrary. For purposes of this paragraph, "law enforcement officer," "firefighter" and "emergency medical services person" have the same meaning as in section 328-A, subsection 1.

By January 1, 2022, the board shall submit a report to the joint standing committee of the Legislature having jurisdiction over labor matters that includes an analysis of the number of claims brought under this paragraph, the portion of those claims that resulted in a settlement or award of benefits and the effect of the provisions of this paragraph on costs to the State and its subdivi-