

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill in Part A by striking out all of sections 1, 3, 7, 8, 15, 17, 21, 22, 27, 32, 33, 34, 36, 40 and 41.

Amend the bill by striking out all of Parts B, C and D and inserting the following:

## PART B

**Sec. B-1. 5 MRSA §17806, sub-§1, ¶A**, as amended by PL 2011, c. 380, Pt. T, §10 and affected by §26, is further amended to read:

A. Except as provided in paragraph A-1, whenever there is a percentage increase in the Consumer Price Index from July 1st to June 30th, the board shall automatically make an equal percentage increase in retirement benefits, beginning in September, up to a maximum annual increase of 3%. Effective July 1, 2011, the increase applies to that portion of the retirement benefit, up to \$20,000, which amount must be indexed in subsequent years by the same percentage adjustments granted under this paragraph.

**Sec. B-2. 13 MRSA §1506** is repealed.

**Sec. B-3. 15 MRSA §103, 2nd ¶**, as enacted by PL 2009, c. 268, §4, is amended to read:

When a person who has been evaluated on behalf of a court by the State Forensic Service is committed into the custody of the Commissioner of Health and Human Services pursuant to this section, the court shall order that the State Forensic Service share any information it has collected or generated with respect to the person with the institution or residential program in which the person is placed.

**Sec. B-4. 15 MRSA §3206**, as amended by PL 2011, c. 336, §2, is further amended to read:

### § 3206. Detention of juveniles

A person under 18 years of age who is arrested for a crime defined under Title 12 or Title 29-A that is not a juvenile crime as defined in section 3103 is not subject to chapter 105-A and may not be detained unless a juvenile community corrections officer has been notified within 2 hours after the person's arrest and the juvenile community corrections officer or attorney for the State has approved the detention. Section 3203-A, subsection 7, paragraphs A and B governing the facilities in which juveniles may be detained apply to any detention of such a juvenile following arrest, and section 3203-A, subsection 74, paragraph C applies to the decision whether to release or further detain the juvenile.

**Sec. B-5. 19-A MRSA §651, sub-§2**, as amended by PL 2011, c. 511, §1 and IB 2011, c. 1, §3, is repealed and the following enacted in its place:

**2. Application.** The parties wishing to record notice of their intentions of marriage shall submit an application for recording notice of their intentions of marriage. The application may be issued to any 2 persons otherwise qualified under this chapter regardless of the sex of each person. The application must include a signed certification that the information recorded on the application is correct and that the applicant is free to marry according to the laws of this State. The applicant's signature must be acknowledged before an official authorized to take oaths. An application recording notice of intention to marry is not open for public inspection for 50 years from the date of the application except that:

A. The names of the parties for whom intentions to marry are filed and the intended date of marriage are public records and open for public inspection; and

B. A person with a researcher identification card under Title 22, section 2706, subsection 8 is permitted to inspect records and may be issued a noncertified copy of an application.

**Sec. B-6. 19-A MRSA §907, 2nd ¶**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

The validity of a custody determination contained in or ancillary to a valid divorce decree granted by another state is governed by the Uniform Child Custody Jurisdiction and Enforcement Act.

**Sec. B-7. 19-A MRSA §1654, 2nd ¶**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

The jurisdiction granted by this section is limited by the Uniform Child Custody Jurisdiction and Enforcement Act, if another state may have jurisdiction as provided in that Act.

**Sec. B-8. 19-A MRSA §4014, sub-§1**, as amended by PL 2001, c. 240, §3, is further amended to read:

**1. Rules establishing standards and procedures for certification.** The Department of Corrections, referred to in this section as the "department," shall adopt rules pursuant to the Maine Administrative Procedure Act, in consultation with the Maine Commission on Domestic and Sexual Abuse, that establish standards and procedures for certification of batterers' intervention programs. The department, in consultation with the commission, shall review and certify programs that meet the standards. Rules adopted pursuant to this subsection are ~~major-substantive~~ routine technical rules pursuant to ~~as defined in~~ Title 5, chapter 375, subchapter ~~H-A2-A~~.

**Sec. B-9. 22 MRSA §335, sub-§5-A, ¶I**, as amended by PL 2011, c. 648, §9, is further amended to read:

I. Except with regard to a project related to nursing facility services, or a project that qualifies for a simplified review process under section 336, ~~the commissioner may require~~ a written assessment by the Superintendent of Insurance of the impact of the project on the cost of insurance in the region and the State when required by the commissioner. The superintendent may request additional information from the applicant for the purpose of reviewing the application. Any such request must be transmitted through the department and becomes part of the official record. The applicant shall respond to the request within 30 days. Any such response must be transmitted through the department and becomes part of the official record. The inability of the superintendent to complete

the review of the application due to the failure of the applicant to respond timely must be noted in the superintendent's assessment filed with the department and may be cause for the commissioner to deny approval of the project.

**Sec. B-10. 30-A MRSA §4349-A, sub-§1, ¶C**, as amended by PL 2011, c. 542, Pt. A, §54 and c. 655, Pt. JJ, §22 and affected by §41, is repealed and the following enacted in its place:

C. Areas other than those described in paragraph A or B for the following projects:

(1) A project related to a commercial or industrial activity that, due to its operational or physical characteristics, typically is located away from other development, such as an activity that relies on a particular natural resource for its operation;

(2) An airport, port or railroad or industry that must be proximate to an airport, a port or a railroad line or terminal;

(3) A pollution control facility;

(4) A project that maintains, expands or promotes a tourist or cultural facility that is required to be proximate to a specific historic, natural or cultural resource or a building or improvement that is related to and required to be proximate to land acquired for a park, conservation, open space or public access or to an agricultural, conservation or historic easement;

(5) A project located in a municipality that has none of the geographic areas described in paragraph A or B and that prior to January 1, 2000 formally requested but had not received from the former State Planning Office funds to assist with the preparation of a comprehensive plan or that received funds from the department to assist with the preparation of a comprehensive plan within the previous 2 years. This exception expires for a municipality 2 years after such funds are received; or

(6) A housing project serving the following: individuals with mental illness, developmental disabilities, physical disabilities, brain injuries, substance abuse problems or a human immunodeficiency virus; homeless individuals; victims of domestic violence; foster children; or children or adults in the custody of the State. A nursing home is not considered a housing project under this paragraph.

**Sec. B-11. 32 MRSA §4693, sub-§2**, as corrected by RR 2009, c. 2, §89, is amended to read:

**2. Notice.** The following notice: As required by Maine law, we have secured a bond in the amount of \$30,000 issued by \_\_\_\_\_ . (Name and address of surety company)

Before signing a contract to purchase a business opportunity, you should check with the surety company to determine the current status of the bond.

or

As required by Maine law, we maintain an escrow account in the amount of \$30,000 in the \_\_\_\_\_ . (Name and address of licensed bank or savings institute)

Before signing a contract to purchase a business opportunity, you should check with the ~~surety company~~licensed bank or savings institute to determine the current status of the escrow account.

**Sec. B-12. 32 MRSA §7026, first ¶**, as amended by PL 2007, c. 621, §10, is further amended to read:

The State Board of Social Worker Licensure, as established by Title 5, section 12004-A, subsection 38, within the Department of Professional and Financial Regulation, shall administer this chapter. The board consists of 7 members appointed by the Governor. Five members of the board must be licensed clinical social workers or licensed master social workers and there must be 2 public members as defined in Title 5, section ~~12004-C~~12004-A. In addition, board members must meet the qualifications required under section 7027.

**Sec. B-13. 34-A MRSA §1216, sub-§1**, as amended by PL 2011, c. 515, §2 and c. 662, §22, is repealed and the following enacted in its place:

**1. Limited disclosure.** All orders of commitment, medical and administrative records, applications and reports, and facts contained in them, pertaining to any person receiving services from the department must be kept confidential and may not be disclosed by any person, except that public records must be disclosed in accordance with Title 1, section 408-A; criminal history record information may be disseminated in accordance with Title 16, chapter 3, subchapter 8; and documents other than those documents pertaining to information obtained by the department for the purpose of evaluating a client's ability to participate in a community-based program or from informants in a correctional or detention facility for the purpose of determining whether facility rules have been violated or pertaining to a victim's request for notice of release may, and must upon request, be disclosed:

- A. To any person if the person receiving services, that person's legal guardian, if any, and, if that person is a minor, that person's parent or legal guardian give informed written consent to the disclosure of the documents referred to in this subsection after being given the opportunity to review the documents sought to be disclosed;
- B. To any state agency if necessary to carry out the statutory functions of that agency;
- C. If ordered by a court of record, subject to any limitation in the Maine Rules of Evidence, Rule 503;
- D. To any criminal justice agency if necessary to carry out the administration of criminal justice or the administration of juvenile criminal justice or for criminal justice agency employment;

E. To persons engaged in research if:

(1) The research plan is first submitted to and approved by the commissioner;

(2) The disclosure is approved by the commissioner; and

(3) Neither original records nor identifying data are removed from the facility or office that prepared the records.

The commissioner and the person doing the research shall preserve the anonymity of the person receiving services from the department and may not disseminate data that refer to that person by name or number or in any other way that might lead to the person's identification;

F. To persons who directly supervise or report on the health, behavior or progress of a juvenile, to the superintendent of a juvenile's school and the superintendent's designees and to agencies that are or might become responsible for the health or welfare of a juvenile if the information is relevant to and disseminated for the purpose of creating or maintaining an individualized plan for the juvenile's rehabilitation, including reintegration into the school; or

G. To any state agency engaged in statistical analysis for the purpose of improving the delivery of services to persons who are or might become mutual clients if:

(1) The plan for the statistical analysis is first submitted to and approved by the commissioner; and

(2) The disclosure is approved by the commissioner.

The commissioner and the state agency requesting the information shall preserve the anonymity of the persons receiving services from the department and may not disseminate data that refer to any person by name or number or that in any other way might lead to a person's identification.

Notwithstanding any other provision of law, the department may release the names, dates of birth and social security numbers of persons receiving services from the department and, if applicable, eligibility numbers and the dates on which those persons received services to any state or federal agency for the sole purpose of determining eligibility and billing for services and payments under federally funded programs administered by the agency. The department may also release to the agency information required for and to be used solely for audit or research purposes, consistent with federal law, for those services provided by or through the department. Agency personnel shall treat this information as confidential in accordance with federal and state law and shall return the records when their purpose has been served.

**Sec. B-14. 35-A MRSA §10103, sub-§2, ¶A,** as amended by PL 2011, c. 637, §2 and c. 655, Pt. MM, §18 and affected by §26, is repealed and the following enacted in its place:

A. The board consists of the following 9 voting members:

(1) The Director of the Governor's Energy Office;

(2) The director of the Maine State Housing Authority; and

(3) Seven members appointed by the Governor, reviewed by the joint standing committee of the Legislature having jurisdiction over energy matters and approved by the Senate. Among these 7 members must be persons who adequately represent the interests of commercial energy consumers, industrial energy consumers, small business energy consumers, residential energy consumers and low-income energy consumers; among these members must be persons with knowledge of and experience in financial matters and consumer advocacy and who possess substantial management expertise or knowledge of or experience with conservation fund programs, carbon reduction programs or energy efficiency or climate change policy. The requirements of this subparagraph may be met through the appointment of one or more persons who satisfy more than one of the requirements, as long as at any one time the 7 members include among them members who adequately represent the identified interests and who possess the required knowledge, expertise and experience.

Appointed trustees serve 3-year terms. If an appointed trustee is unable to complete the term, the Governor shall appoint a replacement for the remainder of the unexpired term.

## PART C

**Sec. C-1. Resolve 2013, c. 22, §3, amended. Resolved:** That Resolve 2013, c. 22, §3 is amended to read:

**Sec. 3. Working group; members. Resolved:** That the Executive Director of Jobs for Maine's Graduates shall invite the following organizations to appoint representatives of their organizations to serve as members of the working group under this resolve:

1. Maine Association for Career and Technical Education;
2. Maine State Chamber of Commerce;
3. Maine Restaurant Association;
4. Associated Builders and Contractors of Maine; and
5. The Cianbro Companies; and

6. The Science, Technology, Engineering and Mathematics Council, as established in the Maine Revised Statutes, Title 20-A, section 11.

The Executive Director of Jobs for Maine's Graduates shall also invite representatives of key education stakeholder groups that have an interest in applied learning opportunities to participate; and be it further

**Sec. C-2. Limited liability company; fee for filing correction of assumed name.** Notwithstanding the Maine Revised Statutes, Title 31, section 1673, subsection 6 and section 1680, subsection 11, a limited liability company that filed a statement between July 1, 2011 and May 3, 2013 for use of an assumed name containing the words "limited liability company" or "limited company" or the abbreviation "L.L.C.," "LLC," "L.C." or "LC" or, in the case of a low-profit limited liability company, "L3C" solely because of the language in Title 31, section 1508, subsection 1, as enacted by Public Law 2009, chapter 629, Part A, section 2, may file with the Secretary of State a statement of correction under Title 31, section 1675 removing those words or abbreviations from the assumed name on or before October 1, 2013 without paying a filing fee.

**Sec. C-3. Effective date.** That section of this Part that amends Resolve 2013, chapter 22, section 3 takes effect 90 days after the adjournment of the First Regular Session of the 126th Legislature.'

## SUMMARY

This amendment strikes out 15 sections from Part A of the bill. This amendment strikes Parts B, C and D from the bill because the corrections are correctly addressed in Legislative Document 837, "An Act To Clarify the Laws Establishing the Department of Agriculture, Conservation and Forestry," of this Legislature. This amendment adds new Parts B and C as follows.

## PART B

Part B of the amendment does the following.

Section 1 removes a comma to reflect the intent of the provision of law concerning cost-of-living adjustments to retirement benefits.

Section 2 repeals a provision of law that states that consumer cooperative associations are subject to Title 32, chapter 13, which was repealed in 1985. Title 32, chapter 135, the successor to chapter 13, exempts securities issued by associations such as consumer cooperatives.

Section 3 amends Title 15, section 103, 2nd paragraph to provide consistency with changes made in Public Law 2011, chapter 542, which implemented the recommendations of the Department of Health and Human Services and the Maine Developmental Disabilities Council regarding respectful language developed pursuant to Public Law 2011, chapter 186, Part B.

Section 4 amends the Maine Juvenile Code to correct a cross-reference concerning the decision whether to release or further detain a juvenile arrested for a crime under Title 12 or Title 29-A.

Section 5 corrects a conflict created by Initiated Bill 2011, chapter 1, section 3 and Public Law 2011, chapter 511, section 1, which affected the same provision of law, by incorporating the changes made by both laws concerning applications for recording notice of intention of marriage.

Sections 6 and 7 correct cross-references to the Uniform Child Custody Jurisdiction and Enforcement Act. Public Law 1999, chapter 486 repealed the Uniform Child Custody Jurisdiction Act and replaced it with the Uniform Child Custody Jurisdiction and Enforcement Act.

Section 8 amends the protection from abuse statutes concerning batterers' intervention programs. Resolve 2013, chapter 3 provides for immediate changes to the rules governing batterers' intervention programs in response to a court decision that identified an unconstitutional regulatory scheme. The rules are designated as major substantive rules in Title 19-A, section 4014, subsection 1. Resolve 2013, chapter 3 provided that, notwithstanding Title 19-A, section 4014, subsection 1, all rules or amendments to rules on the subject of the certification of batterers' intervention programs are considered routine technical rules. Section 8 amends Title 19-A, section 4014, subsection 1 to be consistent with Resolve 2013, chapter 3.

Section 9 replaces Part A, section 15 of the bill. It clarifies that elements of the record of the certificate of need application process include the actuarial analysis undertaken by the Superintendent of Insurance when the analysis is required by the Commissioner of Health and Human Services.

Section 10 corrects a conflict created by Public Law 2011, chapters 542 and 655, which affected the same provision of law, by incorporating the changes made by both laws concerning growth management programs and capital investments.

Section 11 corrects a clerical error in Title 32, section 4693, subsection 2, which provides 2 options for the notice that must be included in the disclosure statement that is required to be made to a consumer purchasing a business opportunity in this State. The first option applies when the seller has secured a surety bond from a surety company, and the 2nd option applies when the seller has established an escrow account at a licensed bank or savings institute. The current law regarding the 2nd option erroneously contains a reference to a surety company. This section corrects that reference so that it refers to a licensed bank or savings institute.

Section 12 corrects a statutory reference to the definition of "public member" in the law governing the State Board of Social Worker Licensure.

Section 13 corrects a conflict created by Public Law 2011, chapters 515 and 662, which amended Title 34-A, section 1216, subsection 1 in 2 different ways by incorporating the changes made by both public laws concerning limited disclosure of records of persons receiving services from the Department of Corrections.

Section 14 corrects a conflict created by Public Law 2011, chapters 637 and 655, which affected the same provision of law, by incorporating the changes made by both laws concerning the membership of the Efficiency Maine Trust Board.

## **PART C**

Part C of the amendment does the following.

Section 1 amends Resolve 2013, chapter 22 to delete the required membership of a specific private corporation in a working group on applied learning opportunities in elementary schools and middle schools.

Section 2 provides authority for the Secretary of State to accept a filing to change the assumed name of a limited liability company without fee if the limited liability company had filed a statement between July 1, 2011 and May 3, 2013 for use of an assumed name containing certain required terms or abbreviations. A fee will not be charged if the new assumed name is the same as filed but without the required term or abbreviation. The new filing for change of name must be made on or before October 1, 2013 to avoid the fee.