

# 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

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J.S. McCarthy Company  
Augusta, Maine  
1991

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

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

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**1991**

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met all the requirements of this chapter. Licenses ~~shall~~ must show the full name of the licensee. The issuance of a license by the board ~~shall be~~ is evidence that the person named ~~therein~~ is entitled to all the rights and privileges of a licensed professional forester while the license remains unrevoked or unexpired. Plans, maps and reports issued by the licensee ~~shall~~ must be endorsed with ~~his~~ the licensee's name and license number during the life of the licensee's license, but it ~~shall be~~ is a Class E crime for anyone to endorse any document with that name and license number after the license of the licensee named ~~thereon~~ has expired or has been revoked or suspended, unless the license has been renewed or reissued. ~~It is a Class E crime for any licensed professional forester to endorse any plan, map or report unless he shall have actually prepared such plan, map or report, or shall have been in the actual charge of the preparation thereof. A licensed professional forester commits a Class E crime if that forester endorses any plan, map or report, other than a forest management and harvest plan as defined by Title 36, section 573, subsection 3-A, unless that forester actually prepared or was actually in charge of the preparation of the map, plan or report.~~

**Sec. 2. 36 MRSA §573, sub-§3-A**, as enacted by PL 1989, c. 555, §14, is amended to read:

**3-A. Forest management and harvest plan.** "Forest management and harvest plan" means a written document, ~~prepared by a licensed professional forester, outlining that outlines~~ activities to regenerate, improve and harvest a standing crop of timber. The plan ~~shall~~ must include the location of water bodies and wildlife habitat identified by the Department of Inland Fisheries and Wildlife. A plan may include, but is not ~~be~~ limited to, schedules and recommendations for timber stand improvement, harvesting plans and recommendations for regeneration activities. The plan must be prepared by a licensed professional forester or be reviewed and certified by a licensed professional forester as consistent with this subsection and with sound silvicultural practices.

See title page for effective date.

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## CHAPTER 429

H.P. 908 - L.D. 1305

### An Act Concerning State Education Mandate Waivers

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

**Whereas**, reductions in the state level of school funding increase the property tax burden on local taxpayers; and

**Whereas**, state mandates can not be implemented without adequate funding; and

**Whereas**, a hardship is created for local taxpayers when the State imposes mandates for which the State does not provide funding; 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. 20-A MRSA §2, sub-§3**, as amended by PL 1991, c. 9, Pt. II, §1, is further amended to read:

**3. Mandated programs.** Any legislation containing a state mandate enacted by the Legislature after January 1, 1989, which requires additional funding, must contain provisions for full funding by the State. The funding requirements to implement the mandate must be identified. Any such legislation for which full state funding is not provided may not be enacted.

State mandates are defined as any state-initiated or statutory action that requires a local school administrative unit to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues, excluding any order issued by a state court or any legislation necessary to comply with a federal mandate.

~~Any legislation or rule containing a state mandate enacted after January 1, 1984 may be deferred by action of a local school board until such time as the State restores state aid to education to the levels required by the laws in effect on January 1, 1990. These mandates include, but are not limited to, minimum pupil-teacher ratios, guidance programs, gifted and talented programs, music programs and art programs.~~

This subsection is repealed on June 30, 1994, unless reviewed and extended by specific Act of the Legislature.

**Sec. 2. 20-A MRSA §2-A** is enacted to read:

#### §2-A. Waiver of state mandates

A school administrative unit may seek a waiver allowing the unit to delay compliance with a state mandate, as defined in section 2, subsection 3, as follows.

**1. Waiver request.** A school administrative unit may request in writing authorization from the commissioner to delay compliance with a mandate. That request must include:

A. Designation of the mandate or mandates for which the unit seeks a waiver;

B. A description of the unforeseen circumstances or undue hardship that led to application for a waiver;

C. Documentation of the steps taken prior to the waiver request to comply with the mandate;

D. A statement of the length of time for which the waiver is anticipated to be in effect;

E. A description of the impact of granting the waiver, including changes in class size, staff layoffs, program offerings and possible loss of funds; and

F. A plan by which the unit will come into compliance with the mandate.

**2. Standards.** The commissioner may issue a waiver upon finding that:

A. Due to unforeseen circumstances or undue hardship, the school administrative unit is unable to comply with this chapter; and

B. The compliance plan that the school administrative unit has submitted is reasonable.

**3. Decision.** The commissioner shall issue a decision on a waiver request within 30 days of receipt of the request. The commissioner may hold an informal hearing to evaluate the reasons for the waiver or to gather more information. If the commissioner determines that the reasons given in the waiver request do not justify a delay in compliance with the mandate, the commissioner shall deny the request. The decision of the commissioner must be in writing and, if the decision is to deny the request, must specify the reasons for denial.

**4. Assistance.** Annually, on or about February 1st, the commissioner shall send written notice to the superintendent of each school administrative unit of the availability of waivers from education mandates and the criteria and procedures for the granting of waivers. Upon request from a superintendent or school board, the commissioner shall provide technical assistance to aid the unit in determining the feasibility of applying for a waiver, in considering alternatives to a waiver, in applying for a waiver and in planning the action necessary to come into compliance with the mandate.

**5. Rules.** The commissioner may adopt rules necessary to implement this section.

**6. Application; repeal.** This section is repealed on July 1, 1992. Until that time, notwithstanding any other provision of law, this section governs the waiver or deferral of state mandates as defined in section 2, subsection 3.

**Sec. 3. 20-A MRSA §1308,** as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

**§1308. Failure to pass budget**

If a budget for the operating of the district is not approved prior to July 1st, the budget as submitted by the board of directors ~~shall be~~ is automatically considered the budget approved for operational expenses for the ensuing year, except that, when the school board delays the school budget meeting in accordance with section 15617, subsection 2, paragraph C, the operating budget must be approved within 30 days of the date the commissioner notifies the school board of the amount allocated to the school unit under section 15613 or the budget submitted by the directors becomes the operating budget for the next school year.

**Sec. 4. 20-A MRSA §1701, sub-§3,** as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

**3. Time and place.** The district school committee shall call an annual budget meeting on or before June 30th at an hour and in a location within the community school district it designates, except that the school committee may delay the annual budget meeting to a date after July 1st in accordance with section 15617, subsection 2, paragraph C.

**Sec. 5. 20-A MRSA §15005, sub-§1,** as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

**1. Apportionments.** Apportionments to school administrative units and private schools, unless specifically directed by statute, shall must be made annually commencing in July in the following manner. An amount not to exceed 1/12 of the subsidy shall must be paid each month no later than the last day of the month. Any balance shall must be paid in the last month of the annual period within 7 days after the end of the fiscal year, providing that if the balance of state subsidy for a fiscal year is to be paid after the end of that fiscal year, the final payment may be recorded as an account receivable due from the State in that fiscal year.

**Sec. 6. 20-A MRSA §15617, sub-§2, ¶C** is enacted to read:

C. Notwithstanding any municipal charter provision, ordinance or other law to the contrary, if the level of state subsidy for the next school year is not finalized in accordance with this chapter before June 1st, the school board may delay a school budget meeting otherwise required to be held before July 1st to a date after July 1st. If a school board elects to delay a school budget meeting under this paragraph, the meeting must be held and the budget approved within 30 days of the date the commissioner notifies the school board of the amount allocated to the school administrative unit under section 15613. When a

school budget meeting is delayed under this section, the school administrative unit may continue operation of the unit at the same budget levels as were approved for the previous year. Continued operation under the budget for the previous year is limited to the time between July 1st and the date the new budget goes into effect.

**Sec. 7. PL 1991, c. 121, Pt. A, §9, under that part designated "EDUCATION, DEPARTMENT OF" in the first part relating to "General Purpose Aid for Local Schools" in the last sentence, is amended to read:**

The ~~July~~ June 1991 payment must be made on or before July 5, 1991.

**Sec. 8. Notice.** Within 15 days of enactment of this Act, the Commissioner of Education shall send written notice to the superintendent of each school administrative unit of the availability of waivers from education mandates and the criteria and procedures for the granting of waivers. Upon request from a superintendent or school board, the commissioner shall provide technical assistance to assist the unit in determining the feasibility of applying for a waiver, in considering alternatives to a waiver, in applying for a waiver and in planning the action necessary to come into compliance with the mandate.

**Sec. 9. Report.** By January 1, 1992, the Commissioner of Education shall report to the Joint Standing Committee on Education on the status of educational mandate waivers. The report must include the number of waivers requested and granted, the mandates or requirements from which waivers were sought, the reasons for the waiver requests, the impact of waivers on school administrative units, an evaluation of the waiver program and recommendations on the continued need for educational mandate waivers and the ability of units to come into compliance with mandates following waivers. Following review of the commissioner's report, the Joint Standing Committee on Education may submit legislation to the Second Regular Session of the 115th Legislature.

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

Effective June 20, 1991.

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## CHAPTER 430

H.P. 646 - L.D. 920

### An Act to Amend the Laws Relating to Submerged Land

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

**Sec. 1. 12 MRSA §558-A, sub-§1, ¶¶E, F, G and H** are enacted to read:

E. "Dockominium" means slip space that is sold or leased by a lessee of submerged lands to a boat or vessel owner for more than one year.

F. "Fair market rental value" means, for all uses of submerged lands except slip space rented or otherwise made available for private use for a fee, the municipally assessed value per square foot for the adjacent upland multiplied by a reduction factor based on the use of the leased submerged land as specified in this section. For slip space rented or otherwise made available for private use for a fee, the fair market rental value is the gross income from that space multiplied by a reduction factor as specified in this section based on the use of the leased submerged land.

G. "Gross income" means the total annual income received by a lessee from seasonal or transient rental to the general public of slip space over submerged land. For dockominiums, slips that are part of a residential condominium, boat clubs and other facilities with slip space that is not rented or leased to the general public, the director shall determine gross income by calculating a regional average slip space rental fee and applying that to the portion of total linear length of slip space made available to private users for any portion of that year.

H. "Slip space" means the area adjacent to a pier or float that is used for berthing a boat.

**Sec. 2. 12 MRSA §558-A, sub-§2, ¶A,** as repealed and replaced by PL 1989, c. 878, Pt. A, §30, is amended to read:

A. For fill, permanent causeways, bridges, marinas, wharves, docks, pilings, moorings or other permanent structures and for nonpermanent structures that occupy a total of 500 square feet or more of submerged land or occupy a total of 2,000 square feet or more of submerged land if used exclusively for commercial fishing activities:

(1) The director shall charge the lessee a base rent that practically approximates the fair market rental value of the submerged land. ~~Fair market rental value shall be the municipally assessed value per square foot for the adjacent upland multiplied by a reduction factor based on the use of the leased submerged land. The reduction factors for use categories shall be~~ are as follows: