

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

FIRST SPECIAL SESSION
October 23, 2017 to November 6, 2017

SECOND REGULAR SESSION
January 3, 2018 to May 2, 2018

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 5, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 1, 2018

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

Augusta, Maine
2018

Sec. 27. 24-A MRSA §4612-A, sub-§§2 and 3, as enacted by PL 2005, c. 346, §11 and affected by §16, are amended to read:

2. Advice and recommendations. The superintendent may seek the advice and recommendations of the board of directors concerning any matter affecting the duties and responsibilities of the superintendent regarding the financial condition of member insurers and companies seeking admission to transact insurance or health maintenance organization business in this State.

3. Action by board of directors. The board of directors, upon majority ballot vote, shall:

A. Notify the superintendent of any information indicating that any member insurer may be an impaired or insolvent insurer;

B. Make reports and recommendations to the superintendent upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer or germane to the solvency of any company seeking to do an insurance or health maintenance organization business in this State. These reports and recommendations must be treated as confidential by the superintendent; and

C. Make recommendations to the superintendent for the detection and prevention of insurer insolvencies.

Sec. 28. 24-A MRSA §4614, sub-§4, ¶A, as amended by PL 2005, c. 346, §12 and affected by §16, is further amended to read:

A. Prior to the termination of any liquidation, rehabilitation or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the association, the shareholders and policy owners, contract owners, certificate holders and enrollees of the impaired or insolvent insurer and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of the impaired or insolvent insurer. In such a determination, consideration must be given to the welfare of the policy owners, contract owners, certificate holders and enrollees of the continuing or successor insurer.

Sec. 29. 24-A MRSA §4620, first ¶, as enacted by PL 2005, c. 346, §14 and affected by §16, is amended to read:

A person, including an a member insurer or an agent or affiliate of an a member insurer, may not make, publish, disseminate, circulate or place before the public or cause directly or indirectly to be made, published, disseminated, circulated or placed before the public in any newspaper, magazine or publication or in the form of a notice, circular, pamphlet, letter or

poster or over any radio station or television station or in any other way any advertisement, announcement or statement, written or oral, that uses the existence of the association for the purpose of sales, solicitation or inducement to purchases of any form of insurance covered by this chapter. This section does not apply to the Maine Life and Health Insurance Guaranty Association or any other entity that does not sell or solicit insurance or health maintenance organization coverage.

Sec. 30. 24-A MRSA §4621, sub-§2-A is enacted to read:

2-A. Insurers not subject to premium tax. A member insurer that is not subject to premium taxation may take the credit allowed under subsection 1 against its income tax liability to this State. A member insurer that is exempt from both premium taxation and income taxation in this State may recoup its assessments by a surcharge on its premiums in an amount reasonably calculated to recoup the assessments over a reasonable period of time, as approved by the superintendent. Amounts recouped are not considered premiums for any other purpose, including medical loss ratio calculations and premium-based assessments. If a member insurer collects excess surcharges, the insurer shall remit the excess amount to the association, and the excess amount must be applied to reduce future assessments in the appropriate account.

See title page for effective date.

CHAPTER 383

H.P. 1293 - L.D. 1855

An Act To Fund the Reorganization of the Department of Public Safety, State Bureau of Identification

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 Department of Public Safety has proposed a management-initiated reorganization of the State Bureau of Identification; and

Whereas, the Department of Administrative and Financial Services, Bureau of Human Resources has reviewed the proposal and authorized the position reclassifications required to support the reorganization plan; and

Whereas, the reorganization cannot be implemented until funding is secured; and

Whereas, the effective and efficient functioning of the State Bureau of Identification is immediately

necessary to its role of supporting law enforcement agencies throughout this State; 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. Appropriations and allocations. The following appropriations and allocations are made.

PUBLIC SAFETY, DEPARTMENT OF

Background Checks - Certified Nursing Assistants 0992

Initiative: Provides funding for an approved reclassification of one Identification Specialist II position to a State Bureau of Identification Specialist position.

GENERAL FUND	2017-18	2018-19
Personal Services	\$1,707	\$6,829
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GENERAL FUND TOTAL	\$1,707	\$6,829

Gambling Control Board Z002

Initiative: Provides funding for an approved reclassification of one Identification Specialist II position to a State Bureau of Identification Specialist position.

GENERAL FUND	2017-18	2018-19
Personal Services	\$1,707	\$6,829
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GENERAL FUND TOTAL	\$1,707	\$6,829

Gambling Control Board Z002

Initiative: Eliminates one Information System Security Analyst position.

GENERAL FUND	2017-18	2018-19
POSITIONS - LEGISLATIVE COUNT	(1,000)	(1,000)
Personal Services	(\$23,872)	(\$98,352)
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GENERAL FUND TOTAL	(\$23,872)	(\$98,352)

State Police 0291

Initiative: Provides funding for the approved reclassification of 5 Office Associate II positions to State Bureau of Identification Specialist positions, 12 Identification Specialist II positions to State Bureau of Identification Specialist positions, 4 Identification Specialist

Supervisor positions to State Bureau of Identification Specialist Supervisor positions, one Supervisor Identification Bureau position to a State Bureau of Identification Business Systems Manager position, one Planning and Research Associate II position to a Business Systems Administrator position and one Public Service Manager II Range 30 position to a Public Service Manager II Range 32 position.

GENERAL FUND	2017-18	2018-19
Personal Services	\$29,837	\$119,347
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GENERAL FUND TOTAL	\$29,837	\$119,347

HIGHWAY FUND	2017-18	2018-19
Personal Services	\$16,066	\$64,264
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HIGHWAY FUND TOTAL	\$16,066	\$64,264

State Police 0291

Initiative: Reallocates the costs for one State Bureau of Identification Specialist Supervisor position from 65% General Fund and 35% Highway Fund to 100% Other Special Revenue Funds.

GENERAL FUND	2017-18	2018-19
POSITIONS - LEGISLATIVE COUNT	(1,000)	(1,000)
Personal Services	(\$14,995)	(\$59,979)
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GENERAL FUND TOTAL	(\$14,995)	(\$59,979)

HIGHWAY FUND	2017-18	2018-19
Personal Services	(\$8,074)	(\$32,296)
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HIGHWAY FUND TOTAL	(\$8,074)	(\$32,296)

OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
POSITIONS - LEGISLATIVE COUNT	1,000	1,000
Personal Services	\$23,069	\$92,275
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OTHER SPECIAL REVENUE FUNDS TOTAL	\$23,069	\$92,275

State Police 0291

Initiative: Reallocates support costs related to the automated fingerprint identification system from 65% General Fund and 35% Highway Fund to 100% Other Special Revenue Funds.

GENERAL FUND	2017-18	2018-19
Personal Services	(\$11,657)	(\$46,626)
GENERAL FUND TOTAL	(\$11,657)	(\$46,626)
HIGHWAY FUND	2017-18	2018-19
All Other	(\$6,275)	(\$25,101)
HIGHWAY FUND TOTAL	(\$6,275)	(\$25,101)
OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
All Other	\$17,932	\$71,727
OTHER SPECIAL REVENUE FUNDS TOTAL	\$17,932	\$71,727

State Police 0291

Initiative: Eliminates one Office Assistant II position.

GENERAL FUND	2017-18	2018-19
POSITIONS - LEGISLATIVE COUNT	(1,000)	(1,000)
Personal Services	(\$8,829)	(\$35,315)
GENERAL FUND TOTAL	(\$8,829)	(\$35,315)
HIGHWAY FUND	2017-18	2018-19
Personal Services	(\$4,754)	(\$19,016)
HIGHWAY FUND TOTAL	(\$4,754)	(\$19,016)
PUBLIC SAFETY, DEPARTMENT OF DEPARTMENT TOTALS	2017-18	2018-19
GENERAL FUND	(\$26,102)	(\$107,267)
HIGHWAY FUND	(\$3,037)	(\$12,149)
OTHER SPECIAL REVENUE FUNDS	\$41,001	\$164,002
DEPARTMENT TOTAL - ALL FUNDS	\$11,862	\$44,586

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect April 1, 2018.

Effective April 12, 2018.

**CHAPTER 384
H.P. 365 - L.D. 521**

An Act To Align the Criteria Used by the Maine Public Employees Retirement System in Determining Veterans' Disability Claims with the Criteria Used by the United States Department of Veterans Affairs

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

Sec. 1. 5 MRSA §17924, sub-§3 is enacted to read:

3. Qualification of a disabled veteran. Subject to the provisions in subsections 1 and 2, if a member applying for a disability retirement benefit is receiving disability compensation from the United States Department of Veterans Affairs for a service-connected disability based on a determination of individual unemployability pursuant to 38 Code of Federal Regulations, Section 4.16, it is presumed that the member is disabled under section 17921, subsection 1. This presumption may be rebutted only by evidence not considered by the United States Department of Veterans Affairs in making the individual unemployability determination. Notwithstanding section 17922, this subsection applies to any application for a disability retirement benefit made by a member on or after October 1, 2018.

Sec. 2. 5 MRSA §18524, sub-§3 is enacted to read:

3. Qualification of a disabled veteran. Subject to the provisions in subsections 1 and 2, if a member applying for a disability retirement benefit is receiving disability compensation from the United States Department of Veterans Affairs for a service-connected disability based on a determination of individual unemployability pursuant to 38 Code of Federal Regulations, Section 4.16, it is presumed that the member is disabled under section 18521, subsection 1. This presumption may be rebutted only by evidence not considered by the United States Department of Veterans