

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

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

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

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

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

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

Effective May 4, 1989.

CHAPTER 106

S.P. 252 - L.D. 642

An Act to Amend the Lake Watershed District Enabling Laws

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

Whereas, municipalities wishing to form a lake watershed district for the next fiscal year need to act before the end of the current legislative session; 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. 38 MRSA §2001, as enacted by PL 1987, c. 711, is amended to read:

§2001. Watershed districts authorized

Watershed districts may be created pursuant to this section to protect, restore and maintain the water quality of great ponds and to manage and conserve the land and water resources of watersheds of great ponds within the jurisdictions of these districts. The terms "watershed district" and "lake management district" are used interchangeably in this chapter. The term "participating water district," as used in this chapter, means a water district, as defined by Title 35-A, section 6101, subsection 3, included in the application provided for by section 2002.

Sec. 2. 38 MRSA §2002, sub-§§1, 4, 5 and 6, as enacted by PL 1987, c. 711, are amended to read:

1. Application. The municipal officers of the municipality or municipalities, or portions thereof of the municipality or municipalities, or the residents of unorganized territory ~~that~~ who desire to form a watershed district shall file an application with the Board of Environmental Protection on a form or forms to be prepared by the board, setting forth the name or names of the municipality or municipalities, or portions thereof of the municipality or municipalities, or, in the case of residents of unorganized territory, the names of those residents that propose to be included in the district and they shall furnish such other data as the board may determine necessary and proper. The

application shall contain, but not be limited to, a description of the territory of the proposed district, the names of water districts which utilize water from surface or ground water supplies within the territory of the proposed district, the name proposed for the district which shall include the words "watershed district" or "lake management district" and a statement showing the existence in such territory of the need for a coordinated approach to lake watershed management as provided in this chapter.

4. Approval of application. After the public hearing on the evidence received at the hearing, the board shall make findings of fact and conclusions and determine of record whether or not the conditions requisite for the creation of a watershed district exist in the territory described in the application. If the board finds that such conditions do exist, it shall issue an order approving the proposed district as conforming to the requirements of this chapter and designating the name of the proposed district. The board shall give notice to participating water districts, the municipal officers within the municipality or municipalities involved and, when unorganized territory is involved, to the persons signing the application mentioned in subsection 1 and the commissioners of the county in which the unorganized territory is located of a date, time and place of a meeting of the municipal officers of the municipality or municipalities involved and, when unorganized territory is involved, a joint meeting of all the persons signing the application mentioned in subsection 1 and the commissioners of the county in which the unorganized territory is located. The notice shall be in writing and sent by registered or certified mail, return receipt requested, to the addresses shown on the application mentioned in subsection 1 and, in the case of county commissioners, to the addresses of those commissioners obtained from the county clerk. A return receipt properly endorsed shall be evidence of the receipt of notice. The notice shall be mailed at least 10 days prior to the date set for the meeting.

5. Denial of application. If the board, after that public hearing, determines that the creation of a watershed district in the territory described in the application is not warranted for any reason, it shall make findings of fact and conclusions and enter an order denying its approval. The board shall give notice of that denial by mailing certified copies of the decision and order to participating water districts, the municipal officers of the municipality or municipalities involved and, when unorganized territory is involved, to the persons signing the application mentioned in subsection 1 and the commissioners of the county in which the unorganized territory is located. No application for the creation of a watershed district, consisting of exactly the same territory, may be entertained within one year after the date of the issuance of an order denying approval of the formation of that watershed district, but this provision shall not preclude action on an application for the creation of a watershed district embracing all or part of the territory described in the original application, provided that another municipality or fewer municipalities, or other or fewer sections thereof, are involved or that a different area of unorganized territory is involved or, in the case of an application made solely by residents of unorganized territory, that an allegation of change in circumstances from those existing on

the date of the previous application must be furnished to the board with the resubmitted application.

6. Joint meeting. The persons, other than participating water districts, to whom the notice described in subsection 3 is directed shall meet at the time and place appointed. When more than one municipality or unorganized territory is involved, the persons shall organize by electing a chairman and a secretary. No action may be taken at any such meeting unless, at the time the meeting is convened, there are present at least 1/2 of the total number of municipal officers eligible to attend and participate at the meeting and, when the proposed district includes or is composed solely of unorganized territory, at least 2/3 of the persons signing the application mentioned in subsection 1 and at least 2 commissioners of the county in which the unorganized territory is located, other than to report to the Board of Environmental Protection that a quorum was not present and to request the board to issue a new notice for another meeting. The purpose of the meeting shall be to determine a fair and equitable number of trustees, subject to section 2004, to be elected by and represent each participating municipality or, in the case of unorganized territory, the residents of that territory within the bounds of the proposed district. When a decision has been reached on the number of trustees and the number to represent each municipality or the residents of the unorganized territory within the bounds of the proposed district, subject to the limitations provided, this decision shall be reduced to writing by the secretary and must be approved by a 2/3 vote of those present. When 2 or more municipalities are, or unorganized territory is, involved, the vote so reduced to writing and the record of the meeting shall be signed by the ~~chairman~~ chair and attested by the secretary and filed with the board. When a single municipality is involved, a copy of the vote of the municipal officers duly attested by the clerk of the municipality shall be filed with the board.

Sec. 3. 38 MRSA §2002, sub-§6-A is enacted to read:

6-A. Water district representation. The trustees of each participating water district shall annually appoint one water district official or staff person to serve as a trustee of the watershed district for a one-year term.

Sec. 4. 38 MRSA §2003, as enacted by PL 1987, c. 711, is amended to read:

§2003. Approval and organization

When the residents of the municipality or each municipality, when more than one is involved, or the unorganized territory within the proposed watershed district have voted upon the formation of a proposed watershed district and all of the other questions submitted therewith, the clerk of each municipality and, when the proposed district includes unorganized territory, the county clerk shall make a return to the Board of Environmental Protection in such form as the board determines. If the board finds from the returns that a majority of the residents within each of the municipalities involved and, when the proposed district includes unorganized territory, that a majority of the residents of the

unorganized territory within the proposed watershed district, voting on each of the articles and questions submitted to them, have voted in the affirmative and have elected the necessary trustees and the names of those elected to represent each municipality, or the residents of the unorganized territory within the proposed watershed district, that each participating water district has appointed a trustee as provided by section 2002, subsection 6-A, and that all other steps in the formation of the proposed watershed district are in order and in conformity with law, the board shall make a finding to that effect and record the same upon its records. The board shall, immediately after making its findings, issue a certificate of organization in the name of the watershed district in such form as the board determines. The original certificate shall be delivered to the trustees on the day that they are directed to organize and a copy of the certificate duly attested by the Commissioner of Environmental Protection shall be filed and recorded in the Office of the Secretary of State. The issuance of that certificate by the board shall be conclusive evidence of the lawful organization of the watershed district. The watershed district shall not be operative until the date set by the board under section 2006.

Sec. 5. 38 MRSA §2004, sub-§1, as enacted by PL 1987, c. 711, is amended to read:

1. Authorization. All the affairs of a watershed district shall be managed by ~~an elected~~ a board of trustees ~~which~~. The board shall consist of not less than 3 trustees, or not less than 5 trustees in watershed districts involving more than one municipality or one or more municipalities and residents of an unorganized territory. In addition, the board shall consist of one trustee representing each participating water district. Trustees, other than those representing participating water districts, shall be elected in accordance with this chapter. The exact number of trustees shall be determined in accordance with section 2002. A watershed district may alter the number of trustees by submitting the proposed alteration to the voters in the same manner as provided in section 2002, subsection 7. No municipality nor unorganized territory within any watershed district may have less than one trustee. A quorum of the trustees may conduct the affairs of the district even if there is a vacancy on the board of trustees.

Sec. 6. 38 MRSA §2005, first ¶, as enacted by PL 1987, c. 711, is amended to read:

Trustees Except for trustees representing participating water districts, whose selection is governed by section 2002, subsection 6-A, trustees shall be nominated and elected in the same manner as municipal officers are nominated and elected under Title 30 Title 30-A, or in accordance with a municipal charter, whichever is applicable; or, in the case of unorganized territory, in accordance with the procedure for the organization of larger townships set forth in Title 30, section 5602 Title 30-A, section 7001. Upon receipt of the names of all the trustees, the Board of Environmental Protection shall set a time, place and date for the first meeting of the trustees, notice of the meeting to be given to the trustees by certified or registered mail, return receipt requested, mailed at least 10 days prior to the date set for the meeting, to determine the length of their terms. ~~The Except~~

for trustees representing water districts whose term is set by section 2002, subsection 6-A, the terms shall be determined by lot in accordance with the following table:

TERM

Total number of trustees	1 year	2 years	3 years
5	1	2	2
6	2	2	2
7	2	2	3
8	2	3	3
9	3	3	3
10	3	3	4
11	3	4	4
12	4	4	4
13	4	4	5
14	4	5	5
15	5	5	5
16	5	5	6
17	5	6	6
18	6	6	6

The trustees shall enter on their records the determination so made. The trustees shall serve their terms as determined at the organizational meeting, except that, in the case of trustees representing a municipality, those trustees shall serve an additional period until the next regular election of the municipality and, thereafter, those trustees' terms of office shall date from the time of each regular municipal election; and except that, in the case of trustees representing residents of unorganized territory, those trustees shall serve until an election to fill the vacancies caused by the expiration of their terms shall be called by the county commissioners. The commissioners shall call the election in the same manner provided for the initial election of trustees and cause that election to be held on a date as closely following the date upon which the terms expire.

Sec. 7. 38 MRSA §2005, as enacted by PL 1987, c. 711, is amended by adding after the 2nd paragraph a new paragraph to read:

At the first organizational meeting, the trustees shall determine the percentage of the watershed district's operating budget to which each participating water district shall contribute. Any contributions paid by a participating water district shall be recovered, with carrying costs, in the district's next rate case. The agreed upon contribution of a participating water district may not be changed during the fiscal year unless the participating water district approves the change. The percentage contribution of a participating water district may be reviewed and changed by the trustees at the end of the fiscal year.

Sec. 8. 38 MRSA §2008, sub-§4, as enacted by PL 1987, c. 711, is amended to read:

4. Budget approval. The trustees shall thoroughly explain the proposed budget and the voters of the district shall be given an opportunity to be heard. ~~A budget must be approved by the voters of the district at the district budget meeting.~~ At the district budget meeting, only those items

dealing with the expenses necessary to operate the district, appropriations for a reserve fund and capital outlay shall be subject to change by the voters. ~~If a budget for the operation of the district is not approved prior to July 1st in any year, the budget as submitted by the trustees for operational expenses, reserve fund and capital outlay purposes shall be automatically considered the budget approved for operational expenses in the ensuing fiscal year. The initial budget submitted by the trustees of the watershed district following the district's formation and organization must be approved by the voters at the district budget meeting. If the initial budget is not approved by July 1st, the trustees shall make as many revisions and conduct as many meetings as necessary to secure budget approval by the voters. If a budget for the operation of the district is not approved prior to July 1st in any following year, the previous fiscal year's budget shall automatically be considered the approved budget for that fiscal year.~~

Sec. 9. 38 MRSA §2010, sub-§1, as enacted by PL 1987, c. 711, is amended to read:

1. Method. Following adoption of the district budget, the trustees shall issue their warrants, in substantially the same form as the warrant of the Treasurer of State, for taxes to each participating municipality requiring it to pay its proportionate part of the district budget. Each municipality's proportionate part of the budget shall be based upon its percentage of shoreline frontage on the great ponds within the district's territory, or an alternative method unanimously agreed upon by all the municipalities.

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

Effective May 5, 1989.

CHAPTER 107

H.P. 471 - L.D. 636

An Act to Amend the Truck Laws

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

29 MRSA §244, sub-§4, as amended by PL 1987, c. 781, §§2 and 15, and as repealed and replaced by PL 1987, c. 789, §8, is repealed and the following enacted in its place:

4. Maximum length limits. The following maximum length limits shall apply.

A. No vehicle may exceed a length of 45 feet overall, including all structural parts of the vehicle, permanent or temporary, and any load carried on or in the vehicle.

B. A combination of truck tractor and full trailer or truck tractor and semitrailer shall not exceed 65 feet