LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 7, 2022 to March 30, 2023

FIRST SPECIAL SESSION
April 5, 2023 to July 26, 2023

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NONEMERGENCY LAWS IS
JUNE 29, 2023

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NONEMERGENCY LAWS IS
OCTOBER 25, 2023

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

Augusta, Maine
2023

CHAPTER 166

S.P. 390 - L.D. 919

An Act Regarding Licensure in the Field of Emergency Medical Services

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

Sec. 1. 32 MRSA §84, sub-§1, ¶G is enacted to read:

G. In accordance with applicable provisions of this chapter, the board may by rule establish appropriate licensure levels and qualifications for emergency medical services persons, emergency medical dispatchers, emergency medical services educators, emergency medical dispatch centers, emergency medical services training centers, ambulance services and nontransporting emergency medical services.

Sec. 2. 32 MRSA §85, sub-§2, as amended by PL 2019, c. 370, §15, is further amended by repealing the first blocked paragraph.

See title page for effective date.

CHAPTER 167

S.P. 451 - L.D. 1082

An Act to Advance the Maine Retirement Savings Program

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

Sec. 1. 5 MRSA §172, first ¶, as enacted by PL 2021, c. 356, §1, is amended to read:

The Maine Retirement Savings Board is established as a body corporate and politic and a public instrumentality of the State pursuant to section 12004-G, subsection 33-G to develop and maintain the Maine Retirement Savings Program for individuals employed or self-employed for wages or other compensation in this State.

Sec. 2. 5 MRSA §172, sub-§8, as enacted by PL 2021, c. 356, §1, is amended to read:

8. Meetings. The board shall meet ~~monthly~~ at such times as established by policy of the board, but at least quarterly, beginning no later than May 2022 and may also meet at other times at the call of the chair. All meetings of the board are public proceedings within the meaning of Title 1, chapter 13, subchapter 1.

Sec. 3. 5 MRSA §173, sub-§1, ¶A, as enacted by PL 2021, c. 356, §1, is amended to read:

A. Develop, establish, implement and maintain the program and, to that end, may conduct market, legal and feasibility analyses if the board considers them advisable and may determine a name for the program;

Sec. 4. 5 MRSA §173, sub-§1, ¶E, as enacted by PL 2021, c. 356, §1, is amended to read:

E. Develop and implement an investment policy that defines the program's investment objectives consistent with the objectives of the program and that provides for policies and procedures consistent with those investment objectives. The board shall strive to select and offer investment options available to participants and other program features that are intended to achieve maximum possible income replacement balanced with an appropriate level of risk in an IRA-based environment consistent with the investment objectives under the policy. The investment options may encompass a range of risk and return opportunities and allow for a rate of return commensurate with an appropriate level of risk in view of the investment objectives under the policy. The menu of investment options must be determined by considering the nature and objectives of the program, the desirability ~~based on behavioral research findings~~ of limiting investment options under the program to a reasonable number and the extensive investment options available to participants in the event that they roll over funds in an IRA established under the program to an IRA outside the program. In accordance with paragraphs K and O, the board, in carrying out its responsibilities and exercising its powers under this chapter, shall employ or retain appropriate entities or personnel to assist or advise it and to whom to delegate the carrying out of such responsibilities and exercise of such powers;

Sec. 5. 5 MRSA §173, sub-§2, as enacted by PL 2021, c. 356, §1, is amended to read:

2. Required elements of program. In accordance with the implementation ~~dates~~ schedule set forth in subsection 3, the program must:

A. Allow an eligible individual in this State to choose whether or not to contribute to an IRA under the program, including allowing a covered employee in the State the choice to contribute to an IRA under the program through a payroll deduction IRA arrangement;

B. Notwithstanding any provision of state law related to payroll deduction to the contrary, require each covered employer to offer its covered employees the choice whether or not to contribute to a payroll deduction IRA by automatically enrolling them in the payroll deduction IRA with the opportunity to opt out. A covered employee who is not a participant because that employee has opted out will

be automatically reenrolled with the opportunity to opt out again at regular or ad hoc intervals determined by the board in its discretion, but not more frequently than annually;

C. Provide that the IRA to which contributions are made is a Roth IRA, except that the board has the authority at any time, in its discretion, to add an option for all participants to affirmatively elect to contribute to a traditional IRA as an alternative to the Roth IRA;

D. Provide that, unless otherwise specified by the covered employee, a covered employee must automatically initially contribute 5% of the covered employee's salary or wages to the program and may elect to opt out of the program at any time or contribute at any higher or lower rate, expressed as a percentage of salary or wages, or, if the board in its discretion permits, expressed as a flat dollar amount, subject in all cases to the IRA contribution and income eligibility limits applicable under the Internal Revenue Code at no additional charge. The board is authorized to change, from time to time, the 5% automatic initial default contribution rate for all covered employees in its discretion;

E. Provide on a uniform basis, if and when the board so determines in its discretion, for an annual increase of each participant's contribution rate, by not more than 1% of salary or wages per year up to a maximum of ~~8%~~ 10%. Any such increases must apply to participants, as determined by the board in its discretion, either by default or only if initiated by affirmative participant election and are in either case subject to the IRA contribution and income eligibility limits applicable under the Internal Revenue Code;

F. Provide for direct deposit of contributions into investments under the program, including, but not limited to, a default investment such as a series of target date funds and a limited number of investment alternatives including a principal preservation option determined by the board. In addition, the board may provide that each participant's initial contributions, up to a specified dollar amount or for a specified period of time, are required to be invested in a ~~principal~~ capital preservation investment or, in the board's discretion, must be defaulted into such an investment unless the participant affirmatively opts for a different investment for those contributions. The board shall determine how often participants will have the opportunity to change their selections of investments for future contributions or existing balances or both;

G. Provide that employer contributions by a covered employer are not required or permitted;

H. Be professionally managed;

I. When possible and practicable, use existing employer and public infrastructure to facilitate contributions, record keeping and outreach and use pooled or collective investment arrangements for amounts contributed to the program;

J. Require the maintenance of separate records and accounting for each account under the program and allow for participants to maintain their accounts regardless of place of employment and to roll over funds into other IRAs or other retirement accounts;

K. Provide for reports on the status of each participant's account to be provided to each participant at least annually and make best efforts to provide each participant frequent or continual online access to information on the status of that participant's account;

L. Provide that each participant owns the contributions to and earnings on amounts contributed to the participant's account under the program and that the State and covered employers have no proprietary interest in those contributions or earnings;

M. Be designed and implemented in a manner consistent with federal law to the extent that it applies and consistent with the program not being preempted by, and the payroll deduction IRAs and covered employers not being subject to, ERISA;

N. Promote expanded retirement saving by encouraging employers in the State that would otherwise be covered employers to instead adopt a specified tax-favored retirement plan;

O. Make provision for participation in the program by individuals who are not employees, such as self-employed individuals and independent contractors, as provided in rules adopted pursuant to section 174, subsection 2;

P. Seek to keep fees, costs and expenses of the program as low as practicable, except that any administrative fee imposed on a covered employee for participating in the program may not exceed a reasonable amount relative to fees charged by similar established programs in other states. The fee may be an asset-based or investment return fee, flat fee or hybrid of the permissible fee structures identified in this paragraph;

Q. Adopt rules and establish procedures governing the distribution of funds from the program, including such distributions as may be permitted or required by the program and any applicable provisions of tax laws, with the objectives of maximizing financial security in retirement, helping to protect spousal rights and assisting participants with the challenges of decumulation of savings. The board has the authority to provide for one or more reasonably priced distribution options to provide a

source of regular retirement income, including income for life or for the participant's life expectancy or for joint lives and life expectancies, as applicable;

R. Adopt rules and establish procedures promoting portability of benefits, including the ability to make tax-free rollovers or transfers from IRAs under the program to other IRAs or to tax-qualified plans that accept such rollovers or transfers;

S. Establish penalties in accordance with subsection 4 for a covered employer that fails without reasonable cause to enroll a covered employee in the program as required or that fails to transmit a payroll deduction IRA contribution to the program as required. A lack of reasonable cause is established by the failure to enroll after the program communicates with the employer 3 times;

T. In accordance with subsection 1, paragraph C, use private sector entities to administer the program and invest the contributions to the program under the supervision and guidance of the board; and

U. Allow the board to provide for the establishment, maintenance, administration, operation and implementation of the program to be carried out jointly with, or in partnership, collaboration, coordination or alliance with one or more other states, the Federal Government or any federal, state or local agencies or instrumentalities.

Sec. 6. 5 MRSA §173, sub-§3, as enacted by PL 2021, c. 356, §1, is repealed and the following enacted in its place:

3. Implementation. The board may implement the program in stages, which may include a pilot program and phasing in the program based on the size of employers, or other factors. A covered employer shall offer the program to its covered employees no later than December 31, 2024.

A covered employer with fewer than 5 employees is not required to offer the program to its covered employees but may offer the program to its employees at the option of the employer and in accordance with rules established by the board.

Sec. 7. 5 MRSA §173, sub-§4, ¶A, as enacted by PL 2021, c. 356, §1, is amended to read:

A. If a covered employer fails to enroll a covered employee without reasonable cause, the covered employer is subject to a penalty for each covered employee for each calendar year or portion of a calendar year during which the covered employee was not enrolled in the program or had not opted out of participation in the program and, for each calendar year beginning after the date on which a penalty has been assessed with respect to a covered employee, is subject to a penalty for any portion of that calendar year during which the covered employee continues to be unenrolled without opting out of participation in the program. The amount of any penalty imposed on a covered employer for the failure to enroll a covered employee without reasonable cause is determined as follows:

(1) ~~Prior to April 1, 2024~~ From July 1, 2025 to June 30, 2026, the maximum penalty per covered employee is ~~$10~~ $20;

(2) From ~~April 1, 2024 to March 31, 2025~~ July 1, 2026 to June 30, 2027, the maximum penalty per covered employee is ~~$20~~ $50; and

~~(3) From April 1, 2025 to September 30, 2026, the maximum penalty per covered employee is $50; and~~

(4) On or after ~~October 1, 2026~~ July 1, 2027, the maximum penalty per covered employee is $100.

Sec. 8. 5 MRSA §173, sub-§4, ¶C, as enacted by PL 2021, c. 356, §1, is amended to read:

C. A penalty may not be imposed on a covered employer for any failure to enroll a covered employee if the covered employer exercised reasonable diligence to meet the requirements of this chapter and the covered employer complies with those requirements with respect to each covered employee by the end of the 90-day period beginning on the first date the covered employer knew, or exercising reasonable diligence would have known, that the failure existed. The covered employer is deemed to have known that the failure existed after receiving 3 communications from the program.

Sec. 9. 5 MRSA §174, sub-§2, ¶C, as enacted by PL 2021, c. 356, §1, is amended to read:

C. Establish processes for ~~phasing in enrollment of eligible individuals, including phasing in enrollment of covered employees by size or type of covered employer~~ implementing the program in accordance with section 173, subsection 3;

Sec. 10. 5 MRSA §177, as enacted by PL 2021, c. 356, §1, is amended to read:

§177. Intergovernmental collaboration and cooperation

The board may enter into an intergovernmental agreement or memorandum of understanding with the State and any agency or instrumentality of the State in order to further the successful implementation and operation of the program through the provision, receipt or other sharing of data, technical assistance, enforcement, compliance, collection and other services or assistance to the program, and all such agencies and instrumentalities shall cooperate with the board in achieving those ends. The board may enter into an intergovernmental

agreement or memorandum of understanding with the State and any agency or instrumentality of the State to receive outreach, technical assistance, enforcement and compliance services, collection or dissemination of information pertinent to the program, subject to such obligations of confidentiality as may be agreed to or required by law, or other services or assistance. The State and any agencies or instrumentalities of the State that enter into such agreements or memoranda of understanding shall collaborate to provide the outreach, assistance, information and compliance or other services or assistance to the board. The agreements or memoranda of understanding may cover the sharing of costs incurred in gathering and disseminating information and the reimbursement of costs for any enforcement activities or assistance.

Sec. 11. 5 MRSA §178, sub-§1, as enacted by PL 2021, c. 356, §1, is amended to read:

1. Fund established. The Maine Retirement Savings Program Enterprise Fund is established as an enterprise fund. The board shall use funds deposited in the enterprise fund in accordance with this section. The enterprise fund may receive grants, gifts, donations, appropriations, loans or other funds designated for administrative expenses or otherwise transferred to the enterprise fund from or deposited in the enterprise fund by the State or a unit of federal, state or local government or any other person, firm, partnership or corporation, including appropriations to the enterprise fund by the Legislature and funds from the payment of application, account, administrative or other fees and the payment of other funds due the board. Interest or other investment earnings or returns that are attributable to funds in the enterprise fund must be deposited into or retained in the enterprise fund. The enterprise fund may not lapse but must be carried forward to carry out the purposes of this chapter. ~~The board shall amortize any amounts appropriated to the enterprise fund by the Legislature to ensure that those amounts are paid back to the funding sources based on an amortization schedule determined by the board, but no later than 5 years after the program is fully implemented.~~

Sec. 12. 5 MRSA §178, sub-§3, as enacted by PL 2021, c. 356, §1, is amended to read:

3. Administrative costs. Subject to appropriation by the Legislature, the State may pay administrative costs associated with the creation, maintenance, operation and management of the program and provide funding for the program until sufficient assets are available in the enterprise fund for that purpose. Thereafter, all administrative costs of the enterprise fund~~, including any repayment of start-up funds provided by the State,~~ must be repaid only out of money on deposit in the enterprise fund. However, private funds or federal funding received in order to implement the program until the enterprise fund is self-sustaining may not be repaid unless those funds were offered contingent upon the promise of such repayment.

Sec. 13. 5 MRSA §179, sub-§2, as enacted by PL 2021, c. 356, §1, is amended to read:

2. Submission of report. Beginning February 1, ~~2024~~ 2026 and annually thereafter, the board shall submit to the Governor, the Treasurer of State and the Legislature an audited financial report, prepared in accordance with generally accepted accounting principles, detailing the activities, operations, receipts and expenditures of the program and board during the preceding calendar year. The report must include the number of participants, the investment options and their rates of return and other information regarding the program and must also include projected activities of the program for the current calendar year.

Sec. 14. 5 MRSA §285, sub-§1, ¶F-12 is enacted to read:

F-12. Any employee of the Maine Retirement Savings Board;

Sec. 15. 5 MRSA §17103, sub-§12, as amended by PL 2021, c. 548, §17, is further amended to read:

12. Defined contribution, deferred compensation and tax sheltered annuity plans. The board shall establish one or more defined contribution, deferred compensation or tax sheltered annuity plans consistent with the applicable requirements of the Internal Revenue Code and may, with employer agreement, offer participation in such plans to employees eligible for membership in a retirement program of the retirement system and to employees of the Maine Retirement Savings Board.

Sec. 16. PL 2021, c. 356, §3, first ¶ is amended to read:

Sec. 3. Implementation of Maine Retirement Savings Program. Except as provided in this section, the Maine Retirement Savings Board shall establish the Maine Retirement Savings Program as required under this Act so that individuals may begin making contributions under the program no later than ~~April 1, 2023~~ January 1, 2025.

Sec. 17. PL 2021, c. 356, §3, sub-§1 is amended to read:

1. Phase in of program; implementation. The board shall phase in the program with regard to covered employers and accept contributions from covered employees employed by those covered employers as required under this Act and may in its discretion phase in the program for individuals who are not employees, such as self-employed individuals or independent contractors, except that any implementation schedule set by the board must be such that all individuals may begin making contributions under the program no later than

January 1, ~~2025~~ 2026. The board may not implement the program if and to the extent that the board determines that the program is preempted by the federal Employee Retirement Income Security Act of 1974, as amended, 29 United States Code, Section 1001 et seq. If and to the extent that the board determines that a portion or aspect of the program is preempted by the federal Employee Retirement Income Security Act of 1974, the board may not implement that portion or aspect of the program but shall proceed to implement the remainder of the program to the extent practicable.

See title page for effective date.

CHAPTER 168

S.P. 659 - L.D. 1654

An Act to Extend the Time for Certain Public Utilities Commission Proceedings

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

Sec. 1. 35-A MRSA §307, as amended by PL 1999, c. 398, Pt. A, §13 and affected by §§104 and 105, is repealed and the following enacted in its place:

§307. Changes in schedules; notice; suspension; rate increase limit

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

A. "Final determination of the public utility's revenue requirement" means a decision by the commission on the merits of a public utility's request after consideration of at least the public utility's direct case in support of its request.

B. "General increase in rates" means a change in a rate, toll or charge of a public utility, the effect of which is to increase the annual operating revenue of the public utility by more than 1%. "General increase in rates" does not include a rate change made for the sole purpose of implementing a gas cost adjustment rate pursuant to section 4703 or a rate change made for the sole purpose of implementing an energy conservation adjustment rate pursuant to section 3154.

2. Notice requirements. A public utility may not change a schedule, including a schedule of joint rates, unless the public utility provides notice to the commission 30 days prior to the time the changes are to take effect. The public utility must indicate all proposed changes on the schedule in effect at the time notice is provided. For good cause shown, the commission may allow changes after less than the notice specified in this subsection or modify the requirements of this section and section 308 with respect to publishing, posting and filing of a schedule, either in a particular instance or by rule applicable to a special circumstance or condition.

At the commission's discretion, the commission may require the information relating to changes described in this subsection to be filed in a general increase in rates at the same time as the schedules are filed. The commission may require a public utility whose gross revenues exceed $5,000,000 annually to notify the commission not more than 2 months in advance of filing a general increase in rates under this section that a filing is planned and to disclose the approximate amount of the increase and the approximate rate of return and include a general statement of the major issues that might be presented and the approximate rate of return the utility would be seeking.

3. Suspension pending investigation. Pending an investigation and order pursuant to section 310, subsection 1, at any time within the period preceding the effective date of the schedule the commission may suspend the operation of the schedule or any part of the schedule by filing with the schedule and delivering to the public utility affected a statement of its reasons for the suspension. The suspension may not be for a period longer than 12 months from the effective date of the order of suspension unless:

A. All parties agree to extend the suspension beyond 12 months; or

B. The commission determines that the party seeking the extension would be unreasonably disadvantaged because of circumstances beyond that party's control unless the extension were granted, as long as the party prior to the request for extension had prosecuted its case in good faith and with due diligence.

4. General rate increase case limitation. A public utility may not file a schedule for a general increase in rates pursuant to this section within one year of a prior filing for a general increase in rates pursuant to this section, unless the proceeding initiated by a prior filing was terminated without a final determination of the public utility's revenue requirement or with approval of the commission. The limitation of this subsection does not prevent a public utility, at any time, from notifying the commission in advance, either voluntarily or in accordance with a commission requirement under this section, of plans by the public utility to file a general increase in rates.

Nothing in this subsection may be construed to limit a public utility's right, at any time, to petition pursuant to section 1322 for temporary rate relief.

Sec. 2. 35-A MRSA §310, as amended by PL 2009, c. 237, §1, is further amended by amending the section headnote to read: