

# 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.

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J.S. McCarthy Company  
Augusta, Maine  
1993

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**1993**

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**Sec. 6. 25 MRSA §2003, sub-§2, ¶A-1** is enacted to read:

A-1. That the applicant understands that an affirmative answer to the question in subsection 1, paragraph D, subparagraph (5), division (c-1) is cause for refusal unless the applicant is nonetheless authorized to possess a firearm under Title 15, section 393, subsection 1-A;

**Sec. 7. 25 MRSA §2003, sub-§2, ¶B-1**, as enacted by PL 1989, c. 917, §11, is amended to read:

B-1. That the applicant understands that an affirmative answer to one or more of the questions in subsection 1, paragraph D, subparagraph (5), divisions (a), (b), (b-1), (c-1), (l), (m), (n) and (o) is used by the issuing authority, along with other information, in judging good moral character under subsection 4; and

See title page for effective date.

## CHAPTER 369

**H.P. 998 - L.D. 1339**

### **An Act to Allow for the Recall of Municipal Officials**

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

**Sec. 1. 30-A MRSA §2602, sub-§6, ¶A**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

A. Any change in the provisions of this section relating to ~~municipal officers~~ or a school committee must be accomplished by charter; and

See title page for effective date.

## CHAPTER 370

**H.P. 173 - L.D. 225**

### **An Act Regarding Dam Registration Fees**

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

**Sec. 1. 30-A MRSA c. 187, sub-c. VI** is enacted to read:

## **SUBCHAPTER VI**

### **MUNICIPAL REGULATION OF WATER LEVELS AND MINIMUM FLOWS**

#### **§4454. Municipal regulation**

Pursuant to the provisions of this subchapter, a municipality may adopt an ordinance under its home rule authority to regulate water level regimes and minimum flow requirements for impounded bodies of water and dams that are entirely within its corporate boundary.

#### **§4455. Registration for authority to regulate**

Prior to regulating a water level regime or minimum flow on any impounded body of water, a municipality shall adopt an ordinance and submit that ordinance to the Commissioner of Environmental Protection for review and approval. An ordinance adopted under this section must include:

**1. Substance of state law.** All substantive provisions of Title 38, chapter 5, subchapter 1, article 3-A. The ordinance may not allow a municipality to establish a water level regime or minimum flow requirements for any dam listed in Title 38, section 840, subsection 1, paragraphs A to D; and

**2. Commissioner as petitioner.** Provisions allowing the Commissioner of Environmental Protection and any municipality downstream of the impoundment to petition the municipality for an adjudicatory hearing.

An ordinance adopted under this subchapter may establish a fee for adjudicatory hearings conducted by the municipality.

#### **§4456. Interlocal agreements**

Two or more municipalities may enter into an interlocal agreement under this section to regulate water level regimes and minimum flow requirements for impounded bodies of water and dams that are entirely within the corporate boundaries of those municipalities only if each municipality has adopted an ordinance that has been approved by the Commissioner of Environmental Protection pursuant to this subsection.

#### **§4457. Assumption of authority**

Immediately upon the commissioner's approval of an ordinance submitted under this subchapter, all powers and duties of the Commissioner of Environmental Protection set forth in Title 38, chapter 5, subchapter 1, article 3-A, vest in that municipality.

**Sec. 2. 38 MRSA §352, sub-§5-B**, as enacted by PL 1991, c. 591, Pt. U, §2, is amended in that part

designated "TABLE 1" in that part relating to "Title 38" by adding a section 840 as follows:

840. Fee for water level petitions                                 100                                 0

**Sec. 3. 38 MRSA §815-A**, as enacted by PL 1991, c. 591, Pt. E, §37, is repealed.

**Sec. 4. 38 MRSA §816**, as amended by PL 1989, c. 545, §§4 to 6, is repealed.

**Sec. 5. 38 MRSA §830**, as amended by PL 1991, c. 591, Pt. E, §§38 and 39, is repealed.

**Sec. 6. 38 MRSA §831**, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §195, is repealed.

**Sec. 7. 38 MRSA §§835 and 836**, as enacted by PL 1983, c. 417, §6, are repealed.

**Sec. 8. 38 MRSA §837**, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §196, is repealed.

**Sec. 9. 38 MRSA §840, sub-§1, ¶¶C and D**, as affected by PL 1989, c. 890, Pt. A, §40 and repealed and replaced by Pt. B, §197, are amended to read:

C. Used to store water for a downstream facility licensed by the Federal Energy Regulatory Commission or authorized under the Federal Power Act, Section 23, provided that the owner of the downstream facility possessed a majority ownership of the upstream dam as of January 1, 1983; ~~or~~

D. Operating with a permit setting water levels issued under the protection of natural resources laws, sections 480-A to 480-S; the site location of development laws, sections 481 to 490; the small hydroelectric generating facilities laws, sections 631 to 636; the land use regulation laws, Title 12, sections 681 to 689; or any other statute regulating the construction or operation of dams: ~~or~~

**Sec. 10. 38 MRSA §840, sub-§1, ¶E** is enacted to read:

E. A dam regulated by one or more municipalities by ordinance or interlocal agreement pursuant to Title 30-A, chapter 187, subchapter VI.

**Sec. 11. 38 MRSA §841, sub-§4**, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §202, is repealed.

**Sec. 12. 38 MRSA §843** is enacted to read:

**§843. Municipal authority**

The commissioner shall review an ordinance submitted pursuant to Title 30-A, chapter 187, subchapter VI for consistency with this article. If the commissioner determines that the ordinance includes all substantive provisions of this article and includes all provisions required by Title 30-A, chapter 187, subchapter VI, the commissioner shall approve that municipality for authority to establish water level regimes and minimum flow requirements for impoundments and dams.

**Sec. 13. Transition.** On the effective date of this Act:

1. The Department of Environmental Protection shall work expeditiously to divest itself of title and interest in all dams required under the dam abandonment provisions of the Maine Revised Statutes, Title 38, section 835; and

2. The position of Environmental Specialist III at the Department of Environmental Protection that is funded by fees collected through the dam registration program is abolished. All funds remaining in the dam registration account are retained by the department and may be used by the department only for costs associated with adjudicatory hearings conducted by the department pursuant to Title 38, section 840.

**Sec. 14. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1993-94	1994-95
<b>ENVIRONMENTAL PROTECTION, DEPARTMENT OF</b>		
<b>Bureau of Land Quality Control</b>		
Positions	(-1.0)	(-1.0)
Personal Services	(\$30,657)	(\$46,885)
All Other	(21,694)	(30,091)
Provides for the deallocation of funds through the elimination of one Environmental Specialist III position and general operating costs for the dam registration program.		
<b>DEPARTMENT OF ENVIRONMENTAL PROTECTION TOTAL</b>		
	<u>(\$52,351)</u>	<u>(\$76,976)</u>

See title page for effective date.

**CHAPTER 371**

**H.P. 796 - L.D. 1082**

**An Act Adopting the Uniform Management of Institutional Funds Act**