

MAINE STATE LEGISLATURE

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EIGHTY-FOURTH LEGISLATURE

Senate Document

No. 200

S. P. 493

In Senate, Feb. 20, 1929.

Referred to Committee on Revision of Statutes and 500 copies ordered printed. Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Oakes of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-NINE

AN ACT to Amend Sections Forty-one, Forty-two, Forty-three, Forty-four, Fifty-three, Fifty-six and Sixty, of Chapter Fifty-one of the Revised Statutes as Amended and Sections One Hundred Seventeen and One Hundred Eighteen of Said Chapter as Added by Chapter One Hundred Forty-four of the Public Laws of Nineteen Hundred Seventeen as Amended, Relative to Votes at Stockholders' Meetings.

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

Section 1. Section forty-one of chapter fifty-one of the
2 revised statutes, as amended by chapter twenty-eight of the
3 public laws of nineteen hundred twenty-one as amended by
4 section two of chapter one hundred ninety-six of the public

5 laws of nineteen hundred twenty-five is hereby amended by
6 striking out the words "vote representing a majority of the
7 stock issued" in the ninth line of said section as amended,
8 and by inserting in place thereof the words 'majority vote of
9 the outstanding stock of the corporation then having voting
10 powers as provided by its by-laws,' so that said section as
11 amended shall read as follows:

'Sect. 41. *Certain corporations may increase capital and
2 change number of directors; secretary of state to be notified;
3 duties payable to state.* If the stockholders of any corpo-
4 ration heretofore or hereafter created by special charter
5 and not charged with the performance of any public duty,
6 or organized under the general laws of the state, find that
7 the amount of its capital stock is insufficient for the pur-
8 poses for which said corporation is organized, or that the
9 number of its directors is inconvenient for the transaction
10 of its business, or that its purposes are inadequate, the
11 stockholders at any annual or special meeting, the call for
12 which shall give notice of the proposed change, may, by a
13 majority vote of the outstanding stock of the corporation
14 then having voting powers as provided by its by-laws, in-
15 crease the amount of its capital stock to any amount, change
16 the number of its directors, and change its purposes by al-
17 tering, abridging or enlarging the same, and the corporation
18 shall file a certificate setting forth such changes with the
19 secretary of state, who shall duly record the same, within
20 twenty days thereafter, and thereupon said vote shall take

21 effect; provided, that all certificates of change of purposes
22 shall be submitted to the attorney general for examination
23 and shall not be filed until it has been certified by him to
24 be properly drawn and signed and to be conformable to
25 the constitution and laws and that he is satisfied that such
26 changes are made in good faith and not for the purpose of
27 avoiding payment of fees or taxes to the state. When the
28 capital stock is increased from ten thousand dollars or less
29 to not exceeding five hundred thousand dollars, the corpor-
30 ation shall pay to the secretary of state for the use of the
31 state the sum of forty dollars. When the capital stock is
32 increased to any amount exceeding five hundred thousand
33 dollars, it shall pay to the secretary of state for the use of
34 the state the sum of ten dollars for each one hundred thou-
35 sand dollars of such increase. For every change of pur-
36 poses the corporation shall pay to the secretary of state for
37 the use of the state the sum of twenty dollars before he
38 shall be authorized to receive any certificate of change of
39 purposes or increase of capital stock. The provisions of this
40 section with reference to change of corporate purposes
41 shall not apply to specially chartered corporations.'

Sect. 2. Section forty-two of chapter fifty-one of the re-
2 vised statutes, as amended by section three of chapter one
3 hundred ninety-six of the public laws of nineteen hundred
4 twenty-five, as amended by chapter ninety-nine of the pub-
5 lic laws of nineteen hundred twenty-seven, is hereby amend-
6 ed by striking out the words "vote representing a majority

7 of the stock issued” in the tenth line of said section and by
8 inserting in place thereof the words ‘majority vote of the
9 outstanding stock of the corporation then having voting
10 powers as provided by its by-laws,’ so that said section as
11 amended shall read as follows:

‘Sect. 42. *Procedure for increase of capital stock or direc-*
2 *tors in case of corporations charged with performance of*
3 *public duty.* If the stockholders of any corporation created
4 by special act of the legislature or organized under the gen-
5 eral laws of the state and charged with the performance of
6 any public duty, or organized for any of the purposes enum-
7 erated in section six which are not subject to fees of a like
8 kind to those herein provided, find that the amount of its
9 capital stock is insufficient for the purposes for which said
10 corporation is organized, or that the number of its directors
11 is inconvenient for the transaction of its business, the stock-
12 holders, at any annual or special meeting the call for which
13 shall give notice of the proposed change, may, by a ma-
14 jority vote of the outstanding stock of the corporation then
15 having voting powers as provided by its by-laws, increase
16 the amount of its capital stock to any amount and change
17 the number of its directors; and the corporation shall file
18 a certificate setting forth such changes with the secretary
19 of state, who shall duly record the same within twenty
20 days thereafter, and thereupon said vote shall take effect;
21 subject, however, to the provisions, when applicable, of sec-
22 tion thirty-nine of chapter fifty-five of the revised statutes

23 as amended. When any such corporation increases its cap-
24 ital stock, it shall pay to the secretary of state, for the use
25 of the state, the following fees before it shall be authorized
26 to receive any certificate of any increase of capital stock:
27 When the capital stock is increased from five thousand dol-
28 lars or less to not exceeding ten thousand dollars, the cor-
29 poration shall pay the sum of twenty-five dollars; when the
30 capital stock is increased from ten thousand dollars to not
31 exceeding fifty thousand dollars, it shall pay the sum of
32 fifty dollars; when the capital stock is increased from fifty
33 thousand dollars to not exceeding one hundred thousand
34 dollars, it shall pay the sum of one hundred dollars; when
35 the capital stock is increased to any amount exceeding one
36 hundred thousand dollars, it shall pay seventy-five dollars
37 upon every one hundred thousand dollars or fraction there-
38 of, in excess of one hundred thousand.'

Sect. 3. Section forty-three of chapter fifty-one of the
2 revised statutes is hereby amended by striking out the words
3 "vote representing a majority of all the stock issued" in the
4 fifth and sixth lines of said section, and by inserting in
5 place thereof the words 'majority vote of the outstanding
6 stock of the corporation then having voting powers as pro-
7 vided by its by-laws,' so that said section as amended shall
8 read as follows:

'Sect. 43. *Reduction of capital stock; rights of creditors*
2 *not prejudiced.* If the stockholders of any corporation or-
3 ganized under this chapter shall desire to decrease the

4 amount of its capital stock, the stockholders, at a meeting
5 duly called for the purpose, or at any annual meeting, when
6 notice shall have been given of such proposed action in the
7 call therefor, may by a majority vote of the outstanding
8 stock of the corporation then having voting powers as pro-
9 vided by its by-laws, decrease the amount of its capital
10 stock to any amount desired, and the corporation shall give
11 notice of such change to the secretary of state within
12 ten days thereafter. And each stockholder, shall, with-
13 in three months after such meeting, surrender such a
14 proportion of his stock as the amount of decrease shall
15 bear to the amount of the capital stock before the de-
16 crease, so that each stockholder shall have the same propor-
17 tion of the whole capital stock of the company as be-
18 fore the decrease; provided, however, that if at the
19 time of such decrease there shall remain in the treasury of
20 said corporation any unissued capital stock, such decrease
21 may be affected by first retiring such unissued capital stock
22 not exceeding the amount of such decrease. This section
23 shall not effect or prejudice in any way the rights of credi-
24 tors of such corporation existing at the time when the re-
25 duction of its capital stock authorized hereunder shall be
26 consummated.'

Sect. 4. Section forty-four of chapter fifty-one of the re-
2 vised statutes is hereby amended by striking out the words
3 "with the consent of not less than two-thirds in amount of
4 all its outstanding stock," in the fourth and fifth lines of

5 said section and by inserting in place thereof the words 'by
6 a two-thirds vote of the outstanding stock of the corpora-
7 tion then having voting powers as provided by its by-laws,'
8 so that said section as amended shall read as follows:

'Sect. 44. *When capital of company is impaired, stock*
2 *may be reduced.* Whenever the assets of a corporation
3 have been so diminished by losses or depreciation of prop-
4 erty, that its capital is impaired, such corporation, at any
5 meeting of the stockholders legally called therefor, by a
6 two-thirds vote of the outstanding stock of the corporation
7 then having voting powers as provided by its by-laws, ex-
8 pressed at such meeting or at any adjournment thereof,
9 may reduce such stock to the extent of such impairment,
10 and thereupon the par value of all shares issued or to be
11 issued shall be reduced proportionally.'

Sect. 5. Section fifty-three of chapter fifty-one of the re-
2 vised statutes is hereby amended by striking out the words
3 "vote of the stockholders" in the fifth line of said section
4 and by inserting in place thereof the words 'a majority vote
5 of the outstanding stock of the corporation then having vot-
6 ing powers as provided by its by-laws,' so that said section
7 as amended shall read as follows:

'Sect. 53. *May create two or more kinds of stock.* Every
2 corporation may create two or more kinds of stock with
3 such classes and with such designations, preferences and
4 voting powers, or restrictions or qualifications thereof, as
5 shall be fixed and determined in the by-laws, or by a ma-

6 jority vote of the outstanding stock of the corporation then
7 having voting powers as provided by its by-laws at a meet-
8 ing duly called for the purpose.'

Sect. 6. Section fifty-six of chapter fifty-one of the re-
2 vised statutes is hereby amended by striking out the words
3 "vote representing a majority of the stock issued" in the
4 second line of said section, and by inserting in place thereof
5 the words 'majority vote of the outstanding stock of the
6 corporation then having voting powers as provided by its
7 by-laws,' so that said section as amended shall read as fol-
8 lows:

'Sect. 56. *May change location from one county to an-*
2 *other.* Any corporation organized under this chapter at a
3 legal meeting of its stockholders, by a majority vote of the
4 outstanding stock of the corporation then having voting
5 powers as provided by its by-laws, may change its location
6 from one county to another in the state, and the corpora-
7 tion shall file, by its clerk or other officer, in the registry of
8 deeds in each of said counties, within twenty days after
9 such change of location, the certificate required by section
10 twenty-four.'

Sect. 7. Section sixty of chapter fifty-one of the revised
2 statutes is hereby amended by striking out the words "with
3 the consent of its stockholders," in the fifth and sixth lines
4 of said section, and by inserting in place thereof the words
5 'by a majority vote of the outstanding stock of the corpora-
6 tion then having voting powers as provided by its by-laws,'

7 so that said section as amended shall read as follows:

‘Sect. 60. *Corporation shall not sell franchises or entire*
2 *property except on vote of its stock.* No corporation shall
3 sell, lease, consolidate or in any manner part with its fran-
4 chises, or its entire property, or any of its property, cor-
5 porate rights or privileges essential to the conduct of its
6 corporate business and purposes, otherwise than in the ordi-
7 nary and usual course of its business, except by a majority
8 vote of the outstanding stock of the corporation then having
9 voting powers as provided by its by-laws at an annual or
10 special meeting, the call for which shall give notice of the
11 proposed sale, lease or consolidation. All such sales, leases
12 and consolidations shall be subject to the provisions of this
13 and the eleven following sections, and to the prior lien of
14 stockholders as therein defined. Except as to franchises,
15 this and the eleven following sections shall not be held to
16 apply to mortgages of corporate property.’

Sect. 8. Section one hundred seventeen of chapter fifty-
2 one of the revised statutes as added by chapter one hundred
3 forty-four of the public laws of nineteen hundred seventeen
4 as amended by chapter two hundred twenty-four of the pub-
5 lic laws of nineteen hundred twenty-one, is hereby amend-
6 ed by striking out the words “issued and outstanding
7 shares” in the eleventh line of said section as amended, and
8 by inserting in place thereof the words ‘outstanding stock
9 of the corporation then having voting powers as provided

10 by its by-laws,' so that said section as amended shall read
11 as follows:

'Sect. 117. *How non par shares may be disposed of; to be*
2 *fully paid and non-assessable; number of non-par shares*
3 *may be increased or reduced.* Corporations may issue and
4 dispose of their authorized shares having no par or face
5 value for such consideration as may be prescribed in the
6 certificate of organization or in the certificate of amend-
7 ment, or if no consideration is so prescribed then for such
8 consideration as may be fixed by the stockholders at a
9 meeting duly called and held for the purpose, or by the
10 board of directors when acting under general or special
11 authority granted by the stockholders. Any and all shares
12 issued for the consideration prescribed or fixed in accord-
13 ance with the provisions of this section shall be fully paid
14 and non-assessable. The authorized number of shares with-
15 out par or face value may be increased or reduced by a
16 majority vote of the outstanding stock of the corporation
17 then having voting powers as provided by its by-laws at a
18 meeting duly called for the purpose, or at an annual meet-
19 ing, when notice shall have been given of such proposed
20 action in the call therefor, and the corporation shall file a
21 certificate thereof with the secretary of state within ten
22 days thereafter, and thereupon said change shall take effect.'

Sect. 9. Section one hundred eighteen of chapter fifty-
2 one of the revised statutes as added by chapter one hun-
3 dred forty-four of the public laws of nineteen hundred

4 seventeen, as amended by chapter two hundred twenty-four
5 of the public laws of nineteen hundred twenty-one, as
6 amended by section five of chapter one hundred ninety-six
7 of the public laws of nineteen hundred twenty-five, is
8 amended by striking out the words "vote of the holders of
9 two-thirds of its outstanding stock" in the third and fourth
10 lines of said section as amended, and by inserting in place
11 thereof the words 'a majority vote of the outstanding stock
12 of the corporation then having voting powers as provided
13 by its by-laws,' so that said section as amended shall read
14 as follows:

'Sect. 118. *Corporations having outstanding shares with*
2 par value may change to non-par shares; procedure; fee.
3 Any corporation, the organization of which is authorized
4 under this chapter, having outstanding shares with par
5 value, may, at a meeting duly called and held for the pur-
6 pose, by a majority vote of the outstanding stock of the
7 corporation then having voting powers as provided by its
8 by-laws, and upon paying the fee provided for recording
9 the notice of a change in the charter or certificate of or-
10 ganization, change such shares or any class thereof into an
11 equal number of shares without par or face value, or pro-
12 vide for the exchange thereof pro rata for an equal or dif-
13 ferent number of shares without par or face value, provided
14 the preferences, rights, limitations, privileges and restric-
15 tions lawfully granted or imposed with respect to the out-
16 standing shares, so changed or exchanged, shall not be im-

17 paired, diminished or changed without the consent of all
18 the holders thereof, such preferences, rights, limitations,
19 privileges and restrictions, however, to be expressed in dol-
20 lars or cents per share rather than by reference to par or
21 face value.'