

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

December 12, 1991 to January 7, 1992

SECOND REGULAR SESSION

January 8, 1992 to March 31, 1992

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1992

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

J.S. McCarthy Company
Augusta, Maine
1992

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

CHAPTER 847**H.P. 1684 - L.D. 2364****An Act to Clarify the Funding of State Mandates**

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

Whereas, the breadth of the present law that requires the State to fund state mandates is having a negative impact on legislation requested by municipalities; 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. 429, §1 and c. 591, Pt. III, §23, is repealed.

Sec. 2. 20-A MRSA §2-A, first ¶, as enacted by PL 1991, c. 429, §2, is amended to read:

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~~ Title 30-A, section 5684, as follows.

Sec. 3. 20-A MRSA §2-A, sub-§6, as enacted by PL 1991, c. 429, §2, is amended to read:

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 This section is repealed on July 1, 1992.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~~ Title 30-A, section 5684.

Sec. 4. 30-A MRSA §5684, last ¶, as enacted by PL 1989, c. 922, is amended to read:

For the purposes of this section, "state mandate" means any state regulatory or statutory action that requires county or municipal government, or a unit of county or municipal government, 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 or federal court or any legislation necessary to comply with a federal mandate. The State is not required to fund any state mandate that is necessary to comply with the Maine Human Rights Act; ensures due process; creates, expands or amends criminal laws or civil infractions or penalties enforced by municipalities; increases the minimum wage; results from en-

actment of legislation introduced at the official request of a municipality or municipalities; or imposes routine obligations, when the combined statewide cost of all such mandates in any calendar year is less than .001 of the total amount of property taxes collected in the State during the previous year.

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

Effective April 9, 1992.

CHAPTER 848**S.P. 945 - L.D. 2409****An Act to Improve Educational Public Broadcasting Statewide**

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

Whereas, the further development and enhancement of educational noncommercial radio and television programming for Maine people throughout the State is vital to the State's interest; and

Whereas, there exist present opportunities to unify public and private noncommercial educational broadcasting in this State; and

Whereas, encouragement and assistance to take advantage of these opportunities is essential to the advancement of educational noncommercial radio and television broadcasting in this State; and

Whereas, legislation is necessary to authorize the University of Maine System to take advantage of the opportunity to unify public broadcasting in this State for the benefit of all the citizens of Maine; 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. 1 MRSA §402, sub-§2, as amended by PL 1989, c. 878, Pt. A, §1, is further amended to read:

2. Public proceedings. The term "public proceedings" as used in this subchapter ~~shall mean~~ means the transactions of any functions affecting any or all citizens of the State by any of the following:

A. The Legislature of Maine and its committees and subcommittees;

B. Any board or commission of any state agency or authority, the Board of Trustees of the University of Maine System and any of its committees and subcommittees, the Board of Trustees of the Maine Maritime Academy and any of its committees and subcommittees, the Board of Trustees of the Maine Technical College System and any of its committees and subcommittees;

C. Any board, commission, agency or authority of any county, municipality, school district or any regional or other political or administrative subdivision; ~~and~~

D. The full membership meetings of any association, the membership of which is composed exclusively of counties, municipalities, school administrative units or other political or administrative subdivisions; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; and

E. The board of directors of a nonprofit, nonstock private corporation that provides statewide non-commercial public broadcasting services and any of its committees and subcommittees.

Sec. 2. 20-A MRSA §852, sub-§3 is enacted to read:

3. Transfer of assets and liabilities. The University of Maine System may transfer any assets and liabilities acquired pursuant to this section in order to unify operation in a nonprofit, nonstock private corporation. The University of Maine System retains a reversionary interest in the university's assets as provided for in the articles of incorporation of that corporation. An annual appropriation for operating, constructing, equipping, maintaining, improving and replacing facilities of the corporation must be made in amounts sufficient to ensure delivery of broadcast sources throughout the State.

Sec. 3. Transfer authorized. Pursuant to the Maine Revised Statutes, Title 20-A, section 852, subsection 3, the University of Maine System may transfer the assets and liabilities associated with the Maine Public Broadcasting Network, operated by the system, to a Maine nonprofit, nonstock private corporation, referred to in this Act as "the transferee corporation," formed pursuant to the Maine Revised Statutes, Title 13-B for the purpose of unifying the operations of the Maine Public Broadcasting Network and WCBB, operated by the Colby-Bates-Bowdoin Educational Telecasting Corporation, into a noncommercial statewide public broadcasting network.

The transfer may occur only if the transferee corporation has a board of trustees that includes the chan-

cellor of the University of Maine System; 3 members representing the Board of Trustees of the University of Maine System; the President of Bates College; the President of Bowdoin College; the President of Colby College; and not fewer than 8 nor more than 12 public trustees elected by the board in the manner prescribed in the corporation's bylaws. The president of the transferee corporation is a nonvoting member of the board.

The Maine Revised Statutes, Title 13, section 3062 does not apply to the transfer of assets authorized in this section. The Treasurer of the University of Maine System may execute and deliver any document or instrument and take any action necessary or convenient to carry out the transfer of assets and liabilities authorized in this section.

Sec. 4. Budget estimates. The transferee corporation shall prepare and submit its appropriations requirements for consideration pursuant to the Maine Revised Statutes, Title 5, section 1665 in the same manner as public higher education institutions of the State. The appropriation requirements are limited to the costs of constructing, equipping, maintaining, improving and replacing the buildings and equipment for its transmitting facilities, production facilities, master control centers and interconnection equipment that provide signals to its transmitters or other distribution systems, and of operating its transmitting facilities so that the Legislature may appropriate sufficient funds to that corporation for those purposes. Appropriations must be made in amounts to be determined by the Legislature for those purposes.

Sec. 5. Personnel. The transferee corporation shall protect certain rights of Maine Public Broadcasting Network employees covered by collective bargaining agreements as of March 1, 1992 as follows.

For those Maine Public Broadcasting Network employees who were employed on March 1, 1992 and who are employed on June 30, 1992, each individual must be offered an individual employment contract by the transferee corporation at the employee's fiscal year 1991-92 salary for a period of one year beginning July 1, 1992. Unless the employee voluntarily leaves the position or is subject to termination for cause, the transferee corporation shall pay the balance of the employee's annual salary for the year ending June 30, 1993 if the employee is laid off. The transferee corporation shall offer this group of employees a benefit package, including health insurance, retirement benefits, Federal Insurance Contributions Act benefits, workers' compensation insurance, disability insurance, or other benefits that the transferee corporation's board of trustees approves equal to at least a value of 20% of the annual salaries and wages of that employee group.

For those Maine Public Broadcasting Network employees who were employed on March 1, 1992 and who are not employed on June 30, 1992 and who have not left their positions voluntarily or been terminated for cause,

the transferee corporation shall offer those individuals any vacant positions within their job classifications that are filled prior to June 30, 1993.

Sec. 6. State support; intent. The Legislature intends that the State support and provide funding in accordance with section 3 to meet the costs of delivering broadcast services so that all the people of the State may share equitably in the advantages of public broadcasting, regardless of geographic location or economic circumstances.

Sec. 7. Transfer; findings; intent. The Legislature finds that it is in the best interest of the people of the State in all regions to develop, maintain and support a structure of public broadcasting that will ensure the most cohesive and efficient system possible. The Legislature finds that it is desirable to unify the operations of the Maine Public Broadcasting Network, or MPBN, operated by the University of Maine System, and WCBB, operated by the Colby-Bates-Bowdoin Educational Telecasting Corporation, in a nonprofit corporation that will provide public noncommercial radio and television programs for audiences throughout the State, using broadcast systems and other delivery mechanisms that new technological developments may allow. The Legislature further finds that unifying of the operations of MPBN and WCBB will provide a unique and more valuable service to the people of Maine, producing, promoting and delivering more high-quality programs to all Maine residents; unify the people of this State in all geographic areas by increased public awareness of matters of state-wide importance; protect public broadcasting's free press function; offer greater efficiency in delivering the best possible service for the lowest possible cost; retain flexibility for combining federal, state and private financial assistance; and develop the independent fundraising potential that public broadcasting has demonstrated.

The Legislature intends that this Act will bring about the orderly transfer of licenses and operational responsibilities for state-owned educational noncommercial radio and television stations to a nonprofit, nonstock private corporation that will combine the broadcasting facilities and capabilities of MPBN and WCBB.

Sec. 8. Freedom of access. In recognition of the fact that the transferee corporation will receive public funds and public assets the transferee corporation is subject to the Maine Revised Statutes, Title 1, chapter 13 and must adopt bylaws and policies to implement the requirements of that chapter.

Sec. 9. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1992-93

**UNIVERSITY OF MAINE SYSTEM,
BOARD OF TRUSTEES OF THE**

Maine Public Broadcasting Network

All Other	(\$80,258)
Deappropriates funds not needed.	

Maine Public Broadcasting Network

All Other	\$80,258
Provides funds for the construction of a radio transmitter to serve the St. John Valley.	

**BOARD OF TRUSTEES OF THE
UNIVERSITY OF MAINE SYSTEM
TOTAL**

\$ -0-

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

Effective April 9, 1992.

CHAPTER 849

H.P. 1708 - L.D. 2389

**An Act to Implement the Jobs Creation
Bond Package**

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

Whereas, the State is in a severe economic downturn and tens of thousands of jobs have been lost in the State during that downturn; and

Whereas, bond issues for infrastructure construction projects are a proven method of creating jobs; and

Whereas, many of the State's infrastructure facilities are in need of immediate improvement; and

Whereas, numerous infrastructure construction projects could begin this summer if funding were available; and

Whereas, those projects are urgently needed to create jobs within the State and to make needed repairs and improvements; and