

MAINE STATE LEGISLATURE

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(EMERGENCY)
SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1982

H. P. 1921

Office of the Clerk of the House

The Committee on Local and County Government suggested. Approved for introduction by the Legislative Council pursuant to Joint Rule 24.

EDWIN H. PERT, Clerk

Presented by Mr. Henderson of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

AN ACT Clarifying the Statutes Relating to Municipalities.

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

Whereas, Acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies have created uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary to resolve such uncertainties and confusion to prevent any injustice or hardship on the people of Maine; 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Sec. 1. 7 MRSA § 3705, last sentence, is repealed and the following enacted in its place:

All fines imposed shall be paid into the treasury of the county where the offense is committed and shall be transmitted by the county treasurer to the treasurer of the municipality where the offense is committed unless otherwise provided.

Sec. 2. 12 MRSA § 2470, as enacted by PL 1977, c. 362, § 2 is repealed and the following enacted in its place

§ 2470. Municipal ordinances prohibited

No municipality of the State should enact any ordinance regulating the hunting or trapping of any species of wildlife on land not owned or occupied by the municipality. This section shall not be interpreted to prohibit the enactment of any ordinance generally regulating the discharge of firearms in a municipality or any part thereof.

Sec. 3. 12 MRSA § 2757, as enacted by PL 1977, c. 362, § 3, is repealed and the following enacted in its place:

§ 2757. Municipal ordinances prohibited

No municipality of the State shall enact any ordinance regulating inland fishing on land and waters not owned or occupied by the municipality.

Sec. 4. 28 MRSA § 101, 1st ¶, as amended by PL 1977, c. 496, § 39, and as repealed and replaced by PL 1977, c. 292, § 1, is repealed and the following enacted in its place:

The municipal officers of cities and towns and the assessors of plantations, upon receipt of a petition signed by at least 15% of the voters voting in that municipality in the last gubernatorial election and addressed to the municipal officers as defined in Title 30, section 1901, subsection 7, not more than 45 days nor less than 30 days prior to a town meeting, are empowered and directed to notify the inhabitants of their respective municipalities to meet in the manner prescribed by law for the calling and holding of municipal elections or town meetings to vote upon any one or all of the following questions:

Sec. 5. 28 MRSA § 101, 7th ¶ from the end, as repealed by PL 1977, chapter 292, § 2, is reenacted as follows:

Where a city or town has voted in favor of accepting or not accepting the ballot questions, the vote shall be effective until repealed according to the procedure established in the first paragraph of this section.

Sec. 6. 28 MRSA § 101, 6th ¶ from the end, as last amended by PL 1977, c. 211, § 4, is further amended to read:

The inhabitants of the several municipalities shall vote by printed ballot of uniform size and color on said questions, those in favor voting "Yes" on their ballots and those opposed "No" and the ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and return of the results shall be made to the Office of the Secretary of State who shall forward the results to the State Liquor Commission. ~~No such local option vote shall be taken on the same question more often than once in any 2-year period.~~

Sec. 7. 28 MRSA § 101, last 2 ¶¶, as enacted by PL 1977, c. 292, § 3, are repealed.

Sec. 8. 30 MRSA § 1953, sub-§ 5, is amended by adding at the end the following new sentence;

It being the intent of the Legislature to avoid the proliferation of special purpose districts and inflexible enabling statutes, the Legislature directs that the courts and the Attorney General liberally construe this chapter toward that end.

Sec. 9. 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.** 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. 10. 30 MRSA § 3221, sub-§ 1, ¶ B, 1st sentence, as repealed and replaced by PL 1977, c. 286, § 2, is repealed and the following enacted in its place:

Any municipality may provide by an ordinance enacted after notice and hearing by its municipal officers that the plumbing inspector may waive the site evaluation requirement as provided in Title 22, section 42, subsection 3.

Sec. 11. 30 MRSA § 4359, 1st ¶, is amended to read:

Malfunctioning domestic sewage disposal units, including septic tanks, cesspools, cisterns, dry wells, drainage beds, drains, sewer lines and pipes and the like, have become a menace to the health and general welfare of the citizens of this State, and are declared to be a nuisance.

Sec. 12. 30 MRSA § 4963, sub-§ 3, last ¶, is amended to read:

A municipality may, in a zoning ordinance, adopt additional standards for limitations on the granting of a variance, including, but not limited to, a provision that a variance may only be granted for a use permitted in a particular zone.

Sec. 13. 36 MRSA § 943, as last amended by PL 1975, c. 770, § 205, is further amended by adding at the end the following new paragraph:

Whenever this section or section 942 requires a mailing by registered or certified mail, that mailing may be by registered or certified mail, return receipt requested.

Sec. 14. 38 MRSA § 1208, 2nd ¶, 4th and 5th sentences, are repealed and the following enacted in their place:

The treasurer, when a rate, toll, rent or other charge has been committed to him for collection, may, after the expiration of 3 months and within one year after the date when the same became due and payable, give to the owner of the real estate served, or leave at

his last and usual place of abode, or send by registered mail return receipt requested to his last known address, a notice in writing signed by the treasurer stating the amount of that rate, toll, rent or other charge, describing the real estate upon which the lien is claimed, and stating that a lien is claimed on the real estate to secure the payment of the rate, toll, rent or other charge and demanding the payment of the rate, toll, rent or other charge within 30 days after service or mailing, with \$1 for the treasurer for mailing the notice together with the registered mail fee. For the purpose of this section, a mobile home is defined as real estate.

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

STATEMENT OF FACT

The purpose of this bill is reflected in the preamble.