

# 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**

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J.S. McCarthy Company  
Augusta, Maine  
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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**

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shall designate one or more times during the 30-day period prior to an election during which the municipal clerk ~~shall~~ must be present in any licensed nursing home, as defined in Title 22, chapter 405; licensed boarding home, as defined in Title 22, chapter 1665; or certified congregate housing unit, as defined in Title 22, chapter 1457-A, for the purpose of absentee balloting by the residents of these homes or units. The clerk shall designate which areas in these facilities constitute the voting place, the voting booth and the guardrail enclosure. Sections 681 and 682 apply to voting in these facilities within the areas designated by the clerk.

**Sec. 7. 21-A MRSA §759, sub-§7**, as enacted by PL 1991, c. 466, §32, is amended to read:

**7. Processing before close of polls.** ~~If a notice is given following the procedure in section 621 signed by the municipal officers must be posted at least 7 days before election day in the same manner as posting the warrant under section 621, stating that the clerk intends to begin process processing absentee ballots after 2:00 p.m. on election day, the . The warden may review the notes of the clerk on each return envelope and deposit the absentee ballots into the ballot box before the close of the polls. The clerk shall notify the chairs of each political party of the municipality, in writing, that this procedure is to occur. If the clerk is unable to notify the chair of the municipal political party, the clerk shall notify the chair of the county or state political party.~~

**Sec. 8. 21-A MRSA §901, sub-§4**, as enacted by PL 1985, c. 161, §6, is amended to read:

**4. Ballot question.** The ballot question for initiative and people's veto referenda ~~shall~~ must be drafted by the Secretary of State in accordance with section 906 and rules adopted ~~under it in accordance with the Maine Administrative Procedure Act.~~ The question must be conspicuously displayed on the face of the petition.

**Sec. 9. 30-A MRSA §1322, sub-§6**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

**6. Election.** When the final report is filed, the county commissioners shall order the proposed new charter or charter revision to be submitted to the voters of the county at the next regular or special statewide election held at least ~~30~~ 60 days after the final report is filed.

**Sec. 10. Costs not funded.** Notwithstanding the Maine Revised Statutes, Title 30-A, section 5684, any requirements of this Act that result in additional costs to local or county government are not state mandates subject to that section and the State is not required to fund those costs.

See title page for effective date.

## CHAPTER 863

H.P. 892 - L.D. 1289

### An Act to Promote Comprehensive and Consistent Statewide Environmental Policy and Regulation

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

**Sec. 1. 12 MRSA §8869, sub-§8**, as enacted by PL 1989, c. 555, §10, is amended to read:

**8. Relationship to municipal rules and regulations.** Nothing in this subchapter may be construed to preempt or otherwise limit the existing authority of municipalities to regulate harvesting, except that municipalities regulating timber harvesting shall adopt definitions for forestry terms used in their ordinances that are consistent with forestry terms adopted by the commissioner pursuant to this subchapter. ~~Municipalities considering the adoption of ordinances regulating timber harvesting shall develop ordinances in consultation with the department. A municipality may not adopt an ordinance that regulates timber harvesting unless the ordinance is developed in consultation with the department and is reviewed by a professional forester prior to adoption.~~

**Sec. 2. Costs not funded.** Notwithstanding the Maine Revised Statutes, Title 30-A, section 5684, any requirements of this Act that result in additional costs to local or county government are not state mandates subject to that section and the State is not required to fund those costs.

See title page for effective date.

## CHAPTER 864

S.P. 682 - L.D. 1810

### An Act to Provide for Dissolution of a Union School or Withdrawal from a Union School

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

**Sec. 1. 20-A MRSA §§2103 and 2104** are enacted to read:

#### **§2103. Dissolution of union school**

**1. Ten percent petition.** On receipt of a petition to dissolve a union school and establish a maximum figure for the cost of preparing a dissolution agreement signed by 10% of the number of voters in a municipality who voted at the last gubernatorial election, the municipal officers shall call and hold a special election in the

manner provided for the calling and holding of town meetings or city elections to vote on the dissolution of the union school.

A. At least 10 days before the election, the municipal officers shall hold a posted or otherwise advertised public hearing on the petition.

B. The petition must be approved by secret ballot by a 2/3 vote of the voters present and voting before it may be presented to the municipal school committees and the commissioner. Voting in towns must be conducted in accordance with Title 30-A, sections 2528 and 2529, even if the towns have not accepted the provisions of Title 30-A, section 2528, and voting in cities must be conducted in accordance with Title 21-A.

**2. Form.** The question to be voted on must be in substantially the following form.

“Article .....: Be it resolved by the residents of the Town of ..... that a petition for dissolution be filed with the school committees of Union School No. .... and with the commissioner, that the dissolution committee be authorized to expend \$..... and that the (municipal officers; i.e. selectmen, town council, etc.) be authorized to issue notes in the name of the Town of ..... or otherwise pledge the credit of the Town of ..... in an amount not to exceed \$ ..... for this purpose?

Yes.....                      No.....”

**3. Notice of vote; finding by commissioner.** If residents of a participating municipality vote favorably on a petition for dissolution, the clerk shall immediately give written notices, by registered mail, to the secretary of the municipal school committees and the commissioner that must include:

A. The petition adopted by the voters, including the positive and negative votes cast; and

B. An explanation by the municipal officers stating, to the best of their knowledge, the reason or reasons the municipality seeks to dissolve the union school.

**4. Agreement for dissolution; notice; changes in agreement; final agreement.** The agreement for dissolution must comply with the following.

A. After consultation with the school committees, municipal officers of the participating municipalities and representatives of the group that filed the petition with the municipality, the commissioner shall direct the municipal officers of each municipality to select representatives to a dissolution committee as follows: one member from the muni-

pal officers; one member from the general public; and one member from the group filing the petition if the group is represented in the municipality, otherwise an additional member of the general public. The commissioner shall also direct the school committee representing each municipality to select one school committee member to serve on the committee. The municipal officer and the members of the school committees serve on the committee only as long as they hold their respective offices. Vacancies must be filled by the municipal officers and school committees. The school committee chair from the municipality where the petition has passed shall call a meeting of the committee within 30 days of the filing of the notice of the vote in subsection 3. The chair of that school committee shall open the meeting by presiding over the election of a chair of the committee. The responsibility for the preparation of the agreement rests with the committee, subject to the approval of the commissioner. The committee may draw on the resources of the department for information not readily available at the local level and employ competent advisors within the fiscal limit authorized by the voters. The agreement must be submitted to the commissioner within 90 days after the committee is formed. Extensions of time may be granted by the commissioner on the request of the committee. The agreement must:

(1) Contain provisions to provide educational services for all students in the union school. The agreement must provide that during the first year following the dissolution, students may attend the school they would have attended if the union school had not dissolved. The allowable tuition rate for students sent from one municipality to another in the former union school must be determined under section 5805, subsection 1, except that it is not subject to the state per pupil average limitation in section 5805, subsection 2;

(2) Provide that the dissolution take effect at the end of the union school’s fiscal year;

(3) Establish that the dissolution may not cause a need within 5 years from the effective date of dissolution for school construction projects that would be eligible for state funds. This limitation does not apply when a need for school construction existed prior to the effective date of the dissolution or when a need for school construction would have arisen even if the union school had not dissolved;

(4) Establish how transportation services will be provided;

(5) Provide for administration of the new administrative units, which should not include the creation of new supervisory units if possible;

(6) Provide for the distribution of financial commitments arising from outstanding bonds, notes and any other contractual obligations that extend beyond the proposed date of dissolution;

(7) Provide appropriately for the distribution of any outstanding financial commitments to the superintendent of the union school;

(8) Provide for the continuation and assignment of collective bargaining agreements as they apply to the new or reorganized school administrative unit for the duration of those agreements and provide for the continuation of representational rights;

(9) Provide for the continuation of continuing contract rights under section 13201;

(10) Provide for the disposition of all real and personal property and other monetary assets; and

(11) Provide for the transition of administration and governance of the schools to properly elected governing bodies of the newly created administrative units and provide that the governing bodies may not be elected simultaneously with the vote on the article to dissolve unless the commissioner finds that extenuating circumstances necessitate simultaneous elections.

B. Within 60 days of the receipt of the agreement, the commissioner shall either give it conditional approval or recommend changes. The changes must be based on the standards set forth in paragraph A and the commissioner's findings of whether the contents of the agreement will provide for appropriate educational and related services to the students of the union school and for the orderly transition of assets, governance and other matters related to the union school.

C. If the commissioner conditionally approves the agreement, the commissioner shall notify the school committees and the municipal officers by registered mail of the time and place of a public hearing at least 20 days prior to the date set for the hearing to discuss the merits of the proposed agreement of dissolution. The chair of the committee shall conduct the hearing.

(1) The school committees shall post a public notice in each municipality of the time and location of the hearing at least 10 days before the hearing.

(2) Within 30 days following the hearing, the committee shall forward the final agreement to the commissioner.

D. If the commissioner recommends changes the commissioner shall:

(1) Send the agreement back to the committee for necessary corrections;

(2) Establish a maximum time within which to make the corrections; and

(3) Indicate that the corrected agreement must be returned to the commissioner for conditional approval before a public hearing is held as set forth in paragraph C.

**5. Date of vote; notice; warrant; polling hours.**  
The date and time for voting must be established as follows.

A. The commissioner shall determine the date upon which all municipalities must vote upon the dissolution agreement submitted to them. The election must be held as soon as practicable and the commissioner shall attempt to set the date of the vote to coincide with a statewide election.

B. At least 35 days before the date set in paragraph A, the school committee shall give written notice by registered or certified mail to the town or city clerk of each municipality that has a right to vote on the dissolution agreement.

C. The town or city clerk shall immediately notify the municipal officers upon receipt of the notice and the municipal officers shall meet and immediately issue a warrant for a special town meeting or city election, as the case may be, to be held on the date designated by the commissioner. No other date may be used.

D. In the respective warrants, the municipal officers shall direct that the polls open at 10 a.m. and remain open until 8 p.m.

**6. Public hearing; voting procedures.**  
The following requirements apply to the voting procedures.

A. At least 10 days before the election, a posted or otherwise advertised public hearing on the dissolution question must be held by the municipal officers.

B. Except as otherwise provided in this section, the voting at the meetings held in towns must be conducted in accordance with Title 30-A, sections 2528 and 2529, even if the towns have not accepted the provisions of Title 30-A, section 2528.

C. The voting at the meetings held in cities must be conducted in accordance with Title 21-A.

**7. Dissolution article.** The dissolution article must be in the following form.

“Article .....: Shall School Union No. .... be dissolved subject to the terms and conditions of the dissolution agreement dated ..... 19....?”

Yes .....

No .....”

**8. Ballots; posting of agreement.** The dissolution agreement need not be printed on the ballot. Copies of the agreement must be posted in each participating municipality in the same manner as specimen ballots are posted under Title 30-A, section 2528.

**9. Restriction on dissolution petitions.** No participating municipality within a union school may petition for dissolution within 2 years after the date of:

A. A municipal vote on a petition for dissolution if the petition received less than 60% of the votes cast; or

B. A district vote on a dissolution agreement if the agreement received less than 45% of the votes cast.

**10. Cost of dissolution agreements.** If the union school votes to permit dissolution, the union must reimburse the petitioning municipality for the authorized expenses incurred by the dissolution committee. If the union votes not to permit dissolution, the union is not required to reimburse the petitioning municipality for those expenses.

**11. Determination of vote.** The town and city clerks shall, within 24 hours of determination of the result of the vote in their respective municipalities, certify the total number of votes cast in the affirmative and the total number of votes cast in the negative on the dissolution article as described in subsection 7 to the school committee.

**12. Determination of results; notification of commissioner; execution of agreement.** Determination of result must comply with the following.

A. On receipt of the results of the voting from all municipalities, the school committees from the participating municipalities shall meet together and compute and record the total number of votes cast in the municipalities in the affirmative and in the

negative on the dissolution article as described in subsection 7.

B. The school committees shall notify the commissioner by registered mail or by hand delivery of the results of the vote.

C. If the commissioner finds that a majority of the voters voting on the dissolution article have voted in the affirmative, the commissioner shall notify the school committees of the union to take steps to dissolve the union in accordance with the terms of the agreement for dissolution.

**13. Recount; checklists and ballots; disputed ballots.** The following provisions apply to recounts, checklists, ballots and disputed ballots.

A. If, within 7 days of the computation and recording of the results of the voting from all municipalities, the municipal officers of any participating municipality request to the commissioner in writing a recount of the votes in the union, the commissioner shall immediately cause the checklists and all the ballots cast in all of the participating municipalities to be collected and kept at the commissioner’s office for recount by interested municipalities.

B. The town clerks of the participating municipalities are authorized to deliver the checklists and ballots to the commissioner, notwithstanding any other provision of law.

C. The commissioner shall resolve any question with regard to disputed ballots.

**14. Execution of agreement; certified record; certificate of withdrawal.** When the agreement for dissolution has been put in effect by the school committees of the union school, the director of each school committee shall notify the commissioner by certified mail that the agreement of dissolution has been executed.

A. A complete certified record of the transaction involved in the dissolution must be filed with the commissioner.

B. The commissioner shall immediately issue a certificate of dissolution to be sent by certified mail for filing with each school committee and shall file a copy in the office of the Secretary of State.

**15. Indebtedness; indebtedness defined; indebtedness after dissolution.** Whenever a union school having outstanding indebtedness dissolves, the union remains intact for the purpose of securing and retiring the indebtedness. The dissolution agreement may provide for alternate means for retiring outstanding indebtedness. For the purposes of this section, “outstanding indebtedness” means bonds or notes for school construction

projects issued by the school committees pursuant to the authorization established under chapter 609 or Title 20, sections 3457 to 3460 or obligations to the Maine School Building Authority pursuant to any contract, lease or agreement made by the school committees pursuant to approval thereof in a union meeting of the union school, but does not include any indebtedness of any municipality assumed by the union school at the time of formation nor any contract, lease or agreement of the Maine School Building Authority to which by operation of law the union school has become the assignee.

**16. General purpose aid.** When a union school dissolves the general purpose aid for the individual municipalities must be computed in accordance with chapter 605.

**17. Committee recall.** If the commissioner determines that the dissolution committee has failed to comply with the requirements of this section, the commissioner may authorize the municipal officers and the union's school committees to recall their representatives and to appoint new representatives to the committee.

**§2104. Withdrawal from union school**

**1. Petition.** The residents of a participating municipality within a union school may petition to withdraw from the union in the same manner as they would petition for the dissolution of a union school in accordance with section 2103, except that only a simple majority vote of those casting valid ballots in the municipality is required before the petition may be presented to the school committee and to the commissioner.

**2. Procedure.** The steps set forth in section 1403 for dissolution apply to the withdrawal of a member municipality from a union school, except that:

A. The responsible committee for preparing the withdrawal agreement must be limited to individuals from the municipality;

B. Instead of a union-wide election, a municipal election must be conducted in the municipality petitioning to withdraw and a 2/3 vote of those casting valid ballots in the municipality is required before it may withdraw;

C. Wherever there is reference in section 1403 to the term "dissolution" or other terms not consistent with withdrawal, the term "withdrawal" or other appropriate language must be substituted;

D. All public hearings required under section 1403 must be conducted by the municipal officers; and

E. A municipality may not petition for withdrawal within 2 years after the date of:

(1) A municipal vote on a petition for withdrawal if the petition received less than 45% of the votes cast; or

(2) A municipal vote on a withdrawal agreement if the agreement received less than 60% of the votes cast.

**3. Cost of advisors.** The expense of employing competent advisors by the municipality petitioning to withdraw must be borne by the municipality and the expense of employing competent advisors by the union must be borne by the union with the municipality bearing its share according to the union's cost-sharing agreement.

**4. Commissioner-recommended dissolution.** The commissioner's responsibilities to initiate dissolution proceedings are as follows.

A. If a member town in a union school votes to withdraw from the union, the commissioner shall determine the educational impact of the town's withdrawal upon the union. The union's school committees and the municipal officers from the remaining towns must be consulted.

B. If the commissioner finds that it is impractical for the remaining towns to continue as a union, the commissioner must initiate the dissolution process set out in section 1403 by having the union submit the following article to the voters at a union meeting called in accordance with sections 1351 to 1354.

"Article .....: Be it resolved by the voters of Union School No. .... that a dissolution committee be appointed and authorized to expend \$..... and the school committees of Union School No. .... be authorized to issue notes or otherwise pledge the credit of Union School No. .... in an amount not to exceed \$..... for this purpose?

Yes ..... No ....."

C. If the voters approve the article by a majority vote of those present and voting, the rest of the dissolution process set forth in section 1403 applies except:

(1) A 2nd member from the general public must be selected by the municipal officers to fill the position on the dissolution committee normally held by a representative of the group that would have filed the dissolution petition; and

(2) Costs of preparing a dissolution agreement must be borne solely by the union school.

**5. Transfer of property.** The union's school committees may negotiate with the withdrawal committee



regarding an equitable division of the union school's property between the union and the municipality represented by the committee and transfer title of the property to the municipality following withdrawal. The school committees must determine that the union's educational program may not be disrupted solely because of the transfer of any given property before the union's school committees may complete the transfer.

**Sec. 2. Costs not funded.** Notwithstanding the Maine Revised Statutes, Title 30-A, section 5684, any requirements of this Act that result in additional costs to local or county government are not state mandates subject to that section and the State is not required to fund those costs.

See title page for effective date.

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## CHAPTER 865

### H.P. 1601 - L.D. 2263

#### An Act Regarding Concealed Weapons Permit Fees

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

**Whereas,** legislation passed in the First Regular Session of the 115th Legislature increased the application fee for a concealed weapon permit; and

**Whereas,** applicants are paying the new fee for permits that are now being issued; and

**Whereas,** emergency enactment of this legislation will reduce the fee for concealed weapon permits and avoid overburdening the applicants requesting concealed weapon permits; 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. 25 MRSA §2003, sub-§1, ¶E,** as amended by PL 1991, c. 591, Pt. EE, §1, is further amended by amending subparagraph (4):

(4) Submits an application fee of ~~\$60~~ \$35 for an original application, ~~\$15~~ \$10 of which must be retained by the municipality and ~~\$45~~ \$25 of which must be paid over by the municipality to the Treasurer of State, and ~~\$60~~

\$20 for a renewal, ~~\$15~~ \$5 of which must be retained by the municipality and ~~\$45~~ \$15 of which must be paid over by the municipality to the Treasurer of State, for a resident of the State. A person who paid \$60 for a concealed weapons permit or renewal during 1991 or 1992 is entitled to a credit toward renewal fees in an amount equal to \$30 for a person who paid \$60 for an original application and \$45 for a person who paid \$60 for a permit renewal. The credit is valid until fully utilized. The fee covers both the cost of processing the application by the issuing authority and the cost of the permit to carry concealed firearms issued by the issuing authority; and

**Sec. 2. 25 MRSA §2003, sub-§7,** as amended by PL 1991, c. 591, Pt. EE, §2, is further amended to read:

**7. Nonresident.** Any nonresident who meets the requirements of this section may make an application to the Chief of the State Police and the application, fee and permit provisions of this section apply, except that a nonresident applicant shall submit an application fee of ~~\$80~~ which \$60 that must be paid to the Treasurer of State. A person who paid \$80 for a permit during 1991 or 1992 is entitled to a \$20 credit toward permit renewal fees. The fee required under this subsection must be applied to the expenses of administering this subsection.

**Sec. 3. 25 MRSA §2003, sub-§§8 and 12,** as enacted by PL 1985, c. 478, §2, are amended to read:

**8. Term of permit.** All concealed firearm permits are valid for ~~3~~ 4 years from the date of issue, unless sooner revoked for cause by the issuing authority. If a permit renewal is issued before the expiration date of the permit being renewed, the permit renewal is valid for 4 years from the expiration date of the permit being renewed.

**12. Permit for a resident of 5 or more years to be issued or denied within 30 days; permit for a nonresident and resident of less than 5 years to be issued or denied within 60 days.** The issuing authority, as defined in this chapter, shall issue or deny, and reply in writing as to the reason for any denial, within 30 days of the application date in the case of a resident of 5 or more years and within 60 days of the application date in the case of a nonresident or in the case of a resident of less than 5 years. If the issuing authority does not issue or deny a request for a permit renewal within the time limits specified in this subsection, the validity of the expired permit is extended until the issuing authority issues or denies the renewal.

**Sec. 4. 25 MRSA §2003, sub-§13** is enacted to read: