

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**  
**FIRST SPECIAL SESSION**

August 21, 1989 to August 22, 1989

and

**SECOND REGULAR SESSION**

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
July 14, 1990

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  
1990

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

**AS PASSED AT THE**  
**SECOND REGULAR SESSION**

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

**January 3, 1990 to April 14, 1990**

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G. The plan must be made public within the State in such a manner as to facilitate public involvement.

H. The commissioner must ensure that the development of the plan includes the participation of community mental retardation service providers, consumer and family groups and other interested persons or groups in annual statewide hearings, as well as informal meetings and work sessions.

I. The commissioner must consider community service needs, relate these identified needs to biennial budget requests and incorporate necessary service initiatives into a comprehensive planning document.

See title page for effective date.

## CHAPTER 629

H.P. 1364 - L.D. 1881

### An Act to Prorate Prison Sentences for Work Performed for Charitable Organizations

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

**Sec. 1. 30-A MRSA §1602**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

**Sec. 2. 30-A MRSA §1606, sub-§§1 and 2**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, are further amended to read:

1. **Participation in public works projects authorized.** The sheriff in charge of a county jail may, by discretion, permit certain inmates of that jail to participate in public works-related projects and improvement of property owned by charitable organizations if the public works project or property is in the county where the jail is located. The sheriff may request payment from charitable organizations for the transportation of the prisoners and for the transportation and per diem compensation for any guards who accompany the prisoners. For the purposes of this section, "charitable organization" means any nonprofit organization organized or incorporated in this State or having a principal place of business in this State that is exempt from federal income taxation under the United States Internal Revenue Code of 1986, Section 501(a), because the nonprofit organization is described in the United States Internal Revenue Code of 1986, Section 501(c)(3). Before an inmate is permitted to participate in this type of project, the judge or justice who originally sentenced the inmate to the county jail must sign an approval to the inmate's participation.

2. **Sentence prorated.** Inmates participating in a public works-related project or an improvement of prop-

erty owned by a charitable organization under this section shall have their sentences to the jail prorated at the rate of one day removed from the sentences for every 16 hours of participation in the project.

See title page for effective date.

## CHAPTER 630

S.P. 718 - L.D. 1893

### An Act to Revise the Asbestos Certification Law

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

Whereas, industry should be allowed to have their own trained and certified asbestos abatement units performing abatement procedures within their facilities; and

Whereas, companies with certified and trained in-house abatement teams will have to contract out this work at a higher cost if changes are not made to current laws; 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 §1272, sub-§5**, as enacted by PL 1987, c. 448, §1-C, is amended to read:

5. **Asbestos abatement project supervisor.** "Asbestos abatement project supervisor" means a person with responsibility for the supervision of asbestos abatement activities. Those persons include, but are not limited to, abatement project supervisors employed by contractors, in-house asbestos abatement units, employees of governmental or public entities who coordinate or directly supervise asbestos abatement activities performed by public schools, governmental or other public employees in a school district, governmental or other public buildings and project supervisors employed as consultants to monitor and direct abatement contractors.

**Sec. 2. 38 MRSA §1272, sub-§11**, as enacted by PL 1987, c. 448, §1-C, is repealed.

**Sec. 3. 38 MRSA §1272, sub-§14-A** is enacted to read:

**14-A. In-house asbestos abatement unit.** "In-house asbestos abatement unit" means the unit of a business or public entity that engages in, or intends to engage in, asbestos abatement activities or projects solely within the confines of property owned or leased by the

entity and that employs one or more asbestos abatement supervisors for asbestos abatement activities.

**Sec. 4. 38 MRSA §1272, sub-§15**, as enacted by PL 1987, c. 448, §1-C, is amended to read:

**15. License.** "License" means a document issued by the Department of Environmental Protection to a business entity or public entity affirming that the entity has met the requirements set forth in this chapter to engage in asbestos abatement activities as an asbestos abatement contractor or in-house asbestos abatement unit.

**Sec. 5. 38 MRSA §1274, sub-§1**, as enacted by PL 1987, c. 448, §1-C, is amended to read:

**1. Asbestos abatement license.** To qualify for a license as an asbestos abatement contractor or in-house asbestos abatement unit, an applicant shall show evidence satisfactory to the commissioner that:

A. Each employee or agent within its employ who will come in contact with asbestos or will be responsible for an asbestos abatement project:

(1) Is familiar with all applicable state and federal standards for asbestos abatement projects; and

(2) Has successfully completed a course of instruction for ~~his~~ that employee's or agent's particular category, which ~~that~~ has been certified pursuant to section 1275, and is capable of complying with all applicable standards of the State, the United States Environmental Protection Agency and the United States Occupational Safety and Health Administration;

B. It has access to at least one asbestos disposal site approved by the ~~Department of Environmental Protection~~ department that is sufficient for the deposit of all asbestos waste that it will generate during the term of the license;

C. It possesses a work program that prevents the contamination or recontamination of the environment and protects the public health from the hazards of exposure to asbestos;

D. It possesses evidence of certification under subsection 4 of each individual employee or agent who will be responsible for other employees who may come in contact with friable asbestos-containing materials;

E. It possesses evidence of certification of all other employees as required by subsection 5; and

F. It possesses a worker protection and medical monitoring program consistent with requirements

established by the Maine Board of Occupational Safety and Health Protection if the contractor or in-house asbestos abatement unit is a public entity and a worker protection program consistent with the requirements of the United States Occupational Safety and Health Administration if the contractor or in-house asbestos abatement unit is a business entity.

**Sec. 6. 38 MRSA §1275, first ¶**, as enacted by PL 1987, c. 448, §1-C, is amended to read:

The ~~commissioner~~ board, after consultation with the Commissioner of Administration and the Commissioner of Labor, shall develop rules establishing criteria and procedures for the certification of training courses and examinations which shall ensure the qualifications of applicants for certification as required in this chapter. ~~These rules~~ The board shall be promulgated by the Department of Environmental Protection promulgate these rules in accordance with Title 5, chapter 375, subchapter II.

**Sec. 7. 38 MRSA §1275, sub-§3** is enacted to read:

**3. Transition.** Training courses conducted by, and instructors employed by, firms with in-house asbestos abatement units contracting for asbestos removal with the Federal Government are considered certified under this section pending review for certification if the firm has submitted to the commissioner by March 1, 1990, a training course that meets training requirements set forth in this chapter.

**Sec. 8. 38 MRSA §1278, sub-§1, ¶¶A and B**, as enacted by PL 1987, c. 448, §1-C, are amended to read:

A. The fees are:

(1) Asbestos abatement contractor: \$250;

(1-A) In-house asbestos abatement unit: \$250;

(2) Asbestos abatement design consultant: \$50;

(3) Asbestos evaluation specialist: \$50;

(4) Asbestos project supervisor: \$50; and

(5) Asbestos abatement worker: \$25.

B. A business, in-house asbestos abatement unit or public entity may pay the certification fee and receive certificates for one or more positions in each category on an annual basis. Employees filling the certified positions at any time during the one-year period ~~shall~~ must be qualified under terms of this chapter and, if qualified, ~~shall~~ must receive written evidence of certification. The business, in-

house asbestos abatement unit or public entity shall notify the commissioner within 5 working days of any changes of the persons holding its certified positions and shall provide all information requested by the commissioner to show that new employees meet the requirements for certification pursuant to this chapter.

**Sec. 9. 38 MRSA §1278, sub-§2**, as enacted by PL 1987, c. 448, §1-C, is amended to read:

**2. Notification fees.** Notification of a planned asbestos abatement project pursuant to section 1273, ~~subsections subsection 2 and 3~~, shall must be accompanied by a notification fee; unless such the activity occurs in private single-unit residential buildings of 4 dwelling units or less.

A. The fees are:

(1) Projects involving more than ~~460~~ 100 square feet or ~~260~~ 100 linear feet, but less than 1,000 square feet or 5,000 linear feet: \$100; and

(2) Projects involving more than 1,000 square feet or 5,000 linear feet: \$200.

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

Effective February 23, 1990.

## CHAPTER 631

H.P. 1362 - L.D. 1879

### An Act to Promote Sound Capital Investment As Part of Local Growth Management Programs

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

**Sec. 1. 5 MRSA §12004-I, sub-§24-A** is enacted to read:

<u>24-A. Envi-</u>	<u>Planning</u>	<u>\$40/day</u>	<u>30-A</u>
<u>ronment</u>	<u>Advisory</u>	<u>plus ex-</u>	<u>MRSA</u>
	<u>Council</u>	<u>penses</u>	<u>§4341</u>

**Sec. 2. 5 MRSA §12004-K, sub-§4-A**, as enacted by PL 1989, c. 503, Pt. A, §38, is repealed.

**Sec. 3. 5 MRSA c. 383, sub-c. VI, art. I** is enacted to read:

#### Article I

### MUNICIPAL GROWTH MANAGEMENT AND CAPITAL INVESTMENT

#### §13112. Municipal Growth Management and Capital Investment Fund

**1. Creation.** The Municipal Growth Management and Capital Investment Fund is created as a nonlapsing fund to be used by the department only for the purposes of this article.

**2. Deposited funds.** Money in the fund not currently needed to meet the obligations of the department under this article must be deposited with the Treasurer of State to the credit of the fund with all interest earned by the deposit credited to the fund.

#### §13113. Assistance to municipalities

The department may make grants to eligible municipalities in support of capital investments in public service infrastructure as provided in this article.

**1. Definitions.** As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

A. "Public service infrastructure" means those facilities that are essential for public health, welfare and safety. These facilities include, but are not limited to, sewage treatment facilities, municipal water facilities, solid waste facilities, fire protection facilities, roads and traffic control devices, parks and other open space or recreational areas and any other public facility that benefits the public.

**2. Eligibility.** Any municipality is eligible to apply for grants under this article when it has adopted and implemented a certified local growth management program under the requirements of Title 30-A, chapter 187, subchapter II. The program must include a capital investment plan comprised of the following elements:

A. An assessment of all public facilities and services, including, but not limited to, roads, sewers, schools, parks and open space, fire and police;

B. A 10-year plan for any needed replacement and expansion of existing public facilities or the construction of any new facilities required to meet expected growth and economic development or to satisfy state or federal governmental mandates. The capital investment plan shall include projections of when and where these facilities will be required; and

C. An assessment of the anticipated costs for replacement, expansion or construction of public facilities, an identification of revenue sources available to meet these costs and recommendations for meeting costs required to implement the plan.

**3. Eligibility for municipalities without certified local growth management programs.** Prior to 2 years after the applicable deadline date established under Title 30-A, section 4343, subsection 1, any municipality is eli-