

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1028, L.D. 1475, Bill, "An Act To Correct Errors and Inconsistencies in the Laws of Maine"

Amend the bill in Part A by striking out all of section 6 and inserting the following:

'Sec. A-6. 5 MRSA §18252-A, sub-§1, as amended by PL 2007, c. 490, §2 and c. 491, §192, is repealed and the following enacted in its place:

1. Membership. An employee of a participating local district that does not have Social Security coverage and that has a plan provided by the employer under section 18252-B may elect to be a member under the Participating Local District Retirement Program or to be covered under the plan provided by the employer in accordance with the following.

A. A person hired by a participating local district, or rehired following a break in service, after the date on which the employer provides a plan under section 18252-B must elect at the time of hiring or rehiring whether to be a member under the Participating Local District Retirement Program or to be covered under a plan provided by the employer under section 18252-B.

(1) If the person elects to be a member under the Participating Local District Retirement Program, the election is effective as of the date of hire or rehire.

(a) A person who elects to be a member of the Participating Local District Retirement Program may later elect to be covered under a plan provided by the employer under section 18252-B. The person who so elects may, at that person's discretion, withdraw accumulated contributions in accordance with section 18306-A.

(b) A person who elects under division (a) to be covered under a plan provided by the employer under section 18252-B may later elect to again become a member under the Participating Local District Retirement Program, unless to so elect would have the effect of requiring the employer, without the employer's agreement, to make an employer contribution to both that program and the plan provided by the employer under section 18252-B.

COMMITTEE AMENDMENT



1 (c) A person who elects under division (b) to again become a member of the
2 Participating Local District Retirement Program may, in accordance with
3 section 18305-A, purchase service credit for the period during which the
4 person elected not to be a member of that program. The person may, in
5 accordance with section 18304, repay contributions withdrawn under division
6 (a) and may, as permitted under other relevant retirement system law, rule
7 and policy, repay other refunded contributions.

8 (d) A person who, having elected to again become a member under the
9 Participating Local District Retirement Program under division (c), later
10 elects again not to be a member may not thereafter become a member under
11 that program while employed by the same participating local district.

12 (2) A person who elects to be covered under a plan provided by the employer
13 under section 18252-B may later elect to become a member under the
14 Participating Local District Retirement Program.

15 (a) Membership service credit for a person joining the Participating Local
16 District Retirement Program under this subparagraph begins as of the
17 effective date of first contributions or pick-up contributions to that program
18 following that person's election under this subparagraph.

19 (b) A person who joins the Participating Local District Retirement Program
20 under this subparagraph may, in accordance with section 18305-A, purchase
21 service credit for the period during which the person elected not to be a
22 member of that program.

23 (c) A person who, having elected to become a member under the
24 Participating Local District Retirement Program under this subparagraph,
25 later elects again not to be a member may, at the employee's discretion,
26 withdraw accumulated contributions in accordance with applicable
27 requirements of law and rule and retirement system procedures and may not
28 thereafter become a member under that program while employed by the same
29 participating local district.

30 B. An employee of the participating local district who is a member under the
31 Participating Local District Retirement Program on the date on which the employer
32 provides a plan under section 18252-B may elect to remain a member under that
33 program or to become covered under a plan provided by the employer under section
34 18252-B.

35 (1) If that person elects not to remain a member, the election is effective as of the
36 first day of the month in which no contributions or pick-up contributions are
37 made to the Participating Local District Retirement Program by that person. A
38 person who elects not to remain a member may, at that person's discretion,
39 withdraw accumulated contributions in accordance with section 18306-A.

40 (2) A person who elects not to remain a member under the Participating Local
41 District Retirement Program may later elect to again become a member.

COMMITTEE AMENDMENT

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(a) Membership service credit for a person who elects to again become a member under the Participating Local District Retirement Program under this subparagraph begins as of the effective date of the first contributions or pick-up contributions to that program following that person's election under this subparagraph.

(b) A person who rejoins the Participating Local District Retirement Program under this subparagraph may, in accordance with section 18305-A, purchase service credit for the period during which that person elected not to be a member of that program. The person may, in accordance with section 18304, repay contributions refunded under subparagraph (1), unless to so elect would have the effect of requiring the employer, without the employer's agreement, to make an employer contribution to both the Participating Local District Retirement Program and the plan provided by the employer under section 18252-B.

(c) A person who, having elected to again become a member under the Participating Local District Retirement Program under this subparagraph, later elects again not to be a member may, at that person's discretion, withdraw accumulated contributions in accordance with section 18306-A and may not thereafter become a member under that program while employed by the same participating local district.

D. If the participating local district does not have a plan provided under section 18252-B, the employees do not have the elections provided under paragraphs A and B.

Amend the bill in Part A by striking out all of section 7.

Amend the bill in Part A in section 13 in subsection 7 in the blocked paragraph in the next to the last line (page 8, line 20 in L.D.) by striking out the following: "1396(a)(30)(A)" and inserting the following: '1396a(a)(30)(A)'

Ament the bill in Part A by striking out all of section 15.

Amend the bill in Part A in section 18 in paragraph B in subparagraph (2) in the 3rd line (page 9, line 37 in L.D.) by striking out the following: "architecture registration board" and inserting the following: 'architectural registration boards'

Amend the bill in Part A by striking out all of sections 21 and 23.

Amend the bill in Part A by striking out all of sections 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 and 38.

Amend the bill by striking out all of Part B and inserting the following:

'PART B

Sec. B-1. 4 MRS §162 is amended to read:

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§162. Place for holding court; suitable quarters

In each division, the place for holding court shall must be located in a state, county or municipal building designated by the Chief Judge, who, with the advice and approval of the Bureau of Public Improvements, is empowered to negotiate on behalf of the State, the leases, contracts and other arrangements ~~he~~ the Chief Judge considers necessary, within the limits of the budget and the funds available ~~under section 163, subsection 3,~~ to provide suitable quarters, adequately furnished and equipped for the District Court in each division.

The facilities of the Superior Court in each county when that court is not in session shall must be available for use by the District Court of that division in which such facilities are located. Arrangements for such use shall must be made by the Chief Judge.

If the Chief Judge is unable to negotiate the leases, contracts and other arrangements as provided in the preceding paragraph, ~~he~~ the Chief Judge may, with the advice and approval of the Bureau of Public Improvements, negotiate on behalf of the State, the leases, contracts and other arrangements ~~he~~ the Chief Judge considers necessary, within the limits of the budget and funds available ~~under section 163, subsection 3,~~ to provide suitable quarters, adequately furnished and equipped for the District Court in privately owned buildings.

Sec. B-2. 4 MRSA §163, sub-§3 is repealed.

Sec. B-3. 5 MRSA §12004-I, sub-§32, as enacted by PL 1987, c. 786, §5, is amended to read:

32.

Housing	Passamaquoddy	Not Authorized	22 MRSA §4733
	Indian Housing		<u>30-A MRSA §4995</u>
	Authority - Indian		
	Township		

Sec. B-4. 5 MRSA §12004-I, sub-§33, as enacted by PL 1987, c. 786, §5, is amended to read:

33.

Housing	Passamaquoddy	Not Authorized	22 MRSA §4733
	Indian Housing		<u>30-A MRSA §4995</u>
	Authority - Pleasant		
	Point		

Sec. B-5. 5 MRSA §12004-I, sub-§34, as amended by PL 1989, c. 503, Pt. A, §31, is further amended to read:

34.

1 Housing Penobscot Tribal Not Authorized 22-MRSA §4733
2 Reservation Housing 30-A MRSA §4995
3 Authority

4
5 **Sec. B-6.** 18-A MRSA §5-411, sub-§(c), ¶(2), as enacted by PL 1997, c. 453,
6 §2, is amended to read:

7 (2). Financial institutions authorized to do business in ~~the~~ this State ~~under~~ as defined
8 in Title 9-B, section 131, subsection ~~12-A~~ 17-A, or their employees; and

9 **Sec. B-7.** 20-A MRSA §1486, sub-§3, ¶F, as amended by PL 2007, c. 668, §20
10 and by c. 695, Pt. G, §1, is repealed and the following enacted in its place:

11 F. The article to be voted on must be in the following form:

12 (1) "Do you favor approving the (name of regional school unit) budget for the
13 upcoming school year that was adopted at the latest (name of regional school
14 unit) budget meeting?"

15 Yes No"

16 **Sec. B-8.** 20-A MRSA §1486, sub-§3, ¶G, as repealed by PL 2007, c. 668, §20
17 and amended by c. 695, Pt. G, §2, is repealed.

18 **Sec. B-9.** 30-A MRSA §4995, as enacted by PL 1993, c. 738, Pt. C, §7, is
19 amended to read:

20 **§4995. Create respective tribal housing authorities**

21 The Passamaquoddy Tribe, and the Penobscot Nation, as provided in Title 5, section
22 12004-I, and the Houlton Band of Maliseet Indians are authorized by Title 5, section
23 12004, subsection 10 to create respective tribal housing authorities. The respective tribe,
24 nation or band shall prescribe the manner of selection of the members, their terms and
25 grounds for removal. Except as otherwise provided in this chapter or clearly indicated
26 otherwise, the Maine Housing Authorities Act applies to the tribal housing authorities
27 referred to in this chapter as "authority" or "authorities." The power of tribal housing
28 authorities may be exercised only within the Indian territory of the respective tribe or
29 nation or the trust land of the Houlton Band of Maliseet Indians. Tribal housing
30 authorities are in substitution for any tribal housing authority previously existing under
31 the laws of the State and assume all the rights and obligations of those predecessor
32 housing authorities. The presently constituted tribal housing authority of the respective
33 tribe or nation continues in existence and may exercise all the authority previously vested
34 by law until the respective tribe or nation creates the tribal housing authority authorized
35 by this section.

36 **Sec. B-10.** PL 2009, c. 213, Pt. A, §13, under the caption
37 "CORRECTIONS, DEPARTMENT OF," in the 11th occurrence relating to
38 "Correctional Center 0162," the Initiative is amended to read:

COMMITTEE AMENDMENT

1 Initiative: Deappropriates funds from the elimination of one Office Associate Assistant II
2 position.

3 **Sec. B-11. PL 2009, c. 213, Pt. A, §24, under the caption**
4 **"ENVIRONMENTAL PROTECTION, DEPARTMENT OF," in the 12th**
5 **occurrence relating to "Administration - Environmental Protection 0251,"**
6 **the Initiative is amended to read:**

7 Initiative: Eliminates one Office Assistant Associate II Supervisor position and one
8 Office Associate II position and reduces funding for associated All Other costs.

9 **PART C**

10 **Sec. C-1. 29-A MRSA §2558, sub-§2, ¶B,** as enacted by PL 2009, c. 54, §6 and
11 affected by §7, is amended to read:

12 B. A person who violates subsection 1 and at the time has one OUI conviction, one
13 conviction for violating this section or one conviction for violating former section
14 2557 or section 2557-A within the previous 10 years commits a Class C crime for
15 which a minimum fine of \$1,000 and a minimum term of imprisonment of one year
16 must be imposed, neither of which may be suspended by the court.

17 **Sec. C-2. PL 2009, c. 54, §7** is amended to read:

18 **Sec. 7. Retroactivity.** This Sections 1 to 4 of this Act applies apply retroactively
19 to September 1, 2008.

20 **Sec. C-3. Retroactivity.** That section of this Part that amends Public Law 2009,
21 chapter 54, section 7 applies retroactively to April 22, 2009.

22 **PART D**

23 **Sec. D-1. PL 2007, c. 661, Pt. C, §6, sub-§2** is amended to read:

24 **2. Portions of townships and plantations.** The following portions of townships and
25 plantations: that portion of Adamstown Twp., 17801, north of Route 16; Bald Mountain
26 Twp., T4 R3, 25806, excluding areas of Boundary Bald Mountain above 2,700 feet in
27 elevation; ~~a 146.6-acre parcel in the northeast corner of the Chain of Ponds, 07803, along~~
28 ~~the border with Canada; Chain of Ponds, 07803, an approximately 1,578.4-acre parcel,~~
29 bounded by the eastern town line at latitude 45.373, longitude -70.625484, proceeding
30 westerly to latitude 45.370087, longitude -70.63231 then to latitude 45.368156, longitude
31 -70.645478 where it intersects the 2,400-foot contour, proceeding along the 2,400-foot
32 contour westerly and then northerly to the intersection of the 2,400-foot contour to the
33 northern town line, following the town line eastward and then southward until reaching
34 the beginning point, latitude 45.373, longitude -70.625484; the portion of Coplin Plt.,
35 07040, north of Route 16; the portion of Dallas Plt., 07050, north of Route 16; the portion
36 of Ebeemee Twp., 21853, east of Route 11; the portion of Kossuth Twp., 29808, north of
37 Route 6; the portion of Lang Twp., 07813, north of Route 16; the portion of Lincoln Plt.,
38 17160, north of Route 16; the portion of Long A Twp., 19809, east of Route 11; the
39 portion of Long Pond Twp., 25833, south of Long Pond and Moose River; the 487.5-acre

1 area above the 2,040-foot elevation around Green Top in Lynchtown Twp., 17810; the
 2 portion of Rockwood Strip T1 R1 NBKP, 25844, south of Moose River, Little Brassua
 3 Lake and Brassua Lake; the portion of Rockwood Strip T2 R1 NBKP, 25845, south of
 4 Little Brassua Lake and Brassua Lake; the portion of Salem Twp., 07820, south of Route
 5 142; the portion of Sandwich Academy Grant Twp., 25849, south of Moose River, Little
 6 Brassua Lake and Brassua Lake; ~~that portion of Skinner Twp., 07822, composed of the~~
 7 ~~193.3-acre area that follows the ridge to Kibby Mountain, bounded on the east and west~~
 8 ~~by the 2,820-foot contour, on the south by the town line and on the north by the line from~~
 9 ~~the 2,820-foot contour through the 3,220-foot contour from Kibby Mountain; Skinner~~
 10 ~~Twp., 07822, an approximately 193.4-acre parcel that follows the ridge to Kibby~~
 11 ~~Mountain, bounded on the east and west by the 2,820-foot contour, on the south by the~~
 12 ~~town line where it intersects the 2,820-foot contour and on the north by a line drawn from~~
 13 ~~latitude 45.4121, longitude -70.54402 to latitude 45.41587, longitude -70.5349~~
 14 ~~intersecting the 2,820-foot contour; the portion of Soldiertown Twp., T2 R7 WELS,~~
 15 19811, east of the East Branch Penobscot River; the portion of T1 R8 WELS, 19816,
 16 south of Millinocket Lake; the portion of T1 R9 WELS, 21833, southeast of Ambajejus
 17 Lake; T24 MD BPP, 29822, excluding a one-mile buffer around Mopang Stream; the
 18 51.9-acre area in T25 MD BPP, 29823, encompassing Black Brook and Black Brook
 19 Pond, and the area northeast of Holmes Falls Road; T25 MD BPP, 29823, an
 20 approximately 558.5-acre parcel in the Bear Brook and Black Pond area, bounded by a
 21 point along the southern town line, latitude 44.805142, longitude -67.741067, and
 22 proceeding in a counterclockwise direction through the following points, latitude
 23 44.808871, longitude -67.744217, latitude 44.812645, longitude -67.750877, latitude
 24 44.816887, longitude -67.76346, latitude 44.817639, longitude -67.768806, latitude
 25 44.817596, longitude -67.770188, latitude 44.817259, longitude -67.771089, latitude
 26 44.816282, longitude -67.771687, latitude 44.815068, longitude -67.771704, latitude
 27 44.810286, longitude -67.767988, latitude 44.802482, longitude -67.759738 intersecting
 28 the town line, proceeding easterly along the southern town line to beginning point latitude
 29 44.805142, longitude -67.741067; the portion of T3 R7 WELS, 19821, east of the Seboeis
 30 River and East Branch Penobscot River; the portions of T4 Indian Purchase Twp., 19807,
 31 area northeast of North Twin Lake and south of Route 11; the portion of T4 R7 WELS,
 32 19824, east of the Seboeis River; the portion of T4 R9 NWP, 21845, east of Route 11; the
 33 portion of T5 R7 WELS, 19827, east of the Seboeis River; and the portion of T6 R7
 34 WELS, 19830, east of the Seboeis River; and

35 **Sec. D-2. PL 2007, c. 661, Pt. C, §6, sub-§4** is amended to read:

36 **4. Transition; establishment of expedited permitting area and permitted use.**
 37 Notwithstanding any other provision of law, ~~prior to the Maine Land Use Regulation~~
 38 ~~Commission's adoption of the rules required by this section,~~ the portion of expedited
 39 permitting area located in the State's unorganized and deorganized areas consists of the
 40 lands and state waters specified in this section and an expedited wind energy
 41 development, as defined in Title 35-A, section 3451, subsection 4, is a use requiring a
 42 permit, but not a special exception, subject to permitting by the Maine Land Use
 43 Regulation Commission or Department of Environmental Protection in accordance with
 44 this Act and other applicable law, in all districts and subdistricts located within the
 45 expedited permitting area.

1 **Sec. D-3. Related rulemaking.** No later than June 1, 2010, the Maine Land Use
2 Regulation Commission shall amend its rules adopted in accordance with Public Law
3 2007, chapter 661, Part C, section 6 to make them consistent with corrections to the
4 descriptions of the expedited permitting area for wind energy development made under
5 sections 1 and 2 of this Part.

6 **PART E**

7 **Sec. E-1. PL 2009, c. 372, Pt. F, §5, sub-§2** is amended to read:

8 **2. Prohibition.** A state authority may not enter into a significant occupancy
9 agreement allowing the installation of energy facilities in state transportation corridors
10 until a law approving a plan governing such agreements is enacted. A state authority may
11 not issue a permit for an energy facility greater than 75 miles in length on land other than
12 the submerged lands of this State or outside the territorial waters of this State as defined
13 in the Maine Revised Statutes, Title 12, section 6001, subsection 48-B until this section is
14 repealed, except that:

15 A. An application from such an energy facility may be processed by a state authority
16 up to, but not including, final decision on the application;

17 B. Any such applications processed by the Department of Environmental Protection
18 or the Public Utilities Commission that may require adjudicatory proceedings or
19 permit application review may not proceed beyond creation of the evidentiary record;
20 and

21 C. Any action, proceeding or decision by a state authority pertaining to such an
22 application is governed by any law enacted pursuant to section 4, subsection 6.

23 A state authority may not sell or lease public lands as that term is used in Title 35-A,
24 section 3132, subsection 13 for the installation of an energy facility greater than 75 miles
25 in length until a law approving a plan governing the sale or lease of state lands for such
26 installations is enacted or until the energy facility receives a certificate of public
27 convenience and necessity pursuant to Title 35-A, section 3132. Notwithstanding any
28 other statutory provision or exemption, any person proposing to construct a transmission
29 line greater than 75 miles in length and operating at greater than 69 kilovolts must obtain
30 a certificate of public convenience and necessity as required by Title 35-A, section 3132.

31 **Sec. E-2. PL 2009, c. 372, Pt. K, §5** is enacted to read:

32 **Sec. K-5. Effective date.** Those sections of this Part that amend the Maine
33 Revised Statutes, Title 35-A, section 3210, subsections 5, 6 and 6-A take effect July 1,
34 2010.'

35 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
36 section number to read consecutively.

37 **SUMMARY**

38 This amendment amends Part A, section 6 to correctly incorporate the language of
39 Public Law 2007, chapter 490.

1 This amendment amends Part A, section 13 to include the correct citation to federal
2 law codified in the United States Code.

3 This amendment amends Part A, section 18 to clarify a reference to a council
4 consisting of landscape architectural registration boards.

5 This amendment deletes from the bill Part A, sections 7, 15 and 23 to retain the use of
6 the term "fax."

7 This amendment deletes Part A, sections 21 and sections 28 to 38 because the
8 provisions of law included in those sections are included in other legislation.

9 The amendment replaces Part B of the bill because the provisions of law included in
10 Part B are included in other pieces of legislation. This amendment adds a new Part B that
11 does the following.

12 It repeals the statutory language establishing the District Court Building Fund. Public
13 Law 1993, chapter 410 transferred the balance of the account and attempted to repeal the
14 account.

15 It corrects cross-references to the law authorizing the establishment of housing
16 authorities by the Passamaquoddy Tribe and the Penobscot Nation.

17 It revises the exemption from the bonding requirement for conservators in the Probate
18 Code to correctly cross-reference financial institutions authorized to do business in this
19 State.

20 Public Law 2007, chapter 668 amended the Maine Revised Statutes, Title 20-A,
21 section 1486, subsection 3, paragraph F to delete the limitation that a school budget may
22 not exceed the maximum target for the referendum question in paragraph F to apply. It
23 repealed Title 20-A, section 1486, subsection 3, paragraph G, which provided a
24 referendum question if the school budget does exceed the maximum target. Public Law
25 2007, chapter 695 amended Title 20-A, section 1486, subsection 3, paragraphs F and G to
26 make the referendum questions' language generic with regard to school units as opposed
27 to "regional school units."

28 The amendment repeals and replaces Title 20-A, section 1486, subsection 3,
29 paragraph F as amended by both public laws and incorporates language changes from
30 both. Public Law 2007, chapter 695 clarified language that is no longer necessary given
31 the changes to Title 20-A, section 1486, subsection 3, paragraph F and Title 20-A, section
32 1486, subsection 3, paragraph G is repealed consistent with Public Law 2007, chapter
33 668.

34 It corrects a cross-reference to the establishment of tribal housing authorities in Title
35 5. It also corrects the placement of the cross-reference to accurately refer to the tribal
36 housing authorities currently included in the Title 5 listing.

37 Part C of the amendment does the following.

38 It corrects drafting errors in L.D. 180, enacted as Public Law 2009, chapter 54. One
39 error inadvertently repealed that portion of Title 29-A, section 2558, subsection 2,
40 paragraph B that enhances the penalty for aggravated operating after habitual offender
41 revocation if the driver had been once previously convicted of the same offense. Without
42 this amendment, a 2nd offender may be prosecuted only for a Class D crime.

1. It limits the retroactivity provision of Public Law 2009, chapter 54 to the sections of
2 Title 29-A that affect suspension of a motor vehicle license. Portions of the law that
3 affect sentencing are not made retroactive. It makes the correction to the retroactivity
4 section of Public Law 2009, chapter 54 retroactive to the effective date of chapter 54,
5 April 22, 2009.

6 Part D of the amendment does the following.

7 It corrects discrepancies between the GIS shape file for the proposed expedited wind
8 energy development area recommended by the Governor's Wind Energy Development
9 Task Force and the written description of the areas corresponding to the shape file
10 included in legislation adopting this task force recommendation. The corrections to the
11 description of the areas in Chain of Ponds and T25 MD BPP were identified prior to
12 enactment of the legislation but were never incorporated into the final language of the
13 bill. The corrections to the description for Skinner Township were discovered during the
14 recent process of reviewing the legislation.

15 It deletes a reference to the time period after the enactment of Public Law 2007,
16 chapter 661 and the effective date of rulemaking by the Maine Land Use Regulation
17 Commission. During this time period, the language of Public Law 2007, chapter 661
18 delineated the expedited permitting area. The Maine Land Use Regulation Commission
19 has authority to increase the area through rulemaking, but may not decrease the area
20 established by Public Law 2007, chapter 661. The Maine Land Use Regulation
21 Commission adopted rules that copy the language in Public Law 2007, chapter 661, so
22 the inaccuracies are now in the rules. The amendment in Part D, section 1 increases the
23 area of the expedited permitting area in the law; once Part D, section 2 goes into effect,
24 the area defined by the Maine Land Use Regulation Commission rules will be smaller
25 than that defined by law. Part D, section 2 deletes the transition period language to make
26 clear that the law, as contained in Part D, section 2, takes precedence over the Maine
27 Land Use Regulation Commission's rules.

28 It directs the Maine Land Use Regulation Commission to change its rules to be
29 consistent with these changes.

30 Part E of the amendment adds a word that was inadvertently omitted from Public
31 Law 2009, chapter 372. Part E also clarifies that those provisions providing for joint
32 administration of the Renewable Resource Fund program by the Efficiency Maine Trust
33 and the Public Utilities Commission take effect July 1, 2010, when the Efficiency Maine
34 Trust takes over other programs pursuant to Public Law 2009, chapter 372.