

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 395

H. P. 318

House of Representatives, February 7, 1979

On Motion of Mr. LaPlante of Sabattus referred to the Committee on Local and County Government. Sent up for concurrence and ordered printed.

EDWIN H PERT, Clerk

Presented by Mr. Drinkwater of Belfast.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Clarify Certain Statutes Relating to Municipalities.

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

Sec. 1. 17 MRSA § 2803 is repealed.

Sec. 2. 17 MRSA § 2804 is amended to read:

§ 2804. —complaints about

When a place or building ~~so assigned~~ becomes a nuisance, offensive to the neighborhood or injurious to the public health, any person may complain thereof to the Superior Court and if, after notice to the party complained of, the truth of the complaint is admitted by default or made to appear to a jury on trial, the court may ~~revoke such assignment~~ and prohibit the further use of such place or building for such purposes, under a penalty of not more than \$100 for each month's continuance after such prohibition, to the use of said town; and may order it to be abated and issue a warrant therefor, or stay it as provided; but if the jury acquit the defendant, he shall recover costs of the complainant.

Sec. 3. 21 MRSA § 494, sub-§ 7, ¶C is enacted to read:

C. The registrar of each municipality concerned shall consider and complete the verification and certification of the submitted petitions before or during the time period established in subsections 8 and 9.

Sec. 4. 23 MRSA § 2701, is amended to read:

§ 2701. Powers and duties

The road commissioner, under the direction of the selectmen, shall have charge of the repairs of all highways and bridges within the towns and shall have authority to employ the necessary men and teams and purchase timber, plank and other material for the repair of highways and bridges. **The road commissioner may remove any obstacle which obstructs, is likely to obstruct, or which renders passage dangerous, within the limits of any town way or public easement.** He shall give bond to the satisfaction of the selectmen and be responsible to them for the expenditure of money and discharge of his duties generally. **The municipal officers may adopt administrative rules and regulations directing the road commissioner in the discharge of his duties.** His compensation shall be such sum as the towns shall annually vote therefor ~~which sum shall in no case be less than \$1.50 a day for every day of actual service.~~ He shall render to the selectmen monthly statements of his expenditures and receive no money from the treasury, except on the order of the selectmen.

Sec. 5. 23 MRSA § 3028, as last amended by PL 1977, c. 479, § 4, is further amended by adding at the end a new sentence to read:

A presumption of abandonment is not rebutted by evidence which shows isolated acts of maintenance, unless other evidence exists which shows a clear intent by the municipality or county to consider or use the way as if it were a public way.

Sec. 6. 28 MRSA § 702, sub-§ 4, ¶ A, as enacted by PL 1977, c. 501, § 1, is amended to read:

A. Any licensee requesting an amusement permit from the municipal officers as provided in this section shall be notified in writing of their decision no later than ~~45~~ 30 days from the date the request was received. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within 30 days after an application for a permit which has been denied.

Sec. 7. 30 MRSA § 1913, sub-§ 1, ¶ A, last paragraph, as repealed and replaced by PL 1977, c. 79, § 2, is amended to read:

Election of voter members may be held at the same municipal election as the referendum for the charter commission, but shall be held within ~~60~~ 90 days of such referendum election. The names of the candidates shall be arranged alphabetically by surname immediately below the question relating to the charter commission.

Sec. 8. 30 MRSA § 1953, first paragraph, as amended by PL 1977, c. 499, § 9, is further amended by adding at the end a new sentence to read:

Public agencies may join together for the purpose of pooling resources for the defense and indemnification of joint or several liabilities identified in an agreement pursuant to this chapter.

Sec. 9. 30 MRSA § 2053, as amended by PL 1973, c. 536, § 5, is further amended by adding at the end a new sentence to read:

Any action or failure to act by the municipal officers may be reviewed in a proceeding under the Maine Rules of Civil Procedure, Rule 80B.

Sec. 10. 30 MRSA § 2054, sub-§ 3, first paragraph, as amended by PL 1973, c. 536, § 7, is further amended by adding at the end a new sentence to read:

If the moderator fails to do so, the municipal officers may appoint a deputy moderator to act during his absence.

Sec. 11. 30 MRSA § 2054, sub-§ 6, as enacted by PL 1975, c. 232, is amended to read:

6. Location of meetings. Town meetings may be held outside the corporate limits of the municipality if the proposed location is within ~~an adjacent~~ **a nearby** municipality and is reasonably accessible to all voters of the town and if the municipal officers determine that there is no adequate facility for the meeting within the municipality.

Sec. 12. 30 MRSA § 2061, sub-§ 5, ¶ B, is amended to read:

B. At the end of the list of candidates for each office there shall be left as many blank spaces as there are vacancies to be filled, in which a voter may insert the name of any person, **with or without the address**, for whom he desires to vote.

Sec. 13. 30 MRSA § 2154, is amended to read:

§ 2154. Revision, codification and publication

A municipality may revise, codify and publish from time to time in book or pamphlet form all or part of its ordinances arranged in appropriate classifications excluding the titles, signatures and other formal parts of the enacting legislation for the purpose of producing a complete, accurate code of the ordinances in force **in the municipality together with any additions, deletions or other changes which it may deem desirable.**

1. Enactment. The revised code shall be enacted by one ordinance entitled, "An ordinance to revise and codify ordinances of the City (or Town) of,

2. Repeals; vested rights. The revised code is a repeal of all ordinances in conflict with it, but all ordinances **which are in conflict with it and which were** in force prior to its adoption **shall** continue in force thereafter for the sole purpose of preserving vested rights acquired under the former provisions.

3. Admissible in evidence; revision. When adopted, the revised code becomes law and is admissible in all courts without further proof as prima facie evidence of its existence and validity.

~~**A. The revision of any ordinance may be adopted only in the manner provided for the original enactment of the ordinance.**~~

Sec. 14. 30 MRSA § 2225, sub-§ 5, as enacted by PL 1973, c. 64, is repealed.

Sec. 15. 30 MRSA § 2255, sub-§ 4, is amended to read:

4. Absence. If the clerk, **treasurer or collector** fails to do so, the municipal officers may appoint a deputy ~~clerk~~ to act during his absence.

Sec. 16. 30 MRSA § 4956, sub-§ 3, ¶E, as repealed and replaced by PL 1971, c. 454 is amended to read:

E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of ~~the highways or public~~ any roads existing or proposed;

Sec. 17. 30 MRSA § 5607, as amended by PL 1967, c. 425, § 19, is further amended to read:

§ 5607. Annual meeting

Organized plantations shall hold their annual meeting in March and choose a clerk, 3 assessors, treasurer, collector of taxes, ~~constable~~, school committee, one or more surveyors of lumber and 2 or more fence viewers. **One or more constables may be appointed in the manner provided in section 2363.** When money is raised for repair of ways and bridges, the assessors of such plantation shall choose one or more road commissioners as selectmen of towns do.

Sec. 18. 30 MRSA § 5613, is amended to read:

Plantations may borrow money in anticipation of taxes **and state and federal revenue-sharing money**, and issue general obligation securities in the manner provided for in chapter 241.

Sec. 19. 36 MRSA § 713, 2nd paragraph, as last amended by PL 1973, c. 695, § 15, is further amended by adding at the end a new sentence to read:

Interest shall accrue on all unpaid balances of any supplemental tax, beginning on the 60th day after the date of commitment of the supplemental tax to the collector; the rate of interest shall be the same as specified by the municipality for the current tax year, in accordance with section 505, subsection 4.

Sec. 20. 36 MRSA § 843, sub-§ 1, last sentence as enacted by PL 1977, c. 509, § 18, is amended to read:

~~Either party~~ **The municipality, the board of assessors or the applicant** may appeal from the decision of the board of assessment review directly to the Superior Court, in accordance with Rule 80B of the Maine Rules of Civil Procedure.

Sec. 21. 36 MRSA § 844, last sentence, as repealed and replaced by PL 1973, c. 645, § 6, is amended to read:

~~Either party~~ **The municipality, the board of assessors or the applicant** may appeal from the decision of said county commissioners to the Superior Court, in accordance with Rule 80B of the Maine Rules of Civil Procedure.

Sec. 22. 36 MRSA § 942, 3rd paragraph, first sentence, as amended by PL 1977, c. 479, § 18, is further amended to read:

After the expiration of said ~~40~~ 20 days and within 10 days thereafter, the tax collector shall record in the registry of deeds of the county or registry district where said real estate is situated a tax lien certificate signed by said tax collector or bearing his facsimile signature, setting forth the amount of such tax, a description of the real estate on which the tax is assessed and an allegation that a lien is claimed on said real estate to secure the payment of said tax, that a demand for payment of said tax has been made in accordance with this section, and that said tax remains unpaid.

Sec. 23. 36 MRSA § 943, 3rd paragraph, is amended to read:

In the event that said tax, interest and costs, **including the certified mail return receipt requested fee for the notice required by this section**, shall be paid within the period of redemption, the municipal treasurer of assignee of record shall prepare and record a discharge of the tax lien mortgage in the same manner as is now provided for the discharge of real estate mortgages.

Sec. 24. 36 MRSA § 943, as last amended by PL 1977, c. 630, § 9, is further amended by adding at the end a new paragraph to read:

Any instrument which is required by this section or section 942 to be recorded in the registry of deeds of the county or registry district where the real estate is situated need not be acknowledged before recorded if it bears the signature of facsimile signature or the municipal tax collector, the municipal treasurer or their duly authorized deputies.

Sec. 25. 36 MRSA § 1481, sub-§ 2, is amended to read:

2. Maker's list price. "Maker's list price" in the case of vehicles **and optional equipment** manufactured in the United States means the retail price at the point of manufacture, less the federal manufacturer's tax. "Maker's list price" in the case of vehicles **and optional equipment** manufactured outside the United States means the retail price at the nearest port of entry. **Optional equipment shall be defined in accordance with the annual bulletins issued by the State Tax Assessor, as prescribed in section 1482, subsection 4.**

Sec. 26. 36 MRSA § 1482, sub-§ 4, is amended to read:

4. Maker's list price. The maker's list price to be used or the manner in which the maker's list price of a vehicle **and the price of optional equipment** to be used shall be obtained from sources approved by the State Tax Assessor. Where the maker's list price of a vehicle **or the price of optional equipment** is not readily obtainable the State Tax Assessor shall prescribe the maker's list price to be used or the manner in which the maker's list price shall be determined. **The State Tax Assessor shall issue bulletins at least annually to all excise tax collectors authorized by section 1487 listing the approved sources to be used in determining the maker's list price, defining optional equipment for the purpose of excise tax**

collection, prescribing the procedure to be used in collecting excise taxes and maintaining records, and providing other information as necessary.

Sec. 27. 36 MRSA § 1484, first sentence, is amended to read:

The excise tax on a vehicle **and optional equipment** shall be paid in accordance with the following.

Sec. 28. 38 MRSA § 1208, as last amended by PL 1977, c. 696, § 389, is further amended by adding at the end a new paragraph to read:

Any instrument which is required by this section to be recorded in the registry of deeds of the county or registry district where the real estate is situated need not be acknowledged before recorded, if it bears the signature or facsimile signature of the treasurer.

STATEMENT OF FACT

The purpose of this bill is to clarify or change certain laws relating to the duties and functions of municipalities in order to foster uniformity in application and resolve uncertainties and confusion.