

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

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

Twin City Printery
Lewiston, Maine
1988

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
and
SECOND REGULAR SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

Whereas, this commitment has been made on the basis of a legislative Act repealing the previous \$4,500,000 ceiling on the program; and

Whereas, the legislative Act was in conflict with another Act during the same legislative session, and the \$4,500,000 ceiling was restored in the errors bill of the First Regular Session of the 113th Legislature; and

Whereas, the reinstatement of the ceiling jeopardizes the financing programs for Maine businesses; 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. 10 MRSA §1026-B, sub-§2, ¶¶A and B, as amended by PL 1987, c. 402, Pt. B, §14, are further amended to read:

- A. The original principal amount of mortgage insurance shall not exceed \$500,000; and
- B. The authority may insure no more than 85% of the mortgage payments; ~~and~~ .

Sec. 2. 10 MRSA §1026-B, sub-§2, ¶C, as enacted by PL 1987, c. 402, Pt. B, §14, is repealed.

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

Effective February 19, 1988.

CHAPTER 582

H.P. 35 — L.D. 36

AN ACT to Make Substantive Corrections in the County and Municipal Laws.

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

Whereas, there exist several substantive errors, ambiguities and problems in the local government laws which hinder the ability of local governments in the State to responsibly and effectively address problems of local concern; and

Whereas, a recodification of the local government laws of the State is pending and it is desirable to enact legislation correcting these substantive problems before the recodification is enacted in order to provide a smooth transition under the recodification; 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:

PART A

Sec. 1. 30 MRSA §63, last paragraph, as enacted by PL 1975, c. 423, is amended to read:

~~Every contract between a county and municipalities within the county shall be approved by the Attorney General as to its conformity with this section. Failure of the Attorney General to disapprove such a contract within 30 days of its submission to him for approval shall constitute approval of the contract. After approval, a copy of such contract shall be filed with the clerk of each municipality that is a party thereto and in the office of county commissioners.~~

Sec. 2. 30 MRSA §64, sub-§2, as enacted by PL 1979, c. 403, §2, is amended to read:

2. Employee right to review. ~~The county commissioner shall, on~~ On written request from an employee or former employee, the county official with custody of the records shall provide the employee, former employee or his duly authorized representative with an opportunity to review his personnel file, if the county ~~commissioner~~ official has a personnel file for that employee. These reviews shall take place at the location where the personnel files are maintained and during normal office hours. For the purposes of this subsection, a personnel file shall include, but not be limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits which the county ~~commissioner~~ official has in his possession. The records described in subsection 1, paragraph B, may also be examined by the employee to whom they relate, as provided in this subsection.

Sec. 3. 30 MRSA §1903, as amended by PL 1983, c. 583, §18, is further amended to read:

§1903. Gifts of money or property in trust

A municipality may receive money or other property in trust for any specified ~~municipal, benevolent, religious or educational~~ public purpose. The municipal officers shall serve as trustees unless otherwise specified in the trust instrument.

1. Acceptance or rejection. When the municipal officers receive written notice from a prospective donor or his representative of a proposed trust, they shall submit the matter at the next meeting of the legislative body and shall within 10 days after the meeting send written notice of its acceptance or rejection.

2. Deposited or invested. ~~The~~ Unless otherwise specified by the terms of the trust, the municipal officers shall either deposit or invest trust funds according to section 5051-A.

A. Unless the instrument or order creating the trust prohibits, a municipality may treat any 2 or more trust funds as a single fund solely for the purpose of investment.

B. After deduction of management expenses, any interest earned or capital gains realized shall be prorated among the various trust funds.

C. Any property or securities included in the corpus of a trust fund shall be retained where the trust instrument so provides.

D. Unless otherwise specified in the trust instrument, only the annual income from the trust fund may be spent.

3. Revert to donor. If the municipality fails to comply with the terms of the trust instrument, the trust fund reverts to the donor or his heirs.

Sec. 4. 30 MRSA §1904, as amended by PL 1983, c. 583, §19, is further amended to read:

§1904. — conditions attached

A municipality may accept a conditional gift for any specified ~~municipal, benevolent, religious or education-~~ at public purpose.

1. Acceptance or rejection. ~~Within 60 days after~~ When the municipal officers receive written notice from a prospective donor or his representative of the proposed gift, they shall call a meeting of the legislative body submit the matter at the next meeting of the municipal legislative body, and shall within 10 days after the meeting send written notice of its acceptance or rejection.

2. Perpetually comply with conditions. When the donor or his representative has completed his part of the agreement respecting the execution of a conditional gift, the municipality shall perpetually comply with, and may raise money to carry into effect, the conditions upon which it was made.

3. Deposited or invested. Unless otherwise specified by its terms, a conditional gift of money may be deposited or invested according to section 5051-A.

Sec. 5. 30 MRSA §1912, sub-§5, as enacted by PL 1969, c. 563, is amended to read:

5. Election procedure. Within 30 days after the adoption of an order under subsection 1 or the receipt of a certificate or final determination of sufficiency under subsection 4, the municipal officers shall by order submit the question for establishment of a charter commission

to the voters at the next regular or special municipal election held not less than ~~60~~ 90 days thereafter.

A. The question to be submitted to the voters shall be in substance as follows:

"Shall a Charter Commission be established for the purpose of revising the Municipal Charter or establishing a New Municipal Charter?"

Sec. 6. 30 MRSA §1913, sub-§6, as enacted by PL 1969, c. 563, is amended to read:

6. Election. Upon the filing of the final report, the municipal officers shall order the proposed new charter or charter revision to be submitted to the voters at the next regular or special municipal election held at least ~~30~~ 35 days after the filing of the final report.

Sec. 7. 30 MRSA §1953, sub-§5, as amended by PL 1977, c. 630, §3, is repealed.

Sec. 8. 30 MRSA §1953, sub-§5-A is enacted to read:

5-A. Liberal construction. It being the intent of the Legislature to avoid the proliferation of special purpose districts and inflexible enabling laws, this chapter shall be liberally construed toward that end.

Sec. 9. 30 MRSA §1955 is amended to read:

§1955. Approval by state officers

In the event that an agreement made pursuant to this chapter shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the State Government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction ~~in the same manner and subject to the same requirements governing the action of the Attorney General pursuant to section 1953, subsection 5. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the Attorney General.~~

The officer or agency shall approve any agreement submitted to him or it under this chapter, unless the officer or agency finds that it does not in substance comply with any law regarding matters within his or its jurisdiction. The officer or agency shall detail in writing addressed to the governing bodies of the public agencies concerned the specific respects in which the proposed agreement substantially fails to meet the requirements of law. Failure to disapprove an agreement submitted under this chapter within 30 days of its submission constitutes approval of the agreement.

Sec. 10. 30 MRSA §2054, sub-§3, ¶B is repealed.

Sec. 11. 30 MRSA §2055, 2nd ¶, as repealed and replaced by PL 1969, c. 543, §1, is amended to read:

A town may, at a meeting held at least 60 90 days prior to the annual meeting, designate other town officials to be elected by ballot. The election of officials at the last annual town meeting shall be deemed to be such a designation until the town otherwise acts. A town official may not be elected on a motion to cast one ballot.

Sec. 12. 30 MRSA §2056 is repealed.

Sec. 13. 30 MRSA §2057 is repealed.

Sec. 14. 30 MRSA §2058 is repealed.

Sec. 15. 30 MRSA §2060, sub-§3, as amended by PL 1973, c. 536, §10, is further amended to read:

3. Qualifications. In order to hold a municipal office, a person must be a resident of the State, at least 18 years of age and, ~~except in the case of full-time appointed assessors,~~ a citizen of the United States.

A. In order to hold the office of selectman, a person must be a voter in the town in which he is elected.

Sec. 16. 30 MRSA §2060, sub-§4, ¶A, as amended by PL 1969, c. 114, §1, is further amended to read:

A. A town may determine at a meeting held at least 60 90 days before the annual meeting whether 3, 5 or 7 shall be elected to each board and their terms of office.

(1) Once the determination has been made, it shall stand until revoked at a meeting held at least 60 90 days before the annual meeting.

(2) If a town fails to fix the number, 3 shall be elected. If a town fails to fix the term, it shall be for one year.

Sec. 17. 30 MRSA §2060, sub-§5, ¶¶A, A-1 and B, as amended, are further amended to read:

A. A town may determine at a meeting of its legislative body held at least 60 90 days before the annual meeting whether a single assessor, or a board of 3, 5 or 7, shall be elected and the term of office of the assessor or assessors. In towns where the legislative body is the town meeting, the determination shall be effective only if the total number of votes cast for and against the determination equals or exceeds 10% of the total vote for all candidates for Governor in the town at the next previous gubernatorial election.

(1) Once a determination has been made, it shall stand until revoked at a meeting held at least 60 90 days before the annual meeting.

(2) If a town fails to fix the number, 3 shall be elect-

ed. If a town fails to fix the term, it shall be for one year.

(3) When a town has chosen a single assessor under paragraph A, the selectmen shall appoint the assessor for a term not exceeding 5 years.

A-1. In addition to the method provided by paragraph A and notwithstanding the provision of any town charter to the contrary, the municipal officers of any town, or the municipal officers of 2 or more towns acting jointly, shall have the power to enact an ordinance providing for a single assessor, who shall be appointed for a term not exceeding 5 years. Seven days' notice of the meeting at which said ordinance is to be proposed shall be given in the manner provided for town meetings. In towns where the legislative body is the town meeting, the ordinance shall be effective immediately after the next regular town meeting if enacted 60 90 days prior to ~~said~~ the meeting and shall stand until revoked by the legislative body or the municipal officers at a meeting held at least 30 90 days before the annual town meeting.

B. When a town has not elected a full board of assessors, ~~the board shall be appointed by the selectmen~~ the selectmen shall serve as assessors as provided in Title 36, section 703. A selectman may serve as a member of the board of assessors.

Sec. 18. 30 MRSA §2060, sub-§6, ¶A, as amended by PL 1983, c. 58, is further amended to read:

A. Any municipality may adopt a board of assessment review at a meeting of its legislative body held at least 60 90 days before the annual meeting.

Sec. 19. 30 MRSA §2060, sub-§7 is amended to read:

7. Road commissioners. The following provisions apply to road commissioners:

A. A town may determine at a meeting held at least 30 90 days before the annual meeting whether one or more shall be chosen and the term of office, which may not exceed 3 years.

(1) Once the determination has been made, it shall stand until revoked at a meeting held at least 30 90 days before the annual meeting.

(2) If a town fails to fix the number, one shall be chosen. If a town fails to fix the term, it shall be for one year.

B. A road commissioner appointed by the selectmen may be removed from office for cause by the selectmen.

C. ~~Selectmen~~ The board of selectmen may act as a board of road commissioners.

Sec. 20. 30 MRSA §2061, sub-§3 is amended to read:

3. Nomination papers. The nomination for any office shall be made by nomination papers signed by the following number of voters based on the population of the town according to the last Decennial Census of the United States: Not less than 3 nor more than 10 in towns of 200 or less population; not less than 10 nor more than 25 in towns of 201 to 500; and not less than 25 nor more than 100 in towns of more than 500. Nomination papers shall be made available by the municipal clerk to prospective candidates during the 40 days prior to the final date of filing, and before issuance, the town clerk ~~may~~ must complete each sheet by filling in the name of the candidate, the title and term of office which is being sought.

Sec. 21. 30 MRSA §2061, sub-§3, ¶A is amended to read:

A. Each voter who signs a nomination paper shall add his place of residence with the street and number, if any. He may subscribe only to as many nomination papers for each office as there are vacancies to be filled. If a voter signs more nomination papers for an office than there are vacancies to be filled, any signatures of that voter on nomination papers submitted after the clerk has received a number of nomination papers bearing that voter's signature which equals the number of vacancies to be filled are not valid.

Sec. 22. 30 MRSA §2061, sub-§4, as amended by PL 1973, c. 408, §§1 and 2, is further amended to read:

4. Referendum questions. By order of the municipal officers or on the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10, the municipal officers shall require that a particular article be placed in the next ballot printed, or shall call a special town meeting for its consideration. A public hearing shall be held by the municipal officers on the subject of such article at least 10 days before the day for voting thereon. Notice of such public hearing shall be given by the municipal officers by causing a copy of said proposed article together with the time and place of hearing, to be posted in the same manner required for posting a warrant for a town meeting, at least 7 days before the date set for such hearing, and a return shall be made on the original notice by the municipal officers stating the manner of notice and the time when it was given. The requirement for public hearing shall not be a prerequisite to the valid issuance of any bond, note or other obligation of a municipality authorized to borrow money by vote under any such particular article. The petition or order for placing an article on the ballot is subject to the same filing provisions as are nomination papers under this section. A vote by secret ballot takes precedence over a vote by any other means at the same meeting. If by town meeting vote or charter provision, a budget committee has been established to review proposed town expenditures, the recommendations of the budget committee shall be printed ~~instead of in addition to~~ those of the municipal officers.

If a particular article to be voted on by secret ballot requests an appropriation of money by the municipality, the article when printed in the warrant and on the ballot shall be accompanied by a recommendation of the municipal officers and, if such action affects the school budget, by the school board.

Sec. 23. 30 MRSA §2061, sub-§5, ¶B is amended to read:

B. At the end of the list of candidates for each office there shall be left as many blank spaces as there are vacancies to be filled, in which a voter may ~~insert~~ write in or paste a sticker with the name and municipality of residence of any person for whom he desires to vote. A sticker may not be used to vote for a write-in candidate in any election other than a primary election.

Sec. 24. 30 MRSA §2061, sub-§7 is amended to read:

7. Ballot clerks. Before the opening of the polls, the selectmen shall appoint the necessary number of ballot clerks as provided in Title 21-A, section 503. When there are vacancies after the opening of the polls, the moderator shall appoint replacements. The ballot clerks shall be sworn before assuming their duties.

A. On election day before the opening of the polls, the clerk shall deliver the ballots to the ballot clerks and shall post an instruction card at each voting compartment and at least 3 instruction cards and 5 specimen ballots in the voting room outside the guardrails.

B. The ballot clerks shall give a receipt to the clerk for the ballots received by them. The clerk shall keep the receipt in his office for 6 months.

C. Ballots may not be delivered to the voters until the moderator has been elected. The moderator may appoint a qualified person to act as temporary moderator during his temporary absence from the polling place.

D. A duplicate check list of the qualified voters shall be prepared by the selectmen for the use of the ballot clerks. The law pertaining to check lists applies equally to duplicate check lists.

Sec. 25. 30 MRSA §2063, sub-§4 is enacted to read:

4. Candidate defined. As used in this section, and in section 2064, "candidate" means any person who has received at least one vote for the municipal office in question.

Sec. 26. 30 MRSA §2064, sub-§3 is amended to read:

3. Hearing. At the hearing, the clerk shall sort and count the votes under the supervision of the municipal officers who were in office immediately before the election.

A. The municipal officers in making corrected returns may, in their discretion, accept such facts as the candidates agreed upon at the ballot inspection.

B. The petitioner or his opponents may have all ballots in any way involved in the election and all records required by law to be kept in connection with absentee ballots displayed for counting or inspection. Upon request, absentee ballots may be segregated from other ballots.

C. Witnesses may be called by the candidates and may be sworn by any municipal officer. Witness fees shall be paid by the municipality if authorized by the municipal officers. A record shall be kept if requested by any candidate.

D. If, during the recount, the election is conceded to a candidate by a statement signed by the other interested candidates and addressed to the municipal officers, they shall issue a certificate of election to the candidate whose election is conceded.

Sec. 27. 30 MRSA §2067, first ¶, as amended by PL 1971, c. 265, §2, is further amended to read:

When any town accepts this section at a meeting held at least 60 90 days before the annual meeting, the following provisions apply to the nomination of all town officials required by section 2055 to be elected by ballot, except for the moderator, and to the nomination of any other officials which the town designates by a separate article in the warrant at the time of acceptance. No change may be made thereafter in the nomination of town officials, except at a meeting held at least 90 days before the annual meeting.

Sec. 28. 30 MRSA §2151, sub-§2, ¶C, as amended by PL 1975, c. 430, §69, is repealed.

Sec. 29. 30 MRSA §2151, sub-§2, ¶D, as amended by PL 1979, c. 371, §2, is repealed.

Sec. 30. 30 MRSA §2151, sub-§2, ¶F is repealed.

Sec. 31. 30 MRSA §2151, sub-§2, ¶K, as amended by PL 1983, c. 337, §2, is repealed.

Sec. 32. 30 MRSA §2151, sub-§3, as amended by PL 1975, c. 430, §§71 and 72, is repealed.

Sec. 33. 30 MRSA §2151, sub-§4, ¶B is amended to read:

B. Establishing adequate standards for all features of means of egress, fire protection, fire prevention, accident prevention and structural safety of buildings which are used occasionally or regularly for public assembly; compelling the owners to make improvements to bring such buildings up to the established standards; ~~requiring the owner or lessee of a building used for public assembly which is regulated by an ordinance~~

~~authorized by this paragraph and operated with intent of financial gain to obtain a permit for which a fee may be imposed commensurate with its size or capacity; requiring the owner or lessee of such a building to file a plan of it showing all safety features as a condition precedent to the issue of a permit or the further use of one already issued;~~

(1) The building inspector shall send a written order to the owner or lessee of a building used for public assembly requiring any conditions which exist in violation of an ordinance to be corrected within 30 days after the order is sent.

(2) After the expiration of the 30-day period, the owner or lessee is liable for all injury caused by his failure to do so, and the building inspector shall order the building vacated.

(3) "Building used for public assembly" means a room or space in or on any structure which is used for the gathering of 100 or more persons for any purpose, and includes any connecting room or space on the same level, above or below, which has a common entrance.

Sec. 34. 30 MRSA §2151, sub-§5, ¶C is amended to read:

C. Regulating the business of hawking and peddling of merchandise at retail.

~~(1) This paragraph does not apply to persons selling merchandise by sample, list or catalogue for future delivery; farm, dairy, orchard, fish and forest products of their own production; newspapers and religious literature.~~

Sec. 35. 30 MRSA §2151, sub-§7, as repealed and replaced by PL 1983, c. 114, §4, is repealed.

Sec. 36. 30 MRSA 2151-A is enacted to read:

§2151-A. Authority of municipal officers to enact ordinances

1. Exclusive authority. The municipal officers have the exclusive authority to enact all traffic ordinances in the municipality, subject to the following provisions.

A. The municipal officers may regulate pedestrian traffic in the public ways, including, but not limited to, setting off portions of a municipality's public ways for sidewalks and regulating their use, providing for the removal of snow and ice from the sidewalks by the owner, occupant or agent having charge of the abutting property and establishing crosswalks or safety zones for pedestrians.

(1) The violation of any ordinance authorized by this paragraph is a traffic infraction.

(2) The municipal officers may establish a method by which pedestrians charged with the violation of regulations for their protection on the public ways may waive all court action by payment of specified fees within stated periods of time.

B. The municipal officers may regulate the operation of all vehicles in the public ways and on publicly owned property.

(1) The violation of any ordinance authorized by this paragraph is a traffic infraction.

C. The municipal officers may regulate the parking of motor vehicles on any public way or public parking area, including, but not limited to, providing for the installation of parking meters, providing the fact that any vehicle is illegally parked or is in a metered space when the time signal on the parking meter for that space indicates no parking permitted without the deposit of a coin or coins is prima facie evidence that the vehicle has been parked illegally by the person in whose name the vehicle is registered and establishing reasonable charges for metered parking.

(1) Illegal parking of a vehicle in violation of any ordinance authorized by this paragraph is a traffic infraction.

(2) The municipal officers may establish a method by which persons charged with the violation of parking regulations may waive all court action by payment of specified fees within stated periods of time.

(3) The revenue collected from parking meters shall be used to purchase, maintain and police the meters, to construct and maintain public ways, to acquire, construct, maintain and operate public parking areas and for no other purpose.

(4) Any motor vehicle registered by a handicapped person is exempt from any parking meter fare when that vehicle properly displays special designating plates or a placard issued under Title 29, sections 252 and 252-A, and may park a length of time which does not exceed twice the time limit otherwise applicable.

D. The following provisions apply to any ordinance enacted by the municipal officers providing for the establishment of parking spaces for handicapped persons.

(1) The municipality must post any of the following signs adjacent to and visible from each handicapped parking space:

(a) A sign consisting of a profile view of a wheelchair with an occupant in white on a blue background with a printed inscription. The inscription shall read: "Handicapped Parking; Special Plate Required. Unauthorized vehicles are subject to a fine;" or

(b) A sign consisting of a profile view of a wheelchair with an occupant in white on a blue background which may bear an inscription.

(2) Any new sign erected or any sign replaced after April 11, 1983, must conform to the signs described in paragraph B. Any existing posted signs that do not comply with paragraph B and which were erected before April 11, 1983, are valid for enforcement purposes.

(3) Any vehicle parked in a parking space designated by a municipality as a handicapped parking space that does not bear a special registration plate or placard issued under Title 29, section 252, or a similar plate issued by another state, shall be cited for a penalty not to exceed \$25 unless otherwise established by local ordinance.

(4) Owners of off-street parking may enter into agreements with local or county law enforcement agencies for the policing of stalls and spaces dedicated for handicapped persons' vehicles, under which agreements unauthorized vehicles will be tagged. Where service facilities are established on the Maine Turnpike and on the interstate highway system in this State, the State Police shall enforce any handicapped parking restrictions at those facilities.

E. The municipal officers may provide for the regulation of motor vehicles as defined in Title 29, section 1, subsection 7, on icebound inland lakes during the hours from sunset to sunrise of the following day. The Maine Land Use Regulation Commission shall regulate motor vehicles on icebound inland lakes which are completely encompassed by unorganized territories. A plantation shall have the same powers and duties as a municipality under this subsection. Motor vehicles on icebound inland lakes which are abutted by an unorganized territory and either one or more municipalities, village corporations or plantations, in any combination, shall be regulated by those municipalities, village corporations or plantations, as provided in subparagraphs (1) and (2).

No ordinance authorized by this paragraph is valid unless:

(1) Each municipality abutting a lake has enacted an identical local ordinance, in which case the ordinance of any municipality is in effect on the entire lake and any law enforcement officer from any of those municipalities may enforce the ordinance on any portion of the lake; or

(2) In cases where a lake is divided by an easily identifiable boundary into 2 or more nearly separate bodies, each municipality abutting one of the distinguishable portions of the lake has enacted an identical local ordinance. The ordinance of any municipality is in effect only on that distinguishable portion of the lake and any law enforcement officer

from any of those municipalities may enforce the ordinance anywhere on that portion of the lake.

F. The municipal officers may regulate or establish a licensing authority which may regulate rates of fare, routes and standing places of vehicles for hire, except where jurisdiction rests with the Public Utilities Commission and may require an owner or operator of a vehicle for hire to carry a liability insurance policy in amount and form satisfactory to the licensing authority as a condition precedent to the granting of a license to operate.

2. Powers of village corporation. A village corporation shall have the same powers and duties as a municipality under this section.

3. Method of enactment; effective date. When enacting ordinances under this section, the municipal officers shall give 7 days' notice of the meeting at which the ordinances are to be proposed in the manner provided for town meetings. Unless otherwise provided, these ordinances take effect immediately.

Sec. 37. 30 MRSA §2153, sub-§2, ¶A is enacted to read:

A. No ordinance of any municipality subject to this subsection may be held invalid due to the municipality's failure to comply with this subsection unless the plaintiff is prejudiced or harmed by that failure.

Sec. 38. 30 MRSA §2154, sub-§3, ¶A is repealed.

Sec. 39. 30 MRSA §2154, sub-§4 is enacted to read:

4. Revision of ordinance. In the process of codifying a municipality's ordinances, an ordinance may be revised only by following the procedure required for its original enactment. This subsection does not require the individual enactment of changes in each ordinance which is to be codified by a municipality except where the enactment procedure to be followed requires it.

Sec. 40. 30 MRSA §2156, sub-§1, ¶A, as amended by PL 1973, c. 681, §11, is further amended to read:

A. "Code" means any published compilation of rules or enforceable standards which has been prepared by the American Insurance Association, the Building Officials and Code Administrators International, the International Conference of Building Officials, the National Fire Protection Association, the Southern Building Code Congress any association or organization that is nationally recognized for establishing standards in the areas set out in this paragraph, or any department or agency of the Federal Government or the State of Maine, and shall include specifically, but shall not be limited to: Building codes, plumbing codes, electrical wiring codes, health or sanitation codes, fire prevention codes, inflammable liquids codes, together with any other code which embraces rules

pertinent to a subject which is a proper municipal legislative matter.

Sec. 41. 30 MRSA §2225, sub-§2, as enacted by PL 1973, c. 64, is amended to read:

2. Record of financial transactions. It shall contain a record of all financial transactions of the municipality during the last municipal year, including and may include an itemized list of receipts and disbursements indicating to whom and for what purpose each amount was paid.

~~A. A municipality may waive the printing in its annual report of the itemized list of receipts and disbursements which is effective until revoked.~~

Sec. 42. 30 MRSA §2252, as amended by PL 1985, c. 506, Pt. A, §61, is further amended to read:

§2252. Title to municipal office

A person who claims to have been elected to any municipal office may proceed against another who claims title to the office within ~~15~~ 20 days after election day by following the procedure outlined in Title 21-A, section 746.

Sec. 43. 30 MRSA §2257, sub-§2, as enacted by PL 1979, c. 403, §3, is amended to read:

2. Employee right to review. The municipal officer shall, on ~~The municipal officer shall, on~~ written request from an employee or former employee, the municipal official with custody of the records shall provide the employee, former employee or his duly authorized representative with an opportunity to review his personnel file, if the municipal officer official has a personnel file for that employee. These reviews shall take place at the location where the personnel files are maintained and during normal office hours. For the purposes of this subsection, a personnel file shall include, but not be limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits which the municipal officer official has in his possession. The records described in subsection 1, paragraph B, may also be examined by the employee to whom they relate, as provided in this subsection.

Sec. 44. 30 MRSA §2352, last ¶ is amended to read:

A municipality may provide for a salary to be paid to the clerk as full compensation, in which case ~~the fees~~ all revenues received by the clerk on behalf of the town accrue to the municipality.

Sec. 45. 30 MRSA §2411, sub-§3, ¶A, as enacted by PL 1971, c. 455, §1, is amended to read:

A. The chairman shall call meetings of the board as required. The chairman shall also call meetings of the board when requested to do so by a majority of the

members or by the municipal officers. A quorum of the board necessary to conduct an official board meeting shall consist of at least ~~3~~ a majority of the board's members. The chairman shall preside at all meetings of the board and be the official spokesman of the board.

Sec. 46. 30 MRSA §2411, sub-§3, ¶E-1 is enacted to read:

E-1. The board may reconsider any decision reached under this section within 30 days of its prior decision. The board may conduct additional hearings and receive additional evidence and testimony as provided in this subsection.

Sec. 47. 30 MRSA §2411, sub-§3, ¶F, as amended by PL 1977, c. 352, is further amended to read:

F. An appeal may be taken, within 30 days after the decision is rendered, by any party to Superior Court from any order, relief or denial in accordance with the Maine Rules of Civil Procedure, Rule 80B. This time period may be extended by the court upon motion for good cause shown. The hearing before the Superior Court shall be without a jury.

Sec. 48. 30 MRSA §2454, sub-§5, as amended by PL 1985, c. 305, is further amended to read:

5. Rules. No permit may be granted for an automobile graveyard or junkyard that is not in conformity with the rules promulgated under section 2459; municipal officers or county commissioners as provided for in section 2452 may apply more stringent restrictions, limitations and conditions in considering whether to grant or to deny any permit for an automobile graveyard or junkyard adjacent to any highway. Nothing in this chapter may be construed to prevent a municipality from enacting ordinances with respect to automobile graveyards and junkyards which concern such other standards as the municipality determines reasonable, including, but not limited to: Conformance with state and federal hazardous waste regulations; fire safety; traffic safety; levels of noise which can be heard outside the premises; distance from existing residential or institutional uses; and the effect on ground water and surface water, provided that municipal ordinances on ground water are no less stringent than or inconsistent with rules adopted by the Department of Environmental Protection concerning automobile graveyards and junkyards. Municipal officers or county commissioners may shall consider compliance with these local ordinances in deciding whether to grant or deny a permit for an automobile graveyard or junkyard and in attaching conditions of approval to the grant of a permit.

Sec. 49. 30 MRSA c. 215, sub-c. I-A is enacted to read:

SUBCHAPTER I-A

MUNICIPAL LICENSE AND PERMIT FEES

§2471. Fees for licenses or permits

Unless otherwise provided by law, any fee established by a municipality for any license or permit under this chapter must reasonably reflect the municipality's costs associated with the license or permit procedure and enforcement.

Sec. 50. 30 MRSA §2558 is repealed.

Sec. 51. 30 MRSA §2752, as amended by PL 1985, c. 57, is further amended to read:

§2752. Licensing board; granting and revocation of licenses

~~The municipal officers, treasurer and clerk of every town municipality, hereinafter in this subchapter called the "licensing board," shall meet annually during the month of May on a date and at a time and place in said the town that they shall appoint, by posting notices in 2 or more public places therein, at least 7 days previously, stating the purpose of the meeting. At such meeting they may license under their hands as many persons of good moral character, and under such restrictions and regulations as they deem necessary, to be innkeepers, victualers and tavernkeepers in said the town, until the last day in May of the next year; in such house or other building as the license specifies. All licenses granted under this section expire one year after issuance. At any meeting so notified and held, they may revoke licenses so granted, if in their opinion there is sufficient cause.~~

The licensing board may, at any other time at a meeting specially called and notified as aforesaid for the consideration of any application therefor to them made, grant such license on like conditions; ~~but all such licenses expire on the day aforesaid.~~

~~The provisions of this section relating to the composition of the licensing board and license expiration dates do not apply to any municipality which has designated the municipal officers as the licensing board for the issuance of innkeepers', victuallers' and tavernkeepers' licenses by local ordinance or charter provisions adopted under chapter 201-A or the Constitution of Maine, Article VIII, Part Second, Section 1. Licenses granted in accordance with this alternate method shall expire one year from the date of issuance.~~

Sec. 52. 30 MRSA §2754, as amended by PL 1985, c. 225, §2, is further amended to read:

§2754. Fee

Every person licensed as an innkeeper, victualer or tavernkeeper shall pay to the treasurer for the use of the town a fee of \$1 and such reasonable additional amount as the town may by ordinance or bylaw prescribe.

Sec. 53. 30 MRSA §3101 is amended to read:

§3101. License; revocation

The mayor and aldermen of any city or selectmen of any town may, if in their opinion public convenience so requires, license any reputable person, upon the payment of an annual license fee to be fixed by said licensing authority, to maintain a vehicle for the sale of food in such part of any public way and during such hours as the licensing authority may designate, provided public travel is not incommoded thereby. No other or further license shall be required for this purpose. Any such license may be revoked for reasonable cause at any time by the licensing authority. ~~No such license shall be granted to use any part of any public way, the fee in which is not owned by the city or town, against the objection of the owners of the land abutting on that part of the way.~~

Sec. 54. 30 MRSA c. 217, as amended, is repealed.

Sec. 55. 30 MRSA §3553, first ¶ is amended to read:

A municipality may acquire real estate or easements by the condemnation procedure for town ways as provided in Title 23, chapter 304, and may contract with the State Government and Federal Governments Government to comply with requirements imposed by the Federal Government in authorizing any project which has been approved by the Governor for improving harbor and river navigation or preventing property damage by erosion or flood.

Sec. 56. 30 MRSA §3556 is enacted to read:

§3556. Abatement of nuisances

The municipal officers of a municipality may, in the municipality's name, file a complaint in any court of competent jurisdiction requesting the abatement of any public nuisance within the municipality.

Sec. 57. 30 MRSA c. 225, as amended, is repealed.

Sec. 58. 30 MRSA §3802, as amended by PL 1969, c. 536, §1, is further amended to read:

§3802. Preservation of trees along public ways; parkways

For the purpose of preserving and increasing the growth of trees on land abutting any public way or located on uplands adjoining any navigable river or other body of water, municipalities and the municipal officers ~~thereof~~ of the municipalities, acting pursuant to subchapter V, may set aside and define such land located as ~~fore-said~~ previously described, in width not exceeding 5 rods. All trees and shrubs growing on said the land shall be held as for park purposes. It shall be unlawful for the owner in fee of said the land or any other person to injure, remove or destroy such trees or shrubs, except as provided. All proceedings relating to estimating and awarding damages provided in subchapter V are made applicable to proceedings hereunder under this section.

~~Such proceedings may be commenced upon petition in writing signed by at least 30 taxpayers owning taxable real estate in said municipality.~~

Sec. 59. 30 MRSA §3851, first ¶, as amended by PL 1977, c. 52, §1, is further amended to read:

Municipalities may establish conservation commissions. The municipal officers may appoint not less than 3, nor more than 7 conservation commissioners. The terms of office initially shall be one, 2 and 3 years, such that the terms of approximately 1/3 of the members shall expire each year, or until the appointment of their successors, and their successors shall be appointed for terms of 3 years each. Any commissioner presently serving a term greater than 3 years may serve until his term expires. The appointment of his successor shall be for a term of 3 years. Such commission may have the care and superintendence of the public parks and, subject to the approval of the municipal officers, direct the expenditure of all moneys appropriated for the improvement of the same. Such commission shall conduct research, in conjunction with the planning board, if any, into the local land areas and shall seek to coordinate the activities of conservation bodies organized for similar purposes and may advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which in its judgment it deems necessary. It shall keep an index of all open areas, publicly or privately owned, within the municipality, including open marsh lands, swamps and other wet lands, for the purpose of obtaining information pertinent to proper utilization, protection, development or use of such open areas and may recommend to the municipal officers or any municipal body or board, or any body politic or public agency of the State of ~~Maine~~ a program for the better utilization, protection, development or use of such areas, which may include the acquisition of conservation easements. Any body politic or public agency of the State of ~~Maine~~ conducting planning operations with respect to open areas within a municipality having a conservation commission shall notify such conservation commission of all plans and planning operations at least 30 days prior to the implementation of any action ~~thereunder~~ under those plans. A conservation commission may acquire land in the name of the municipality for any of the purposes set forth in this section with the approval of the legislative body. A commission may receive gifts in the name of the municipality for any of its purposes and shall administer the same for such purposes subject to the terms of the gift. It shall keep records of its meetings and activities and shall make an annual report to the municipality ~~to be published as part of the annual municipal report.~~

Sec. 60. 30 MRSA §3862, sub-§6, as enacted by PL 1981, c. 122, is amended to read:

6. Coordinate with other organizations. To coordinate their efforts with those of other local, regional and state organizations.

The commission shall keep records of its meetings and

activities and shall make an annual report to the municipality ~~to be published as part of the annual municipal report.~~ The commission shall also notify the Office of Energy Resources of its formation.

The commission may promote and conduct research, in furtherance of its purposes, in conjunction with the planning board, if any, and in the following areas: Public transportation; van pools and carpools; recycling; solar power; cogeneration; hydro-electric power; energy audits; energy conservation and other activities that will make the municipality more energy self-sufficient through the utilization of renewable energy resources.

Municipal energy commissions may seek technical assistance from the Office of Energy Resources and that office shall notify local energy commissions in writing, of plans and projects that may affect those commissions, if the commission so requests; and

Sec. 61. 30 MRSA §4001, as amended by PL 1965, c. 203, §3, is repealed.

Sec. 62. 30 MRSA §4002, as amended by PL 1975, c. 431, §13, is repealed.

Sec. 63. 30 MRSA §4003, as amended by PL 1969, c. 394, §17, is repealed.

Sec. 64. 30 MRSA §4004 is enacted to read:

§4004. Eminent domain power

A municipality may acquire real estate or easements for any public purpose by using the condemnation procedure for town ways, as provided in Title 23, chapter 304, subject to the following provisions. The limitations set forth in this section do not apply to any taking authorized by any other law.

1. Consent of owner. The municipality may not take any land without the consent of the owner if at the time of the taking the land is occupied by a dwelling house in which the owner or his family resides.

2. Limitation on use. Except as provided in paragraph A, land taken under this section may not be used for any purpose other than the purposes for which it was originally taken.

A. Land in any municipality which is taken for a public park may by authority of a majority vote at a meeting of the legislative body of the municipality be conveyed to the Federal Government to become part of a national park.

Sec. 65. 30 MRSA §4051 is amended to read:

§4051. Planting of trees

~~A sum not exceeding 5% of the amount raised for repair of ways and bridges may be expended by a~~ A road

commissioner may expend funds, under the direction of the municipal officers, ~~in planting to plant~~ trees about public burying grounds, squares and ways, if the town by vote authorizes it.

Sec. 66. 30 MRSA §4052, first ¶, as amended by PL 1973, c. 681, §12, is further amended to read:

Each municipality may each year set aside ~~5%~~ a portion of the money raised and appropriated for ways and bridges, to be used in cutting and removing all trees, shrubs and useless fruit trees, bushes and weeds, except shade trees, timber trees, cared-for fruit trees and ornamental shrubs growing between the road limit and the wrought part of any highway or town way, until all the trees, shrubs and worthless fruit trees, bushes and weeds have been once removed from the limits of such highway or town way, after which the owner of the land adjoining such highway or town way shall each year, before the first day of October, remove all bushes, weeds, worthless trees and grass from the roadside adjoining his cultivated or mowing fields. The municipality shall care for all land not included in the above, except wild land.

Sec. 67. 30 MRSA §4101, first ¶ is amended to read:

Any municipality may by action of its legislative body direct its municipal officers to take suitable lands for public dumping grounds. When so directed, the municipal officers shall ~~proceed in the same manner as used in laying out public ways, except that a fee simple title shall be acquired follow the condemnation procedure for town ways, as provided in Title 23, chapter 304.~~

Sec. 68. 30 MRSA §4358 is amended to read:

§4358. Consent for highway opening

Whoever digs up the ground in a highway or street to lay or repair any drain or common sewer without the written consent of the municipal officers forfeits for each offense ~~\$4~~ \$100 to the town.

Sec. 69. 30 MRSA §4405 is amended to read:

§4405. Repair of private drain and injury on owner's neglect

If a private drain becomes so obstructed or out of repair as to injure any street or highway, and the persons using it, after notice by the road commissioners, unreasonably neglect to repair such injury and the malfunctioning drain, ~~the injury and the drain shall be repaired by the town and the expense thereof of the repair may be recovered to the town in a civil action against any one or more of the persons using such that drain.~~

Sec. 70. 30 MRSA c. 239, sub-c. II, Article 7, as amended, is repealed.

Sec. 71. 30 MRSA §4962-A, sub-§3, as enacted by PL 1981, c. 640, is amended to read:

3. Hearing. A municipality shall, within 30 days of ~~action by the office charged with the enforcement of the zoning ordinance on an application to establish a community living use within a single-family residential zone,~~ hold a public hearing, unless a community living use is a permitted use within the single-family residential zone. The failure to hold the public hearing required by this subsection within the 30 days, unless that time period is extended by mutual agreement of the parties, shall constitute approval of the application.

A. The public hearing shall be conducted by the body authorized by the municipality to act as a zoning board of appeals, and interested parties shall be notified. The notice period and procedure for zoning appeals, as established by the municipality, shall meet the notice requirements of this section.

B. The board of appeals shall receive public comment on the proposed community living use. The board may modify or disapprove the application only upon a finding of one or more of the following:

- (1) That the proposed use would create or aggravate a traffic hazard;
- (2) That the proposed use would hamper pedestrian circulation;
- (3) That the proposed use would not permit convenient access to commercial shopping facilities, medical facilities, public transportation, fire protection or police protection;
- (4) That the proposed use would not be in conformance with applicable building, housing, plumbing and other safety codes, including municipal minimum lot size and building set-back requirements for new construction; or
- (5) That the proposed use would not be in conformance with the density requirements of subsection 4.

Sec. 72. 30 MRSA §5355, sub-§1-A is enacted to read:

1-A. Write-in votes. In a city election, a voter may write in or paste a sticker with the name and municipality of residence of any person for whom the voter desires to vote in the blank space provided at the end of the list of candidates for office. A sticker may not be used to vote for a write-in candidate in any election other than a primary election.

PART B

Sec. 1. 30 MRSA §2061, sub-§2, ¶A is amended to read:

A. The municipal officers in the warrant for a town meeting under this section may designate the date of the election and designate the next succeeding sec-

lar day another date within 14 days of the date set for elections as the time for considering the other articles of business in the warrant.

Sec. 2. 30 MRSA §4751, 5th ¶, as amended by PL 1985, c. 737, Pt. A, §87, is repealed.

Sec. 3. 30 MRSA §5623 is enacted to read:

§5623. Land taken for parks, squares, open areas, public libraries and playgrounds

A plantation may acquire real estate or easements by using the condemnation procedure for town ways, as provided in Title 23, chapter 304, subject to the following provisions. The limitations set forth in this section do not apply to any taking authorized by any other law.

1. Purposes. A plantation may acquire real estate or easements under this section for the following purposes:

- A. Public parks;
- B. Squares;
- C. Open areas, as defined in section 3851;
- D. Playgrounds;
- E. Buildings for plantation purposes; or
- F. A public library building.

2. Limitation on use. Except as provided in paragraph A, land taken under this section may not be used for any purpose other than the purposes for which it was originally taken.

A. Land in any plantation which is taken for a public park, by authority of a majority vote of the plantation, may be conveyed to the Federal Government to become part of a national park.

3. Consent of owner required. A plantation may not take any land without the consent of the owner if at the time of the taking the land is occupied by a dwelling house in which the owner or the owner's family resides.

Sec. 4. 30 MRSA §5901, sub-§§5 and 6, as enacted by PL 1983, c. 471, §14, are amended to read:

5. Administrative services. Coordination of services provided, payment of expenses, administration of the unorganized territory fund. The amount charged for administrative services shall not exceed 5% of the budget for the year; and

6. Other services. Any other service which a municipality may provide for its inhabitants and which is not provided by the State; and

Sec. 5. 30 MRSA §5901, sub-§7 is enacted to read:

7. Law enforcement. Law enforcement.

Sec. 6. 37-B MRSA §782, first ¶, as enacted by PL 1983, c. 460, §3, is amended to read:

A director shall be appointed for each local civil preparedness agency. A director of a civil emergency preparedness agency shall not be at the same time an executive officer or member of the executive body of a political subdivision municipality or interjurisdictional or regional agency of the State or a county commissioner. A director may be removed by the appointing authority for cause.

PART C

Savings clause. Nothing in this Act may be construed to affect any substantive right or obligation gained by any person under the provisions of any law repealed or amended by this Act. All substantive rights and obligations created under the provisions of any law repealed or amended by this Act shall continue in effect. This Act does not apply to any action or proceeding pending on or filed after the effective date of this Act which arises out of any action or failure to act occurring before the effective date of this Act.

All actions taken before the effective date of this Act which were in compliance with provisions repealed or amended by this Act shall be deemed to have been taken in compliance with the provisions of this Act. All ordinances, regulations, bylaws or other official action taken under provisions repealed or amended by this Act shall continue in effect until repealed or amended, except for those which are contrary to the provisions of this Act.

All officers, officials or other persons elected, appointed, hired or otherwise selected to act in any capacity under provisions repealed or amended by this Act shall continue in that capacity under the provisions of this Act.

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

Effective February 26, 1988.

CHAPTER 583

H.P. 384 — L.D. 506

AN ACT to Clarify the Home Rule Authority of Municipalities.

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

Whereas, several court decisions have shown that

municipal home rule is not being implemented to the extent originally intended by the Legislature; and

Whereas, the effective implementation of municipal home rule is of vital importance to municipalities in the State, as well as, to the health, safety and well being of the citizens of the State; and

Whereas, a recodification of the local government laws of the State is pending, and it is desirable to enact legislation clarifying the home rule authority of municipalities before the recodification is enacted in order to provide a smooth transition under the recodification; 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. 23 MRSA §3651, sub-§1 is enacted to read:

1. Legal objects not defects. Trees, structures and other things which exist in accordance with municipal ordinances are not defects in a public way.

Sec. 2. 26 MRSA §612-A is enacted to read:

§612-A. Municipal licensing

This subchapter shall not be construed to prevent a municipality from acting under its home rule authority granted by Title 30, section 2151-A and by the Constitution of Maine, Article VIII, Part Second, to license or regulate the business of employment agencies or to require a bond.

Sec. 3. 26 MRSA §613, sub-§2, as enacted by PL 1985, c. 623, §1, is amended to read:

2. Civil action. An action may be brought by the injured party, the Attorney General, the Department of Labor or any municipality which has issued a license to the employment agency under Title 30, section 2601-A in accordance with section 612-A.

Sec. 4. 30 MRSA §1901, sub-§4-A is enacted to read:

4-A. Home rule authority. "Home rule authority" means the powers granted to municipalities under chapter 201-A, section 2151-A and the Constitution of Maine, Article VIII, Part Second.

Sec. 5. 30 MRSA §1903, first ¶, is amended to read:

A municipality may receive This section governs a municipality's receipt of money or other property in trust for any specified municipal, benevolent, religious or educational purpose.