

# 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**

**of the**  
**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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**Sec. 9. 23 MRSA §3360-A, sub-§9**, as amended by PL 1989, c. 109, is repealed.

**Sec. 10. 23 MRSA §3360-A, sub-§10** is enacted to read:

**10. Further notice requirements.** The following provisions govern excavations in areas where there are underground facilities owned or operated by a person who is not an underground facility operator as defined in subsection 1 and who is not a voluntary member of the system established under subsection 1-A.

A. In addition to other notice requirements under this section and except for an employee with respect to an employer's facility, an excavator shall notify any person who is not a member of the system and has underground facilities in the area of the proposed excavation. This notice must be in writing or in person and must be given at least 3 business days prior to the commencement of excavation.

B. A person owning or operating an underground facility shall, upon receipt of the notice provided for in paragraph A, advise the excavator of the location and size of the underground facilities in the proposed excavation area by marking the location of the facilities with stakes, paint or by any other identifiable markings within 36 inches horizontally from the exterior sides of the underground facilities and the depth of the underground facilities, if known. The person providing information shall respond no later than 2 full business days after receipt of the notice. It is the responsibility of the excavator to maintain those location markings until the excavations are completed.

If an excavator complies with paragraph A and if information pursuant to paragraph B is not provided within the time specified or if the information fails to identify the location of the underground facilities in accordance with paragraph B, then an excavator damaging or injuring underground facilities is not liable for any damage or injury caused by the excavation, except on proof of negligence.

**Sec. 11. System choice under the Maine Revised Statutes, Title 23, section 3360-A, subsection 1-A.** Each underground facility operator, as defined in the Maine Revised Statutes, Title 23, section 3360-A, subsection 1, shall participate in a damage prevention system comparison study, the sole purpose of which is to compare the costs of establishing a stand-alone underground damage prevention system in Maine to the costs of joining the Massachusetts Utility Underground Plant Damage Prevention System. The study participants shall determine which option involves the least overall costs and present their report to the Public Utilities Commission and the Joint Standing Committee on Utilities no later than January 1, 1992. The commission shall make an evaluation of the reasonableness of the report's conclusion by March 1, 1992. By January 1, 1993, underground facility operators shall establish a Maine-

based system unless the study's conclusion, approved by the commission, indicates that joining the Massachusetts Utility Underground Plant Damage Prevention System will be less expensive.

The duties imposed by this section of this Act are in addition to those imposed under Title 23, section 3360-A. Nothing in this section of this Act may be interpreted to limit, alter or otherwise affect any duties and liabilities established under Title 23, section 3360-A.

**Sec. 12. Effective date.** Sections 1 to 10 of this Act take effect on January 1, 1993.

See title page for effective date, unless otherwise indicated.

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## CHAPTER 438

H.P. 912 - L.D. 1309

### An Act to Provide for Changes to the Membership of the Electricians' Examining Board

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

**Sec. 1. 32 MRSA §1151**, as amended by PL 1989, c. 503, Pt. B, §125, is further amended to read:

#### **§1151. Appointment; vacancies; removal; compensation**

The Electricians' Examining Board, as established by Title 5, section 12004-A, subsection 13, and in this chapter called the "board," ~~shall consist~~ consists of ~~6~~ 7 members appointed by the Governor, called the "appointive members," and the Commissioner of Professional and Financial Regulation or a representative appointed by the commissioner.

The ~~6~~ 7 appointive members shall consist of: ~~One~~ one master electrician; one electrician who is a bona fide member from organized labor classified as an inside electrician; one electrical inspector; one master electrician from the education field; and one person experienced in the electrical field, all of whom shall have at least 10 years of experience in the electrical field; provided that the latter 3 need not be active electricians at the time of their appointment; and ~~one representative~~ 2 representatives of the public. At the time of each appointment, the State Electrical Associates may nominate 3 persons for that appointment. To the extent the State Electrical Associates so nominates persons otherwise qualified for appointment to the board, the appointive members, other than the ~~representative~~ representatives of the public, may be selected from the persons so nominated.

Appointments ~~shall be~~ are made for a 3-year term, except that at least one appointive member's term shall

~~expire expires~~ each calendar year and appointments for terms of less than 3 years may be made in order to comply with this limitation. ~~No A person may be is not~~ eligible to serve more than 3 full consecutive terms, provided that for this purpose only a period actually served ~~which that exceeds 1/2 of the 3-year term shall be deemed~~ is determined a full term. Upon expiration of a member's term, ~~he the member~~ shall serve until ~~his the member's~~ successor is qualified and appointed. The successor's term ~~shall be is~~ 3 years from the date of that expiration, regardless of the date of ~~his the successor's~~ appointment.

Any vacancy in the board caused by death, resignation or removal of any members ~~shall must~~ be filled by the appointment of a person qualified, as was the board member being replaced, to hold office during the unexpired term of the member whose place is thus filled.

Any appointive member of the board may be removed from office for cause by the Governor.

The members of the board ~~shall each be compensated~~ are entitled to compensation according to the provisions of Title 5, chapter 379.

**Sec. 2. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1991-92	1992-93
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
Electricians' Examining Board		
Personal Services	\$420	\$420
All Other	1,000	1,000
Provides funds for the per diem and expenses of a new board member.		
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION		
TOTAL	\$1,420	\$1,420

See title page for effective date.

**CHAPTER 439**

**S.P. 386 - L.D. 1063**

**An Act to Broaden the Availability of Loans under the Finance Authority of Maine to Improve the Environment**

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

**Whereas,** the availability of loan relief must coincide with the onset of the current construction season; 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. 10 MRSA §963-A, sub-§10, ¶J,** as amended by PL 1989, c. 585, Pt. C, §4, is further amended to read:

J. Any underground oil storage facility replacement project, including equipment installed to meet requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery;

**Sec. 2. 10 MRSA §963-A, sub-§10, ¶K,** as amended by PL 1989, c. 585, Pt. C, §5, is further amended to read:

K. Any overboard discharge replacement project; or

**Sec. 3. 10 MRSA §963-A, sub-§10, ¶L,** as enacted by PL 1989, c. 585, Pt. C, §6, is amended to read:

L. Any hazardous waste or solid waste recycling or reduction project; or

**Sec. 4. 10 MRSA §963-A, sub-§10, ¶M** is enacted to read:

M. Any aboveground oil replacement or upgrade project, including equipment installed to meet requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery.

**Sec. 5. 10 MRSA §1023-D, sub-§3,** as amended by PL 1989, c. 543, §3, is further amended to read:

**3. Application of fund.** Money in the fund may be applied to carry out any power of the authority under this section or under or in connection with section 1026-F, including, but not limited to, to pledge or transfer and deposit money in the fund as security for and to apply money in the fund in payment of principal, interest and other amounts due on insured loans. Money in the fund may be used for direct loans or grants for all or part of underground oil storage facility replacement projects or underground oil storage tank replacement projects when the authority determines that:

A. The underground oil storage facility or tank is leaking or; has been identified by the Department of Environmental Protection as posing an environmen-