

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION

October 1, 1992 to October 6, 1992

FOURTH SPECIAL SESSION

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

OCTOBER 13, 1993

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
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

with letters at least one inch in height. Places where smoking is prohibited must have signs that read "No Smoking" with letters at least one inch in height or the international symbol for no smoking.

§1544. Retaliation prohibited

A person may not discharge, refuse to hire, discipline or otherwise retaliate against an employee or applicant who pursues any remedy available to enforce the requirements of this chapter.

§1545. Penalty

A person who violates any provision of this chapter commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged.

Sec. 2. 22 MRSA §1578, as amended by PL 1987, c. 20, §2, is repealed.

Sec. 3. 22 MRSA §1578-A, as enacted by PL 1987, c. 332, is repealed.

Sec. 4. 22 MRSA §1578-B, sub-§§4 and 5, as enacted by PL 1987, c. 687, are amended to read:

4. Employees. School employees are prohibited from tobacco use in school buildings or on school grounds, except that a local school board or school employees may establish through collective bargaining a designated smoking area or areas in accordance with section 1580-A, subsection 3, and employees may reopen collective bargaining negotiations in accordance with section 1578-A, subsection 4, for the purpose of bargaining for smoking areas. Any school employee smoking area shall must be located away from areas frequented by students.

5. Public. Tobacco use by any member of the public, other than an employee or student, in school buildings and on school grounds shall be governed by section 1578-A chapter 262.

Sec. 5. 22 MRSA §1580-C, as enacted by PL 1989, c. 743, is repealed.

Sec. 6. 22 MRSA §1580-D, as enacted by PL 1989, c. 878, Pt. G, §2, is repealed.

Sec. 7. 22 MRSA c. 265-A, as enacted by PL 1985, c. 737, Pt. A, §50, is repealed.

Sec. 8. 22 MRSA §1672-A, as corrected by RR 1991, c. 1, §28, is repealed.

Sec. 9. Effective date. This Act takes effect January 1, 1994.

Effective January 1, 1994.

CHAPTER 343

S.P. 286 - L.D. 856

An Act Regarding County Contingent Account Limits

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

Sec. 1. 30-A MRSA §922, sub-§2, as amended by PL 1991, c. 789, §1, is further amended to read:

2. Contingent fund. There is established a contingent account in each county in an amount not to exceed \$50,000 annually, except in Sagadahoc County where the contingent account may not exceed 4% of the annual budget. Notwithstanding the preceding sentence, a county, by unanimous action of the county commissioners, may increase the contingent account limit to an amount not exceeding \$100,000. Any funds that are available to each county may be used for this purpose. This fund may be used at the discretion of the county commissioners for emergency purposes only, except that if a county increases the contingent account limit, expenditures from the account above \$50,000 must be approved by a majority of the county budget or finance committee if the county's budget is not finally approved by the Legislature. At the end of each fiscal year there must be transferred from unencumbered county funds an amount sufficient to restore the established county contingent account.

See title page for effective date.

CHAPTER 344

H.P. 1119 - L.D. 1518

An Act to Bring State Water Quality Law into Compliance with Federal Requirements

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

Sec. 1. 38 MRSA §464, sub-§2-A is enacted to read:

2-A. Removal of designated uses; creation of subcategories of designated uses. Removal of designated uses and creation of subcategories of designated uses are governed by the provisions of this subsection and 40 Code of Federal Regulations, Part 131, as amended.

A. The board must conduct a use attainability analysis:

(1) Prior to proposing to the Legislature a designated use of a specific water body that

does not include the uses specified in the Federal Water Pollution Control Act, Public Law 92-500, Section 101(a)(2), as amended; or

(2) Prior to proposing to the Legislature the removal of a designated use or the adoption of a subcategory of such a designated use that requires less stringent criteria.

B. The board may not recommend to the Legislature the removal of a designated use or the establishment of a subcategory of the use, if:

(1) It is an existing use as defined in section 464, subsection 4, paragraph F, subparagraph (1), unless another designated use is adopted requiring more stringent criteria;

(2) The use can be attained by implementing effluent limits required under the Federal Water Pollution Control Act, Public Law 92-500, Sections 301(b) and 306, as amended and by implementing cost-effective and reasonable best management practices for nonpoint source control;

(3) The water body in question is currently attaining the designated use; or

(4) Adoption of the recommendation allows the introduction of a new discharge or the expansion of an existing discharge into the water body in question that is not attaining the designated use.

C. The board may adopt any recommendation under this subsection only after holding a public hearing in the affected area or adjacent to the affected area. Conduct of the public hearing and the board's subsequent decision are governed by Title 5, chapter 375, subchapter IV.

D. A finding by the board that attainment of a designated use is not feasible must be supported by a demonstration that the conditions of 40 Code of Federal Regulations 131.10(g) are met.

E. If the board adopts a proposal to enact a designated use under paragraph A, subparagraph (1) or to remove a designated use or adopt a subcategory of a designated use under paragraph A, subparagraph (2), it shall forward that proposal to the joint standing committee of the Legislature having jurisdiction over natural resources matters at the next regular session of the Legislature. The board may not forward any other recommendation to the Legislature under this subsection. The Legislature has sole authority to make changes in the designated uses of the waters of the State, including the creation of a subcategory of a designated use.

F. For the purposes of this subsection, "designated use" means the use specified in water quality standards for each water body or segment under sections 465 to 465-C and sections 467 to 470 whether or not that use is being attained. A designated use includes its associated habitat characteristic under sections 465 to 465-C.

Sec. 2. 38 MRSA §464, sub-§9, as enacted by PL 1991, c. 813, Pt. A, §1, is amended to read:

9. Existing hydropower impoundments managed as great ponds; habitat and aquatic life criteria. For the purposes of water quality certification under the Federal Water Pollution Control Act, Public Law 92-500, section 401, as amended, and licensing of modifications under section 636, ~~a~~ the hydropower project located on the water body referenced in section 467, subsection 7, paragraph C, subparagraph (1), division (b-1) is deemed to have met the habitat characteristics and aquatic life criteria in the existing impoundments if:

A. The project is in existence on the effective date of this subsection;

B. The project creates an impoundment that remains classified under section 465-A after ~~the effective date of this subsection~~ June 30, 1992;

C. The project creates an impoundment that is subject to water level fluctuations that have an effect on the habitat and aquatic life in the littoral zone so that the habitat and aquatic life differ significantly from that found in an unimpounded great pond; and

D. The existing impounded waters are able to support all species of fish indigenous to those waters and the structure and function of the resident biological community in the impounded waters is maintained.

All other hydropower projects with impoundments in existence on the effective date of this subsection that remain classified under section 465-A after ~~the effective date of this subsection~~ June 30, 1992 and that do not attain the habitat and aquatic life criteria of that section must, at a minimum, satisfy the aquatic life criteria contained in section 465, subsection 4, paragraph C.

When the actual water quality of the impounded waters attain any more stringent characteristic or criteria of those waters' classification under section 465-A that water quality must be maintained and protected.

Sec. 3. 38 MRSA §466, sub-11-A is enacted to read:

11-A. Use attainability analysis. "Use attainability analysis" means a structured scientific assessment of the factors affecting the attainment of a designated use

in a water body. The assessment may include consideration of physical, chemical, biological and economic factors.

Sec. 4. 38 MRSA §467, sub-§7, ¶C, as repealed and replaced by PL 1989, c. 764, §7, is amended by enacting sub-¶(1), division (b-1):

(b-1) From its confluence with Chesuncook Lake to Ripogenous Dam - Class GPA as modified by section 464, subsection 9.

See title page for effective date.

CHAPTER 345

H.P. 1075 - L.D. 1441

An Act to Amend the Laws Governing the Knox County Budget Committee

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Whereas, the beginning of a new fiscal year necessitates a new budget proposal by the Knox County budget committee; and

Whereas, the changes enacted in this legislation clarify the budget procedures of the Knox County budget committee; and

Whereas, the emergency enactment of this legislation will correct and improve the recommendations of the Knox County budget committee; 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 §751, sub-§1, as amended by PL 1991, c. 548, Pt. C, §4, is further amended to read:

1. Membership. The budget committee consists of 9 members who are elected from districts defined in section 757 and as provided in this subsection. Each committee member ~~shall serve~~ serves a 4-year term, ~~with the exception of the initial committee members whose terms are described in section 757.~~

A. Budget committee members must be elected on the Tuesday following the first Monday of November in each even-numbered year beginning in 1994. Each term begins January 1st of the year following the election.

B. Nominations for the office of budget committee member must be nonpartisan and be made by petition in accordance with Title 21-A, chapter 5, subchapter II, except that candidates need not verify by oath or affirmation that they are not enrolled in a party and the number of signatures of voters must be at least 25 and not more than 40 on a nomination petition for a candidate in each district subdivision. The election must be conducted and the results determined as provided for in the election of county commissioners in section 61. Costs for reproduction and distribution of ballots must be paid by Knox County.

C. The budget committee shall elect annually a chair from among its members.

D. A vacancy occurring on the budget committee must be filled by the committee, subject to confirmation by a majority of the county commissioners, for the balance of the unexpired term. The person appointed to fill the vacant office must be from the same municipality or unorganized territory as the person vacating the office.

E. Members ~~shall~~ serve without compensation.

F. The county budget committee shall review the itemized estimated budget prepared by the county commissioners, prepare a proposed budget and after a public hearing approve a final budget.

Sec. 2. 30-A MRSA §753, sub-§1, as enacted by PL 1991, c. 257, is amended to read:

1. Proposed budget. The county commissioners shall submit an itemized estimated budget, as described in sections 701, 702 and 7503, in the form of a budget, to the budget committee in a timely fashion no later than 60 days before the end of the county's fiscal year. The county commissioners must identify in the itemized estimated budget all revenue sources, including balances in reserve accounts and other such funds, used in arriving at their budget estimates.

Sec. 3. 30-A MRSA §753, sub-§2, as enacted by PL 1991, c. 257, is amended to read: