

# MAINE STATE LEGISLATURE

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ACTS, RESOLVES AND CONSTITUTIONAL RESOLUTIONS

AS PASSED BY THE

One Hundred and Sixth Legislature

OF THE

STATE OF MAINE

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THE KNOWLTON AND McLEARY COMPANY  
FARMINGTON, MAINE  
1973

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PUBLIC LAWS  
OF THE  
STATE OF MAINE  
AS PASSED BY THE  
One Hundred and Sixth Legislature

1973

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Whereas, a complete inventory of the dams of the State and their condition is to be prepared for presentation to Congress by June, 1974; 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. R. S., T. 12, § 54, sub-§ 12, additional. Section 54 of Title 12 of the Revised Statutes, as amended, is further amended by adding a new subsection 12 to read as follows:

12. Entry on lands and structures. The commission or its authorized agents shall have the right to enter upon any private or public lands for the purpose of inspecting dams and appurtenant structures. The commission shall seek the permission of the landowner, prior to exercising this right and shall not exercise this right until a reasonable effort has been made to obtain said permission.

Sec. 2. R. S., T. 12, § 55, additional. Title 12 of the Revised Statutes is amended by adding a new section 55 to read as follows:

#### § 55. Exemptions

Exempted from this subchapter are all dams and projects licensed by or subject to the jurisdiction of the Federal Power Commission under Part I of the Federal Power Act.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective March 21, 1973

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## CHAPTER 104

### AN ACT Relating to Biennial Elections of the Passamaquoddy Tribe of Indians.

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

Whereas, the deficiencies and inconsistencies in the laws relating to biennial election of the Passamaquoddy Tribe should be corrected as soon as possible; and

Whereas, this bill provides for removal of tribal officers and provides for caucuses and provides for recounts in case of close elections; and

Whereas, the following legislation is vitally necessary in order to prevent undue hardship on the members of the Passamaquoddy Tribe of Indians; 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:*

**R. S., T. 22, § 4831, repealed and replaced.** Section 4831 of Title 22 of the Revised Statutes, as repealed and replaced by section 63 of chapter 544 of the public laws of 1967, and as amended, is repealed and the following enacted in place thereof:

**§ 4831. Biennial elections**

Biennially on the even-numbered years, on the Tuesday following Labor Day in September, the Passamaquoddy Tribe of Indians shall hold their election for the choice of governor and lieutenant governor of each reservation of said tribe, a representative at the Legislature of this State and a tribal council to consist of 6 members of said tribe from each reservation, all of whom must be at least 18 years of age. The representative at the Legislature of this State shall be chosen alternately between the 2 reservations. Only certified Indian members of the tribe who are 18 years of age or older shall be eligible to vote. All persons so elected shall hold office for 2 years commencing on the first day of October on the even-numbered years beginning October 1, 1968, or until their successors are elected. Whenever any vacancy occurs, the commissioner shall call a meeting of the tribe to fill such vacancy. Vacancies shall be filled through appointment by the respective tribal governor with the advice and consent of the respective tribal council. Vacancies in the office of governor or lieutenant governor of the Pleasant Point Passamaquoddy Reservation shall be filled by tribal election.

The governors shall preside over all meetings of the council and be a member ex officio. In the absence of the governor, the lieutenant governor shall preside. Four members of such council from each reservation shall constitute a quorum thereof for the purpose of conducting the affairs of the tribe on each reservation and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. At joint meetings of the tribal councils from both reservations, a total of 7 council members shall constitute a quorum, with at least 3 members being present from one reservation.

The tribal governor of each reservation shall call a general meeting of all tribal members residing on the reservation for the purpose of affirming or rejecting legislative proposals prepared by the representative of the tribe for submission to the Legislature. The time and place of such meeting shall be posted 7 or more days prior to the meeting day at the office of the tribal governor and at one other conspicuous place on the reservation. All legislative proposals receiving an affirmative vote of a majority of those present and voting at such general meeting shall be given to the tribal representative to the State Legislature for submission to the Legislature.

On the first Tuesday of August biennially on the even-numbered years, the Passamaquoddy Tribe of Indians shall hold a caucus for the purpose of nominating candidates to be elected as provided in this section. Such caucus

shall have the right to establish, by majority vote, rules for the conduct of the following tribal election, providing that such rules do not violate the constitutional rights of any person. The commissioner shall give notice of the time and place, 7 days before the day of election, by posting notices thereof in some conspicuous place on the reservations at Pleasant Point and Indian Township. Said commissioner or his authorized representative shall receive, sort and count the votes given in said election, in the presence of members of the tribe, and those elected shall be given certificates therefor, except that no certificate of election shall be issued less than 10 days after the election.

The governor, lieutenant governor and council members of the Pleasant Point Passamaquoddy Reservation may be removed from office by the legally registered voters from that reservation. The procedure for removal shall be as follows: Upon receipt of a petition signed by 50 persons registered to vote at the Pleasant Point Passamaquoddy Reservation seeking removal of the governor, lieutenant governor or a council member of that reservation, the commissioner shall call a special election to vote on removal of the official in question. Only persons registered to vote at the Pleasant Point Passamaquoddy Reservation shall be eligible to vote in such a removal election, and said removal election shall be held in the same manner as general tribal elections. Removal shall be accomplished by a majority vote of those voting. However, before any such removal election is held, the commissioner shall call a general meeting on the Pleasant Point Passamaquoddy Reservation and at such meeting the official whose removal is sought shall have an opportunity to hear the charges against him and present evidence on his own behalf. Any petition seeking removal of an official shall set forth the reasons for seeking removal of such official and the official in question shall be advised of such reasons prior to the meeting called by the commissioner.

On the written application of a candidate in said election within 7 days after election day, the commissioner shall permit him or his counsel to recount the ballots under proper protective regulations. Upon the receipt of the application, the commissioner shall send written notice of the recount to the candidates for the office in question, stating the time and place of the recount. The commissioner or his authorized representative shall preside at the recount and shall segregate any disputed ballots. Ballots may be disputed for any or all of the following reasons:

- A. If more names are marked for an office than there are vacancies to be filled;
- B. If there are any distinguishing marks on the ballot;
- C. If the ballot is marked in such a way as to make the voter's choice impossible to determine.

In no case, however, shall a ballot be disputed solely because of the type of mark used to indicate the voter's choice, and all votes shall be counted where the voter's intention can be clearly seen and no other reason for challenging the ballot but its type of marking, exists. If any mistake was made in counting the ballots on election day, the commissioner shall correct his tabulation. If the corrected tabulation changes the result declared on election day, the commissioner shall declare the winner as determined by the recount. The commissioner shall issue his certificate of election to the winner of a recount unless within 4 days of the said recount, the loser appeals its results in writing to the Governor and Council of the State of Maine, addressed to

the Secretary of State. In all cases the determination of the winner by the Governor and Council shall be final.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective March 21, 1973

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## CHAPTER 105

### AN ACT Relating to Creditable Service under State Retirement Law for Certain Teachers.

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

**R. S., T. 5, § 1094, sub-§ 14, amended.** The 2nd sentence of the first paragraph of subsection 14 of section 1094 of Title 5 of the Revised Statutes, as enacted by chapter 40 of the public laws of 1971, is amended to read as follows:

Such service credit to be creditable must have been performed in a school approved by the ~~State~~ **Maine** Department of Education ~~or the education department of any of the several states~~ while holding the appropriate teaching certificate during the time of said nonpublic school service, and such prior service credit can only be secured after 10 years of service in the public schools.

Effective October 3, 1973

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## CHAPTER 106

### AN ACT Relating to Registration and Enrollment at a Municipal Caucus.

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

**R. S., T. 21, § 639, additional.** Title 21 of the Revised Statutes is amended by adding a new section 639 to read as follows:

#### § 639. Municipal caucus

The registrar or board of registration shall meet in session on the day of official party caucuses on hours so designated by municipal officials to accept registrations and enrollments and all persons so registered and enrolled shall be allowed to participate in their party caucus.

Effective October 3, 1973