

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
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
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PUBLIC LAWS
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of such funds to the Legislature in a form and as determined by the Office of Fiscal and Program Review.

Sec. 2. Application. Those sections of this Act that enact the Maine Revised Statutes, Title 5, sections 135-A and 203-A apply to all accounts in existence on the effective date of this Act, except that they may not be interpreted to require the Treasurer of State or any department or agency to retroactively recalculate interest earnings to a trust fund or escrow account and to credit the General Fund accordingly.

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

Effective July 8, 1991.

CHAPTER 533

S.P. 640 - L.D. 1688

An Act to Review the Kennebec County Budget Committee

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

Whereas, without emergency action by the Legislature, the law authorizing the Kennebec County Budget Committee to continue operating will be repealed on March 1, 1991; and

Whereas, legislative action is immediately necessary in order to ensure the continuation of the Kennebec County Budget Committee beyond March 1, 1991; 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Sec. 1. 30-A MRSA c. 3, sub-c, I, art. 8, first 2 lines, are repealed and the following enacted in their place:

Article 8

KENNEBEC COUNTY ADVISORY BUDGET COMMITTEE

Sec. 2. 30-A MRSA §861, sub-§2, as enacted by PL 1989, c. 473, is repealed.

Sec. 3. 30-A MRSA §862, as enacted by PL 1989, c. 473, is amended to read:

§862. Kennebec County Advisory Budget Committee

In Kennebec County there is established the Kennebec County Advisory Budget Committee to carry out the purposes of this article. The advisory budget committee consists of 9 elected officials and a subcommittee of 6 nonvoting members of the county legislative delegation or their designees as provided in this section.

1. Membership; elected officials. The 9 advisory budget committee shall consist of 9 members who are elected officials are appointed as provided in this section. The county commissioners shall serve on the committee in an advisory capacity only and may not vote on any committee matters.

A. In 1989 1991 and annually thereafter, the county commissioners shall nominate 3 municipal officers from each commissioner district by August 1st of each year call a meeting of elected officials within each county commissioner district no later than September 15th. The county commissioners shall immediately send to the chair of the Kennebec County legislative delegation a list of the municipal officers nominated by the commissioners. A public notice of the meeting must be issued at least 10 days before the meeting is held. Each commissioner shall serve as the nonvoting moderator of the meeting in that commissioner's district. At the meeting, the elected officials shall nominate a slate of proposed members for the advisory budget committee. Each commissioner shall select one advisory budget committee member from the slate of proposed members within 7 days of the meeting, except for the selection of the initial advisory budget committee as provided in subsection 1-B.

~~B. The Legislature shall promptly approve or disapprove by majority vote the nominations made by the county commissioners and notify the commissioners of its decisions. If any nomination is disapproved, the county commissioners shall promptly submit a replacement nominee to the Legislature for its approval or disapproval until the necessary members have been approved by the Legislature.~~

1-A. Membership; legislative delegation. A subcommittee of 6 members of the Kennebec County legislative delegation or their designees shall serve as nonvoting members of the advisory budget committee.

A. The subcommittee is appointed by the chair and must be ratified by a vote of the legislative delegation.

B. The subcommittee shall serve as a resource to the advisory budget committee and as a liaison to the legislative delegation.

1-B. Initial election. Notwithstanding subsections 1 and 3, in the initial election of the advisory budget commit-

tee in 1991, 3 members are elected from each county commissioner district. One member from each district is appointed for a term of 3 years, one member from each district is appointed for a term of 2 years and one member from each district is appointed for a term of one year.

2. Duties. The county advisory budget committee shall review the budget estimates prepared by the county commissioners and approve a final county budget, hold public hearings in the county and submit their recommendations to the county commissioners.

3. Term of office. The term of office for an advisory budget committee member who is an elected official is 3 years, provided that a an advisory budget committee member remains a municipal officer an elected official in the municipal officer's elected official's municipality, except that, of those appointed in 1989, one from each district shall be appointed for a term of 3 years; one from each district shall be appointed for a term of 2 years; and one from each district shall be appointed for a term of one year. This subsection does not apply to the initial advisory budget committee members whose terms are described in subsection 1-B.

4. Vacancies. The county commissioners shall appoint a municipal officer, subject to the approval of the county legislative delegation as provided in subsection 1, an elected official to fill any vacancy occurring on the advisory budget committee. Vacancies shall A vacancy must be filled from the commissioner district in which the vacancy occurred and is for the balance of the unexpired term.

5. Expenses. Members shall serve without are not entitled to compensation, but shall must be reimbursed at the county rate from the county treasury for expenses authorized by the county commissioners that are lawfully incurred by them in the performance of their duties.

Sec. 4. 30-A MRSA §863, as enacted by PL 1989, c. 473, is repealed and the following enacted in its place:

§863. Advisory budget committee organization

The advisory budget committee shall organize and conduct its meetings as follows.

1. Organization. The county commissioners shall direct the county clerk to call an organizational meeting of the advisory budget committee no later than 60 days before the end of the county's fiscal year. At the organizational meeting, the committee shall:

- A. Elect a chair and a recording secretary from among its members; and
- B. Adopt rules, procedures and bylaws.

2. Meetings. The advisory budget committee shall determine the time and location of the advisory budget

committee meetings. The meetings must be held at times convenient for the public. The advisory budget committee shall keep minutes and record votes for every meeting. The county clerk shall issue a public notice of a meeting no later than 7 days before the meeting is held.

3. Resources. The county commissioners shall provide the advisory budget committee with necessary clerical assistance, office expenses and suitable meeting space, as well as access to county files and information.

Sec. 5. 30-A MRSA §864, sub-§§1 to 3, as enacted by PL 1989, c. 473, are amended to read:

1. Proposed budget. The county commissioners shall submit an itemized budget estimate, as described in sections 701, 702 and 7503, to the advisory budget committee in a timely fashion, no later than 60 days before the end of the county's fiscal year.

2. Budget review process. The advisory budget committee shall review the proposed itemized budget prepared by the county commissioners, together with any supplementary material prepared by the head of each county department or provided by any independent board or institution or another governmental agency. The advisory budget committee may increase, decrease, alter or revise the proposed budget advise that the proposed budget be increased, decreased, altered or revised, provided that:

A. The advisory budget committee shall enter enters into its minutes an explanation for any recommended change in the estimated expenditures and revenues as initially presented by the county commissioners; and

B. The total estimated revenues, together with the amount of county tax to be levied, must equal equals the total estimated expenditures.

3. Public hearing. The advisory budget committee shall hold a at least 2 public hearing hearings in the county on the proposed budget before the end of the county's fiscal year and before the final adoption of commissioners finally approve the budget. At least one public hearing must be held in the northern part of the county and at least one public hearing must be held in the southern part of the county. Notice of the hearing shall must be given at least 10 days before the hearing in a newspaper of general circulation within the county. Written notice and a copy of the proposed budget shall be sent by registered or certified mail with return receipt requested, or delivered in person, with proof received of the delivery, to the clerk of each municipality in the county. The municipal clerk shall notify the municipal officers of the proposed budget.

Sec. 6. 30-A MRSA §864, sub-§3-A is enacted to read:

3-A. Written notification. Written notice and a copy of the proposed budget must be sent at least 10 days before

the public hearing to the clerk of each municipality in the county. The municipal clerk shall notify the elected officials of the proposed budget.

Sec. 7. 30-A MRSA §864, sub-§4, as enacted by PL 1989, c. 473, is amended to read:

4. Approval of budget. ~~After the public hearing is completed, the advisory budget committee may further increase, decrease, alter and revise the proposed itemized budget shall submit its recommendations to the county commissioners for approval not later than the end of the county's fiscal year, subject to the conditions and restrictions imposed in subsection 2. The proposed itemized budget must be finally adopted by a majority vote of the budget committee at a duly called meeting not later than the end of the county's fiscal year. The approved budget is the final authorization for the assessment of county taxes. The budget shall be sent to the county commissioners and the county tax authorized shall be apportioned and collected in accordance with section 706.~~

Sec. 8. 30-A MRSA §864, sub-§4-A is enacted to read:

4-A. Legislative approval. Before January 15th of the fiscal year for which the budget is prepared, the county commissioners shall submit the budget to the Legislature. The Legislature shall approve, disapprove or amend the budget as submitted.

Sec. 9. 30-A MRSA §§865 and 867, as enacted by PL 1989, c. 473, are repealed.

Sec. 10. Retroactivity. This Act applies retroactively to February 28, 1991.

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

Effective July 8, 1991.

CHAPTER 534

H.P. 825 - L.D. 1179

An Act to Amend the Laws Regarding Complaints against Physicians

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

Whereas, there are numerous patient complaints and suits regarding physician services; and

Whereas, it is felt that providing potential patients with additional information regarding physicians as an aid to selecting and dealing with them would be one means to a more satisfactory physician-patient relationship; and

Whereas, some of the information that would be of aid to a patient appears to be protected by current federal and state laws; and

Whereas, it is desirable that these issues of what information may be legally made available be clarified as soon as possible so that patients may be provided with all information not legally prohibited; 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. 24 MRSA §2509, sub-§6, as enacted by PL 1977, c. 492, §3, is amended to read:

6. Court action for amendment or destruction. A physician shall have has the right to seek through court action pursuant to the Maine Rules of Civil Procedure the amendment or destruction of any part of his that physician's historical record in the possession of the board. When a physician initiates court action under this subsection, the board shall notify the persons who have filed complaints of the physician's request to amend these complaints or expunge them from the record. Notice to complainants must be sent to the last known address of the complainants. The notice must contain the name and address of the court to which a complainant may respond, the specific change in the complaint that the physician is seeking or the complaint that the physician seeks to expunge, and the length of time that the complainant has to respond to the court. The board shall provide complainants with at least 60 days' notice from the date the notice is sent in which to respond.

Sec. 2. 24 MRSA §2509, sub-§7, as enacted by PL 1977, c. 492, §3, is repealed and the following enacted in its place:

7. Destruction of information. A board, subject to this section, may not amend or expunge any information from a physician's historical record that concerns complaints filed against the physician or disciplinary action taken by the board with respect to that physician unless the board is provided with evidence more probable than not that the complaint may be dismissed for lack of merit or does not raise to a level of misconduct sufficient to merit board action. If there is insufficient evidence to prove or disprove a complaint filed with the board, the historical record must indicate that evidence was insufficient to support disciplinary action.

Sec. 3. 24 MRSA §2601, first ¶, as enacted by PL 1977, c. 492, §3, is amended to read:

Every insurer providing professional liability insurance in this State to a person licensed by the Board of