

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

SECOND SPECIAL SESSION

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J.S. McCarthy Company
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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

CHAPTER 655

S.P. 469 - L.D. 1252

An Act to Amend and Improve the Laws
Relating to Education

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

Whereas, this Act makes several important, technical changes to state education laws; and

Whereas, it is necessary that these changes go into effect immediately in order to benefit the school units, students and school administrators of the State; 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Sec. 1. 20-A MRSA §1051, sub-§1, as repealed and replaced by PL 1983, c. 816, Pt. A, §10, is amended to read:

1. Eligibility requirements. Only those persons who hold a state certificate of superintendence grade, issued in accordance with chapter 501 or 502, may be eligible to become superintendents. Members of the school board may not be eligible to become superintendent in the school administrative unit ~~which that~~ they represent. Superintendents' certificates may be revoked in accordance with section ~~1300+~~ 13020. Grounds for revocation ~~shall~~ include, but are not be limited to, the employment or retention of uncertified personnel in a school administrative unit in violation of this Title or of any rules adopted pursuant to this Title.

Sec. 2. 20-A MRSA §1251, sub-§6, as amended by PL 1987, c. 736, §40, is further amended to read:

6. Oath of office. Before their first meeting, newly elected directors ~~shall~~ must take the following oath or affirmation before a dedimus justice or notary public.

"I do swear that I will faithfully discharge to the best of my abilities the duties incumbent on me as a school director of School Administrative District No..... according to the Constitution and laws of this State. So help me God."

A. A director shall take the oath or affirmation and return a certificate documenting that the oath

has been taken to the secretary of the district to place in the district records.

B. If a director is conscientiously scrupulous of taking an oath, the word "affirm" ~~shall~~ may be used instead of "swear" and the words "this I do under the pains and penalty of perjury" instead of the words "so help me God."

Sec. 3. 20-A MRSA §1653, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

§1653. Election; vacancies

1. Representation on school committees in districts that do not include kindergarten and grades one to 12; districts that include kindergarten and grades one to 12; starting date for term of office. Each member town's representation on the district's school committee, as determined pursuant to section 1651, subsection 2, paragraph C, ~~shall~~ must be chosen as follows.

A. In a district ~~which that~~ does not include kindergarten and grades one to 12, the school committee of each member town shall choose from its membership the representation on the community school district's school committee to which that town is entitled. Membership on the district's committee ~~shall be~~ is coterminous with the member's term of office on the school committee of the town ~~which that~~ the member represents.

B. In a district ~~which that~~ includes kindergarten and grades one to 12, the member towns shall elect their representatives directly to the district's school committee as follows.

(1) For the purpose of nominations, the members of the school committee ~~shall be~~ are considered municipal officers and ~~shall~~ must be nominated in accordance with Title 30-A, chapter 121, or in accordance with a municipal charter, whichever is applicable.

(2) Upon the election of the members to the school committee, the clerks of the several municipalities within the district shall forward the names of the members of the committee elected by each municipality to the secretary of the district's school committee.

(3) The terms of office ~~shall be~~ are determined by lot as follows: ~~One-third~~ One third of the members of the school committee ~~shall~~ serve one-year terms; 1/3 ~~shall~~ serve 2-year terms; and 1/3 ~~shall~~ serve 3-year terms. In the event the number of members is not evenly divisible by 3, the terms of the mem-

bers represented by the integer obtained by dividing the number of members by 3 ~~shall be~~ are determined by the preceding sentence; if one member remains, that member ~~shall serve~~ serves a 3-year term; if 2 members remain, one ~~shall serve~~ serves a 3-year term; and one ~~shall serve~~ serves a 2-year term, to be determined by lot. The members of the school committee ~~shall~~ serve their terms as determined and an additional period until the next regular election of the municipalities. Thereafter, their terms of office ~~shall~~ date from the time of each municipality's regular election. In a city where elections are held biennially, the term of each member ~~shall be~~ is for 4 years, dating from the time of the regular city election and, following the initial election, the members ~~shall~~ choose by lot to see who will serve for 4 years and who will serve for 2 years. Thereafter, each member ~~shall be~~ is elected to serve for 4 years.

C. Notwithstanding paragraphs A and B, the voters of a district may vote on an appropriate article at meetings called by the municipal officers of the respective member towns, in accordance with section 1602, to establish a fixed common date for all ~~newly-elected~~ newly elected school committee members to assume their terms of office. The common date ~~shall be~~ must be subsequent to the last annual municipal election within the district, but ~~shall~~ may be no later than July 1st of the next fiscal year. The adoption of such a common date ~~shall be~~ is conditional upon the favorable passage of this article at each of the meetings of the member towns.

2. Vacancies caused by death or resignation; declaration of vacancy; attendance as nonvoting member. Vacancies caused by death or resignation ~~shall be~~ are filled as follows.

A. A vacancy on a school committee of a district ~~which that~~ does not include kindergarten and grades one to 12, whether caused by death, by resignation or by a member having changed his residence from the town ~~which that~~ the member was elected to represent, ~~shall~~ must be filled by the school committee of the town in which the vacancy occurs. A similar vacancy on a school committee of a district ~~which that~~ includes kindergarten and grades one to 12 ~~shall~~ must be filled by the municipal officers of the municipality in which the member resided. The municipal officers shall select a new member from the municipality in which the old member resided to serve until the next annual municipal election. Evidence that an individual is

registered to vote in a municipality is prima facie evidence of that individual's residency.

B. If any representative on the school committee in a community school district ~~which that~~ does not include kindergarten and grades one to 12 is absent from 3 consecutive regular committee meetings, the committee may declare that a vacancy exists and the school committee in the representative's town may choose from among its members another representative to the community school committee. The new member ~~shall~~ must be chosen on the basis of seniority.

Except in municipalities having a municipal charter, if any representative on the school committee in a community school district ~~which that~~ includes kindergarten and grades one to 12 is absent without excuse from 3 consecutive regular committee meetings, the committee may declare that a vacancy exists. The municipality shall elect another representative to the community school committee in the same manner as provided for original election under subsection 1, paragraph B. The successor ~~shall serve~~ serves for the remainder of the unexpired term.

C. If a member of the school committee in a community school district ~~which that~~ does not include kindergarten and grades one to 12 is absent from a meeting, the senior nonvoting member ~~shall be~~ is allowed all the rights and privileges of the absent member. This paragraph ~~shall apply~~ applies only to a community with only one member on the community school committee.

Sec. 4. 20-A MRSA §4706, sub-§2, as enacted by PL 1983, c. 859, Pt. C, §§5 and 7, is amended to read:

2. Maine studies. A course in the Maine history, including the Constitution of Maine, Maine geography and environment and the natural, industrial and economic resources of Maine and Maine's cultural and ethnic heritage ~~shall~~ must be taught in at least one grade from grade 6 to grade ~~±~~ 8, in all schools, both public and private. These concepts must be integrated into the curriculum in grades 9 to 12.

Sec. 5. 20-A MRSA §5004 is enacted to read:

§5004. Work permits

Superintendents shall issue and revoke work permits for minor students as provided in Title 26, chapter 7.

Sec. 6. 20-A MRSA §7502, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§7502. State institutions

The director of a state institution ~~for the mentally ill or mentally retarded~~ shall apply to the superintendent of the school administrative unit in which the institution is located, or in any adjoining unit, for children in the institution to attend that unit's schools. These exceptional students ~~shall~~ are entitled to attend under the same conditions as apply to students residing in the school administrative unit and under the rules of the department relating to special education.

Sec. 7. 20-A MRSA §7722, sub-§4, as enacted by PL 1985, c. 487, §3, is amended to read:

4. Governance and financial responsibility. The school board responsible for ~~operating~~ providing the pre-school program or service shall assume the financial responsibility for the program or service. It ~~shall receive~~ is entitled to the state subsidy for the program or service and may charge tuition for costs which exceed expenditures made for those programs or services in the base year.

Sec. 8. 20-A MRSA §8401, as amended by PL 1989, c. 540, §1, is further amended to read:

§8401. Vocational centers

The vocational centers shall operate at Augusta; Bath; Biddeford; School Administrative District No. 61; (Bridgton); Caribou; School Administrative District No. 46; (Dexter); Ellsworth; School Administrative District No. 9; (Farmington); School Administrative District No. 27 (Fort Kent); Lewiston; Madawaska; Portland; School Administrative District No. 1; (Presque Isle); Sanford; School Administrative District No. 54; (Skowhegan); School Administrative District No. 24; (Van Buren); Waterville; and Westbrook. School Administrative District No. 27, School Administrative District No. 33 and the Madawaska School Department are authorized to enter into a cooperative agreement ~~which that~~ provides for the construction and operation of a vocational center in School Administrative District No. 33.

Sec. 9. 20-A MRSA §15603, sub-§23, as enacted by PL 1983, c. 859, Pt. G, §§2 and 4, is amended to read:

23. State-operated institution. "State-operated institution" means any residential facility or institution which is operated by the Department of Mental Health and Mental Retardation or a school operated by the Department of Education.

Sec. 10. 20-A MRSA §15905-A, sub-§3 is enacted to read:

3. Local vote. Prior to approval by the commissioner, each nonstate funded project must receive a fa-

vorable vote in accordance with section 15904, except that section 15904, subsection 4 does not apply.

Sec. 11. P&SL 1941, c. 37, §2, last ¶, first sentence, as amended by P&SL 1985, c. 6, is further amended to read:

The trustees shall appoint a board of visitors composed of not fewer than ~~12~~ 25 nor more than ~~25~~ 50 members.

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

Effective March 13, 1992.

CHAPTER 656**S.P. 518 - L.D. 1396****An Act to Establish the Maine Correctional Institution - Warren**

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

34-A MRSA §3201, as amended by PL 1991, c. 314, §62, is further amended to read:

§3201. Maintenance

The commissioner shall maintain the Maine State Prison at Thomaston, in Knox County, as the prison and penitentiary of the State, and shall confine, employ and govern persons lawfully committed to the department, as provided by law. The Maine Correctional Institution - Warren is established as a unit of the Maine State Prison.

See title page for effective date.

CHAPTER 657**H.P. 1018 - L.D. 1491****An Act to Limit Late Fees Charged on Cable Television Rates**

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

Sec. 1. 30-A MRSA §3010, sub-§6-B is enacted to read:

6-B. Late fees. A cable television system operator may not charge a late fee on any bill for basic tier service, as defined in the federal Cable Communications Policy Act of 1984, 47 United States Code, Section 522,