

MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

1954

1961 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

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provide, in an act expressly conferring the right of eminent domain, for any act or proceeding necessary to carry out such taking, which failure shall be deemed a substantial error by a court of last resort in this state and judgment of title in the plaintiff shall be given, judgment of ouster or writ of possession shall be stayed until the corporation vested with the power of eminent domain shall have had opportunity to retake pursuant to the act conferring the power, if the error is formal, and until remedial legislation shall have been obtained at a session of the legislature next after the rendition of judgment when the error is substantial, and a new taking had pursuant to the amended act; but the new taking shall be had within 90 days from the rendition of said judgment when the error is merely formal, and within 6 months from the adjournment of the legislature next after the rendition of judgment when the error is substantial. Nothing herein contained shall preclude or stay any civil action for damages, and the owner of the land may maintain a civil action for damages the same as if in possession. (R. S. c. 48, § 22. 1961, c. 317, § 133.)

Effect of amendment.—The 1961 amendment substituted “civil action” for “action at law” and “a civil action for damages” for “an action for damages” in the last sentence of this section.

Condemnation Proceedings by Water Districts.

Sec. 23. Necessity of taking determined.—The owner of property which is the subject of appropriation for public purposes by any water district may, upon hearing, have the necessity of the particular appropriation determined by the public utilities commission. (R. S. c. 48, § 23. 1955, c. 258, § 1.)

Effect of amendment.—The 1955 amendment added the words “by the public utilities commission” at the end of this section.

Sec. 24. Proceedings.—The owner of such property may, within 30 days after the beginning of condemnation proceedings, file in the office of the clerk of the public utilities commission, a petition to the commission for a decision as to the necessity of the appropriation. A copy of the petition and order of notice thereon, attested by the clerk, shall be served upon the defendant. (R. S. c. 48, § 24. 1955, c. 258, § 2. 1961, c. 317, § 134.)

Effect of amendments. — The 1955 amendment rewrote this section, which formerly provided for a petition to the superior court and for the appointment by a justice of the superior court of three disinterested commissioners to determine the necessity of the appropriation. The 1961 amendment substituted “defendant” for “respondent” at the end of the second sentence of this section.

Sec. 25. Proceedings before commissioners.—The commissioners shall fix a time for hearing, within the county where the property is situated, and give written notice thereof to the owner and to the district seeking to acquire said property. At the hearing all parties in interest shall be heard either in person or by attorney, and witnesses may be summoned by either party and attendance compelled as before other judicial tribunals; the burden of proof to show the necessity of the particular taking shall rest upon the party seeking to acquire the property. The decision of a majority of the commissioners shall be final as to questions of fact. (R. S. c. 48, § 25. 1955, c. 258, § 3.)

Effect of amendment.—The 1955 amendment inserted the words “within the county where the property is situated” near the beginning of the section and deleted the former last sentence, which related to costs.

Chapter 52-A.

Peaceful Uses of Atomic Energy.

Sec. 1. Declaration of policy.—The state of Maine endorses the action of the congress of the United States in enacting the atomic energy act of 1954 to

institute a program to encourage the widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public; and therefore declares the policy of the state to be:

I. To cooperate actively in the program thus instituted; and

II. To the extent that the regulation of special nuclear materials, source materials and by-product materials, of production facilities and utilization facilities, and of other forms of radiation, and of persons operating such facilities may be within the jurisdiction of the state, to provide for the exercise of the state's regulatory authority so as to conform, as nearly as may be, to the atomic energy act of 1954 and regulations issued thereunder, to the end that there may, in effect, be a single harmonious system of regulation within the state.

The state of Maine recognizes that the development of industries producing or utilizing atomic energy and other forms of radiation may result in new conditions calling for changes in the laws of the state and in regulations issued thereunder with respect to health and safety, working conditions, workmen's compensation, transportation, public utilities, life, health, accident, fire and casualty insurance, the conservation of natural resources, including wildlife, and the protection of streams, rivers and airspace from pollution, and therefore declares the policy of the state to be:

I. To adapt its laws and regulations to meet the new conditions in ways that will encourage the healthy development of industries producing or utilizing atomic energy while at the same time protecting the public interest; and

II. To initiate continuing studies of the need for changes in the relevant laws and regulations of the state by the respective departments and agencies of the state which are responsible for their administration; and

III. To insure the coordination of the studies thus undertaken, particularly with other atomic industrial development activities of the state and with the development and regulatory activities of other states and of the government of the United States. (1955, c. 105, § 1. 1957, c. 210, §§ 1, 2.)

Effect of amendment.—Section 1 of the 1957 amendment inserted the words "source materials" and the words "and of other forms of radiation" in subsection II of the first paragraph of this section.

Section 2 of such amendment inserted the words "and other forms of radiation" in the opening statement of the second paragraph.

Sec. 2. Definitions.—As used in this chapter, the term "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

The term "by-product material" means any radioactive materials, except special nuclear materials, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear materials.

The term "production facility" means any equipment or device capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or any important component part especially designed for such equipment or device.

The term "source material" means uranium, thorium or any other material which the governor declares by order to be source material after the United States atomic energy commission has determined the material to be such; or ores containing one or more of the foregoing materials, in such concentration as the governor declares by order after the United States atomic energy commission has by regulation so determined.

The term "special nuclear material" means plutonium and uranium enriched in the isotope 233 or in the isotope 235, and any other material which the governor declares by order to be special nuclear material after the United States atomic

energy commission has determined the material to be such; or any material artificially enriched by any of the foregoing.

The term "utilization facility" means any equipment or device, except an atomic weapon, capable of making use of special nuclear materials in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or any important component part especially designed for such equipment or device. (1955, c. 105, § 1. 1957, c. 210, § 3.)

Effect of amendment. — The 1957 amendment inserted the fourth paragraph which defines "source material".

Sec. 3. United States licenses or permits required.—No person shall manufacture, construct, produce, transfer, acquire or possess any special nuclear material, source material, by-product material, production facility or utilization facility, or act as an operator of a production or utilization facility wholly within this state unless he shall have first obtained a license or permit for the activity in which he proposes to engage from the United States atomic energy commission if, pursuant to the atomic energy act of 1954, the commission requires a license or permit to be obtained by persons proposing to engage in activities of the same type over which it has jurisdiction. (1955, c. 105, § 1. 1957, c. 210, § 4.)

Effect of amendment. — The 1957 amendment inserted the words "source material" in this section.

Sec. 4. Conduct of studies concerning changes in laws and regulations with a view to atomic industrial development.—Each of the following departments and agencies of the state government is directed to initiate and to pursue continuing studies as to the need, if any, for changes in the laws and regulations administered by it that would arise from the presence within the state of special nuclear materials, source materials, by-product materials and radioactive materials, from the operation herein of production or utilization facilities, and, on the basis of such studies, to make such recommendations for the enactment of laws or amendments to law administered by it, and such proposals for amendments to the regulations issued by it, as may appear necessary and appropriate.

I. The department of health and welfare, particularly as to hazards, if any, to the public health and safety.

II. The department of labor & industry, particularly as to hazardous working conditions, if any.

III. The industrial accident commission, particularly as to the time and character of proof of claims of injuries and the extent of the compensation allowable therefor.

IV. The state highway commission, particularly as to the transportation of special nuclear materials, source materials, by-product and radioactive materials on highways of the state.

V. The public utilities commission, particularly as to the transportation of special nuclear materials, source materials, by-product and radioactive materials by common carriers not in interstate commerce and as to the participation by public utilities subject to its jurisdiction in projects looking to the development of production or utilization facilities for industrial or commercial use.

VI. The insurance commissioner, particularly as to the insurance of persons and property from hazards to life and property resulting from atomic development.

VII. The departments of forestry, inland fisheries and game, sea and shore fisheries and the aeronautics commission, particularly as to the hazards, if any,

to the natural resources of the state, including wildlife, and as to the protection, if necessary, of rivers, streams and airspace from pollution.

VIII. Such other departments and agencies, including departments and agencies of political subdivisions of the state, as the governor may direct and for the purposes specified by him. (1955, c. 105, § 1. 1957, c. 210, §§ 5, 6.)

Effect of amendment. — The 1957 also to “source materials” and “radio-amendment made this section applicable active materials”.

Sec. 5. Coordination of studies and development activities.—The governor and council shall appoint a citizen of this state to serve as adviser to the governor with respect to atomic industrial development within the state; as coordinator of the development and regulatory activities of the state relating to the industrial and commercial uses of atomic energy and other forms of radiation; and as deputy of the governor in matters relating to atomic energy and other forms of radiation, including participation in the activities of any committee formed by the New England states to represent their interest in such matters and also cooperation with other states and with the government of the United States. The person so appointed shall have the title of coordinator of atomic development activities.

The coordinator of atomic development activities shall have the duty of coordinating the studies, recommendations and proposals of the several departments and agencies of the state and its political subdivisions required by section 4 with each other and also with the programs and activities of the department of labor and industry and the department of economic development and of the state. So far as may be practicable, he shall coordinate the studies conducted, and the recommendations and proposals made, in this state with like activities in the New England and other states and with the policies and regulations of the United States atomic energy commission. In carrying out his duties, he shall proceed in close cooperation with the department of labor and industry and the department of economic development.

The several departments and agencies of the state and its political subdivisions which are directed by section 4 to initiate and pursue continuing studies are further directed to keep the coordinator of atomic development activities fully and currently informed as to their activities relating to atomic energy. No regulation or amendment to a regulation applying specifically to an atomic energy matter which any such department or agency may propose to issue shall become effective until 30 days after it has been submitted to the coordinator. If the coordinator objects to any such regulation or amendment thereto he may, within said 30 days, notify the governor of his objection and the reasons therefor, and the governor, after due consideration thereof, and after discussion with said department or agency, and within 15 days after receipt of said notice from the coordinator, may declare the proposed regulation or amendment thereto valid and effective, or he may declare it invalid and ineffective. Upon a finding of emergency need, the governor may declare any proposed regulation or amendment thereto immediately effective.

The coordinator of atomic development activities shall keep the governor and council and the several interested departments and agencies informed as to private and public activities affecting atomic industrial development and shall enlist their cooperation in taking action to further such development as is consistent with the health, safety and general welfare of this state. (1955, c. 105, § 1. 1957, c. 123, § 11; c. 210, § 7.)

Effect of amendment.—The first 1957 the second paragraph. The second 1957 amendment substituted “department of economic development” for “Maine development commission” in two places in the first paragraph. The second 1957 amendment inserted the words “and other forms of radiation” in two places in the first paragraph.

Sec. 6. Injunction proceedings.—Whenever, in the opinion of the attorney general, any person is violating or is about to violate section 3, the attorney

general may apply to the appropriate court for an order enjoining the person from engaging or continuing to engage in the activity violative of this chapter and upon a showing that such person has engaged, or is about to engage in any such activity, a permanent or temporary injunction, restraining order or other order may be granted. (1955, c. 105, § 1.)

Sec. 7. Agreements and cooperative arrangements authorized.—

Any appropriate department or agency may cooperate with the federal government in performing functions on behalf of the federal government relating to atomic energy, and in the administration of this chapter or any matter pertaining thereto, and for that purpose may, with the approval of the coordinator, enter into agreements or cooperative arrangements with the federal government.

Such department or agency may receive, administer and disburse any funds or contributions received from the federal government for the purposes mentioned herein. (1957, c. 210, § 8.)

Chapter 53. Corporations.

Sections 72-A to 72-K. Simplification of Fiduciary Security Transfers.
Sections 127 to 135-A. Foreign Corporations.

General Provisions.

Sec. 2. Acts of incorporation altered or repealed.

Cited in *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

Organization under General Law.

Sec. 8. Purposes.

Nothing in this section shall be construed to prevent the organization of small business investment companies organized to carry out the provisions of the Small Business Investment Act enacted by the 85th Congress of the United States, and acts amendatory thereto and additional thereto and which become such corporations under said Small Business Investment Act of 1958. Such small business investment companies shall not be deemed banking corporations or institutions. (R. S. c. 49, § 8, 1959, c. 178, § 4.)

Effect of amendment.—The 1959 amendment. As the rest of the section was not affected by the amendment, it is not set out.

Sec. 10. Certificate of organization; fees.

Quoted in *McGary v. Barrows*, 156 Me. 250, 163 A. (2d) 747.

Sec. 10-A. Protection for name of corporation. — No corporation organizing under this chapter shall assume, adopt or use the name of a corporation incorporated under the laws of the state of Maine, or a name so nearly resembling the name of such corporation as to be a colorable imitation thereof or calculated to deceive any person. (1961, c. 22.)

Sec. 12. Quasi-public corporations; fees. — No certificate of organization of any corporation for banking, insurance, construction and operation of railroads, or aiding in the construction thereof, the business of trust companies or corporations intended to derive a profit from the loan or use of money, safe deposit companies, renting of safes and burglar and fire-proof vaults, telegraph and telephone companies, electric or gas light companies, water companies or any corporation authorized to exercise the right of eminent domain shall be received and filed by the secretary of state except upon payment to him for the