

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
OCTOBER 9, 1991

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
1991

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
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ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

nations or conspiracies in restraint of trade or commerce, and all monopolies, and may require, by summons, the attendance and testimony of witnesses and the production of books and papers before ~~him~~ the Attorney General relating to any such matter under investigation. ~~Such~~ The summons ~~shall~~ must be served in the same manner as summons for witnesses in criminal cases, and all provisions of law relating thereto ~~shall~~ apply to summonses issued under this section so far as they are applicable. All investigations or hearings thereunder or connected therewith to which witnesses are summoned or called upon to testify or to produce books, records or correspondence ~~shall be~~ are public or private at the choice of the person summoned and ~~shall~~ must be held in the county ~~wherein~~ where the act to be investigated is alleged to have been committed, or if the investigation is on petition it ~~shall~~ must be held in the county ~~where~~ in which the petitioners reside. The expense of such investigation ~~shall~~ must be paid from the appropriation provided by Title 5, section 203.

If, upon investigation, it appears to the Attorney General that the laws of this State, including sections 1102-A or 1105 to 1107, have been violated in any respect, ~~he~~ the Attorney General shall ~~forthwith~~ prosecute the guilty parties and present all available information bearing upon such apparent violation to the proper prosecuting officer of the United States.

Any Justice of the Superior Court may by order, upon application of the Attorney General, compel the attendance of witnesses, the production of books and papers, including correspondence, and the giving of testimony, before the Attorney General in the same manner and to the same extent as before ~~said courts~~ the Superior Court. Any failure to obey such order may be punishable by such court as a contempt thereof.

See title page for effective date.

CHAPTER 138

H.P. 564 - L.D. 807

An Act to Amend the Law Relating to Road Dust

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

38 MRSA §592-A, sub-§2, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §167, is further amended to read:

2. Fugitive emissions. Any commercial and industrial source or facility, all municipalities and all state or federal facilities, whether or not requiring a license pursuant to this chapter, that cause or contribute to the discharge of fugitive emissions that the commissioner determines to constitute a nuisance are required to establish and maintain a continuing program for best management practices for suppression of fugitive emissions during any periods of construction, renovation or normal

operation. The commissioner shall determine those procedures which constitute best management practices. A description of a source's program for suppression of fugitive emissions must be made available to the commissioner upon request. Public or private roads that are not part of a commercial and industrial source or facility are not subject to the requirements of this subsection.

See title page for effective date.

CHAPTER 139

S.P. 669 - L.D. 1767

An Act to Modify the Language Governing the Special Commission on Governmental Restructuring

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

Whereas, the language creating the Special Commission on Governmental Restructuring, as established in the Maine Revised Statutes, Title 5, section 12004-J, may be ambiguous; and

Whereas, the reporting deadline for the Special Commission on Governmental Restructuring may not be possible to meet; and

Whereas, the Special Commission on Governmental Restructuring is called to make recommendations to the First Regular Session of the 115th Legislature; and

Whereas, there is a need for immediate action to assess the nature and scope of government and to develop recommendations to address the current fiscal shortfall; 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-J, sub-§9, as enacted by PL 1991, c. 9, Pt. S, §1, is repealed.

Sec. 2. 5 MRSA c. 405, as enacted by PL 1991, c. 9, Pt. S, §2, is repealed.

Sec. 3. PL 1991, c. 9, Pt. S, §§3 and 4 are repealed.

Sec. 4. Special Commission on Governmental Restructuring established. The Special Commis-

sion on Governmental Restructuring is established as an independent commission that shall advise, consult and assist the executive and legislative branches of State Government with designing a plan for the restructuring of government. The commission shall develop and present to the Governor and the Legislature by December 15, 1991 a final plan to maximize citizen participation in public policy making, to use public resources more effectively and to consolidate and restructure State Government in such a way that efficiency is assured and cost savings result.

It is the intent of the Legislature that the plan include a proposal to obtain this objective by consolidating, restructuring and streamlining existing advisory groups that provide advice and input to government. It is also the intent of the Legislature that the plan include a special focus on those programs and services of government related to the provision of human services.

1. The commission consists of no more than 22 members. The Governor shall appoint 10 members. The President of the Senate and the Speaker of the House of Representatives shall jointly appoint 10 members. The Governor, the President of the Senate and the Speaker of the House of Representatives shall together choose 2 additional members to serve as cochairs of the commission. No member of the commission may be an official, employee, consultant or any other individual employed or retained by the executive branch or a current member of the Legislature. Members must be appointed within 48 hours of the effective date of this Act. The first meeting of the commission must be called by the cochairs within 16 days after the effective date of this Act.

2. Resources and compensation are available to the commission as follows.

A. Any balances of funds appropriated to the commission remaining at the end of a fiscal year do not lapse but are carried forward from year to year to be expended for the same purposes.

B. In addition to funds appropriated for the purposes of this Act and funds otherwise available, the State Planning Office and the Office of the Executive Director of the Legislative Council shall, to the extent possible, jointly provide staff and administrative assistance to support the activities of the commission.

C. All expenditures must be approved by the cochairs.

D. Members are entitled to compensation for their expenses according to the Maine Revised Statutes, Title 5, chapter 379.

3. It is the intent of the Legislature to consolidate, restructure and realign functions of the departments of government. It is further the intent of the Legislature to streamline administration and services through functional

integration of similar operations. It is further the intent of the Legislature to create unified and functionally integrated operating agencies to coordinate and consolidate the effective delivery of services to affected populations.

4. It is further the intent of the Legislature that the commission, before making final recommendations, shall review any studies of the executive, judicial and legislative branches, including the constitutional offices, conducted in the last 5 years that examined the structure, restructuring or reorganization of State Government.

5. The Special Commission on Governmental Restructuring shall submit, by June 15, 1991, a report that details the process and the time line the commission has established to conduct its investigation, an interim report on September 15, 1991 and a final report by December 15, 1991. The commission's reports and final plan for the restructuring of government must be submitted to the Joint Standing Committee on State and Local Government and the Joint Standing Committee on Appropriations and Financial Affairs.

Sec. 5. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1990-91

MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF

Special Commission on Governmental Restructuring

All Other (25,000)

Deappropriates funds for the staffing of the Special Commission on Governmental Restructuring.

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION TOTAL

(25,000)

EXECUTIVE DEPARTMENT

Special Commission on Governmental Restructuring

All Other 25,000

Provides funding for members' expenses and other expenses of the Special Commission on Governmental Restructuring. These funds may not lapse but

are carried forward from year to year to be expended for the same purposes.

EXECUTIVE DEPARTMENT	
TOTAL	\$25,000
<hr/>	
TOTAL APPROPRIATIONS	\$0

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

Effective May 15, 1991.

CHAPTER 140

H.P. 395 - L.D. 569

An Act to Amend the Composition of the Board of Trustees of the Maine Technical College System

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

Sec. 1. 20-A MRSA §12705, first ¶, as enacted by PL 1985, c. 695, §11, is amended to read:

The board of trustees ~~shall be~~ is the policy-making authority of the system.

Sec. 2. 20-A MRSA §12705, sub-§1, as amended by PL 1991, c. 20, §1, is further amended to read:

1. Membership. The board of trustees consists of 10 appointed voting members and 3 ex officio, voting members as follows:

- ~~A. One from the State Board of Education;~~
- ~~B. One from the Board of Trustees of the University of Maine System;~~
- C. ~~Seven~~ Nine from the field of business and industry, the field of labor, the field of education and the general public;
- D. The Commissioner of Education, or the commissioner's successor, who ~~shall serve~~ serves ex officio;
- E. The Commissioner of Economic and Community Development, or the commissioner's successor, who ~~shall serve~~ serves ex officio;
- F. The Commissioner of Labor, or the commissioner's successor, who ~~shall serve~~ serves ex officio; and
- G. One member who is from the student body of one of the technical college campuses at the time of appointment and who is a permanent resident of the

State. To be eligible for appointment as a student member, a student must be enrolled for a minimum of 12 credit hours per semester.

The student member is a full voting member of the board of trustees and ~~shall serve~~ serves for a 2-year term and until a successor is qualified. By January 1st of every 2nd year, the president of the system shall solicit a list of 5 eligible students from the student governments from 5 of the campuses within the Maine Technical College System; the 6th campus being excluded in accordance with this subsection. The Governor shall then nominate a student trustee chosen from the list within 30 days of receiving the list of names. The nomination is subject to review by the joint standing committee of the Legislature having jurisdiction over education matters and to confirmation by the Legislature. The student trustee may not come from the same campus in any 2 consecutive terms. In the event that the student trustee transfers from one campus to another during the student's term of appointment, the student's original campus of enrollment is the campus excluded when the next student trustee is appointed.

Sec. 3. 20-A MRSA §12705, sub-§2, as enacted by PL 1985, c. 695, §11, is amended to read:

2. Appointment; terms. Members of the board of trustees ~~shall be~~ are appointed by the Governor to 4-year terms of office, subject to review by the joint standing committee of the Legislature having jurisdiction over education and to confirmation by the Legislature. In appointing members to the board, the Governor shall give proper consideration to achieving statewide geographical representation and gender equity. No classified or unclassified employee of the State or person who holds elected state office may serve on the board of trustees, with the exception of the ex officio members.

Sec. 4. Transition. The members of the State Board of Education and the Board of Trustees of the University of Maine System serving on the Board of Trustees of the Maine Technical College System on the effective date of this Act may serve the remainder of their terms. When their terms expire, sections 2 and 3 of this Act apply.

See title page for effective date.

CHAPTER 141

S.P. 112 - L.D. 209

An Act to Amend the Maine Uniform Transfers to Minors Act to Permit the Holding of Custodial Property Registered under a Street or Nominee Name

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