

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

M  
H. H. H.

1  
2 Date: 6/8/07

L.D. 1906  
(Filing No. H-495)

3 JUDICIARY

4 Reproduced and distributed under the direction of the Clerk of the House.

5 STATE OF MAINE  
6 HOUSE OF REPRESENTATIVES  
7 123RD LEGISLATURE  
8 FIRST REGULAR SESSION

9 COMMITTEE AMENDMENT "A" to H.P. 1340, L.D. 1906, Bill, "An Act To  
10 Clarify the Authority of Municipal Boards and Committees"

11 Amend the bill by striking out the title and substituting the following:

12 **'An Act To Clarify the Authority of Boards and Committees'**

13 Amend the bill by striking out everything after the title and before the summary and  
14 inserting the following:

15 **'Emergency preamble. Whereas,** acts and resolves of the Legislature do not  
16 become effective until 90 days after adjournment unless enacted as emergencies; and

17 **Whereas,** the Law Court issued an opinion known as Stevenson v. Town of  
18 Kennebunk on April 26, 2007; and

19 **Whereas,** the Stevenson decision raises substantial questions about the ability of  
20 any governmental body to take any action when there is a vacancy on that body; and

21 **Whereas,** the Stevenson decision disrupts the ability of governmental bodies to  
22 continue operating as they have for years; and

23 **Whereas,** it is immediately necessary to clarify the law and eliminate any  
24 uncertainty before government bodies incur substantial delays and inconvenience, effort  
25 and expense to change local charters and ordinances; and

26 **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
27 the meaning of the Constitution of Maine and require the following legislation as  
28 immediately necessary for the preservation of the public peace, health and safety; now,  
29 therefore,

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

31 **Sec. 1. 1 MRSA §71, sub-§3 is repealed and the following enacted in its place:**

**COMMITTEE AMENDMENT**

R. 8.

1 3. Authority to 3 or more. Words in any statute, charter or ordinance giving  
2 authority to 3 or more persons authorize a majority to act when the statute, charter or  
3 ordinance does not otherwise specify. Notwithstanding any law to the contrary, a  
4 vacancy on an elected or appointed body does not in itself impair the authority of the  
5 remaining members to act unless a statute, charter or ordinance expressly prohibits the  
6 body from acting during the period of any vacancy and does not in itself affect the  
7 validity of any action no matter when taken.

8 **Sec. 2. 30-A MRSA §504** is enacted to read:

9 **§504. Authority to act**

10 Words in any statute, charter or ordinance giving authority to 3 or more persons  
11 authorize a majority to act when the statute, charter or ordinance does not otherwise  
12 specify. Notwithstanding any law to the contrary, a vacancy on an elected or appointed  
13 body does not in itself impair the authority of the remaining members to act unless a  
14 statute, charter or ordinance expressly prohibits the body from acting during the period of  
15 any vacancy and does not in itself affect the validity of any action no matter when taken.

16 **Sec. 3. 30-A MRSA §2602, sub-§7** is enacted to read:

17 7. Authority to act. Words in any statute, charter or ordinance giving authority to 3  
18 or more persons authorize a majority to act when the statute, charter or ordinance does  
19 not otherwise specify. Notwithstanding any law to the contrary, a vacancy on an elected  
20 or appointed municipal or quasi-municipal body does not in itself impair the authority of  
21 the remaining members to act unless a statute, charter or ordinance expressly prohibits the  
22 municipal or quasi-municipal body from acting during the period of any vacancy and  
23 does not in itself affect the validity of any action no matter when taken.

24 **Sec. 4. Retroactivity.** An action, vote or adjudication of an elected or appointed  
25 body that occurred prior to the effective date of this Act, including actions, votes or  
26 adjudications that occurred prior to April 26, 2007, is not void for the sole reason that a  
27 vacancy existed on the elected or appointed body at the time the action, vote or  
28 adjudication occurred.

29 **Emergency clause.** In view of the emergency cited in the preamble, this  
30 legislation takes effect when approved.

31 **SUMMARY**

32 Like the bill, this amendment overturns the portion of the Law Court decision in  
33 Stevenson v. Town of Kennebunk that held that a municipal board was not authorized to  
34 take any action because there was a vacancy on the board. The Law Court held that a  
35 charter or ordinance must specifically authorize a board to act in the event of a vacancy.  
36 This amendment clarifies Maine law generally, and county and municipal laws  
37 specifically, to require a statute, charter or ordinance to specifically prohibit a body from  
38 acting in the event of a vacancy in order to have that effect. Because the Law Court  
39 decision declared the actions of bodies having vacancies "null and void," the amendment  
40 also clarifies that no action previously taken is invalid solely because of the existence of a  
41 vacancy or vacancies on the body.

R. M. S.

COMMITTEE AMENDMENT "A" to H.P. 1340, L.D. 1906

- 1 The amendment is an emergency and validates all past actions taken by boards during
- 2 periods of vacancies.

**COMMITTEE AMENDMENT**