

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
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J.S. McCarthy Company
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1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

The commission shall keep a permanent record of all permits issued. The commission may promulgate rules establishing the form and content of transportation permits and governing the means of their issuance and establishing the record-keeping functions of the commission and the owners.

2. Permits subject to forgery laws. Every permit specified under this section is deemed to be a written instrument subject to the laws of forgery.

3. Violation. Any person who transports blueberries in violation of this section is guilty of a Class E offense. Any other violation of this section is a civil violation punishable by a fine of not more than \$500.

4. Exceptions. A person is not guilty of transporting blueberries without a transportation permit if:

A. The person is transporting blueberries that were not harvested in this State; or

B. That person purchased the blueberries at a store, farm stand, produce market or other retail outlet.

§4316. Receivers of blueberries

1. Record keeping required. Any person who receives blueberries must keep a permanent record of each lot or load of blueberries received. The record shall include the name of the driver of the vehicle used to deliver the blueberries, the date of delivery, the delivery point, the number of the transportation permit, the driver's license number and the total pounds of blueberries delivered.

2. Inspection of permit required. It shall be unlawful for any person to receive or accept delivery of any blueberries in lots of greater than 5 pounds without first inspecting the transportation permit of the driver of the vehicle used to deliver the blueberries and recording the transportation permit number in accordance with subsection 1 of this section.

3. Violation. The failure to keep the permanent records of blueberries received as required in this section or failure to inspect the transportation permit of a driver of a vehicle used to deliver blueberries is a civil violation punishable by a fine of not more than \$1,000.

4. Audits. The Maine Blueberry Commission may request the Department of Agriculture, Food and Rural Resources to conduct, through its staff, audits of the records kept pursuant to this section for the purpose of ascertaining compliance with this section. Any documents inspected or taken by the department in furtherance of the audit functions or any other information collected by the department pursuant to the audits shall be kept confidential notwithstanding anything to the contrary contained in Title 1, chapter 13, subchapter I. The confidential status shall not apply to any documents, records or information which become evidence in any criminal proceeding to enforce any law under this chapter or any other criminal law.

§4317. Authorized law enforcement

State police, county sheriffs and their deputies, municipal enforcement officers, state forest rangers and game wardens are authorized to make inspections, conduct investigations, make arrests and otherwise enforce this chapter.

§4318. Sunset provision

Sections 4314 to 4317 are repealed on July 1, 1991.

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

Effective June 2, 1989.

CHAPTER 215

H.P. 783 - L.D. 1095

An Act to Reduce Administrative Burdens on County Jails

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

17-A MRSA §1254, sub-§2-A is enacted to read:

2-A. If the length of the unsuspended portion of a prisoner's term of imprisonment is 8 days or more, a prisoner sentenced to a county jail may be released at any time on the final day of imprisonment, in accordance with jail release procedures; otherwise, the prisoner shall not be released until the prisoner has served the full term of hours or days imposed by the court.

See title page for effective date.

CHAPTER 216

H.P. 223 - L.D. 303

An Act to Establish a Process for the Deorganization of Municipalities and Plantations

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

Whereas, the provisions of the Maine Revised Statutes, Title 30-A governing Maine municipalities become effective on March 1, 1989; and

Whereas, there is no consistent, objective or carefully developed process by which municipalities deorganize and become part of the unorganized territory; and

Whereas, on many occasions, the representative views of the general public have not been involved in the current informal deorganization process which has created considerable controversy in these municipalities; and

Whereas, the current informal process of deorganization substantially taxes the time and resources of the executive and legislative branches; and

Whereas, the interest in municipal deorganization has substantially increased in the last 2 years and needs to be addressed as quickly as possible; and

Whereas, a consistent and well-conceived municipal deorganization process established by law would make the process significantly more efficient and much less demanding on the executive and legislative branches of State Government; 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. 5 MRSA §12004-L, sub-§5 is enacted to read:

5. Commission on Municipal Deorganization	Legislative Per Diem County Commissioner Only	30-A MRSA §7206
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Sec. 2. 30-A MRSA c. 302 is enacted to read:

CHAPTER 302

DEORGANIZATION OF MUNICIPALITIES AND PLANTATIONS

§7201. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Commission. "Commission" means the Commission on Municipal Deorganization as described in section 7206.

2. Executive director. "Executive director" means the Executive Director of the Legislative Council.

3. Local committee. "Local committee" means the local deorganization committee created under section 7203.

4. Municipality. "Municipality" means a city, town, village or plantation with a population of more than 50 people.

§7202. Petition for deorganization meeting

The voters of any municipality may petition for consideration of deorganization of the municipality by following the petition procedure of section 2528, subsection 5. On the written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial election, but in no case less than 10, requesting a municipal meeting for the purpose of discussing and determining whether the municipality should deorganize, the municipal officers shall call and hold a special meeting in the manner provided for the calling and holding of town meetings or city elections to discuss deorganization of the municipality and to decide whether to develop a deorganization procedure.

The municipal officers shall also publish notice of the meeting in a newspaper of general circulation in the area. One notice shall be published as close to the 14th day before the meeting as possible, and the 2nd notice shall be published as close to the 7th day before the meeting as possible.

§7203. Deorganization meeting

The deorganization meeting shall be conducted in accordance with section 2524. The agenda of the meeting shall consist exclusively of the following.

1. Discussion and reasons for deorganization. Discussion of deorganization and its impact on the residents of the municipality shall take place and the reasons for deorganizing shall be established and placed before the voters.

2. Voting on question to develop deorganization procedure. A vote shall be taken on the question of whether the municipality shall continue to pursue the process for deorganizing by developing a deorganization procedure which must be approved by the voters under sections 7207 and 7209.

3. Creation of local deorganization committee. If the majority of voters present and voting at this meeting approve the question to develop a deorganization procedure as provided in subsection 2, a local deorganization committee shall be created to develop the deorganization procedure. The local committee shall consist of the following 5 members:

A. One municipal officer selected by the municipal officers;

B. One member of the local school board or committee selected by that board or committee, if one exists, or one member of a school board or committee who represents the municipality in a multi-municipality school administrative unit, selected by those members who represent the municipality upon that board or committee; and

C. Three voters of the municipality, nominated and elected by the voters at the same town meeting or

election which approved the development of a deorganization procedure.

§7204. Notice to Legislature and fiscal administrator

If the voters approve the question to develop a deorganization procedure, the moderator shall notify the fiscal administrator of the unorganized territory within the Department of Audit and the executive director. The notice shall report the results of the deorganization meeting and provide the reasons for deorganization of the municipality.

1. Notice to Legislature. The executive director shall provide a copy of the notice to the joint standing committee of the Legislature having jurisdiction over local government matters.

2. Notice to commission. The fiscal administrator shall provide a copy of the notice to the commission.

§7205. Deorganization procedure

The local committee, with the assistance of the commission, shall develop a deorganization procedure which, at a minimum, shall consist of the following components.

1. Effective date. The deorganization procedure shall establish a date on which deorganization will be effective.

2. Provision of educational services. The deorganization procedure shall provide for educational services, including school transportation services for all students in the municipality for which deorganization is proposed.

A. The Commissioner of Educational and Cultural Services is responsible for implementing this subsection for incorporation in the deorganization procedure.

B. The allowable tuition rate for students sent from one municipality to another in the former school administrative district shall be determined under Title 20-A, section 5805, subsection 1, except that it is not subject to the state per pupil average limitation in Title 20-A, section 5805, subsection 2.

C. School transportation services are subject to Title 20-A, chapter 215.

3. Distribution of financial liabilities and assets. The deorganization procedure shall provide for the distribution of all financial and other intangible liabilities and assets of the municipality, including liabilities and assets held by the municipality in any other political subdivision that are affected by the deorganization. These assets and liabilities include, but are not limited to, outstanding bonds, notes and any other contractual obligations that extend beyond the proposed date of deorganization.

A. The commission is responsible for determining these assets and liabilities and incorporating these provisions in the deorganization procedure.

B. Distribution of these assets and liabilities shall be in accordance with chapter 303.

4. Distribution of tangible assets and liabilities. The deorganization procedure shall provide for the distribution of all real and personal property and other tangible assets of the municipality, including real and personal property held by the municipality in any other political subdivision that is affected by the deorganization.

A. The State Tax Assessor is responsible for the identification of all real and personal municipal property in the municipality and the appropriate distribution of this property.

B. This distribution shall be in accordance with chapter 303.

5. Comprehensive land use planning and zoning. For municipalities not under the jurisdiction of the Maine Land Use Regulation Commission, the Maine Land Use Regulation Commission shall prepare a zoning map of the municipality within one year of the effective date of deorganization.

6. Information about municipality. The deorganization procedure shall include, at a minimum, the following information:

A. An explanation of the road network and costs to the municipality for road construction and maintenance for the most recent fiscal year;

B. Population information, consisting of population changes since the latest Federal Decennial Census and any other population information, including ages of the population, numbers of households and similar information;

C. Personal income, including individual and household income and changes in personal income derived from the United States Bureau of Census data and state agency estimates;

D. Property tax assessments and revenues, including amounts of land subject to reduced tax assessments and changes in tax rates and property valuation;

E. An explanation of the current services provided by the municipality and the impact of deorganization on these services; and

F. The status of leadership in the municipality, including municipal officers, school board members, planning board members, road commissioners, social welfare officials and similar officials.

In developing the deorganization procedure, the local committee shall work closely with the commission. The local committee shall submit the proposed deorganization procedure to the commission for review within 90 days of the meeting at which the voters approved the formulation of a deorganization procedure. If the local committee fails to develop a deorganization procedure within this period, the commission shall develop a procedure for the municipality and perform the duties of the local committee in submitting the procedure to the voters of the municipality.

§7206. Commission on Municipal Deorganization

The Commission on Municipal Deorganization, as established in Title 5, chapter 379, shall assist local deorganization committees in formulating deorganization procedures. In addition, the commission shall review these deorganization procedures as provided in this chapter.

1. Membership. The commission shall consist of the following 5 members:

A. The associate commissioner for the Bureau of School Management or the associate commissioner's designee within the Department of Educational and Cultural Services;

B. The fiscal administrator of the unorganized territory within the Department of Audit or the administrator's designee;

C. The State Tax Assessor or the assessor's designee;

D. The director of the Maine Land Use Regulation Commission or the director's designee; and

E. The county commissioner whose district includes the municipality which is considering deorganization.

2. Responsibilities. The commission shall:

A. Assist municipalities in preparing deorganization procedures and provide the information required in section 7205;

B. Review each deorganization procedure and provide comments and suggestions with respect to the procedure;

C. Recommend alternatives to deorganization if the commission finds that feasible alternatives exist;

D. Within 30 days after receiving the proposed deorganization procedure, provide copies of its review and comments on the deorganization procedure to the municipal officers, the local deorganization committee and to the executive director, who shall provide it to the joint standing committee of the Legislature having jurisdiction over local government matters; and

E. Develop a deorganization procedure, as provided in section 7205, subsection 6, for a municipality whose local deorganization committee fails to do so.

3. Chair. The 4 commission members who are state officials shall annually elect a chair from among those state officials.

4. Fiscal agent. The fiscal administrator of the unorganized territory within the Department of Audit shall be the fiscal agent for the commission.

§7207. Public hearing and meeting on deorganization procedure

The local committee may incorporate the comments and suggestions received from the commission into the deorganization procedure. The local committee shall immediately notify the municipal officers when the deorganization procedure has been completed.

1. Public hearing. The municipal officers shall hold a public hearing on the proposed deorganization procedure at least 14, but not more than 30, days before the municipal meeting or election called by the municipal officers under subsection 2.

A. At least 14 days before the public hearing, the municipal officers shall announce the public hearing in the same manner as provided for the calling of town meetings or city elections. The municipal officers shall also publish notice of the hearing in a newspaper of general circulation in the area. One notice shall be published as close as possible to the 14th day before the hearing, and the 2nd notice shall be published as close as possible to the 7th day before the hearing.

B. If any of the comments and suggestions of the commission have not been incorporated in the deorganization procedure, the local committee shall present these comments and suggestions for discussion at the public hearing.

2. Deorganization approval vote. After receiving notice from the local committee that the deorganization procedure is complete, the municipal officers shall immediately call and hold a special meeting in the manner provided for the calling and holding of town meetings or city elections to vote on the proposed deorganization. The municipal officers shall also publish notice of the meeting in a newspaper of general circulation in the area. One notice shall be published as close as possible to the 14th day before the meeting, and the 2nd notice shall be published as close as possible to the 7th day before the meeting. If a majority of the voters approve the deorganization procedure as presented or amended, the local deorganization committee shall send a copy of the proposed procedure to the commission and to the executive director who shall forward the comments to the joint standing committee of the Legislature having jurisdiction over local government matters. If the

deorganization procedure approved at the hearing is not different from the one provided to the commission under section 7205, the local deorganization committee shall notify the commission that the voters approved the procedure as presented by the committee.

3. Commission review. The commission shall review the deorganization procedure. If it is different from the procedure presented to the commission under section 7205, the commission shall send a copy of its comments on the amended procedure to the local deorganization committee, the municipal officers and the executive director who shall forward the comments to the joint standing committee of the Legislature having jurisdiction over state and local government matters.

§7208. Approval by the Legislature

Any municipality which has approved a deorganization procedure under section 7207 shall request and must obtain approval by the Legislature before seeking approval by the voters of the municipality under section 7209.

§7209. Final approval by the voters

If the Legislature approves the deorganization, the question concerning deorganization shall be presented to the voters of the municipality in the next general election to be held in November. The election shall be called, advertised and conducted according to section 2528 or 2551.

1. Question posed to voters. The municipal clerk shall prepare the ballots on which the following question shall appear:

"Shall the (name of municipality) be deorganized?"

2. Requirements for approval. The voters shall indicate their opinion on this question by a cross or check mark placed against the word "Yes" or "No." Before becoming effective, the deorganization must be approved by at least 2/3 of the voters voting in the general election and the total number of votes cast for and against deorganization at the election must equal or exceed 50% of the total number of votes cast in the municipality for Governor at the last gubernatorial election.

3. Declaration of results. The municipal officers shall declare the result of the vote. The municipal clerk or the assessors of plantations shall file a certificate of the election result with the Secretary of State within 10 days of the election.

§7210. Process for municipalities with a population of 50 or fewer

Municipalities with a population of 50 or fewer may follow the entire process established in this chapter. Following voter approval to pursue the process of deorganization under section 7203, subsection 2, municipalities with a population of 50 or fewer may request the commission to develop the deorganization procedure for the municipality. Municipalities which request the commission to develop the

deorganization procedure are subject to sections 7202; 7203, except subsection 3; 7204; 7208; and 7209.

1. Approval by voters. The commission shall notify the municipal officers that a deorganization procedure has been developed. The municipal officers shall immediately call and hold a public hearing and municipal meeting as provided in section 7207 for the purpose of presenting information to the voters with respect to deorganization and any alternatives to deorganization prepared by the commission for a municipality. If a majority of the voters approve the deorganization procedure at the municipal meeting, the municipality shall request and must obtain approval by the Legislature as described in section 7208 and approval by the municipal voters under section 7209.

§7211. Calling of meeting if officers refuse

If the municipal officers refuse to call any municipal meeting required by this chapter, a meeting may be called as provided in section 2521, subsection 4.

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

Effective June 2, 1989.

CHAPTER 217

H.P. 1039 - L.D. 1450

An Act Concerning the Location of Lobster Trap Vents

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

Whereas, lobster trap vents are required in lobster traps to allow undersized lobsters to escape the traps; and

Whereas, the current law specifies where those lobster trap vents must be located in the lobster trap; and

Whereas, more flexibility can be allowed in the current law regarding the location of those vents and still allow undersized lobsters to escape easily; and

Whereas, many lobster traps will have to be rebuilt or discarded if the law is not changed; and

Whereas, failure to make this change quickly will result in unnecessary economic hardship to the lobster industry; 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,