

# 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.

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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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**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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upon death of the sublessee holder or a transfer to the original leaseholder subject to terms agreed to by the lessor and sublessee at the time of the sublease. This subparagraph ~~shall~~ does not apply to any subleasing arrangements entered into prior to June 15, 1989; and

(6) The director may grant the proposed lease if the director finds that, in addition to any other findings that the director may require, the proposed lease:

- (a) Will not unreasonably interfere with navigation;
- (b) Will not unreasonably interfere with fishing or other existing marine uses of the area;
- (c) Will not unreasonably diminish the availability of services and facilities necessary for commercial marine activities; and
- (d) Will not unreasonably interfere with ingress and egress of riparian owners.

The bureau shall promulgate rules pertaining to this subparagraph by March 15, 1990.

**Sec. 3. Effective date.** This Act takes effect on October 1, 1991.

Effective October 1, 1991.

## CHAPTER 431

### H.P. 845 - L.D. 1211

#### An Act to Correct Certain Errors and Inconsistencies in the Law Enabling Municipal Development Districts

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

**Sec. 1. 30-A MRSA §5252, sub-§4, ¶¶F and G,** as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

- F. The environmental controls to be applied; ~~and~~
- G. The proposed operation of the district after the planned capital improvements are completed; ~~and~~

**Sec. 2. 30-A MRSA §5252, sub-§4, ¶H** is enacted to read:

H. The duration of the program that must not exceed 30 years from the date of designation of the district.

**Sec. 3. 30-A MRSA §5252, sub-§5, ¶A,** as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

A. The statement must include:

- (1) Cost estimates for the development program;
- (2) The amount of ~~bonded~~ indebtedness to be incurred; and
- (3) Sources of anticipated revenues; ~~and~~
- (4) ~~The duration of the program.~~

**Sec. 4. 30-A MRSA §5252, sub-§8, ¶B,** as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended by amending sub-¶(9) and (10) to read:

- (9) That portion of the costs related to the construction or alteration of sewerage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines or amenities on streets or the rebuilding or expansion of which is required by the project plan for a development district, whether or not the construction, alteration, rebuilding or expansion is within the development district; ~~and~~
- (10) Training costs, including, but not limited to, those costs associated with providing skills development and training for employees of businesses within the development district. These costs may not exceed 20% of the total project costs and must be designated as training funds within 3 years of the designation of the district; and

**Sec. 5. 30-A MRSA §5252, sub-§8, ¶B,** as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended by enacting sub-¶(11) to read:

- (11) Improvements, meaning costs associated with developing new employment opportunities; promoting public events; advertising cultural, educational and commercial activities; providing public safety; establishing and maintaining administrative and management support; and such other services as are necessary or appropriate to carry out the development program.

**Sec. 6. 30-A MRSA §5253, sub-§1,** as amended by PL 1989, c. 104, Pt. A, §47; Pt. C, §§8 and 10; and c.

508, §§4 and 5, is repealed and the following enacted in its place:

1. Districts. The municipal legislative body may designate development districts within the boundaries of the municipality. Before designating a district, the municipal legislative body or the municipal legislative body's designee shall hold at least one public hearing. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality.

A. At least 25%, by area, of the real property within a development district must meet at least one of the following criteria:

- (1) Must be a blighted area;
- (2) Must be in need of rehabilitation, redevelopment or conservation work; or
- (3) Must be suitable for industrial sites.

B. The total area of a single development district may not exceed 2% of the total acreage of the municipality. All development districts may not exceed 5% of the total acreage of the municipality. The boundaries of a development district may be altered only after meeting the requirements for adoption under this subsection.

C. The aggregate value of equalized taxable property, as defined in Title 36, sections 208 and 305, of a tax increment financing district determined as of the April 1st preceding the date the designation of the district becomes effective, plus all existing tax increment financing districts determined as of the April 1st preceding the date the designation of each such district became effective, may not exceed 5% of the total value of equalized taxable property within the municipality as of the April 1st preceding the date the designation of the development district becomes effective.

D. The aggregate value of indebtedness financed by the proceeds from tax increment financing districts within any county may not exceed \$50,000,000.

E. The designation of captured assessed value of property within a tax increment financing district is subject to the following limitations.

- (1) The Commissioner of Economic and Community Development shall adopt rules necessary to allocate or apportion the designation of captured assessed value of property within tax increment financing districts in accordance with these limitations.

(2) The development program must be completed within 5 years of the designation of the tax increment financing district by the Commissioner of Economic and Community Development.

F. Before final designation of a tax increment financing district, the Commissioner of Economic and Community Development shall review the proposal to ensure that the proposal complies with statutory requirements and shall identify tax shifts within the county where the tax increment financing district will be designated. A designation under this subsection is effective upon approval by the municipal legislative body and, for tax increment financing districts, upon approval by the Commissioner of Economic and Community Development. If the municipality has a charter, the designation of a development district must not be in conflict with the provisions of the municipal charter.

**Sec. 7. 30-A MRSA §5254, sub-§1**, as amended by PL 1989, c. 104, Pt. A, §48 and Pt. C, §§8 and 10, is further amended to read:

**1. Captured assessed value.** The municipality may retain all or part of the tax increment of a tax increment financing district for the purpose of financing the development program. The amount of tax increment to be retained shall be determined by designating the amount of captured assessed value to be retained. When a development program for a tax increment financing district is adopted, the municipal legislative body shall adopt a statement of the percentage of captured assessed value to be retained in accordance with the development program. ~~Once adopted, the~~ The statement of percentage may ~~only be decreased in subsequent years, unless a new development program is adopted, or the present plan is amended or altered under section 5253~~ establish a specific percentage or percentages or may describe a method or formula for determination of the percentage. The municipal assessor shall certify the amount of the captured assessed value to the municipality each year.

**Sec. 8. 30-A MRSA §5254, sub-§§2 and 3**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

**2. Original assessed value.** ~~Upon~~ On or after formation of a tax increment financing district, the assessor of the municipality in which it is located shall, on request of the municipal legislative body, certify the original assessed value of the taxable ~~real~~ property within the boundaries of the tax increment financing district. Each year ~~thereafter~~, after the formation of a tax increment financing district, the municipal assessor shall certify the amount by which the assessed value has increased or decreased from the original value.

**3. Development program fund; tax increment revenues.** If a municipality has elected to retain all or a percentage of the retained captured assessed value under subsection 1, it the municipality shall:

~~A. Establish a development sinking program fund which is pledged to and charged with the payment of the interest and principal as they fall due, and the necessary charges of paying agents for paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the rehabilitation or development under this chapter, and that consists of the following:~~

(1) A development sinking fund account that is pledged to and charged with the payment of the interest and principal as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the cost of the development program fund; and

(2) A project cost account that is pledged to and charged with the payment of project costs as outlined in the financial plan and are paid in a manner other than as described in subparagraph (1);

B. Annually set aside all tax increment revenues on retained captured assessed values payable to the municipality for public purposes and deposit them all tax increment revenues to the credit of the appropriate development sinking program fund; account in the following priority:

(1) To the development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under section 5257 and the financial plan; and

(2) To the project cost account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual project costs to be paid from the account;

C. Be permitted to make transfers between development program fund accounts as required, provided that the transfers do not result in a balance in the development sinking fund account that is insufficient to cover the annual obligations of that account; and

D. Annually return to the municipal general fund any tax increment revenues in excess of those estimated to be required to satisfy the obligations of the development sinking fund account. The corresponding amount of local valuation may not be included as

part of the retained captured assessed value as specified by the municipality.

**Sec. 9. 30-A MRSA §5255, sub-§1, ¶A,** as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

A. A development assessment upon lots or property within the development district. The assessment shall must be made upon lots or property that have been benefited by improvements constructed or created under the development program and may not exceed a just and equitable proportionate share of the cost of the improvement. All revenues from assessments under this paragraph shall be are paid into the appropriate development sinking fund program account;

**Sec. 10. 30-A MRSA §5257,** as amended by PL 1989, c. 508, §6, is further amended to read:

**§5257. Financing**

The legislative body of a municipality may authorize, issue and sell bonds, including, but not limited to, general obligation or revenue bonds or notes, which mature within 20 years from the date of issue, to finance all project costs needed to carry out the development program within the development district. The municipal officers authorized to issue ~~such~~ the bonds or notes may borrow money in anticipation of ~~their~~ the sale of the bonds for a period of up to 3 years by issuing temporary notes and notes in renewal ~~thereof~~ of the bonds. All revenues derived under section 5254 or under section 5255, subsection 1; received by the municipality ~~shall be~~ are pledged for the payment of the ~~incurred indebtedness~~ activities described in the development program and used to reduce or cancel the taxes, ~~which that~~ that may otherwise be required to be expended for that purpose. The notes, bonds or other forms of financing ~~shall~~ may not be included when computing the municipality's net debt. Nothing in this section restricts the ability of the municipality to raise revenue for the payment of project costs in any manner otherwise authorized by law.

See title page for effective date.

**CHAPTER 432**

**S.P. 443 - L.D. 1187**

**An Act to Amend and Clarify the Definition of Earnable Compensation in the Maine State Retirement System Laws**

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

**5 MRSA §17001, sub-§13, ¶B,** as amended by PL 1985, c. 801, §§5 and 7, is further amended to read: