

# 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.

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J.S. McCarthy Company  
Augusta, Maine  
1989

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**1989**

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

12 MRSA §7573 is enacted to read:

§7573. Illegal use of antifreeze

Adding substances containing ethylene glycol or other antifreeze agents to the waters of this State is a violation of Title 38, section 413.

See title page for effective date.

## CHAPTER 233

S.P. 186 - L.D. 343

### An Act to Include Sheriffs' Deputies in the Maine Tort Claims Act

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

14 MRSA §8102, sub-§1, as repealed and replaced by PL 1987, c. 769, Pt. A, §52, is amended to read:

1. **Employee.** "Employee" means a person acting on behalf of the governmental entity in any official capacity, whether temporarily or permanently, and whether with or without compensation from local, state or federal funds, including elected or appointed officials; volunteer firefighters as defined in Title 30, section 3774; Title 30-A, section 3151; emergency medical service personnel; ~~and~~; Maine National Guardsmen while receiving state active duty pay under Title 37-B, section 143, in accordance with Title 37-B, sections 181 to 183 and 742, and while engaged in the Domestic Action Program; and sheriffs' deputies as defined in Title 30-A, section 381 when they are serving orders pursuant to section 3135, but the term "employee" shall not mean a person or other legal entity acting in the capacity of an independent contractor under contract to the governmental entity.

See title page for effective date.

## CHAPTER 234

H.P. 369 - L.D. 500

### An Act to Amend the Low-level Radioactive Waste Authority Laws

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

Whereas, hospital waste that is stored on site for decay within 3 years and is not shipped out of state should be exempt from the assessment for funding the administra-

tive costs of the Low-level Radioactive Waste Commission; and

Whereas, assessments for hospitals are due in June; 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:

38 MRSA §1534-A, sub-§3 is enacted to read:

3. Fee exemptions. Generators shall be exempt from the service fee assessed pursuant to subsection 1 if the generator generates the following types of low-level radioactive waste:

A. Waste which is authorized by the United States Nuclear Regulatory Commission as of January 1, 1989, for disposal without regard to radioactivity;

B. Waste which is authorized by the United States Nuclear Regulatory Commission to be stored for up to 3 years at the site of generation for decay and ultimate disposal without regard to radioactivity; and

C. Radioactive waste or other material, including, but not limited to, sealed radioactive sources, which is returned to the vendor.

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

Effective June 6, 1989.

## CHAPTER 235

S.P. 245 - L.D. 575

### An Act to Amend the Records Management Laws

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

**Sec. 1. 5 MRSA §95, sub-§9,** as enacted by PL 1973, c. 625, §16, is amended to read:

**9. Destruction of records.** To authorize and receive confirmation of the destruction of the records of any state department which, in the opinion of the head of the department, are no longer of value to the department, and which, in the opinion of the State Archivist and the Archives Advisory Board, have no archival value to the State;

**Sec. 2. 5 MRSA §95, sub-§10-C,** as enacted by PL 1973, c. 625, §16, is amended to read:

**10-C. Legislative records.** The Secretary of the Senate and the Clerk of the House of Representatives shall obtain the noncurrent records of the Legislature and of each committee thereof at the close of each Legislature and transfer them to the Maine State Archives for preservation, subject to the orders of the Senate or the House of Representatives, respectively, and subject to schedules established in consultation with the Executive Director of the Legislative Council;

**Sec. 3. Joint review and report.** The Maine State Archives, the Bureau of Purchases and the Office of Information Services shall jointly review and determine the requirements to ensure the appropriate management, retention and disposition of record series established through the use of automated media. The review shall address the availability of information to the Maine State Archives concerning automated media conversion and storage equipment, and record series that are established. The review shall examine the functions and authority of the 3 organizations to determine how a combined effort may best provide the assurance necessary for appropriate automated media records management by the Maine State Archives. A joint report shall be prepared and submitted to the Joint Standing Committee on State and Local Government by January 31, 1990, outlining the findings of the review, noting regulatory and administrative measures taken and recommending any further legislation which may be necessary.

See title page for effective date.

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## CHAPTER 236

S.P. 260 - L.D. 650

### An Act to Provide for the Merger of Bargaining Units Represented by a Single Bargaining Agent under the Municipal Employees Labor Relations Law

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

26 MRSA §966, sub-§4 is enacted to read:

**4. Unit merger; same bargaining agent.** If there is the same certified or currently recognized bargaining representative of public employees in multiple bargaining units with the same public employer, the public employer or certified or recognized bargaining representative may file a petition with the executive director to merge those bargaining units. Upon the finding of the executive director or the director's designee that the expanded unit would conform with the requirements set forth in this section, the executive director shall order an election within each bargaining unit to determine whether a majority of the employees voting in each bargaining unit wish to be within the expanded unit. The only question on the ballot in a merger election shall be approval or disapproval of the proposed merger. The executive director or the director's designee shall certify the bargaining agent for an expanded unit consisting of any bargain-

ing units in which a majority of the employees voting approved the merger.

A. After an expanded unit is certified, the parties shall then bargain over modifications needed in order to provide for the wages, hours and working conditions or contract grievance arbitration for the newly included positions in any existing collective bargaining agreement or any collective bargaining agreement being negotiated.

Where there is an unexpired collective bargaining agreement in the merged bargaining unit with a different expiration date from any other collective bargaining agreement in the merged bargaining unit, all contracts shall be honored to their expiration date unless mutually agreed to otherwise by the public employer and the bargaining agent. Collective bargaining agreements may be bargained on an interim basis in any merged bargaining unit so that all collective bargaining agreements expire on the same date.

B. If a petition has been filed by a competing organization for decertification of the current bargaining agent for any of the bargaining units subject to the merger, then the decertification petition takes precedence over a petition to merge bargaining units.

C. A public employer or certified or recognized bargaining representative may not file more than once a year with the executive director to merge or combine bargaining units for the same bargaining unit.

D. The executive director or the director's designee conducting unit merger proceedings may administer oaths and may require by subpoena the attendance and testimony of witnesses, the production of books, records and other evidence relating to the issues presented to the executive director or the director's designee.

E. A bargaining unit composed of a majority of supervisors may not merge under this subsection with any other bargaining unit.

F. A bargaining unit composed of teachers may not merge under this subsection with a bargaining unit of nonprofessional employees.

See title page for effective date.

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## CHAPTER 237

H.P. 531 - L.D. 716

### An Act to Make Allocations for the Operating Expenditures of the Intergovernmental Telecommunications Fund, Department of Administration, for the Fiscal Years Ending June 30, 1990, and June 30, 1991