

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Twin City Printery
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1987

PUBLIC LAWS

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6. Staff. Staff to the board shall be provided by the Department of Agriculture, Food and Rural Resources.

7. Report. The board shall report at least annually to the joint standing committee of the Legislature having jurisdiction over agriculture. The report shall include an accounting of its meetings and actions, including agreements entered into, status of demonstration projects, research findings, informational activities and an evaluation of the program, with recommendations regarding changes or improvements in the program.

§333. Aroostook Water and Soil Management Fund

There is established a nonlapsing Aroostook Water and Soil Management Fund. The Commissioner of Agriculture, Food and Rural Resources may accept money for this fund from the Federal Government or any public or private source and make expenditures from this fund in order to carry out activities related to the program.

Sec. 4. Allocation. The following funds are allocated from the federal funds made available for this project.

| | 1987-88 | 1988-89 |
|---|-------------|-----------|
| <u>AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF</u> | | |
| Aroostook Water and Soil Management Fund | | |
| Unallocated | \$1,825,000 | \$820,000 |
| Effective September 29, 1987. | | |

CHAPTER 436

S.P. 483 — L.D. 1460

AN ACT to Make Technical Amendments in the Certificate of Need Act to Expedite the Process.

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

Sec. 1. 22 MRSA §304-A, sub-§3, as enacted by PL 1981, c. 705, Pt. V, §16, is amended to read:

3. Capital expenditures. The obligation by or on behalf of a health care facility, except a skilled or intermediate care facility, of any capital expenditure of \$350,000 or more. Intermediate care and skilled nursing care facilities shall have a threshold of \$500,000, except that any transfer of ownership shall be reviewable;

Sec. 2. 22 MRSA §306-A, sub-§1, as enacted by PL 1981, c. 705, Pt. V, §19, is amended to read:

1. Letter of intent. Prior to filing an application for a certificate of need, an applicant shall file a letter of in-

~~tent with the department no less than 30 days prior to the date on which the application is to be filed.~~ The letter of intent shall form the basis for determining the applicability of this chapter to the proposed expenditure or action. A letter of intent shall be deemed withdrawn one year after receipt by the department, unless sooner superseded by an application; provided that the applicant shall not be precluded from resubmitting the same letter of intent.

Sec. 3. 22 MRSA §306-A, sub-§§2, 3 and 4, as amended by PL 1985, c. 418, §6, are further amended to read:

2. Application filed. Upon a determination by the department that a certificate of need is required for a proposed expenditure or action, an application for a certificate of need shall be filed with the department if the applicant wishes to proceed with the project. Prior to filing a formal application for a certificate of need, the applicant is required to meet with the department staff in order to assist the department in understanding the application and to receive technical assistance concerning the nature, extent and format of the documentary evidence, statistical data and financial data required for the department to evaluate the proposal. The department shall not accept an application for review until the applicant has satisfied this technical assistance requirement unless waived in writing by both parties. The technical assistance meeting shall take place within 30 days subsequent to receipt of the letter of intent, unless waived in writing by both parties.

3. Additional information required. Additional information may be required or requested as follows.

A. If, after receipt of an application, the department determines that additional information is necessary before the application can be considered complete, the department may:

(1) Require the applicant to respond to 2 sets one set of requests for additional information from the department, provided that a 2nd request is directly related to the first information request or to the information provided in response to the first request. Applicants must submit additional information requested by the department within 30 business days or within a longer period of time, provided that the department and the applicant agree; and

(2) Request, but not require, the applicant to respond to additional sets of requests for information, provided that each request is directly related to the last request or to the information provided in response to the last request.

C. Within 15 business days after the filing of an application or response to any information request, whichever is applicable, with the department, the department shall notify the applicant in writing that:

(1) The application contains all necessary information required and is complete; or

(2) Additional information is required by the department. If, after receipt of the applicant's response to the 2nd first or any subsequent request, the department determines that additional information is required, the notification shall also include a statement of the basis and rationale for that determination.

4. Review of incomplete application. Upon receipt of the 3rd 2nd or any subsequent notice described in subsection 3, paragraph C, subparagraph 2, the applicant must notify the department in writing that:

A. It will provide the additional information requested by the department. Following completion, it shall be entered into the next review cycle; or

B. That it is not able to or does not intend to provide the information requested and requests the application be entered into the next appropriate review cycle. In that case, the applicant shall be prohibited from submitting the information it had declined to provide into the record after the 25th day of the review cycle and the information shall not be considered in the determination to issue or to deny a certificate of need. If the applicant provides the information requested prior to the 25th day of the review cycle, the application may, at the discretion of the department, be returned to the beginning of the review cycle. Failure to submit additional information requested by the department may result in an unfavorable recommendation and may result in subsequent denial of the application by the department, as long as the denial is related to applicable criteria and standards.

Sec. 4. 22 MRSA §308, sub-§2, ¶A, as amended by PL 1985, c. 418, §12, is repealed.

Sec. 5. 22 MRSA §308, sub-§5 is enacted to read:

5. Provision for expedited administrative reviews. The department shall promulgate rules by January 1, 1988, to create a procedure for administrative reviews for at least the replacement of major medical equipment.

Sec. 6. 22 MRSA §309, sub-§6, as amended by PL 1985, c. 661, §6, is further amended to read:

6. Hospital projects. Notwithstanding subsections 1, 4 and 5, the department may not issue a certificate of need for a project which is subject to the provisions of section 396-D, subsection 5, and section 396-K, if the associated costs exceed the amount which the commission has determined will have been credited to the Certificate of Need Development Account pursuant to section 396-K, after accounting for previously approved projects. A project shall not be denied solely on the basis of exceeding the amount remaining in the Certificate of Need Development Account or Hospital Development Account in a particular payment year and shall be held for further consideration by the department in the first ap-

propriate review cycle beginning after the Certificate of Need Development Account or Hospital Development Account is credited with additional amounts. Projects which are carried forward shall compete equally with newly proposed projects. For the purposes of this subsection, a project may be held for a final decision beyond the time frames set forth in section 307, subsections 3 and 4.

Sec. 7. 22 MRSA §321, as enacted by PL 1977, c. 687, §1, is amended to read:

§321. Penalty

Whoever violates any provision of this chapter or any rate, rule or regulation established hereunder shall be subject to a civil penalty payable to the State of not more than \$5,000 to be recovered in a civil action. The department may hold these funds in a special revenue account which shall be used only to support certificate of need reviews, such as for hiring expert analysts on a short-term consulting basis.

Effective September 29, 1987.

CHAPTER 437

S.P. 42 — L.D. 37

AN ACT to Honor former Governor Joseph E. Brennan.

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

Sec. 1. 2 MRSA §1, as amended by PL 1985, c. 693, §1, is further amended to read:

§1. Residence; office hours; secretary; salary

The Governor shall have his official residence at Augusta during his term of office, and shall keep his office at the State House open for the transaction of the business of the State during all normal working hours of the State House.

In the absence of the Governor, his private secretary shall be in attendance and the private secretary shall devote his entire time to the duties of his office.

Until the first Wednesday of January 1987, the Governor shall receive an annual salary of \$35,000. Beginning the first Wednesday of January 1987, the Governor shall receive an annual salary of \$70,000.

The annual salary of the Governor shall be reviewed in the 3rd year of each gubernatorial term in office by the State Compensation Commission.

A former Governor may accept as a personal gift from the State at the end of his final term the desk and chair used by that Governor as Governor.