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APPROVED
MARCH 25, 2019
BY GOVERNOR

CHAPTER
10
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 67 - L.D. 81

An Act To Clarify Maine Law Regarding the Tips of Service Employees

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

Sec. 1. 26 MRSA §664, sub-§2-A, as enacted by PL 2011, c. 118, §4, is amended to read:

2-A. Tip pooling. This section may not be construed to prohibit an employer from establishing a valid tip pooling arrangement only among service employees that ~~is consistent with~~ does not violate the federal Fair Labor Standards Act and regulations made pursuant to that Act.

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STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

S.P. 90 - L.D. 278

An Act Regarding Pay Equality

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

Sec. 1. 5 MRSA §4577 is enacted to read:

§4577. Compensation history inquiry as evidence of unlawful discrimination

1. Legislative findings and intent. The Legislature finds that despite requirements regarding equal pay having been a part of the laws of Maine since 1965, wage inequality is an ongoing issue in the State. Wage inequality causes substantial harm to the citizens and to the economy of the State. The Legislature finds that when employers base compensation decisions on compensation history of a prospective employee, it directly perpetuates this wage inequality. An employer's knowledge of a prospective employee's compensation history is directly related to the practice of basing compensation decisions on compensation history. It is the intent of the Legislature to promote the payment of equal compensation for comparable work on jobs that have comparable requirements relating to skill, effort and responsibility and to prevent unlawful employment discrimination with respect to compensation.

2. Evidence of unlawful employment discrimination. Evidence of unlawful employment discrimination under section 4572 and Title 26, section 628 includes, but is not limited to, an employer's inquiring, either directly or indirectly, about the compensation history of a prospective employee from the prospective employee or a current or former employer of the prospective employee or otherwise seeking the compensation history of a prospective employee.

3. Exceptions. Notwithstanding subsection 2, an employer or employment agency may inquire about or seek compensation history of an employee or prospective employee after an offer of employment that includes all terms of compensation has been negotiated and made to the prospective employee. If an employee or prospective employee has voluntarily disclosed compensation history information, without prompting by the employer or employment agency, the employer or employment agency may seek to confirm or permit a prospective employee to confirm such information prior to an offer of

employment. This section does not apply to an employer who inquires about compensation history pursuant to any federal or state law that specifically requires the disclosure or verification of compensation history for employment purposes.

Sec. 2. 26 MRSA §626-A, first ¶, as amended by PL 1999, c. 465, §5, is further amended to read:

Whoever violates any of the provisions of sections 621-A to 623 or section 626, 628, 628-A, 629 or 629-B is subject to a forfeiture of not less than $100 nor more than $500 for each violation.

Sec. 3. 26 MRSA §628, first ¶, as amended by PL 2009, c. 29, §1, is further amended to read:

An employer may not discriminate between employees in the same establishment on the basis of sex by paying wages to any employee in any occupation in this State at a rate less than the rate at which the employer pays any employee of the opposite sex for comparable work on jobs that have comparable requirements relating to skill, effort and responsibility. Differentials that are paid pursuant to established seniority systems or merit increase systems or difference in the shift or time of the day worked that do not discriminate on the basis of sex are not within this prohibition. An employer may not discharge or discriminate against any employee by reason of any action taken by such employee to invoke or assist in any manner the enforcement of this section. An employer may not prohibit an employee from disclosing the employee's own wages or from inquiring about or disclosing another employee's wages if the purpose of the disclosure or inquiry is to enforce the rights granted by this section. Nothing in this section creates an obligation to disclose wages.

Sec. 4. 26 MRSA §628-A is enacted to read:

§628-A. Compensation history inquiry prohibited

1. Legislative findings and intent. The Legislature finds that despite requirements regarding equal pay having been a part of the laws of Maine since 1965, wage inequality is an ongoing issue in the State. Wage inequality causes substantial harm to the citizens and to the economy of the State. The Legislature finds that when employers base compensation decisions on compensation history of a prospective employee, it directly perpetuates this wage inequality. An employer's knowledge of a prospective employee's compensation history is directly related to the practice of basing compensation decisions on compensation history. It is the intent of the Legislature to promote the payment of equal compensation for comparable work on jobs that have comparable requirements relating to skill, effort and responsibility and to prevent unlawful employment discrimination with respect to compensation.

2. Prohibition. An employer may not use or inquire about the compensation history of a prospective employee from the prospective employee or a current or former employer of the prospective employee unless an offer of employment that includes all terms of compensation has been negotiated and made to the prospective employee, after

which the employer may inquire about or confirm the prospective employee's compensation history.

3. Exception. This section does not apply to an employer who inquires about compensation history pursuant to any federal or state law that specifically requires the disclosure or verification of compensation history for employment purposes.

4. Penalty. This section may be enforced pursuant to section 626-A. The civil action provided pursuant to section 626-A may be brought to enforce this section by or on behalf of a person affected by a violation of subsection 2 or by the Department of Labor on behalf of a person affected by a violation of subsection 2, and the plaintiff or plaintiffs may also seek judgment for compensatory damages.

APPROVED
APRIL 19, 2019
BY GOVERNOR

CHAPTER
36
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 59 - L.D. 62

An Act To Enhance the Senior Volunteer Benefit Program

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

Sec. 1. 36 MRSA §6232, sub-§1-A, as enacted by PL 2007, c. 635, §2, is amended to read:

1-A. Volunteer program. A municipality may by ordinance adopt a program that permits claimants who are at least 60 years of age to earn benefits up to a maximum of ~~$750~~ $1,000 or 100 times the state minimum hourly wage under Title 26, section 664, subsection 1, whichever is greater, by volunteering to provide services to the municipality. A program adopted under this subsection does not need to meet the requirements of subsection 1, paragraph B or C. Benefits provided under this subsection must be related to the amount of volunteer service provided. Benefits received under this subsection may not be considered income for purposes of Part 8. A municipality may by ordinance establish procedures and additional standards of eligibility for a program adopted under this subsection.

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STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 121 - L.D. 139

An Act To Address the Unmet Workforce Needs of Employers and To Improve the Economic Future of Workers

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

Sec. 1. 26 MRSA §773-A, sub-§3, ¶E, as enacted by PL 2017, c. 286, §4, is amended to read:

E. Who has graduated from high school, or who has successfully attained a high school equivalency diploma or its equivalent, and who has graduated from a vocational, career and technical or cooperative education program approved by the Department of Education and is hired by an employer to work in an occupation for which the minor has been trained and certified by the vocational program may work for that employer in that occupation.

Sec. 2. 26 MRSA §2033, sub-§5, ¶A, as enacted by PL 2007, c. 352, Pt. A, §3, is amended to read:

A. Is at least 18 years old or has graduated from high school;

Sec. 3. 26 MRSA §2033, sub-§5-A, as enacted by PL 2015, c. 257, §1, is amended to read:

5-A. Secondary student eligibility. Notwithstanding subsection 5, paragraph A, ~~before January 1, 2020,~~ a full-time student at a public secondary school enrolled in a career and technical education program at a career and technical education center or a career and technical education region may be granted enrollment in the program if the student applies for enrollment and meets the requirements of subsection 5, paragraphs B, C, D and E. For the purpose of determining eligibility under subsection 5, paragraph C, "income" includes the income of the student's family as defined by department rule.

The commissioner may not expend, on an annualized basis, more than 15% of the annual revenue to the fund for tuition, other allowable costs and administration and case management for students enrolled in the program under this subsection and the costs for

any of these students who continue to participate in the program after attaining 18 years of age.

~~This subsection is repealed January 1, 2020.~~

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STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

S.P. 109 - L.D. 368

An Act To Redefine Geographic Association for Multiple-employer Welfare Arrangements

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

Sec. 1. 24-A MRSA §2808-B, sub-§2, ¶E, as corrected by RR 2011, c. 1, §40, is amended to read:

E. The superintendent may authorize a carrier to establish a separate community rate for an association group organized pursuant to section 2805-A or a trustee group organized pursuant to section 2806, as long as association group membership or eligibility for participation in the trustee group is not conditional on health status, claims experience or other risk selection criteria and all small group health plans offered by the carrier through that association or trustee group:

(1) Are otherwise in compliance with the premium rate requirements of this subsection; and

(2) Are offered on a guaranteed issue basis to all eligible employers that are members of the association or are eligible to participate in the trustee group except that a professional association may require that a minimum percentage of the eligible professionals employed by a subgroup be members of the association in order for the subgroup to be eligible for issuance or renewal of coverage through the association. The minimum percentage must not exceed 90%. For purposes of this subparagraph, "professional association" means an association that:

(a) Serves a single profession that requires a significant amount of education, training or experience or a license or certificate from a state authority to practice that profession;

(b) Has been actively in existence for 5 years;

(c) Has a constitution and bylaws or other analogous governing documents;

(d) Has been formed and maintained in good faith for purposes other than obtaining insurance;

(e) Is not owned or controlled by a carrier or affiliated with a carrier;

(g) Has at least 1,000 members if it is a national association; 200 members if it is a state or local association;

(h) All members and dependents of members are eligible for coverage regardless of health status or claims experience; and

(i) Is governed by a board of directors and sponsors annual meetings of its members.

Producers may only market association memberships, accept applications for membership or sign up members in the professional association where the individuals are actively engaged in or directly related to the profession represented by the professional association.

Except for employers with plans that have grandfathered status under the federal Affordable Care Act, this paragraph does not apply to policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2014 until December 31, 2019. To the extent permitted under the federal Affordable Care Act, this paragraph applies to policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2020.

Sec. 2. 24-A MRSA §6603, sub-§1, ¶¶B and D, as amended by PL 2001, c. 570, §1, are further amended to read:

B. ~~Except for those associations meeting the criteria of subsection 1-A, must~~ Must be established by a trade association~~,~~; industry association~~,~~; association with employer members representing multiple trades, industries or professions; political subdivision of the State~~,~~; religious organization; or professional association of employers or professionals that has a constitution or bylaws and that has been organized and maintained in good faith for a continuous period of one year for purposes other than that of obtaining or providing insurance;

D. May not be offered, advertised or available to employers or other members of the public generally~~, except as allowed under subsection 1-A~~;

Sec. 3. 24-A MRSA §6603, sub-§1-A, as enacted by PL 2001, c. 570, §2, is repealed.

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STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 297 - L.D. 388

An Act To Recognize Employee Background Checks Conducted for Out-of-state Schools Eligible for Maine Tuition Assistance

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

Whereas, this legislation must take effect before the expiration of the 90-day period so that it applies to the next school year; 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. 20-A MRSA §5808, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§5808. Schools outside state

The tuition payment for students educated in whole in another state or country may not exceed the average per pupil cost in all secondary schools of this State. The legislative body of the school administrative unit may vote to authorize its school board to pay a larger tuition rate.

For an out-of-state secondary school that serves a student who resides in a school administrative unit that does not maintain a secondary school, the tuition payment may not be withheld solely because persons regularly employed in that school do not meet the requirements of section 6103, as long as those persons are required to meet background check standards in that state determined by the commissioner to be equivalent to the requirements of section 6103. The commissioner shall adopt rules to implement this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Notwithstanding any other provision of law to the contrary, an out-of-state secondary school that was included on the list of approved out-of-state secondary schools maintained by the department for the 2017-2018 school year must continue to receive tuition payments under this section for any student who was enrolled at that school for the 2018-2019 school year. Tuition payments must continue for such a student until that student graduates or terminates enrollment.

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

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STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 164 - L.D. 201

An Act To Protect Jobs in the State by Strengthening the Advance Notice Requirement for the Relocation or Closure of a Large Business

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

Sec. 1. 26 MRSA §625-B, sub-§§6 and 6-A, as amended by PL 2015, c. 417, §1, are further amended to read:

6. Notice of director. Any person proposing to relocate or close a covered establishment shall notify the director in writing not less than ~~60~~ 90 days prior to the relocation or closing. A person initiating a mass layoff at a covered establishment shall notify the director as far in advance as practicable, and no later than within 7 days of the layoff, and shall report to the director the expected duration of the layoff and whether it is of indefinite or definite duration. The director shall, from time to time, but no less frequently than every 30 days, require the employer to report such facts as the director considers relevant to determine whether the mass layoff constitutes a closing under this section or whether there is a substantial reason to believe the affected employees will be recalled. A notification or report provided to the director pursuant to this subsection must contain all relevant information in the possession of the employer regarding a potential recall, if applicable.

6-A. Notice to employees and municipality. A person proposing to close a covered establishment shall notify employees and the municipal officers of the municipality where the covered establishment is located in writing not less than ~~60~~ 90 days prior to the closing, unless this notice requirement is waived by the director. ~~A person that violates this provision commits a civil violation for which a fine of not more than $500 may be adjudged, except that a fine may not be adjudged if the closing is necessitated by a physical calamity or the final order of a federal, state or local government agency, or if the failure to give notice is due to unforeseen circumstances. A fine imposed pursuant to this subsection may not be collected by the Department of Labor to the extent such collection prevents the violator from making all payments required under subsection 2.~~

Sec. 2. 26 MRSA §625-B, sub-§9, as enacted by PL 2007, c. 333, §2, is amended to read:

9. Penalties. A person that violates subsection 2 commits a civil violation for which a fine of not more than $1,000 per violation may be adjudged. Each employee affected constitutes a separate violation. Any such fine may not be collected by the Department of Labor to the extent such collection prevents the violator from making all payments required under subsection 2.

A person that violates subsection 6 or subsection 6-A commits a civil violation for which a fine of $500 per day may be adjudged, except that a fine may not be adjudged if the closing is necessitated by a physical calamity or the final order of a federal, state or local government agency, or if the failure to give notice is due to unforeseen circumstances. A fine imposed on a person that violates subsection 6-A may not be collected by the Department of Labor to the extent such collection prevents the violator from making all payments required under subsection 2.

APPROVED
MAY 16, 2019
BY GOVERNOR

CHAPTER
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PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

S.P. 292 - L.D. 1013

An Act To Clarify the Disqualification from Unemployment Benefits of a Person Who Is Terminated from Employment for Being Under the Influence of Marijuana

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

Sec. 1. 26 MRSA §1043, sub-§23, ¶A, as enacted by PL 1999, c. 464, §2, is amended to read:

A. The following acts or omissions are presumed to manifest a disregard for a material interest of the employer. If a culpable breach or a pattern of irresponsible behavior is shown, these actions or omissions constitute "misconduct" as defined in this subsection. This does not preclude other acts or omissions from being considered to manifest a disregard for a material interest of the employer. The acts or omissions included in the presumption are the following:

(1) Refusal, knowing failure or recurring neglect to perform reasonable and proper duties assigned by the employer;

(2) Unreasonable violation of rules that are reasonably imposed and communicated and equitably enforced;

(3) Unreasonable violation of rules that should be inferred to exist from common knowledge or from the nature of the employment;

(4) Failure to exercise due care for punctuality or attendance after warnings;

(5) Providing false information on material issues relating to the employee's eligibility to do the work or false information or dishonesty that may substantially jeopardize a material interest of the employer;

(6) Intoxication while on duty or when reporting to work, or unauthorized use of alcohol or marijuana while on duty except for the use of marijuana permitted under Title 22, chapter 558-C;

(7) Using illegal drugs or being under the influence of such drugs while on duty or when reporting to work;

(8) Unauthorized sleeping while on duty;

(9) Insubordination or refusal without good cause to follow reasonable and proper instructions from the employer;

(10) Abusive or assaultive behavior while on duty, except as necessary for self-defense;

(11) Destruction or theft of things valuable to the employer or another employee;

(12) Substantially endangering the safety of the employee, coworkers, customers or members of the public while on duty;

(13) Conviction of a crime in connection with the employment or a crime that reflects adversely on the employee's qualifications to perform the work; or

(14) Absence for more than 2 work days due to incarceration for conviction of a crime.

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 562 - L.D. 757

An Act To Improve Labor Laws for Maine Workers

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

Sec. 1. 26 MRSA §967, as amended by PL 1991, c. 622, Pt. O, §7, is further amended to read:

§967. Determination of bargaining agent

1. Voluntary recognition. Any public employee organization may file a request with a public employer alleging that a majority of the public employees in an appropriate bargaining unit wish to be represented for the purpose of collective bargaining between the public employer and the employees' organization. Such request ~~shall~~ must describe the grouping of jobs or positions ~~which~~ that constitute the unit claimed to be appropriate and ~~shall~~ must include a demonstration of majority support. Such request for recognition ~~shall~~ may be granted by the public employer~~, unless the public employer desires that an election determine whether the organization represents a majority of the members in the bargaining unit~~.

1-A. Majority sign-up. If a request by a public employee organization for recognition pursuant to subsection 1 is not granted by the public employer, the executive director of the board or a designee shall examine the demonstration of support. If the executive director of the board or a designee finds that a majority of the employees in a unit appropriate for bargaining have signed valid authorizations designating the employees' organization specified in the petition as their bargaining representative and that no other individual or labor organization is currently certified or recognized as the exclusive representative of any of the employees in the unit, the board may not direct an election but shall certify the employees' organization as the representative. However, if the majority status of the employees in the appropriate unit is in question, the executive director of the board or a designee shall call an election to determine whether the organization represents a majority of the members in the bargaining unit.

2. Elections. The executive director of the board, or a designee, ~~upon signed request of a public employer alleging that one or more public employees or public employee~~

~~organizations have presented to it a claim to be recognized as the representative of a bargaining unit of public employees~~ pursuant to subsection 1-A, or upon signed petition of at least 30% of a bargaining unit of public employees that they desire to be represented by an organization, shall conduct a secret ballot election to determine whether the organization represents a majority of the members in the bargaining unit. Such an election may be conducted at suitable work locations or through the United States mail, and the procedures adopted and employed must ensure that neither the employee organizations or the management representatives involved in the election have access to information that would identify a voter.

The ballot ~~shall~~ must contain the name of such organization and that of any other organization showing written proof of at least 10% representation of the public employees within the unit, together with a choice for any public employee to designate that ~~he~~ the public employee does not desire to be represented by any bargaining agent. ~~Where~~ When more than one organization is on the ballot and no one of the 3 or more choices receives a majority vote of the public employees voting, a run-off election ~~shall~~ must be held. The run-off ballot ~~shall~~ must contain the 2 choices ~~which~~ that received the largest and ~~second-largest~~ 2nd-largest number of votes. When an organization receives the majority of votes of those voting, the executive director of the board shall certify it as the bargaining agent. The bargaining agent certified as representing a bargaining unit ~~shall~~ must be recognized by the public employer as the sole and exclusive bargaining agent for all of the employees in the bargaining unit unless and until a decertification election by secret ballot ~~shall be~~ is held and the bargaining agent declared by the executive director of the board as not representing a majority of the unit.

Whenever 30% of the employees in a certified bargaining unit petition for a bargaining agent to be decertified, the procedures for conducting an election on the question ~~shall be~~ are the same as for representation as bargaining agent ~~hereinbefore set forth~~ as established in this section.

~~No~~ A question concerning representation may not be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, ~~no~~ a question concerning unit or representation may not be raised except during the period not more than 90 nor less than 60 days prior to the expiration date of the agreement. The not more than 90-day nor less than 60-day period prior to the expiration date of an agreement regarding unit determination and representation ~~shall~~ does not apply to matters of unit clarification.

The bargaining agent certified by the executive director of the board as the exclusive bargaining agent shall ~~be required to~~ represent all the public employees within the unit without regard to membership in the organization certified as bargaining agent, ~~provided~~ except that any public employee at any time may present ~~his~~ that public employee's grievance to the public employer and have such grievance adjusted without the intervention of the bargaining agent, if the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect and if the bargaining agent's representative has been given reasonable opportunity to be present at any meeting of the parties called for the resolution of such grievance.

APPROVED
MAY 28, 2019
BY GOVERNOR

CHAPTER
156
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

S.P. 110 - L.D. 369

An Act Authorizing Earned Employee Leave

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

Sec. 1. 26 MRSA §42-B, sub-§1, ¶¶E and F, as enacted by PL 2017, c. 219, §2, are amended to read:

E. Video display terminal safety as described in section 252, subsection 1; ~~and~~

F. Minimum wage and overtime provisions as described in section 664.~~;~~ and

Sec. 2. 26 MRSA §42-B, sub-§1, ¶G is enacted to read:

G. Earned paid leave.

Sec. 3. 26 MRSA §637 is enacted to read:

§637. Earned paid leave

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

A. "Employment" has the same meaning as in section 1043, subsection 11, but does not include employment in a seasonal industry as defined in section 1251.

B. "Employer" has the same meaning as in section 1043, subsection 9.

C. "Employee" means a person engaged in employment.

2. Earned paid leave. An employer that employs more than 10 employees in the usual and regular course of business for more than 120 days in any calendar year shall permit each employee to earn paid leave based on the employee's base pay as provided in this section.

3. Accrual. An employee is entitled to earn one hour of paid leave from a single employer for every 40 hours worked, up to 40 hours in one year of employment. Accrual of leave begins at the start of employment, but the employer is not required to permit use

of the leave before the employee has been employed by that employer for 120 days during a one-year period.

4. Rate. An employee while taking earned leave must be paid at least the same base rate of pay that the employee received immediately prior to taking earned leave and must receive the same benefits as those provided under established policies of the employer pertaining to other types of paid leave.

5. Notice. Absent an emergency, illness or other sudden necessity for taking earned leave, an employee shall give reasonable notice to the employee's supervisor of the employee's intent to use earned leave. Use of leave must be scheduled to prevent undue hardship on the employer as reasonably determined by the employer.

6. Benefits. The taking of earned leave under this section may not result in the loss of any employee benefits accrued before the date on which the leave commenced and may not affect the employee's right to health insurance benefits on the same terms and conditions as applicable to similarly situated employees. Nothing is this section prevents an employer from providing a benefit greater than that provided by this section.

7. Enforcement. The bureau has the exclusive authority pursuant to section 42 to enforce this section.

8. Penalties. Penalties for violations of this section are the same as those provided in section 53.

9. Preemption. A municipality or other political subdivision may not enact an ordinance or other rule purporting to have the force of law under its home rule or other authority regulating earned paid leave.

10. Rules. The Department of Labor shall adopt rules to implement and enforce the provisions of this section, including rules regarding the receipt, investigation and prosecution of complaints brought under this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

11. Exception. This section does not apply to an employee covered by a collective bargaining agreement during the period between January 1, 2021 and the expiration of the agreement.

12. Reporting. Beginning January 1, 2022, and annually thereafter, the Department of Labor shall submit a report to the joint standing committee of the Legislature having jurisdiction over labor matters on progress made in the State to comply with this section.

Sec. 4. Effective date. This Act takes effect January 1, 2021.

APPROVED
MAY 30, 2019
BY GOVERNOR

CHAPTER
184
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 241 - L.D. 317

An Act To Amend the Laws Governing Appointees to the Maine Labor Relations Board

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

Sec. 1. 26 MRSA §968, sub-§1, as amended by PL 1991, c. 798, §6, is further amended to read:

1. Maine Labor Relations Board. The Maine Labor Relations Board, established by Title 5, section 12004-B, subsection 2, consists of 3 members and 6 alternates appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over labor matters and to confirmation by the Legislature. The Governor, in making appointments, shall name one member and 2 alternates to represent employees, one member and 2 alternates to represent employers and one member and 2 alternates to represent the public. The member and alternates representing employees may not have worked in a management capacity or represented employer interests in any proceedings at any time during the prior 6 years. The member and alternates representing the public may not have worked in a management capacity or represented employer interests in any proceedings or have worked for a labor organization or served in a leadership role in a labor organization at any time during the prior 6 years. The member representing the public serves as the board's chair and the alternate representing the public serves as an alternate chair. Members of the board are entitled to compensation according to the provisions of Title 5, chapter 379. The alternates are entitled to compensation at the same per diem rate as the member that the alternate replaces. The term of each member and each alternate is 4 years, except that of the members and alternates first appointed, one member and 2 alternates are appointed for a term of 4 years, one member and 2 alternates are appointed for a term of 3 years and one member and 2 alternates are appointed for a term of 2 years. The members of the board, its alternates and its employees are entitled to receive necessary expenses. Per diem and necessary expenses for members and alternates of the board, as well as state cost allocation program charges, must be shared equally by the parties to any proceeding at which the board presides and must be paid into a special fund administered by the board from which all costs must be paid. The executive director may estimate costs upon receipt of a request for services and collect those costs prior to providing the services.

The executive director shall bill or reimburse the parties, as appropriate, for any difference between the estimated costs that were collected and the actual costs of providing the services. Once one party has paid its share of the estimated cost of providing the service, the matter is scheduled for hearing. A party who has not paid an invoice for the estimated or actual cost of providing services within 60 days of the date the invoice was issued is, in the absence of good cause shown, liable for the amount of the invoice together with a penalty in the amount of 25% of the amount of the invoice. Any penalty amount collected pursuant to this provision remains in the special fund administered by the Maine Labor Relations Board, and that fund does not lapse. The executive director is authorized to collect any sums due and payable pursuant to this provision through civil action. In such an action, the court shall allow litigation costs, including court costs and reasonable attorney's fees, to be deposited in the General Fund if the executive director is the prevailing party in the action. At its discretion, the board may allocate all costs to a party that presents a frivolous complaint or defense or that commits a blatant violation of the applicable collective bargaining law. When the board meets on administrative or other matters that do not concern the interests of particular parties or when any board member presides at a prehearing conference, the members' per diem and necessary expenses must be paid from the board's regular appropriation for these purposes. The executive director and legal or professional personnel employed by the board are members of the unclassified service.

Sec. 2. Application. This Act applies to all appointments and reappointments to the Maine Labor Relations Board, pursuant to the Maine Revised Statutes, Title 26, section 968, of members and alternates commencing after the effective date of this Act.

APPROVED
APRIL 5, 2019
BY GOVERNOR

CHAPTER
22
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 133 - L.D. 170

An Act To Prohibit Questions Regarding Criminal History on Certain State Employment Applications

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

Sec. 1. 5 MRSA §792 is enacted to read:

§792. Application forms for employment

An application form for employment for a position in State Government may not include any questions regarding an applicant's criminal history except when, due to the nature and requirements of the position, a person who has a criminal history may be disqualified from eligibility for the position. For purposes of this section, "position in State Government" means a position in the legislative, executive or judicial branch of State Government or a position with a quasi-independent state entity or public instrumentality of the State. "Position in State Government" does not include a position in a school administrative unit, municipality, county or other political subdivision of the State.

APPROVED
APRIL 22, 2019
BY GOVERNOR

CHAPTER
47
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 229 - L.D. 305

An Act To Protect Job Applicants from Identity Theft

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

Sec. 1. 26 MRSA §598-A is enacted to read:

§598-A. Prospective employee's social security number

Beginning January 1, 2020, an employer may not request a social security number from a prospective employee on an employment application or during the application process for employment except for the purposes of substance abuse testing under subchapter 3-A or a preemployment background check. This section does not apply to an employer's request for a social security number after the employee has been hired.

APPROVED | CHAPTER
APRIL 22, 2019 | 49
BY GOVERNOR | PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 363 - L.D. 506

An Act To Provide Architects, Engineers and Certain Other Professionals Immunity from Civil Liability When Volunteering for Evaluating Damage from Disasters

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

Sec. 1. 14 MRSA §172 is enacted to read:

§172. Liability related to professional services for natural disaster or catastrophe

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

A. "Architect" means a person licensed as an architect under Title 32, chapter 3-A.

B. "Building inspection official" means a public official with executive responsibility to coordinate building inspection in the jurisdiction in which a natural disaster or catastrophe has occurred.

C. "Contractor" means a person engaged in the business of designing, developing, constructing, altering, adding to or repairing new or existing structures, buildings, facilities, project utilities, equipment, machines, processes, piping or other engineered systems or infrastructure or their appurtenances.

D. "Engineer" means a person licensed as a professional engineer under Title 32, chapter 19.

E. "Environmental official" means a public official with executive responsibility for coordinating an environmental response in the jurisdiction in which a natural disaster or catastrophe has occurred.

F. "Environmental professional" means a person engaged in the business of providing hazardous waste site clean-up services. "Environmental professional" includes a hazardous waste transporter licensed according to Title 38, section 1319-O.

G. "Land surveyor" means a person licensed as a professional land surveyor according to Title 32, chapter 141.

H. "Landscape architect" means a person licensed as a landscape architect under Title 32, chapter 3-A.

I. "Law enforcement official" means a public official with executive responsibility to coordinate law enforcement in the jurisdiction in which a natural disaster or catastrophe has occurred.

J. "Natural disaster or catastrophe" means an event, whether natural or human-made, that is declared an emergency by the President of the United States or by the Governor and that results in the deployment of emergency response personnel or the displacement of persons from the area of the event.

K. "Planner" means a person certified by the American Institute of Certified Planners, or successor organization, as a certified planner.

L. "Public official" means a federal, state or local appointed or elected official with executive responsibility in the jurisdiction in which a natural disaster or catastrophe has occurred.

M. "Public safety official" means a public official with executive responsibility to coordinate public safety in the jurisdiction in which a natural disaster or catastrophe has occurred.

2. Immunity. An architect, contractor, environmental professional, land surveyor, landscape architect, planner or engineer who voluntarily, without compensation other than expense reimbursement, and acting in good faith provides, under the applicable license or certification, architectural, structural, electrical, mechanical or other engineering, planning, land surveying, hazardous waste site clean-up, contracting or other professional design services related to a natural disaster or catastrophe at the request of or with the approval of a public official, law enforcement official, public safety official, building inspection official or environmental official believed by the architect, contractor, environmental professional, land surveyor, landscape architect, planner or engineer to be acting in an official capacity is not liable for any personal injury, wrongful death, property damage or other loss of any nature related to the architect's, contractor's, environmental professional's, land surveyor's, landscape architect's, planner's or engineer's acts, errors or omissions in the performance of engineering, architectural, planning, land surveying, hazardous waste site clean-up or contracting services for a site, a structure, a building, a facility, a project utility, equipment, a machine, a process, piping or some other engineered system, either publicly or privately owned.

3. Voluntary services. The immunity provided in this section applies to only voluntary architectural, structural, electrical, mechanical or other engineering, planning, land surveying, hazardous waste site clean-up, contracting or other professional design services related to a natural disaster or catastrophe that are provided during the natural disaster or catastrophe, unless the period of emergency is extended by an executive order issued by the President of the United States or the Governor under the President's or Governor's emergency executive powers.

4. Reckless or intentional misconduct. Nothing in this section provides immunity for reckless or intentional misconduct.

5. Liability of governmental entities and employees not affected; existing immunity. When an architect, contractor, environmental professional, land surveyor, landscape architect, planner or engineer voluntarily renders services at the request of or with the approval of a state or local official and when such services fall within the immunity of this section, the liability, if any, of governmental entities and their employees under chapter 741 is not affected by this section. The immunity provided in this section is in addition to immunity provided in Title 37-B, section 784-A.

APPROVED
JUNE 7, 2019
BY GOVERNOR

CHAPTER
240
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 898 - L.D. 1237

An Act To Simplify Municipal Collective Bargaining by Removing the 120-Day Notice Required Prior to Certain Negotiations

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

Sec. 1. 26 MRSA §965, sub-§1, as amended by PL 2009, c. 107, §5, is further amended to read:

1. Negotiations. It is the obligation of the public employer and the bargaining agent to bargain collectively. "Collective bargaining" means, for the purposes of this chapter, their mutual obligation:

A. To meet at reasonable times;

B. To meet within 10 days after receipt of written notice from the other party requesting a meeting for collective bargaining purposes, as long as the parties have not otherwise agreed in a prior written contract. This obligation is suspended during the period between a referendum approving a new regional school unit and the operational date of the regional school unit, as long as the parties meet at reasonable times during that period;

C. To confer and negotiate in good faith with respect to wages, hours, working conditions and contract grievance arbitration, except that by such obligation neither party may be compelled to agree to a proposal or be required to make a concession and except that public employers of teachers shall meet and consult but not negotiate with respect to educational policies; for the purpose of this paragraph, educational policies may not include wages, hours, working conditions or contract grievance arbitration;

D. To execute in writing any agreements arrived at, the term of any such agreement to be subject to negotiation but may not exceed 3 years; and

E. To participate in good faith in the mediation, fact-finding and arbitration procedures required by this section.

~~Whenever wages, rates of pay or any other matter requiring appropriation of money by any municipality or county are included as a matter of collective bargaining conducted~~

~~pursuant to this chapter, it is the obligation of the bargaining agent to serve written notice of request for collective bargaining on the public employer at least 120 days before the conclusion of the current fiscal operating budget, except that this requirement is waived in the event that a bargaining agent of a newly formed bargaining unit is recognized or certified during the period not more than 120 days nor less than 30 days prior to the end of the fiscal period. The 120-day notice requirement is also waived with respect to regional school units formed pursuant to Title 20-A, chapter 103-A, subchapter 2 prior to their first year of operation.~~

APPROVED
JUNE 13, 2019
BY GOVERNOR

CHAPTER
278
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

S.P. 499 - L.D. 1564

An Act To Authorize Project Labor Agreements for Public Works Projects

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

Sec. 1. 26 MRSA §1316, as enacted by PL 2011, c. 463, §3, is repealed.

Sec. 2. 26 MRSA c. 43 is enacted to read:

CHAPTER 43

PROJECT LABOR AGREEMENTS

§3501. Project labor agreements for public works projects

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

A. "Public authority" has the same meaning as in section 1304, subsection 7.

B. "Public works" has the same meaning as in section 1304, subsection 8.

2. Public authority may require project labor agreement. Notwithstanding any other provision of law regarding procurement of goods or services, a public authority may require a project labor agreement for any public works project when that public authority has determined, on a project-by-project basis and acting within its discretion, that it is in the public's interest to require such an agreement. In making such a determination, the public authority shall consider the effects a project labor agreement may have on:

A. The efficiency, cost and direct and indirect economic benefits to the public authority;

B. The availability of a skilled workforce to complete the public works project;

C. The prevention of construction delays;

D. The safety and quality of the public works project;

E. The advancement of minority-owned businesses and women-owned businesses; and

F. Employment opportunities for the community.

3. Requirements. A project labor agreement required by a public authority pursuant to this section must:

A. Set forth mutually binding procedures for resolving disputes that can be implemented without delay;

B. Include guarantees against a strike, lockout or other concerted action aimed at slowing or stopping the progress of the public works project;

C. Ensure a reliable source of skilled and experienced labor;

D. Include goals for the number of apprentices and for a percentage of work to be performed by minorities, women and veterans;

E. Provide for the invitation of all contractors to bid on the public works project without regard to whether the employees of any such contractor are members of a labor organization;

F. Permit the selection of the lowest responsible qualified bidder without regard to labor organization affiliation; and

G. Bind all contractors and subcontractors to the terms of the agreement.

A project labor agreement required by a public authority pursuant to this section may not require compulsory labor organization membership of employees working on the public works project.

4. Bidder that does not agree to abide by conditions. A bidder for a public works project that does not agree to abide by the conditions of the project labor agreement or a requirement to negotiate a project labor agreement may not be regarded as a responsible qualified bidder for the project.

APPROVED
JUNE 17, 2019
BY GOVERNOR

CHAPTER
329
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 660 - L.D. 886

An Act To Protect Search and Rescue Volunteers Certified by the Maine Association for Search and Rescue from Adverse Employment Actions

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

Sec. 1. 26 MRSA c. 7, sub-c. 4-D is enacted to read:

SUBCHAPTER 4-D

SEARCH AND RESCUE VOLUNTEERS; ABSENCE FROM WORK

§810. Absence for emergency response

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

A. "Employer" means any private or public employer, including the State and political subdivisions of the State.

B. "Recognized organization" means a nonprofit search and rescue organization recognized by the Department of Inland Fisheries and Wildlife, Bureau of Warden Service.

C. "Search and rescue" means a search, rescue or search and rescue.

D. "Search and rescue volunteer" means a person who is certified in search and rescue practices and procedures by a recognized organization.

2. Prohibition against discharge or disciplinary action. An employer may not discharge or take any other disciplinary action against or otherwise discriminate against an employee because of the employee's failure to report for work at the beginning of the employee's regular working hours or the employee's absence during the employee's regular working hours if the employee's failure to report or absence was because the employee was responding to a search and rescue operation requested by a law enforcement agency in the employee's capacity as a search and rescue volunteer and the employee reported for work as soon as reasonably possible after being released from the

search and rescue operation. An employer may charge the lost time against the employee's regular pay or against the employee's available leave time. This subsection does not apply to the absence of an employee if the employee has been designated as essential by the employer pursuant to subsection 6.

3. Notification; verification. An employee responding as a search and rescue volunteer to a search and rescue operation, the employee's designee or the search and rescue operation supervisor shall make every effort to immediately notify the employer that the employee may be late arriving to work or absent from work as a result of responding to a search and rescue operation requested by a law enforcement agency prior to or during the employee's regular working hours. At the request of an employer, an employee losing work time as provided in subsection 2 shall provide the employer with a statement from the official in charge of the recognized organization, the official's designee or a law enforcement official responsible for the search and rescue operation verifying that the employee was responding to a search and rescue operation and specifying the date and time of release from the operation.

4. Enforcement; penalty for violation. If an employer has violated subsection 2, the employee may bring an action in Superior Court in the county in which the employee resides or in the county in which the employer's place of business is located. The action must be brought within one year of the date of the alleged violation. If the court finds that the employer violated subsection 2 and if the employee so requests, the court shall order the employer to reinstate the employee in the employee's former position without reduction of pay, seniority or other benefits. The court also shall order any other appropriate remedy necessary to return the employee to the position the employee would have been in had the employer not violated subsection 2, including payment of back pay and reinstatement of any other benefits lost during the period in which the discharge or disciplinary action was in effect.

5. Individual agreements. This section does not apply if the employer and the employee have entered into a written agreement, signed by the employer and the employee, that governs procedures to be followed when the employee is called to respond to a search and rescue operation as a search and rescue volunteer.

6. Designation as essential. Upon receiving notice of an employee's search and rescue volunteer status, an employer may designate the employee essential to the employer's operations if the absence of the employee would cause significant disruption of the employer's business. This designation must be made in writing and signed by both the employee and the employer.

7. Information to be filed by the employee with the employer. This section applies only if:

A. The recognized organization in charge of calling out search and rescue volunteers has a written policy that:

(1) Specifies the circumstances under which search and rescue volunteers will be ordered to remain at a search and rescue operation; and

(2) Affirms that search and rescue volunteers will be released as soon as practicable; and

B. The employee presents a copy of the policy described in paragraph A to the employer upon notifying the employer of the employee's status as a search and rescue volunteer, within 30 days of employment or within 180 days of the effective date of this subsection.

An employee shall notify the employer of any change to the employee's status as a search and rescue volunteer, including termination of that status within 30 days of the change.

APPROVED
JUNE 17, 2019
BY GOVERNOR

CHAPTER
350
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 1190 - L.D. 1654

An Act To Create Veteran-friendly Workplaces

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

Sec. 1. 26 MRSA §637 is enacted to read:

§637. Leave for appointments for veterans

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

A. "Employer" means a public or private employer.

B. "Paid leave" has the same meaning as in section 636, subsection 1, paragraph C.

C. "Veteran" means an employee who is a veteran, as defined in section 877, subsection 3.

2. Leave. Pursuant to this subsection, an employer shall allow a veteran to take time away from work to attend a scheduled appointment at a medical facility operated by the United States Department of Veterans Affairs, as long as the veteran gives the employer notice of the appointment as soon as reasonably possible.

A. If an employer provides paid leave, the employer shall allow a veteran to use available paid leave to attend a scheduled appointment at a medical facility operated by the United States Department of Veterans Affairs. If a veteran has used all available paid leave, the employer shall grant unpaid leave to the veteran to attend the appointment.

B. If an employer does not provide paid leave, the employer shall grant unpaid leave to a veteran to attend a scheduled appointment at a medical facility operated by the United States Department of Veterans Affairs.

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BY GOVERNOR

CHAPTER
387
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

S.P. 618 - L.D. 1828

An Act To Amend the Laws Governing Overtime

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

Whereas, this legislation changes the law governing the payment of overtime for those state employees engaged in fire protection activities and law enforcement activities, bringing state law into compliance with federal law; and

Whereas, this legislation is necessary to resolve conflicts between controlling statute, contracts and scheduling practices; and

Whereas, it is necessary to immediately effectuate this change in law, as it relates to the ability of employers and employees to maintain current work schedules; 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. 26 MRSA §664, sub-§3, ¶F, as amended by PL 2017, c. 219, §15, is further amended to read:

F. The canning; processing; preserving; freezing; drying; marketing; storing; packing for shipment; or distributing of:

(1) Agricultural produce;

(2) Meat and fish products; and

(3) Perishable foods.

Individuals employed, directly or indirectly, for or at an egg processing facility that has over 300,000 laying birds must be paid overtime in accordance with this subsection; ~~and~~

Sec. 2. 26 MRSA §664, sub-§3, ¶K, as enacted by PL 2011, c. 681, §3, is amended to read:

K. A driver or driver's helper who is not paid hourly and is subject to the provisions of 49 United States Code, Section 31502 as amended or to regulations adopted pursuant to that section, who is governed by the applicable provisions of federal law with respect to payment of overtime.

Nothing in this paragraph may be construed to limit the rights of parties to negotiate rates of pay for drivers and driver's helpers who are represented for purposes of collective bargaining by a labor organization certified by the National Labor Relations Board or who are employed by an entity that is party to a contract with the Federal Government or an agency of the Federal Government that dictates the minimum hourly rate of pay to be paid a driver or driver's helper~~.~~; and

Sec. 3. 26 MRSA §664, sub-§3, ¶L is enacted to read:

L. Public employees employed by the executive or judicial branch of the State engaged in fire protection activities, as defined in the federal Fair Labor Standards Act, 29 United States Code, Section 203(y), or in law enforcement activities, as defined in 29 Code of Federal Regulations, Section 553.211, and who are eligible to have overtime pay calculated and paid in accordance with 29 United States Code, Section 207(k).

This paragraph may not be construed to limit the rights of parties to negotiate an agreement that provides for payment of overtime that exceeds the requirements of 29 United States Code, Section 207(k).

Sec. 4. Retroactivity. Notwithstanding any law to the contrary, this Act applies retroactively to April 1, 2016.

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

APPROVED
JUNE 19, 2019
BY GOVERNOR

CHAPTER
389
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 1063 - L.D. 1451

An Act Providing Labor Unions with Reasonable Access to Current and Newly Hired Public Sector Workers

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

Sec. 1. 26 MRSA §975 is enacted to read:

§975. Bargaining agent access

1. Bargaining agent access to employees. Public employers shall provide to a bargaining agent access to members of the bargaining unit that the bargaining agent exclusively represents. Access must include, but is not limited to, the following:

A. The right to meet with individual employees on the premises of the public employer's workplace during the work day to investigate and discuss grievances, workplace-related complaints and other workplace issues;

B. The right to conduct workplace meetings during lunch and other breaks, and before and after the work day, on the public employer's premises to discuss workplace issues, collective bargaining negotiations, the administration of collective bargaining agreements and other matters related to the duties of a bargaining agent and internal bargaining agent matters involving the governance or the business of the bargaining agent;

C. The right to meet with newly hired employees, without charge to the pay or leave time of the employees, for a minimum of 30 minutes or for an amount of time agreed upon by all parties, not later than 10 calendar days after receipt of the information provided pursuant to subsection 2, during new employee orientations or, if the employer does not conduct new employee orientations, at individual or group meetings; and

D. The right to use the e-mail system of a public employer to communicate with bargaining unit members regarding official bargaining agent matters including, but not limited to, elections, meetings and social activities, as long as the use of the e-mail system does not create an unreasonable burden on the public employer's network capabilities or system administration.

2. Bargaining agent access to employee information. Public employers shall provide to a bargaining agent access to information about members of the bargaining unit that the bargaining agent exclusively represents, as follows.

A. Not later than 30 calendar days after the date a prospective school employee accepts an offer of employment or not later than 30 calendar days after the date of hire for all other public employees, public employers shall provide the following information to a bargaining agent in spreadsheet file format or another format agreed to by the bargaining agent:

(1) Name;

(2) Job title;

(3) Workplace location;

(4) Home address;

(5) Work telephone numbers;

(6) Home telephone and personal cellular telephone numbers, if known;

(7) Work e-mail address;

(8) Personal e-mail address, if known; and

(9) Date of hire.

B. The following are not public records as defined in Title 1, section 402, subsection 3 and are confidential and may not be disclosed by the public employer, except as provided in paragraph A:

(1) Home addresses, home or personal telephone numbers, personal e-mail addresses and dates of birth of employees;

(2) Names of employees within a bargaining unit; and

(3) Communications between a bargaining agent and its members.

3. Bargaining agent access to government buildings and facilities. The bargaining agent has the right to use government buildings and other facilities that are owned or leased by government entities to conduct meetings with bargaining unit members regarding bargaining negotiations, the administration of collective bargaining agreements, the investigation of grievances, other workplace-related complaints and issues and internal matters involving the governance or business of the bargaining agent, as long as that use does not interfere with governmental operations. A bargaining agent conducting a meeting in a government building or facility pursuant to this section may be charged for maintenance, security and other costs related to the use of the government building or facility that would not otherwise be incurred by the government entity.

4. Employee may opt out. After an initial meeting pursuant to subsection 1, paragraph C, an employee may opt out of receiving any further communications from a bargaining agent or allowing a bargaining agent to have any further access to that employee's information described in subsection 2, paragraph A, except for communications related to direct representation of that employee by a bargaining agent.

5. Selling or sharing nonmember data prohibited. A bargaining agent may not sell or share the information provided in accordance with subsection 2, paragraph A of an employee who is not a member of an employee organization except for the purpose of fulfilling the agent's collective bargaining obligations.

Nothing in this section may be construed to limit the terms of a collective bargaining agreement that provide a bargaining agent with greater rights of access to employees than the rights established by this section.

Sec. 2. 26 MRSA §979-T is enacted to read:

§979-T. Bargaining agent access

1. Bargaining agent access to employees. Public employers shall provide to a bargaining agent access to members of the bargaining unit that the bargaining agent exclusively represents. Access must include, but is not limited to, the following:

A. The right to meet with individual employees on the premises of the public employer's workplace during the work day to investigate and discuss grievances, workplace-related complaints and other workplace issues;

B. The right to conduct workplace meetings during lunch and other breaks, and before and after the work day, on the public employer's premises to discuss workplace issues, collective bargaining negotiations, the administration of collective bargaining agreements and other matters related to the duties of a bargaining agent and internal bargaining agent matters involving the governance or the business of the bargaining agent;

C. The right to meet with newly hired employees, without charge to the pay or leave time of the employees, for a minimum of 30 minutes or for an amount of time agreed upon by all parties, not later than 10 calendar days after receipt of the information provided pursuant to subsection 2, during new employee orientations or, if the employer does not conduct new employee orientations, at individual or group meetings; and

D. The right to use the e-mail system of a public employer to communicate with bargaining unit members regarding official bargaining agent matters including, but not limited to, elections, meetings and social activities, as long as the use of the e-mail system does not create an unreasonable burden on the public employer's network capabilities or system administration.

2. Bargaining agent access to employee information. Public employers shall provide to a bargaining agent access to information about members of the bargaining unit that the bargaining agent exclusively represents, as follows.

A. Not later than 30 calendar days after the date a prospective school employee accepts an offer of employment or not later than 30 calendar days after the date of hire for all other state employees and legislative employees, public employers shall provide the following information to a bargaining agent in spreadsheet file format or another format agreed to by the bargaining agent:

(1) Name;

(2) Job title;

(3) Workplace location;

(4) Home address;

(5) Work telephone numbers;

(6) Home telephone and personal cellular telephone numbers, if known;

(7) Work e-mail address;

(8) Personal e-mail address, if known; and

(9) Date of hire.

B. The following are not public records as defined in Title 1, section 402, subsection 3 and are confidential and may not be disclosed by the public employer, except as provided in paragraph A:

(1) Home addresses, home or personal telephone numbers, personal e-mail addresses and dates of birth of employees;

(2) Names of employees within a bargaining unit; and

(3) Communications between a bargaining agent and its members.

3. Bargaining agent access to government buildings and facilities. The bargaining agent has the right to use government buildings and other facilities that are owned or leased by government entities to conduct meetings with bargaining unit members regarding bargaining negotiations, the administration of collective bargaining agreements, the investigation of grievances, other workplace-related complaints and issues and internal matters involving the governance or business of the bargaining agent, as long as that use does not interfere with governmental operations. A bargaining agent conducting a meeting in a government building or facility pursuant to this section may be charged for maintenance, security and other costs related to the use of the government building or facility that would not otherwise be incurred by the government entity.

4. Employee may opt out. After an initial meeting pursuant to subsection 1, paragraph C, an employee may opt out of receiving any further communications from a bargaining agent or allowing a bargaining agent to have any further access to that employee's information described in subsection 2, paragraph A, except for communications related to direct representation of that employee by a bargaining agent.

5. Selling or sharing nonmember data prohibited. A bargaining agent may not sell or share the information provided in accordance with subsection 2, paragraph A of an employee who is not a member of an employee organization except for the purpose of fulfilling the agent's collective bargaining obligations.

Nothing in this section may be construed to limit the terms of a collective bargaining agreement that provide a bargaining agent with greater rights of access to employees than the rights established by this section.

Sec. 3. 26 MRSA §1037 is enacted to read:

§1037. Bargaining agent access

1. Bargaining agent access to employees. The university, academy or community college shall provide to a bargaining agent access to members of the bargaining unit that the bargaining agent exclusively represents. Access must include, but is not limited to, the following:

A. The right to meet with individual employees on the premises of the university's, academy's or community college's workplace during the work day to investigate and discuss grievances, workplace-related complaints and other workplace issues;

B. The right to conduct workplace meetings during lunch and other breaks, and before and after the work day, on the university's, academy's or community college's premises to discuss workplace issues, collective bargaining negotiations, the administration of collective bargaining agreements and other matters related to the duties of a bargaining agent and internal bargaining agent matters involving the governance or the business of the bargaining agent;

C. The right to meet with newly hired employees, without charge to the pay or leave time of the employees, for a minimum of 30 minutes or for an amount of time agreed upon by all parties, not later than 10 calendar days after receipt of the information provided pursuant to subsection 2, during new employee orientations or, if the university, academy or community college does not conduct new employee orientations, at individual or group meetings; and

D. The right to use the e-mail system of the university, academy or community college to communicate with bargaining unit members regarding official bargaining agent matters including, but not limited to, elections, meetings and social activities, as long as the use of the e-mail system does not create an unreasonable burden on the university's, academy's or community college's network capabilities or system administration.

2. Bargaining agent access to employee information. The university, academy or community college shall provide to a bargaining agent access to information about members of the bargaining unit that the bargaining agent exclusively represents, as follows.

A. Not later than 30 calendar days after the date of hire for an employee, the university, academy or community college shall provide the following information to a bargaining agent in spreadsheet file format or another format agreed to by the bargaining agent:

(1) Name;

(2) Job title;

(3) Workplace location;

(4) Home address;

(5) Work telephone numbers;

(6) Home telephone and personal cellular telephone numbers, if known;

(7) Work e-mail address;

(8) Personal e-mail address, if known; and

(9) Date of hire.

B. The following are not public records as defined in Title 1, section 402, subsection 3 and are confidential and may not be disclosed by the university, academy or community college, except as provided in paragraph A:

(1) Home addresses, home or personal telephone numbers, personal e-mail addresses and dates of birth of employees;

(2) Names of employees within a bargaining unit; and

(3) Communications between a bargaining agent and its members.

3. Bargaining agent access to university, academy or community college buildings and facilities. The bargaining agent has the right to use university, academy and community college buildings and other facilities that are owned or leased by the university, academy or community college to conduct meetings with bargaining unit members regarding bargaining negotiations, the administration of collective bargaining agreements, the investigation of grievances, other workplace-related complaints and issues and internal matters involving the governance or business of the bargaining agent, as long as that use does not interfere with operations. A bargaining agent conducting a meeting in a university, academy or community college building or facility pursuant to this section may be charged for maintenance, security and other costs related to the use of the university, academy or community college building or facility that would not otherwise be incurred by the university, academy or community college.

4. Employee may opt out. After an initial meeting pursuant to subsection 1, paragraph C, an employee may opt out of receiving any further communications from a bargaining agent or allowing a bargaining agent to have any further access to that employee's information described in subsection 2, paragraph A, except for communications related to direct representation of that employee by a bargaining agent.

5. Selling or sharing nonmember data prohibited. A bargaining agent may not sell or share the information provided in accordance with subsection 2, paragraph A of an employee who is not a member of an employee organization except for the purpose of fulfilling the agent's collective bargaining obligations.

Nothing in this section may be construed to limit the terms of a collective bargaining agreement that provide a bargaining agent with greater rights of access to employees than the rights established by this section.

Sec. 4. 26 MRSA §1295 is enacted to read:

§1295. Bargaining agent access

1. Bargaining agent access to employees. Public employers shall provide to a bargaining agent access to members of the bargaining unit that the bargaining agent exclusively represents. Access must include, but is not limited to, the following:

A. The right to meet with individual employees on the premises of the public employer's workplace during the work day to investigate and discuss grievances, workplace-related complaints and other workplace issues;

B. The right to conduct workplace meetings during lunch and other breaks, and before and after the work day, on the public employer's premises to discuss workplace issues, collective bargaining negotiations, the administration of collective bargaining agreements and other matters related to the duties of a bargaining agent and internal bargaining agent matters involving the governance or the business of the bargaining agent;

C. The right to meet with newly hired employees, without charge to the pay or leave time of the employees, for a minimum of 30 minutes or for an amount of time agreed upon by all parties, not later than 10 calendar days after receipt of the information provided pursuant to subsection 2, during new employee orientations or, if the employer does not conduct new employee orientations, at individual or group meetings; and

D. The right to use the e-mail system of a public employer to communicate with bargaining unit members regarding official bargaining agent matters including, but not limited to, elections, meetings and social activities, as long as the use of the e-mail system does not create an unreasonable burden on the public employer's network capabilities or system administration.

2. Bargaining agent access to employee information. Public employers shall provide to a bargaining agent access to information about members of the bargaining unit that the bargaining agent exclusively represents, as follows.

A. Not later than 30 calendar days after the date of hire for a judicial employee, the public employer shall provide the following information to a bargaining agent in spreadsheet file format or another format agreed to by the bargaining agent:

(1) Name;

(2) Job title;

(3) Workplace location;

(4) Home address;

(5) Work telephone numbers;

(6) Home telephone and personal cellular telephone numbers, if known;

(7) Work e-mail address;

(8) Personal e-mail address, if known; and

(9) Date of hire.

B. The following are not public records as defined in Title 1, section 402, subsection 3 and are confidential and may not be disclosed by the public employer, except as provided in paragraph A:

(1) Home addresses, home or personal telephone numbers, personal e-mail addresses and dates of birth of employees;

(2) Names of employees within a bargaining unit; and

(3) Communications between a bargaining agent and its members.

3. Bargaining agent access to government buildings and facilities. The bargaining agent has the right to use government buildings and other facilities that are owned or leased by government entities to conduct meetings with bargaining unit members regarding bargaining negotiations, the administration of collective bargaining agreements, the investigation of grievances, other workplace-related complaints and issues and internal matters involving the governance or business of the bargaining agent, as long as that use does not interfere with governmental operations. A bargaining agent conducting a meeting in a government building or facility pursuant to this section may be charged for maintenance, security and other costs related to the use of the government building or facility that would not otherwise be incurred by the government entity.

4. Employee may opt out. After an initial meeting pursuant to subsection 1, paragraph C, an employee may opt out of receiving any further communications from a bargaining agent or allowing a bargaining agent to have any further access to that employee's information described in subsection 2, paragraph A, except for communications related to direct representation of that employee by a bargaining agent.

5. Selling or sharing nonmember data prohibited. A bargaining agent may not sell or share the information provided in accordance with subsection 2, paragraph A of an employee who is not a member of an employee organization except for the purpose of fulfilling the agent's collective bargaining obligations.

Nothing in this section may be construed to limit the terms of a collective bargaining agreement that provide a bargaining agent with greater rights of access to employees than the rights established by this section.

APPROVED
JUNE 19, 2019
BY GOVERNOR

CHAPTER
393
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

S.P. 483 - L.D. 1546

An Act To Protect State Employees When Their Contracts Have Expired

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

Sec. 1. 26 MRSA §979-T is enacted to read:

§979-T. Obligations during interim between contracts

During the interim after the expiration of a collective bargaining agreement and before the effective date of any subsequent collective bargaining agreement, state employees covered by the expired collective bargaining agreement remain eligible for and must receive merit increases in accordance with the terms and conditions set forth in the expired collective bargaining agreement.

APPROVED
JUNE 19, 2019
BY GOVERNOR

CHAPTER
395
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

S.P. 517 - L.D. 1620

An Act To Exclude Collectively Bargained Salary and Job Promotion Increases from the Earnable Compensation Limitation for Retirement Purposes

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

Sec. 1. 5 MRSA §17001, sub-§13, ¶C, as repealed and replaced by PL 1999, c. 489, §2, is amended to read:

C. The following provisions govern limitations on earnable compensation.

(1) Notwithstanding the other provisions of this subsection, except as provided in subparagraph (3), for the purposes of determining average final compensation, "earnable compensation" does not include any increase that exceeds the prior year's earnable compensation by more than 5% or that results in a total increase of more than 10% during the 3-year period used in the calculation of average final compensation, unless the cost of the additional actuarial liability arising from the excess increase is paid by the employer as provided in section 17154. Any payment made under paragraph B, subparagraph (1) must be included in determining the amount of increase in the year in which the payment is made. This subparagraph does not apply to excess increases resulting from compensation paid prior to July 1, 1993, from compensation paid in accordance with an individual employment contract executed prior to July 1, 1993 or a collective bargaining agreement executed or ratified in its final form by final vote of one party to the agreement prior to July 1, 1993 for the initial term of that contract or agreement or from other action by the governing body of a school administrative unit in effect on July 1, 1993. This subparagraph does not apply to increases in compensation of state employees during fiscal year 1993-94 and fiscal year 1994-95. In all circumstances in which this subparagraph does not apply to earnable compensation of state employees and teachers, the provisions of this subparagraph that were in effect prior to June 30, 1993 apply. This subparagraph does not apply to earnable compensation of employees of participating local districts.

(2) Effective October 1, 1999, the 5% limitation and the 10% limitation on increases in earnable compensation set out in subparagraph (1) may not be changed to a lower percentage for members who, on October 1, 1999 or thereafter, meet the creditable service requirement for eligibility to receive a service retirement benefit, at the applicable age if so required, under section 17851 or section 17851-A, subsection 2.

(3) Collectively bargained salary or wage increases pursuant to Title 26, chapter 9-A, 9-B or 12 or job promotion may not be considered in calculating salary or wage increases for the purposes of subparagraph (1).

APPROVED
JUNE 20, 2019
BY GOVERNOR

CHAPTER
419
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

S.P. 28 - L.D. 75

An Act To Protect Earned Pay

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

Sec. 1. 26 MRSA §1193, sub-§5, as amended by PL 2011, c. 645, §8, is further amended to read:

5. Receiving remuneration. For any week with respect to which the individual is receiving, has been scheduled to receive or has received remuneration in the form of:

A. Dismissal wages, wages in lieu of notice~~,~~ or terminal pay ~~or holiday pay~~; or

~~A-1. Any vacation pay in an amount exceeding the equivalent of 4 weeks' wages for that individual; or~~

B. Benefits under the unemployment compensation or employment security law of any state or similar law of the United States.

If the remuneration under paragraph A is less than the benefits that would otherwise be due under this chapter, the individual is entitled to receive for that week, if otherwise eligible, benefits reduced by the amount of the remuneration, rounded to the nearest lower full dollar amount~~. Earned vacation pay that is paid to the individual prior to the individual's being notified orally or in writing by the employer of the employer's intent to sever the employment relationship is not considered remuneration for purposes of this subsection~~;

APPROVED
JUNE 20, 2019
BY GOVERNOR

CHAPTER
436
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 880 - L.D. 1220

An Act To Remove Certain Restrictions Imposed on Retired State Employees Who Return to Work

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

Sec. 1. 5 MRSA §17859, as amended by PL 2015, c. 321, §1, is further amended to read:

§17859. Retiring and returning to work

1. Restoration to service. Any state employee or teacher who has reached normal retirement age ~~and who retires after September 1, 2011~~ may be restored to service ~~for up to 5 years~~. The decision to hire a retired state employee or retired teacher under this section is at the discretion of the appointing authority. The retired state employee or retired teacher must have had a bona fide termination of employment in accordance with state and federal laws and rules, may not return to employment after retirement with the same employer for at least 30 calendar days after the termination of employment and may not return to employment before the effective date of the person's retirement.

1-A. Restoration to work as classroom-based employees or administrators. ~~Effective August 1, 2014, a classroom-based employee who has reached normal retirement age and who retires after September 1, 2011~~ Any retired state employee, retired teacher or retired school administrator may be restored to service as a classroom-based employee or school administrator in a school in the unorganized territory or with a school administrative unit as defined in Title 20-A, section 1, subsection 26:

A. In one-year contracts, which may be nonconsecutive~~. The maximum time that a classroom-based employee may be restored to service with an individual school administrative unit pursuant to this paragraph is 5 years;~~.

~~B. Subject to the 5-year restriction specified in subsection 1 and the 75% compensation limitation for retired state employees and retired teachers specified in subsection 2, paragraph A; or~~

~~C. In any combination of paragraphs A and B, as long as the total time the classroom-based employee is restored to service does not exceed 10 years with an individual school administrative unit.~~

The retired classroom-based employee must have had a bona fide termination of employment in accordance with state and federal laws and rules, may not return to employment after retirement with the same employer for at least 30 calendar days after the termination of employment and may not return to employment before the effective date of the person's retirement.

For purposes of this section, "classroom-based employee" means a teacher whose principal function is to introduce new learning to students in the classroom or to provide support in the classroom during the introduction of new learning to students.

~~**2. Compensation and benefits.** The compensation and benefits of the retired state employee or retired teacher who returns to service after retirement as set out in subsection 1 is governed by this subsection.~~

~~A. The compensation of the retired state employee or retired teacher who returns to service must be set at 75% of the compensation established for the position to be filled, at a step determined by the appointing authority. The compensation of the retired classroom-based employee who returns to service as a classroom-based employee pursuant to subsection 1-A, paragraph A must be set at 100% of the compensation established for the position to be filled, at a step determined by the school administrative unit, for up to the maximum 5-year period that a classroom-based employee may contract with an individual school administrative unit.~~

~~B. The retired state employee or retired teacher who returns to service under this section is not a member and therefore may not accrue additional creditable service or change the retired state employee's or retired teacher's earnable compensation for benefit calculation purposes.~~

~~C. During the period of reemployment, the retired state employee or retired teacher is not entitled to health insurance, dental insurance or life insurance benefits. The retired state employee or retired teacher is entitled to all other benefits for the reemployment position under collective bargaining agreements or civil service laws and rules. Health insurance benefits must be provided under the provisions of section 285, subsection 1-A for retired state employees or Title 20-A, section 13451 for retired teachers and life insurance benefits must be provided under the provisions of section 18055.~~

2-A. Compensation. The compensation rate of the retired state employee, retired teacher or retired school administrator returning to service under subsection 1 or 1-A is the same as is required for the position as if the position were filled by an employee who is not a retired state employee, retired teacher or retired school administrator. The compensation rate is determined on the basis of the position under any applicable collective bargaining agreement or determined through normal salary negotiations when the position is not part of a collective bargaining unit.

2-B. Benefits. The benefits of the retired state employee, retired teacher or retired school administrator who returns to service after retirement as set out in subsection 1 or 1-A are governed by this subsection.

A. During the period of reemployment, a retired teacher or retired school administrator continues to receive any retirement benefits that the teacher or administrator is entitled to under Title 20-A, section 13451.

B. During the period of reemployment, a retired state employee continues to receive any retirement benefits that the employee is entitled to under sections 285 and 18055.

C. During the period of reemployment, a retired state employee, retired teacher or retired school administrator who is not receiving any retirement benefits as described in paragraphs A and B is eligible for such benefits as per the local collective bargaining agreement or established through normal negotiations if the position is not part of a collective bargaining unit.

D. During the period of reemployment, a retiree as described in paragraphs A and B may receive additional compensation toward such benefits in an amount not to exceed that of the local collective bargaining agreement if applicable.

~~**3. Contributions to the Maine Public Employees Retirement System and state group health plan.** The portion of the employer contribution that goes to pay the retirement system for the unfunded liability and the state group health plan for retiree health care must be continued and based on the retired state employee's or retired teacher's compensation as provided under subsection 2 during the reemployment period.~~

3-A. Contributions to the Maine Public Employees Retirement System. For a reemployed retired state employee, retired teacher or retired school administrator, the portion of the employer contribution that goes to pay the retirement system for the unfunded liability must be continued at the same contribution rate of the employer as described in section 17253 as is required for the position as if the position were filled by an employee who is not a retired state employee, retired teacher or retired school administrator. A retired state employee, retired teacher or retired school administrator who returns to service under this section is not a member and therefore may not accrue additional creditable service during the reemployment period or change the retired state employee's, retired teacher's or retired school administrator's earnable compensation for benefit calculation purposes.

3-B. Contributions to the state group health plan. For a reemployed retired state employee, retired teacher or retired school administrator, the portion of the employer and employee contribution that goes to pay the state group health plan for health care must be continued at the same contribution rate of the employer and employee as is required for the position as if the position were filled by an employee who is not a retired state employee, retired teacher or retired school administrator.

4. Notification requirements. Employers under this section are required to identify and report to the retirement system, in the manner specified by the retirement system, each individual who is a retiree who becomes an employee of the employer under ~~the~~ an option provided in this section. Departments shall also report each retiree who becomes

an employee to the Bureau of the Budget in a manner specified by the bureau. The employer shall report each such employee whenever and so long as the employee is the employer's employee.

~~**5. Exclusion.** A retired state employee or retired teacher who is hired as a substitute teacher is not subject to the restoration to service 5-year limitation in subsection 1 or the compensation limitation in subsection 2, paragraph A.~~

APPROVED | CHAPTER
JUNE 20, 2019 | 447
BY GOVERNOR | PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 1209 - L.D. 1685

An Act To Facilitate Entry of Immigrants into the Workforce

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

Sec. 1. 10 MRSA c. 110, sub-c. 13 is enacted to read:

SUBCHAPTER 13

FOREIGN CREDENTIALING AND SKILLS RECOGNITION REVOLVING LOAN PROGRAM

§1100-AA. Foreign Credentialing and Skills Recognition Revolving Loan Program

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

A. "Eligible costs" means the following costs incurred by an immigrant prior to the immigrant's obtaining a work permit and incurred for the purpose of improving the immigrant's work-readiness once the immigrant obtains a work permit:

(1) Costs of translating into English any diplomas, transcripts or other documents establishing courses studied or the completion of secondary school or of higher education at either the undergraduate or graduate level;

(2) Fees related to education evaluations establishing the equivalency level of education or experience attained abroad;

(3) Costs of translation into English of documents related to professional licenses or registrations obtained abroad;

(4) Costs of translation into English of letters of reference or recommendations related to education or experience obtained abroad;

(5) Fees related to test preparation courses or registration fees for a standard test of English as a foreign language or other standardized test recognized worldwide

that measures English language proficiency, when necessary for an immigrant's work;

(6) Expenses for employment or professional applications, certifications, licensing fees and related requirements for seeking employment, including but not limited to fingerprinting and required tests;

(7) Fees related to obtaining a Maine driver's license, including but not limited to driver's education course fees, learner's permit application fees and driver's license fees; and

(8) Costs to travel to the nearest location of any exam or test needed to establish the applicant's skills or credentials or English language proficiency if there is no location within 60 miles of the Maine town in which the immigrant resides.

B. "Fund" means the Foreign Credentialing and Skills Recognition Revolving Loan Program Fund, established in subsection 3.

C. "Immigrant" means a person who:

(1) Is not a United States citizen;

(2) Has filed applications or petitions with the United States Citizenship and Immigration Services or with the immigration courts of the United States Department of Justice, Executive Office for Immigration Review or with any successor federal immigration authority entitling the person to request a work permit while the person's applications or petitions are pending; and

(3) Has received education, work experience or work training, or any combination, in a foreign country.

D. "Program" means the Foreign Credentialing and Skills Recognition Revolving Loan Program, established in subsection 2.

E. "Work permit" means a federal authorization of a person who is not a United States citizen to work in the United States.

2. Program established. The Foreign Credentialing and Skills Recognition Revolving Loan Program is established to provide financial assistance to immigrants who need assistance in paying for eligible costs.

3. Fund established. The Foreign Credentialing and Skills Recognition Revolving Loan Program Fund is established as a nonlapsing revolving fund to be administered by the authority. All amounts appropriated to the program must be deposited into the fund as well as all amounts repaid to the program by persons receiving loans under the program. Amounts in the fund must be used by the authority for purposes authorized in this section.

4. Eligible applicants. To be eligible to receive assistance from the fund an immigrant:

A. Shall apply to the authority to participate in the program. The application may be filed directly by the immigrant or, at the request of and on behalf of the immigrant, by an adult education program of a school administrative unit that provides English

as a second language, job skills or other instruction or assistance to improve the work readiness of the immigrant;

B. Must have filed an application or petition with federal immigration authorities that entitles the immigrant to request a work permit in any of the categories set forth in 8 Code of Federal Regulations, Section 274a.12(c)(2019). The immigrant shall provide electronic or paper evidence establishing that the application or petition was filed with federal immigration authorities and shall state which section of 8 Code of Federal Regulations, Section 274a.12(c)(2019) allows the immigrant to request a work permit. An immigrant is not eligible if the immigrant has been denied a work permit at the time of making the application. In the case of asylum seekers, an immigrant is eligible if the immigrant's request for asylum has been pending for fewer than 150 days since the date of its filing and the immigrant has not yet been able to apply for a work permit pursuant to 8 Code of Federal Regulations, Section 274a.12(c)(8)(2019) or, if more than 150 days have elapsed since the asylum application was filed, the immigrant has a pending application for a work permit at the time of making the application to the program; and

C. Shall submit evidence of incurring or needing to incur eligible costs.

5. Disbursement from the fund. Upon approval of an immigrant, the authority shall determine the amount to be disbursed from the fund to the immigrant. Funds must be disbursed directly to and used by the immigrant pursuant to a contract entered into between the immigrant and the authority in accordance with subsection 7. Funds must be disbursed by the authority in one lump sum in the form of an interest-free loan. An immigrant may not receive more than the maximum amount established by the authority, regardless of whether the immigrant submits one or multiple applications to the fund.

6. Treatment of loans. Amounts loaned to an individual under the program are not income for purposes of any municipal general assistance program as defined by Title 22, section 4301, subsection 7.

7. Contract. An individual who has been approved for participation in the program shall enter into a contract with the authority. The contract governs the administration of the program and the use of funds. The contract must include the following terms and conditions:

A. Agreement by the individual that the individual will use the funds only to pay for eligible costs;

B. Agreement by the individual to repay the loan in compliance with the terms and conditions established by the authority;

C. Agreement by the individual to retain copies of receipts for expenditures on eligible costs incurred and provide these to the authority upon request for auditing or reporting purposes;

D. A provision that, if the individual breaches the contract with the authority, the authority may require immediate repayment of the loan to the authority; and

E. Any other terms and conditions the authority determines appropriate.

8. Administrative costs. The authority may charge the fund reasonable administrative fees, not to exceed 5%, for its administration of the fund.

9. Financing terms and conditions. Loans under the program must conform to the following requirements.

A. A loan to any individual for eligible costs may not exceed $700, but this limit may be adjusted upward at least biannually by the authority to reflect inflation or cost of living or other necessary adjustments;

B. Loans are not subject to interest;

C. Loans must be repaid in full by an individual within 18 months of disbursement by the authority, together with any reasonable administrative fee established by the authority not to exceed 5% of the total of the loan funds disbursed to the individual, except that:

(1) In any case of demonstrable hardship, the authority may allow extensions of time for repayment or other flexibility in repayment terms; and

(2) Repayment of a loan may not be required until at least 60 days after the recipient of the loan has obtained a work permit, except that, if the recipient of the loan has obtained a work permit but has not obtained employment, repayment may not be required until at least 30 days after the recipient has obtained employment as long as the recipient is in compliance with the provisions of Title 22, section 4316-A.

10. Rules. The authority shall adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

FINANCE AUTHORITY OF MAINE

Foreign Credentialing and Skills Recognition Revolving Loan Program Fund

Initiative: Provides ongoing appropriations to the Foreign Credentialing and Skills Recognition Revolving Loan Program.

GENERAL FUND	**2019-20**	**2020-21**
All Other	$75,000	$75,000
GENERAL FUND TOTAL	$75,000	$75,000

APPROVED | CHAPTER
JUNE 20, 2019 | 451
BY GOVERNOR | PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 1272 - L.D. 1790

An Act To Amend the Law To Protect the Confidentiality of State and Local Government Employees' Private Information

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

Sec. 1. 5 MRSA §7070, sub-§2, ¶D-1, as amended by PL 2007, c. 597, §6, is repealed and the following enacted in its place:

D-1. Personal information, including that which pertains to the employee's:

(1) Age;

(2) Ancestry, ethnicity, genetic information, national origin, race or skin color;

(3) Marital status;

(4) Mental or physical disabilities;

(5) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;

(6) Personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance;

(7) Religion;

(8) Sex, gender identity or sexual orientation as defined in section 4553, subsection 9-C; or

(9) Social security number.

Such personal information may be disclosed publicly in aggregate form, unless there is a reasonable possibility that the information would be able to be used, directly or indirectly, to identify any specific employee.

When there is a work requirement for public access to personal information under this paragraph that is not otherwise protected by law, that information may be made public. The Director of the Bureau of Human Resources, upon the request of the

employing agency, shall make the determination that the release of certain personal information not otherwise protected by law is allowed; and

Sec. 2. 30-A MRSA §503, sub-§1, ¶B, as amended by PL 1997, c. 770, §2, is further amended to read:

B. County records containing the following:

(1) Medical information of any kind, including information pertaining to the diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the creditworthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family; ~~and~~

(5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

(a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or

(b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; and

(6) Personal information, including that which pertains to the employee's:

(a) Age;

(b) Ancestry, ethnicity, genetic information, national origin, race or skin color;

(c) Marital status;

(d) Mental or physical disabilities;

(e) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;

(f) Personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance;

(g) Religion;

(h) Sex, gender identity or sexual orientation as defined in Title 5, section 4553, subsection 9-C; or

(i) Social security number.

Such personal information may be disclosed publicly in aggregate form, unless there is a reasonable possibility that the information would be able to be used, directly or indirectly, to identify any specific employee; and

Sec. 3. 30-A MRSA §2702, sub-§1, as amended by PL 1997, c. 770, §3, is further amended to read:

1. Confidential records. The following records are confidential and not open to public inspection. They are not "public records" as defined in Title 1, section 402, subsection 3. These records include:

A. Except as provided in this paragraph, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the municipality for use in the examination or evaluation of applicants for positions as municipal employees.

(1) Notwithstanding any confidentiality provision other than this paragraph, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired.

(2) Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference.

(3) This paragraph does not preclude union representatives from access to personnel records ~~which~~ that may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives ~~which~~ that are otherwise covered by this subsection ~~shall~~ must remain confidential and are not open to public inspection;

B. Municipal records pertaining to an identifiable employee and containing the following:

(1) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the creditworthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family; ~~and~~

(5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

(a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or

(b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; and

(6) Personal information, including that which pertains to the employee's:

(a) Age;

(b) Ancestry, ethnicity, genetic information, national origin, race or skin color;

(c) Marital status;

(d) Mental or physical disabilities;

(e) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;

(f) Personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance;

(g) Religion;

(h) Sex, gender identity or sexual orientation as defined in Title 5, section 4553, subsection 9-C; or

(i) Social security number.

Such personal information may be disclosed publicly in aggregate form, unless there is a reasonable possibility that the information would be able to be used, directly or indirectly, to identify any specific employee; and

C. Other information to which access by the general public is prohibited by law.

APPROVED
JUNE 21, 2019
BY GOVERNOR

CHAPTER
460
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 1025 - L.D. 1412

An Act To Amend the Laws Governing the Collective Bargaining Rights of Employees of School Management and Leadership Centers

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

Sec. 1. 5 MRSA §17001, sub-§42, as amended by PL 2007, c. 491, §§66 and 67, is further amended to read:

42. Teacher. "Teacher" means:

A. Any employee of a public school or a school management and leadership center established pursuant to Title 20-A, chapter 123 who fills any position that the Department of Education requires be filled by a person who holds the appropriate certification or license required for that position and:

(1) Holds appropriate certification from the Department of Education, including an employee whose duties include, in addition to those for which certification is required, either the setup, maintenance or upgrading of a school computer system the use of which is to assist in the introduction of new learning to students or providing school faculty orientation and training related to use of the computer system for educational purposes; or

(2) Holds an appropriate license issued to a professional employee by a licensing agency of the State;

B. Any employee of a public school or a school management and leadership center established pursuant to Title 20-A, chapter 123 who fills any position not included in paragraph A, the principal function of which is to introduce new learning to students, except that a coach who is employed by a public school and who is not otherwise covered by the definition of teacher as defined in this subsection or an employee who is employed in adult education as defined in Title 20-A, section 8601-A, subsection 1 and who is not otherwise covered by the definition of teacher defined in this subsection may not be considered a teacher for purposes of this Part;

C. Any employee of a public school on June 30, 1989, in a position not included in paragraph A or B which was included in the definition of teacher in effect on June 30, 1989, as long as:

(1) The employee does not terminate employment; or

(2) The employee terminates employment and returns to employment in a position in the same classification within 2 years of the date of termination.

Regardless of any subsequent employment history, any employee of a public school in a position which was included in the definition of teacher in effect on June 30, 1989, is entitled to creditable service as a teacher for all service in that position on or before that date;

D. Any employee of a public school or a school management and leadership center established pursuant to Title 20-A, chapter 123 in a position not included in paragraph A, B or C who was a member of the State Employee and Teacher Retirement Program of the retirement system as a teacher on August 1, 1988, as long as:

(1) The employee does not terminate employment; or

(2) The employee terminates employment and returns to employment in a position in the same classification within 2 years of the date of termination;

E. Any former employee of a public school or a school management and leadership center established pursuant to Title 20-A, chapter 123 in a position not included in paragraph A, B or C who was a member of the State Employee and Teacher Retirement Program of the retirement system as a teacher before August 1, 1988, as long as the former employee returns to employment in a position in the same classification before July 1, 1991; or

F. For service before July 1, 1989, any employee of a public school in a position which was included in the definition of teacher before July 1, 1989.

"Teacher" includes a person who is on a one-year leave of absence from a position as a teacher and is participating in the education of prospective teachers by teaching and supervising students enrolled in college-level teacher preparation programs in this State.

"Teacher" also includes a person who is on a leave of absence from a position as a teacher and is duly elected as President of the Maine Education Association.

"Teacher" also includes a person who, subsequent to July 1, 1981, has served as president of a recognized or certified bargaining agent representing teachers for which released time from teaching duties for performance of the functions of president has been negotiated in a collective bargaining agreement between the collective bargaining agent and the teacher's school administrative unit and for whom contributions related to the portion of the person's salary attributable to the released time have been paid as part of the regular payroll of the school administrative unit.

Sec. 2. 5 MRSA §17154, sub-§6, ¶J is enacted to read:

J. Notwithstanding this section, the employer retirement costs and administrative operating expenses related to the retirement programs applicable to those teachers

employed by a school management and leadership center, as defined in Title 20-A, section 3801, subsection 1, paragraph B, whose funding is provided from local and state funds must be paid by that school management and leadership center.

Sec. 3. 20-A MRSA §3808 is enacted to read:

§3808. Collective bargaining in school management and leadership centers

1. Assumption of obligations, duties, liabilities and rights. On and after the operational date of a school management and leadership center, teachers and other employees whose positions are transferred from a school administrative unit to the school management and leadership center and were included in a bargaining unit represented by a bargaining agent, and for participating school administrative units, teachers and other employees who are subsequently employed by the school management and leadership center and were included in a bargaining unit and represented by a bargaining agent, continue to be included in the same bargaining unit and represented by the same bargaining agent pending completion of the bargaining agent and bargaining unit merger procedures and bargaining for initial school management and leadership center collective bargaining agreements covering school management and leadership center employees, as described in this section. After teachers and other employees become employees of the school management and leadership center, the school management and leadership center has the obligations, duties, liabilities and rights of a public employer pursuant to Title 26, chapter 9-A with respect to those teachers and other employees.

2. Structure of bargaining units. All bargaining units of school management and leadership center employees must be structured on a school management and leadership center-wide basis. Teachers and other employees who are employed by the school management and leadership center to provide consolidated services must be removed from the existing bargaining units of teachers and other employees who are employed by each member school unit and merged into units of school management and leadership center employees. Merger into school management and leadership center-wide bargaining units is not subject to approval or disapproval of employees. Formation of school management and leadership center-wide bargaining units must occur in accordance with this subsection.

A. In each school management and leadership center, there must be one bargaining unit of teachers, if any teachers are employed by the school management and leadership center, and, to the extent they are on the effective date of this paragraph included in bargaining units, other certified professional employees, excluding principals and other administrators.

B. Any additional bargaining units in a school management and leadership center must be structured as follows.

(1) In the initial establishment of such units, units must be structured primarily on the basis of the existing pattern of organization, maintaining the grouping of employee classifications into bargaining units that existed prior to the creation of the school management and leadership center and avoiding conflicts among different bargaining agents to the extent possible.

(2) In the event of a dispute regarding the classifications to be included within a school management and leadership center-wide bargaining unit, the current bargaining agent or agents or the school management and leadership center may petition the Maine Labor Relations Board to determine the appropriate unit in accordance with this section and Title 26, section 966.

C. When there is the same bargaining agent in all bargaining units that will be merged into a school management and leadership center-wide bargaining unit, the units must be separated and merged on the operational date or the date represented employees are transferred to the school management and leadership center, whichever is applicable, and the school management and leadership center shall recognize the bargaining agent as the representative of the merged unit.

D. When all bargaining units that will be separated and merged into a school management and leadership center-wide bargaining unit are represented by separate local affiliates of the same state labor organization, the units must be separated and merged on the operational date or the date represented employees are transferred to the school management and leadership center, whichever is applicable. The identity of a single affiliate that will be designated the bargaining agent for the merged unit must be selected by the existing bargaining agents and the state labor organization. Upon completion of the merger and designation of the bargaining agent and notification by the state labor organization to the school management and leadership center, the school management and leadership center shall recognize the designated bargaining agent as the representative of employees in the merged unit. If necessary, the parties shall then execute a written amendment to any collective bargaining agreement then in effect to change the name of the bargaining agent to reflect the merger.

E. When there are bargaining units that will be separated and merged into a school management and leadership center-wide bargaining unit in which there are employees who are not represented by any bargaining agent and other employees who are represented either by the same bargaining agent or separate local affiliates of the same state labor organization, the units must be separated and merged on the operational date or the date represented employees are transferred to the school management and leadership center, whichever is applicable, as long as a majority of employees who compose the merged unit were represented by the bargaining agent prior to the merger. The procedures for separation and merger of separate local affiliates of the same state labor organization described in paragraph D must be followed if applicable. If prior to the merger a bargaining agent did not represent a majority of employees who compose the merged unit, a bargaining agent election must be conducted by the Maine Labor Relations Board pursuant to paragraph F.

F. When bargaining units with different bargaining agents must be merged into a single school management and leadership center-wide bargaining unit pursuant to this section, the bargaining agent of the merged bargaining unit must be selected in accordance with Title 26, section 967 except as modified in this section.

(1) A petition for an election to determine the bargaining agent must be filed with the Maine Labor Relations Board by any of the current bargaining agents or the school management and leadership center.

(2) The petition must be filed not more than 90 days prior to the first August 31st occurring after either the 3rd anniversary date of the operational date of the school management and leadership center or the date on which positions are transferred from member school units to the school management and leadership center, whichever is later.

(3) The election ballot may contain only the names of the bargaining agents of bargaining units that will be merged into the school management and leadership center-wide bargaining unit and the choice of no representative, but no other choices. A showing of interest is not required from any such bargaining agent other than its current status as representative.

(4) The obligation to bargain with existing bargaining agents continues from the operational date of the school management and leadership center or the date on which positions are transferred from member school units to the school management and leadership center, whichever is later, until the determination of the bargaining agent of the school management and leadership center-wide bargaining unit under this section; but in no event may any collective bargaining agreement that is executed after the operational date extend beyond the first August 31st occurring after either the 3rd anniversary date of the operational date of the school management and leadership center or the date on which positions are transferred from member school units to the school management and leadership center, whichever is later.

(5) The Maine Labor Relations Board shall expedite to the extent practicable all petitions for determination of the bargaining agent in the school management and leadership center filed pursuant to this section.

(6) The bargaining units must be merged into a school management and leadership center-wide bargaining unit as of the date of certification of the results of the election by the Maine Labor Relations Board or the expiration of the collective bargaining agreements in the unit, whichever occurs later.

(7) Until the first August 31st occurring after either the 3rd anniversary date of the operational date of the school management and leadership center or the date on which positions are transferred from member school units to the school management and leadership center, whichever is later, existing bargaining agents shall continue to represent the bargaining units that they represented on the day prior to the operational date of the school management and leadership center. If necessary, each bargaining agent and the school management and leadership center must negotiate interim collective bargaining agreements to expire the first August 31st occurring after either the 3rd anniversary date of the operational date of the school management and leadership center or the date on which positions are transferred from member school units to the school management and leadership center, whichever is later.

(8) When there are 2 or more bargaining units in which there are employees who are represented either by the same bargaining agent or by separate local affiliates of the same state labor organization that will be merged into a school management and leadership center-wide bargaining unit with one or more other bargaining units pursuant to the election procedures described in this paragraph,

the bargaining units that are represented either by the same bargaining agent or by separate local affiliates of the same state labor organization must merge as of the operational date. The procedures for merger of separate local affiliates of the same state labor organization described in paragraph D must be followed if applicable.

3. Agent to engage in collective bargaining. After the merger of bargaining units in a school management and leadership center, the bargaining agent of a school management and leadership center-wide bargaining unit and the school management and leadership center shall engage in collective bargaining for a collective bargaining agreement for the school management and leadership center-wide bargaining unit. In the collective bargaining agreement for each school management and leadership center-wide bargaining unit, the employment relations, policies, practices, salary schedules, hours and working conditions throughout the school management and leadership center must be made uniform and consistent as soon as practicable. In the event that the parties are unable to agree upon an initial school management and leadership center-wide collective bargaining agreement, the parties shall use the dispute resolution procedures pursuant to Title 26, section 965 to resolve their differences.

4. Application of collective bargaining agreements. On and after the operational date of a school management and leadership center, but before the completion of negotiations for a single school management and leadership center-wide collective bargaining agreement for the school management and leadership center-wide bargaining unit, the wages, hours and working conditions of an employee of the school management and leadership center who is in a bargaining unit and who is reassigned to a different position that is in a different bargaining unit but that upon the completion of the merger of bargaining units will be included in the same school management and leadership center-wide bargaining unit must be determined by the terms of the collective bargaining agreement that applies to the position to which the employee is reassigned, except as provided in this subsection.

A. If the application of the collective bargaining agreement that applies to the position to which the employee is reassigned would cause a reduction in the employee's wage or salary rate, the employee's wage or salary rate must be maintained at the rate the employee was paid immediately prior to the reassignment until the completion of negotiations for a single school management and leadership center-wide collective bargaining agreement for the school management and leadership center-wide bargaining unit or the applicable collective bargaining agreement requires a higher wage or salary rate for the employee, whichever occurs sooner.

B. If the application of the existing collective bargaining agreement that applies to the position to which the employee is reassigned would cause a reduction in the amount that is paid by the school management and leadership center for premiums for health insurance for the employee and the employee's dependents, the school management and leadership center's payment must be maintained at the amount that was paid immediately prior to the reassignment until the completion of negotiations for a single school management and leadership center-wide collective bargaining agreement for the school management and leadership center-wide bargaining unit or

the applicable collective bargaining agreement requires a higher payment, whichever occurs sooner.

C. If the application of the existing collective bargaining agreement that applies to the position to which the employee is reassigned provides for coverage under a different health insurance plan, the employee may elect to retain coverage under the health insurance plan in which the employee was enrolled immediately prior to reassignment if the eligibility provisions of the plan permit until the completion of negotiations for a single school management and leadership center-wide collective bargaining agreement for the school management and leadership center-wide bargaining unit.

APPROVED
JUNE 21, 2019
BY GOVERNOR

CHAPTER
461
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

S.P. 473 - L.D. 1524

An Act To Prevent Wage Theft and Promote Employer Accountability

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

Sec. 1. 26 MRSA §637 is enacted to read:

§637. Wage theft remedies

1. Wage theft; defined. For the purposes of this section, "wage theft" means a violation of section 621-A, 622, 623, 626, 629, 629-A or 664.

2. Injunction. In addition to other remedies allowed by this chapter, the Department of Labor or any person or persons injured by an unlawful wage payment practice or policy that causes direct harm to workers may bring an action for injunctive relief to enjoin further wage theft. If a party seeking an injunction prevails, the employer is liable to pay the cost of suit, including a reasonable attorney's fee.

3. Issuance of a cease operations order. The Commissioner of Labor or the commissioner's designee may order an employer to cease its business operations if the commissioner or the commissioner's designee determines that the employer has committed wage theft, the commissioner or the commissioner's designee has previously determined the employer's practice or policy resulted in wage theft on more than one occasion or within the last 12 months and:

A. The practice or policy resulting in the wage theft affects 10 or more employees; or

B. The wage theft is equal to or greater than twice an employee's average weekly wage.

The commissioner or the commissioner's designee shall provide the employer with notice and an opportunity to be heard 3 business days before the effective date of an order issued pursuant to this subsection. The issuance of a cease operations order constitutes final agency action. The commissioner or the commissioner's designee shall issue the cease operations order as narrowly as is determined necessary. Any person who is aggrieved by the imposition of a cease operations order has 10 days from the date of its service to make a request to the commissioner or the commissioner's designee for a hearing. The hearing

must be held within 7 business days of the request. The hearing officer shall issue a decision within 5 business days of the hearing.

If an employer refuses to obey an order to cease operations, that order may be enforced in Superior Court.

4. Stay of cease operations order. The Commissioner of Labor or the commissioner's designee shall stay the issuance of a cease operations order under subsection 3 if the employer provides evidence acceptable to the commissioner or the commissioner's designee that the employer has paid the employee or employees for the amount of unpaid wages and benefits owed and has implemented wage payment practices and policies that comply with this chapter.

5. Rules. The Commissioner of Labor shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

APPROVED | CHAPTER
JUNE 23, 2019 | 464
BY GOVERNOR | PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 1216 - L.D. 1701

An Act To Clarify Various Provisions of the Maine Human Rights Act

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

Sec. 1. 5 MRSA §4553, as amended by PL 2015, c. 457, §§1 and 2, is further amended to read:

§4553. Definitions

As used in this Act, unless the context or subchapter otherwise indicates, the following words have the following meanings.

1. Commission. "Commission" means the Maine Human Rights Commission established by this Act.

1-A. Commercial facilities. "Commercial facilities" means facilities that are intended for nonresidential use.

1-B. Covered entity. For purposes of subchapter ~~III~~ 3, "covered entity" means an employer, employment agency, labor organization or joint labor-management committee. For purposes of subchapter ~~V~~ 5, "covered entity" means any applicable private entity or public entity.

1-C. Direct threat. For purposes of subchapter ~~III~~ 3, "direct threat" means a significant risk to the health or safety of others that can not be eliminated by reasonable accommodation.

1-D. Aggrieved person. "Aggrieved person" includes any person who claims to have been subject to unlawful discrimination on the basis of protected class status, including discrimination based on the person's known relationship or association with a member of a protected class and discrimination on the basis of perceived protected class status. "Aggrieved person" also includes any person who claims to have been injured by unlawful housing discrimination.

1-E. Complainant. "Complainant" means a person who files a complaint under section 4611 ~~or a civil action under section 4621~~.

1-F. Conciliation. "Conciliation" means the attempted resolution after a finding by the commission that unlawful discrimination has occurred of issues raised by a complaint filed under section 4611 or by an investigation of such a complaint through informal negotiations involving the complainant, the respondent and the commission.

1-G. Conciliation agreement. "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

1-H. Assistance animal. "Assistance animal" means, for the purposes of subchapter 4:

A. An animal that has been determined necessary for an individual with a physical or mental disability to mitigate the effects of a physical or mental disability by a physician, psychologist, physician assistant, nurse practitioner ~~or~~, licensed social worker, licensed professional counselor or other licensed health professional with knowledge of the disability-related need for an assistance animal; or

B. An animal individually trained to do work or perform tasks for the benefit of an individual with a physical or mental disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals who are deaf or hard of hearing to intruders or sounds, providing reasonable protection or rescue work, pulling a wheelchair or retrieving dropped items.

2. Discriminate. "Discriminate" includes, without limitation, segregate ~~or~~, separate or subject to harassment.

For purposes of subchapter ~~III~~ 3, "discriminate" also includes~~, as it relates to individuals with physical or mental disability~~:

A. Limiting, segregating or classifying a job applicant or employee in a way that adversely affects the opportunities or status of the applicant or employee because of the ~~disability~~ protected class of the applicant or employee;

B. Participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee ~~with a disability~~ to the discrimination prohibited by this Act. A relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity or an organization providing training and apprenticeship programs;

C. Utilizing standards, criteria or methods of administration:

(1) That have the effect of discrimination on the basis of ~~disability~~ protected class status; or

(2) That perpetuate ~~the~~ discrimination ~~of~~ on the basis of protected class status by others who are subject to common administrative control;

D. Excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known ~~disability~~ protected class status of an individual with whom the qualified individual is known to have a relationship or association;

E. Not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless the covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the covered entity;

F. Denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if the denial is based on the need of the covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

G. Using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual ~~with a disability~~ or a class of individuals ~~with disabilities~~ based on their protected class status unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

H. Failing to select and administer tests concerning employment in the most effective manner to ensure that, when the test is administered to a job applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills, aptitude or any other factor of the applicant or employee that the test purports to measure, rather than reflecting the impaired sensory, manual or speaking skills of the employee or applicant, except when the skills are the factors that the test purports to measure.

2-A. Educational institution. "Educational institution" means any public school or educational program, any public post-secondary institution, any private school or educational program approved for tuition purposes if both male and female students are admitted and the governing body of each such school or program. For purposes related to disability-related discrimination, "educational institution" also means any private school or educational program approved for tuition purposes.

3. Employee. "Employee" means an individual employed by an employer. "Employee" does not include any individual employed by that individual's parents, spouse or child, except for purposes of disability-related discrimination, in which case the individual is considered to be an employee.

4. Employer. "Employer" includes any person in this State employing any number of employees, whatever the place of employment of the employees, and any person outside this State employing any number of employees whose usual place of employment is in this State; any person acting in the interest of any employer, directly or indirectly, such that the person's actions are considered the actions of the employer for purposes of liability; and labor organizations, whether or not organized on a religious, fraternal or sectarian basis, with respect to their employment of employees. "Employer" does not include a religious or fraternal corporation or association, not organized for private profit and in fact not conducted for private profit, with respect to employment of its members of

the same religion, sect or fraternity, except for purposes of disability-related discrimination, in which case the corporation or association is considered to be an employer.

5. Employment agency. "Employment agency" includes any person undertaking with or without compensation to procure opportunities to work, or to procure, recruit, refer or place employees; it includes, without limitation, placement services, training schools and centers, and labor organizations, to the extent that they act as employee referral sources; and it includes any agent of such person acting in the interest of the person such that the agent's actions are considered the actions of the employment agency for purposes of liability.

5-A. Familial status. "Familial status" means that a family unit may contain one or more individuals who have not attained ~~the age of~~ 18 years of age and are living with:

A. A parent or another person having legal custody of the individual or individuals; or

B. The designee of the parent or other person having custody, with the written permission of the parent or other person.

The protections afforded against discrimination on the basis of familial status ~~shall~~ apply to any person who is pregnant or who is in the process of securing legal custody of any individual who has not attained ~~the age of~~ 18 years of age.

5-B. Family. "Family" includes, but is not limited to, a single individual.

5-C. Gender identity. "Gender identity" means the gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual's assigned sex at birth.

6. Housing accommodation. "Housing accommodation" includes any building or structure or portion thereof, or any parcel of land, developed or undeveloped, that is occupied, or is intended to be occupied or to be developed for occupancy, for residential purposes.

6-A. Normal retirement age. "Normal retirement age" means the specified age, the years of service requirement or any age and years of service combination at which a member may become eligible for retirement benefits. This subsection may not be construed to require the mandatory retirement of a member or to deny employment to any person based solely on that person's normal retirement age.

7. Person. "Person" includes one or more individuals, partnerships, associations, organizations, corporations, municipal corporations, legal representatives, trustees, trustees in bankruptcy, receivers and other legal representatives, labor organizations, mutual companies, joint-stock companies and unincorporated organizations and includes the State and all agencies thereof.

7-A. Physical or mental disability. "Physical or mental disability" has the meaning set forth in section 4553-A.

8. Place of public accommodation. "Place of public accommodation" means a facility, operated by a public entity or private entity, whose operations fall within at least one of the following categories:

A. An inn, hotel, motel or other place of lodging, whether conducted for the entertainment or accommodation of transient guests or those seeking health, recreation or rest;

B. A restaurant, eating house, bar, tavern, buffet, saloon, soda fountain, ice cream parlor or other establishment serving or selling food or drink;

C. A motion picture house, theater, concert hall, stadium, roof garden, airdrome or other place of exhibition or entertainment;

D. An auditorium, convention center, lecture hall or other place of public gathering;

E. A bakery, grocery store, clothing store, hardware store, shopping center, garage, gasoline station or other sales or rental establishment;

F. A laundromat, dry cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, dispensary, clinic, bathhouse or other service establishment;

G. All public conveyances operated on land or water or in the air as well as a terminal, depot or other station used for specified public transportation;

H. A museum, library, gallery or other place of public display or collection;

I. A park, zoo, amusement park, race course, skating rink, fair, bowling alley, golf course, golf club, country club, gymnasium, health spa, shooting gallery, billiard or pool parlor, swimming pool, seashore accommodation or boardwalk or other place of recreation, exercise or health;

J. A nursery, elementary, secondary, undergraduate or postgraduate school or other place of education;

K. A ~~day-care~~ day care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service center establishment;

L. Public elevators of buildings occupied by 2 or more tenants or by the owner and one or more tenants;

M. A municipal building, courthouse, town hall or other establishment of the State or a local government; and

N. Any establishment that in fact caters to, or offers its goods, facilities or services to, or solicits or accepts patronage from, the general public.

When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this subchapter, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for the residential purposes is covered by this subchapter. The covered portion of the residence extends to those elements used to enter the place of public accommodation, and those exterior and interior

portions of the residence available to or used by customers or clients, including rest rooms.

8-A. Private entity. "Private entity" means any entity other than a public entity.

8-B. Public accommodation. "Public accommodation" means a public entity or private entity that owns, leases, leases to or operates a place of public accommodation.

8-C. Public entity. "Public entity" means:

A. The State or any local government;

B. Any department, agency, special purpose district or other instrumentality of the State, 2 or more states or a local government; and

C. A state, local or private commuter authority as defined in the federal Rail Passenger Service Act~~, Section 103 (8)~~.

8-D. Qualified individual with a disability. "Qualified individual with a disability" applies to only:

A. Subchapter ~~III~~ 3 (employment); and

B. Subchapter ~~V~~ 5 (public accommodations) with regard to public entities only.

For purposes of subchapter ~~III~~ 3, "qualified individual with a disability" means an individual with a physical or mental disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires.

For purposes of subchapter ~~V~~ 5, "qualified individual with a disability" means an individual with a disability who, with or without reasonable modification to rules, policies or practices, the removal of architectural, communication or transportation barriers or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

8-E. Protected class. "Protected class" means a class of individuals protected from unlawful discrimination under this Act.

9. Real estate broker and sales agent. "Real estate broker" and "real estate ~~salesman~~ sales agent" have the same ~~definitions~~ meanings as ~~are given respectively~~ in Title 32, ~~section 4001, subsections 2 and 3~~ sections 13198 and 13200 respectively; but include all persons meeting those definitions, whether ~~or not~~ they are licensed or required to be licensed.

9-A. Reasonable accommodation. For purposes of subchapter ~~III~~ 3, "reasonable accommodation" may include, but is not limited to:

A. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

B. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, leaves of absence, acquisition or modification of equipment or devices,

appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters and other similar accommodations for individuals with disabilities.

9-B. Undue hardship; undue burden. "Undue hardship" or "undue burden" ~~mean~~ means an action requiring undue financial or administrative hardship. In determining whether an action would result in an undue hardship, factors to be considered include:

A. The nature and cost of the accommodation needed under this Act;

B. The overall financial resources of the facility or facilities involved in the action, the number of persons employed at the facility, the effect on expenses and resources or the impact otherwise of the action upon the operation of the facility;

C. The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees and the number, type and location of its facilities;

D. The type of operation or operations of the covered entity, including the composition, structure and functions of the work force of the entity, the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity;

E. All the resources available to meet the costs of the accommodation, including any government funding or other grants available for making public accommodations and places of employment accessible;

F. The extent to which current costs of accommodations have been minimized by past efforts to provide equal access to persons with disabilities;

G. The extent to which resources spent on improving inaccessible equipment or service could have been spent on making an accommodation so that service or equipment is accessible to individuals with disabilities, as well as to individuals without disabilities;

H. Documented good faith efforts to explore less restrictive or less expensive alternatives;

I. The availability of equipment and technology for the accommodation;

J. Whether an accommodation would result in a fundamental change in the nature of the public accommodation;

K. Efforts to minimize costs by spreading costs over time; and

L. The extent to which resources saved by failing to make an accommodation for persons who have disabilities could have been saved by cutting costs in equipment or services for the general public.

"Undue hardship" or "undue burden" is a higher standard than "readily achievable" and requires a greater level of effort on the part of the public accommodation.

9-C. Sexual orientation. "Sexual orientation" means a person's actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression.

9-E. Service animal. "Service animal" means:

B. For the purposes of subchapter 5, a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of such work or tasks include, but are not limited to, assisting an individual who is totally or partially blind with navigation and other tasks, alerting an individual who is deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items such as medicine or a telephone, providing physical support and assistance with balance and stability to an individual with a mobility disability and helping a person with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort or companionship do not constitute work or tasks for the purposes of this definition.

9-F. Rent. "Rent" includes to lease, to sublease, to let or otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

9-G. Respondent. "Respondent" means a person accused of unlawful discrimination in a complaint filed under section 4611 ~~or a civil action filed under section 4621~~.

10. Unlawful discrimination. "Unlawful discrimination" includes:

A. Unlawful employment discrimination as defined and limited by subchapter ~~III~~ 3;

B. Unlawful housing discrimination as defined and limited by subchapter ~~IV~~ 4;

C. Unlawful public accommodations discrimination as defined by subchapter ~~V~~ 5;

D. Aiding, abetting, inciting, compelling or coercing another to do any of such types of unlawful discrimination; obstructing or preventing any person from complying with this Act or any order issued in this subsection; attempting to do any act of unlawful discrimination; and punishing or penalizing, or attempting to punish or penalize, any person for seeking to exercise any of the civil rights declared by this Act or for complaining of a violation of this Act or for testifying in any proceeding brought in this subsection;

E. In determining whether a person is acting as an agent or employee of another person so as to make such other person responsible for that person's acts, the question of whether the specific acts performed were actually authorized or subsequently ratified is not controlling;

F. Unlawful educational discrimination as defined and limited by subchapter 5-B; and

G. Discrimination in employment, housing, public accommodation, credit and educational opportunity on the basis of sexual orientation or gender identity, except that a religious corporation, association or organization that does not receive public funds is exempt from this provision with respect to:

(1) Employment, as is more fully set forth in section 4553, subsection 4 and section 4573-A;

(2) Housing; and

(3) Educational opportunity, as is more fully set forth in section 4602, subsection 4.

Any for-profit organization owned, controlled or operated by a religious association or corporation and subject to the provisions of the Internal Revenue Code, 26 United States Code, Section 511(a) is not covered by the exemptions set forth in this paragraph.

Sec. 2. 5 MRSA §4555, as enacted by PL 1995, c. 393, §10, is repealed.

Sec. 3. 5 MRSA §4573-A, sub-§1, as enacted by PL 1995, c. 393, §21, is amended to read:

1. General provisions. It is a defense to a charge of discrimination under this subchapter that an alleged application of qualification standards, tests or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual ~~with a disability~~ based on protected class status has been shown to be job-related and consistent with business necessity, and such performance can not be accomplished by reasonable accommodation, as required by this subchapter.

Sec. 4. 5 MRSA §4573-A, sub-§1-B, as enacted by PL 1995, c. 511, §1 and affected by §3, is repealed.

Sec. 5. 5 MRSA §4592, sub-§7, ¶B, as amended by PL 2007, c. 664, §6, is further amended to read:

B. That perpetuate the discrimination of others who are subject to common administrative control; ~~and~~

Sec. 6. 5 MRSA §4592, sub-§8, as amended by PL 2015, c. 457, §4, is further amended to read:

8. Service animals. For any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation to refuse to permit the use of a service animal or otherwise discriminate against an individual with a physical or mental disability who uses a service animal at the public accommodation unless it is shown by defense that the service animal poses a direct threat to the health or safety of others or the use of the service animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the public accommodation by others. The use of a service animal may not be conditioned on the payment of a fee or

security deposit, although the individual with a physical or mental disability is liable for any damage done to the premises or facilities by such a service animal. This subsection does not apply to an assistance animal as defined in section 4553, subsection 1-H unless the assistance animal also qualifies as a service animal.; and

Sec. 7. 5 MRSA §4592, sub-§9 is enacted to read:

9. Unlawful public accommodations. For any public accommodation to designate a single-occupancy toilet facility as for use only by members of one sex. A single-occupancy toilet facility may be identified by a sign, as long as the sign does not indicate that the facility is for use by members of one specific sex. For the purposes of this subsection, a "single-occupancy toilet facility" is a restroom for use by one user at a time or for family or assisted use and that has an outer door that can be locked by the occupant.

APPROVED
JUNE 18, 2019
BY GOVERNOR

CHAPTER
364
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 1009 - L.D. 1395

An Act To Create Fairness for Dispatchers in the Maine Public Employees Retirement System

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

Sec. 1. 5 MRSA §18313 is enacted to read:

§18313. Dispatchers

1. Definition. For the purposes of this chapter, "dispatcher" means a person whose primary employment duties consist of any combination of:

A. Acting as an emergency medical dispatcher as defined by Title 32, section 85-A, subsection 1, paragraph D;

B. Answering, directing or dispatching the response to public safety requests for service at a public safety answering point as defined by Title 25, section 2921, subsection 7;

C. Answering, directing or dispatching the response of emergency services for municipal fire protection pursuant to Title 30-A, chapter 153; or

D. Answering, directing or dispatching the response of law enforcement officers as defined by Title 25, section 2801-A, subsection 5.

2. Contribution rate. Except as provided in subsections 3 and 4, a dispatcher 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 must have pick-up contributions made by the employer at a rate of 8% of earnable compensation as long as the person is employed as a dispatcher.

3. Exception. A participating local district may elect to reduce the rate of contribution set out in subsection 2 to 6.5% of earnable compensation for all dispatchers who continue employment after attaining eligibility for retirement during the remainder of their employment as dispatchers.

4. Member contributions to Participating Local District Consolidated Retirement Plan. The board may establish by rule the rate at which dispatchers 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. 2. 5 MRSA §18453, sub-§2, as amended by PL 2013, c. 602, Pt. B, §2, is further amended to read:

2. Employee Special Plan #2. ~~A~~ Except as provided in this subsection, a retirement benefit to police officers, firefighters, sheriffs, full-time deputy sheriffs, county corrections employees, dispatchers, emergency medical services persons as defined in Title 32, section 83, subsection 12, including but not limited to first responders, emergency medical technicians, advanced emergency medical technicians and paramedics, or any other participating local district employees who have completed 20 to 25 years of creditable service, the number of years to be selected by the participating local district. A participating local district may not elect to provide retirement benefits to its dispatchers in a plan that requires less than 25 years of creditable service. For the purposes of this subsection, "county corrections employees" means employees of the county who are employed at a county jail and whose duties include contact with prisoners or juvenile detainees. The benefits must be computed as follows:

A. Except as provided in paragraph B, 1/2 of the member's average final compensation; or

B. If the member's benefit would be greater, the part of the service retirement benefit based upon membership service before July 1, 1977~~,~~ is determined, on a pro rata basis, on the member's current annual salary on the date of retirement or current final compensation, whichever is greater, and the part of the service retirement benefit based upon membership service after June 30, 1977~~,~~ is determined in accordance with paragraph A.

Sec. 3. 5 MRSA §18453, sub-§3, as amended by PL 2013, c. 602, Pt. B, §3, is further amended to read:

3. Firefighter, Emergency Medical Services Person and Dispatcher Special Plan #1. A retirement benefit equal to 1/2 of the member's average final compensation to a firefighter, including the chief of a fire department, ~~and~~ a dispatcher or an emergency medical services person as defined in Title 32, section 83, subsection 12, including but not limited to a first responder, emergency medical technician, advanced emergency medical technician and paramedic, who has completed at least 25 years of creditable service in that capacity and who retires upon or after reaching age 55.

Sec. 4. 5 MRSA §18453, sub-§4, as amended by PL 2013, c. 602, Pt. B, §4, is further amended to read:

4. Firefighter, Emergency Medical Services Person and Dispatcher Special Plan #2. A retirement benefit to a firefighter, including the chief of a fire department, ~~and~~ a dispatcher or an emergency medical services person as defined in Title 32, section 83, subsection 12, including but not limited to a first responder, emergency medical

technician, advanced emergency medical technician and paramedic, who has completed at least 25 years of creditable service in that capacity and who retires upon or after reaching age 55. The benefits ~~shall~~ must be computed as follows:

A. Except as provided in paragraph B, 2/3 of the member's average final compensation; or

B. If the member's benefit would be greater, the part of the service retirement benefit based upon membership service before July 1, 1977~~,~~ is determined, on a pro rata basis, on the member's current final compensation and the part of the service retirement benefit based upon membership service after June 30, 1977~~,~~ is determined in accordance with paragraph A.

Sec. 5. 5 MRSA §18453, sub-§5, as amended by PL 2013, c. 602, Pt. B, §5, is further amended to read:

5. Firefighter, Emergency Medical Services Person and Dispatcher Special Plan #3. ~~A~~ Except as provided in this subsection, a retirement benefit to a firefighter, including the chief of a fire department, ~~and~~ a dispatcher or an emergency medical services person as defined in Title 32, section 83, subsection 12, including but not limited to a first responder, emergency medical technician, advanced emergency medical technician and paramedic, who has completed 20 to 25 years of creditable service in that capacity, the number of years to be selected by the participating local district, and who retires at any age. A participating local district may not elect to provide retirement benefits to its dispatchers in a plan that requires less than 25 years of creditable service. The benefits ~~shall~~ must be computed as follows:

A. Except as provided under paragraph B, 2/3 of the member's average final compensation; or

B. If the member's benefit would be greater, the part of the service retirement benefit based upon membership service before July 1, 1977~~,~~ is determined, on a pro rata basis, on the member's current final compensation and the part of the service retirement benefit based upon membership service after June 30, 1977~~,~~ is determined in accordance with paragraph A.

APPROVED | CHAPTER
JUNE 23, 2019 | 465
BY GOVERNOR | PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 1217 - L.D. 1702

An Act To Enhance the Administration of the Maine Human Rights Act

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

Sec. 1. 5 MRSA §4566, sub-§3, as amended by PL 1985, c. 785, Pt. B, §36, is further amended to read:

3. Personnel. To appoint a full-time executive ~~secretary~~ director and counsel to the commission, not subject to the Civil Service Law, and determine their remuneration; and to appoint, subject to the Civil Service Law, other personnel including, but not limited to, investigators, attorneys, compliance personnel and secretaries, as it shall deem necessary to effectuate the purposes of this Act;

Sec. 2. 5 MRSA §4566, sub-§4, as enacted by PL 1971, c. 501, §1, is amended to read:

4. Hearings. To hold hearings, to administer oaths and to take the testimony of any person under oath. There ~~shall be~~ is no executive privilege in such investigations and hearings, but law enforcement officers, prosecution officers and judges of this State and of the United States ~~shall be~~ are privileged from compulsory testimony or production of documents before the commission. Such hearings and testimony may relate to general investigations concerning the effectiveness of this Act and the existence of practices of discrimination not prohibited by it, as well as to investigations of other alleged infringements upon human rights and personal dignity. The commission may make rules as to the administration of oaths~~,~~ and the holding of preliminary and general investigations by panels of commissioners and by the executive ~~secretary~~ director;

Sec. 3. 5 MRSA §4566, sub-§6, as amended by PL 2005, c. 10, §7, is further amended to read:

6. Advisory groups. To create local or statewide advisory agencies and conciliation councils to aid in effectuating the purposes of this Act. The commission may study or may empower these agencies and councils to study the problems of discrimination in all or specific fields of human relationships when based on ~~race or color, sex, sexual~~

~~orientation, physical or mental disability, religion, age, ancestry or national origin~~ protected class characteristics, membership or status, and foster good will among the groups and elements of the population of the State. Agencies and councils may make recommendations to the commission for the development of policies and procedures. Advisory agencies and conciliation councils created by the commission must be composed of representative citizens serving without pay, but with reimbursement for actual and necessary traveling expenses;

Sec. 4. 5 MRSA §4566, sub-§10, as amended by PL 2005, c. 10, §8, is further amended to read:

10. Publications. To publish results of investigations and research to promote good will and minimize or eliminate discrimination based on ~~race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin~~ protected class characteristics, membership or status;

Sec. 5. 5 MRSA §4566, sub-§11, as amended by PL 2005, c. 10, §9, is further amended to read:

11. Reports. To report to the Legislature and the Governor at least once a year describing the investigations, proceedings and hearings the commission has conducted and the outcome and other work performed by the commission, and to make recommendations for further legislation or executive action concerning abuses and discrimination based on ~~race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin~~ protected class characteristics, membership or status, or other infringements on human rights or personal dignity; and

Sec. 6. 5 MRSA §4612, as amended by PL 2011, c. 613, §§19 and 20 and affected by §29, is further amended to read:

§4612. Procedure on complaints

1. Predetermination resolution; investigation. Upon receipt of such a complaint, the commission or its delegated single commissioner or investigator shall take the following actions.

A. The commission or its delegated single commissioner or investigator shall provide an opportunity for the complainant and respondent to resolve the matter by settlement agreement prior to a determination of whether there are reasonable grounds to believe that unlawful discrimination has occurred. Evidence of conduct or statements made in compromise settlement negotiations, offers of settlement and any final agreement are confidential and may not be disclosed without the written consent of the parties to the proceeding nor used as evidence in any subsequent proceeding, civil or criminal, except in a civil action alleging a breach of agreement filed by the commission or a party. Notwithstanding this paragraph, the commission and its employees have discretion to disclose such information to a party as is reasonably necessary to facilitate settlement. The commission may adopt rules providing for a 3rd-party neutral mediation program. The rules may permit one or more parties to a proceeding to agree to pay the costs of mediation. The commission may receive

funds from any source for the purposes of implementing a 3rd-party neutral mediation program, and such funds are not subject to any statewide cost allocation plan.

B. The commission or its delegated commissioner or investigator shall conduct such preliminary investigation as it determines necessary to determine whether there are reasonable grounds to believe that unlawful discrimination has occurred. In conducting an investigation, the commission, or its designated representative, must have access at all reasonable times to premises, records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy those materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation. The commission may issue subpoenas to compel access to or production of those materials or the appearance of those persons, subject to section 4566, subsections 4-A and 4-B, and may serve interrogatories on a respondent to the same extent as interrogatories served in aid of a civil action in the Superior Court. The commission may administer oaths. The complaint and evidence collected during the investigation of the complaint, other than data identifying persons not parties to the complaint and other information designated as confidential in subsection 1-A, is a matter of public record at the conclusion of the investigation of the complaint prior to a determination by the commission. An investigation is concluded upon issuance of a letter of dismissal or upon listing of the complaint on a published commission meeting agenda, whichever first occurs. Prior to the conclusion of an investigation, all information possessed by the commission relating to the investigation is confidential and may not be disclosed, except that the commission and its employees have discretion to disclose such information as is reasonably necessary to further the investigation. Notwithstanding any other provision of this section, the complaint and evidence collected during the investigation of the complaint may be used as evidence in any subsequent proceeding, civil or criminal. The commission must conclude an investigation under this paragraph within 2 years after the complaint is filed with the commission.

1-A. Confidential documents. The following information collected during the investigation of a complaint pursuant to this section is confidential and may not be disclosed except to the parties to a complaint, the commission and its federal partner agencies or in a subsequent civil or criminal legal action:

A. Medical, counseling, psychiatric and other confidential health records;

B. Social security numbers;

C. Evidence of conduct or statements made in compromise settlement negotiations, offers of settlement and final agreements made prior to the conclusion of the investigative process;

D. Names of minor children;

E. Any information the commission is required to keep confidential pursuant to work-sharing agreements with the United States Equal Employment Opportunity Commission, the United States Department of Housing and Urban Development or any other federal partner agencies;

F. Criminal history record information that is not otherwise made public by law;

G. Personnel records and personal information that has been made confidential by law;

H. Notes made by the investigator for the investigator's private use in assessing evidence gathered during an investigation; and

I. Any other records that are not public records in accordance with Title 1, section 402.

Documents containing information set forth in this subsection are not "public records," as defined in Title 1, section 402, subsection 3, and do not become a matter of public record under this section.

2. Order of dismissal. If the commission does not find reasonable grounds to believe that unlawful discrimination has occurred, it shall enter an order so finding, and dismiss the proceeding.

2-A. Administrative dismissal. The executive director of the commission may administratively dismiss a complaint for reasons including, but not limited to:

A. Lack of jurisdiction;

B. Failure to substantiate the complaint of discrimination;

C. Failure to file a complaint of discrimination within 300 days of the date of alleged discrimination;

D. Failure by complainant to proceed or cooperate with the investigation, including but not limited to a complainant's repeated or egregious failure to abide by the commission's confidentiality requirements;

E. Bankruptcy filing by respondent; or

F. Death of a complainant, if no person with legal authority to continue the case appears on that person's own behalf or on behalf of the complainant's estate within a reasonable time.

An administrative dismissal operates as an order of dismissal and has the same effect as a finding by the commission that no reasonable grounds exist to believe that unlawful discrimination has occurred.

3. Informal methods, conciliation. If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, but finds no emergency of the sort contemplated in subsection 4, paragraph B, it shall endeavor to eliminate such discrimination by informal means such as conference, conciliation and persuasion. Everything said or done as part of such endeavors is confidential and may not be disclosed without the written consent of the parties to the proceeding, nor used as evidence in any subsequent proceeding, civil or criminal, except in a civil action alleging a breach of agreement filed by the commission or a party. Any post-finding conciliation agreement that includes the commission as a signatory is a public record. Notwithstanding this subsection, the commission and its employees have discretion to disclose such information to a party as is reasonably necessary to facilitate conciliation. If

the case is disposed of by such informal means in a manner satisfactory to a majority of the commission, it shall dismiss the proceeding.

4. Civil action by commission. The commission may file a civil action in accordance with this subsection.

A. If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, and further believes that irreparable injury or great inconvenience will be caused the victim of such discrimination or to members of a ~~racial, color, sex, sexual orientation, physical or mental disability, religious or nationality group or age~~ protected class group if relief is not immediately granted, or if conciliation efforts under subsection 3 have not succeeded, the commission may file in the Superior Court a civil action seeking such relief as is appropriate, including temporary restraining orders. In a complaint investigated pursuant to a memorandum of understanding between the commission and the United States Department of Housing and Urban Development that results in a reasonable grounds determination, the commission shall file a civil action for the use of complainant if conciliation efforts under subsection 3 are unsuccessful.

B. Grounds for the filing of such an action before attempting conciliation include, but are not limited to:

(1) In unlawful housing discrimination, that the housing accommodation sought is likely to be sold or rented to another during the pendency of proceedings, or that an unlawful eviction is about to occur;

(2) In unlawful employment discrimination, that the victim of the discrimination has lost or is threatened with the loss of job and income as a result of such discrimination;

(3) In unlawful public accommodations discrimination, that such discrimination is causing inconvenience to many persons;

(4) In any unlawful discrimination, that the victim of the discrimination is suffering or is in danger of suffering severe financial loss in relation to circumstances, severe hardship or personal danger as a result of such discrimination.

5. Confidentiality of 3rd-party records. The Legislature finds that persons who are not parties to a complaint under this chapter as a complainant or a respondent have a right to privacy. Any records of the commission that are open to the public under Title 1, chapter 13, must be kept in such a manner as to ensure that data identifying these 3rd parties is not reflected in the record. ~~Only data reflecting the identity of these persons may be kept confidential.~~

6. Right to sue. If, within 180 days of a complaint being filed with the commission, the commission has not filed a civil action in the case or has not entered into a conciliation agreement in the case, the complainant may request a right-to-sue letter, and, if a letter is given, the commission shall end its investigation.

Sec. 7. 5 MRSA §4614, as enacted by PL 1981, c. 255, §3, is amended to read:

§4614. Attorney's fees and costs

In any civil action under this Act, the court, in its discretion, may allow the prevailing party~~, other than the commission,~~ reasonable ~~attorneys'~~ attorney's fees and costs, ~~and~~ except that the commission ~~shall be liable for attorneys' fees and costs the same as a private person~~ may not be awarded attorney's fees and costs and is not liable to pay any party's attorney's fees and costs.

Sec. 8. 5 MRSA §4622, sub-§1, ¶A, as amended by PL 1993, c. 327, §3, is further amended to read:

A. Dismissed the case under section 4612, subsection 2 or 2-A;