

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

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

has attended a safety training session offered under this section.

1. Tender safety training session. By August 15, 1994, the commissioner shall establish a boat tender safety training session to provide basic safety training for persons who seek to obtain a sea urchin boat tender license. The training session may be taught by the department or offered by any public or private sector association or organization authorized by the commissioner to offer the training session. At a minimum, the training session must familiarize participants with basic cardiovascular pulmonary resuscitation techniques and risk factors, including hypothermia, associated with the handharvesting of sea urchins. For any training session taught by the department, the commissioner shall charge a fee for that session to recover all costs incurred by the department in teaching the training session.

2. Allowance for waivers. The commissioner may waive the requirement to attend a training session offered under this section for any person who demonstrates to the commissioner, either through documented experience or technical or professional accreditation, a level of knowledge at least equal to that expected from a person who completed the session. It is the responsibility of the person seeking such a waiver to request that waiver in writing to the commissioner and to provide the commissioner with any documentation the commissioner determines necessary to make a decision.

§6534. Grandfathered harvesters

A person is grandfathered for the purposes of section 6531, subsection 2 if the commissioner determines that that person:

1. Prior license holder. Possessed a scallop or urchin handharvesting license in 1992, 1993 and 1994; and

2. Seminar. Attends a classroom seminar on safe sea urchin handharvesting practices conducted or approved by the department.

Sec. 2. Task force; public meeting. The Commissioner of Marine Resources shall hold at least one public meeting for the purpose of receiving comments from the public on the content of a commercial underwater handharvesting competency course required under the Maine Revised Statutes, Title 12, section 6532. To assist and advise the commissioner in the development of that course, the commissioner may select and convene a panel of experts, who shall advise the commissioner on the content of the curriculum.

Sec. 3. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1994-95

MARINE RESOURCES, DEPARTMENT OF

Bureau of Marine Patrol

All Other	\$5,000
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Provides for the allocation of funds to cover the costs of offering certain educational programs pertaining to commercial divers.

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

Effective April, 7, 1994.

CHAPTER 605

S.P. 482 - L.D. 1480

An Act to Reduce Energy Costs and Improve the State's Indoor Air Quality

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

Sec. 1. 30-A MRSA §5953-C is enacted to read:

§5953-C. Loans for energy efficiency improvements in municipal and school buildings

This section establishes a program to promote energy efficiency and indoor air quality in municipal and school buildings.

1. Efficiency Partners Program. The bank shall establish the Efficiency Partners Program designed to reduce energy costs in municipal and school buildings and to create jobs by financing cost-effective improvements that accomplish energy efficiency while maintaining healthful indoor air quality. The bank shall issue a request for proposals for energy savings that could be achieved through cost-effective improvements to heating and cooling systems, windows, insulation, lighting and equipment in municipal and school buildings. Identification of cost-

effective energy savings must be based on a comprehensive energy audit that has been performed within the previous 5 years by a professional engineer licensed in this State. The audit must address compliance with the current version of ASHRAE Standard 62, Ventilation for Acceptable Indoor Air Quality, developed by the American Society of Heating, Refrigeration and Air Conditioning Engineers.

2. Access to the program. Municipalities and school administrative units may have access to the Efficiency Partners Program regardless of whether the municipality or school administrative district utilizes a loan pursuant to this section to finance the energy efficiency improvements.

3. Proposals; contracts. The bank shall solicit proposals from energy service companies and individual vendors of energy service products. Notwithstanding any provision of the law regarding bidding requirements, for improvements accomplished pursuant to this section the bank shall contract with an energy service company or companies or vendor or vendors to provide energy services in municipal buildings and schools. Whenever the bid proposals received are substantially equivalent, the bank shall in the contract process select an in-state energy service company or vendor whose primary place of business is within this State. For public school projects, bid proposals for energy savings projects must include plans and specifications that are adequate to permit review by the agencies listed under Title 20-A, section 15903, subsection 3 and that bear the stamp of a Maine registered professional engineer or architect. The agencies listed in Title 20-A, section 15903, subsection 3 shall review the plans and specifications and approve or disapprove within a reasonable time period.

4. Loan; loan agreements. Loans from the bank must be structured to ensure to the greatest extent possible that the cost savings achieved by the energy efficiency improvements are sufficient to cover the loan and to achieve a net positive cash flow as early as practical. The rate of interest charged for the loans made through the program authorized in this section must be below the currently available rate of interest charged on commercial loans of equivalent term and use.

5. Energy Payment Equalization Fund. The bank shall establish a fund called the Energy Payment Equalization Fund. To the extent that the fund has assets available to it through funding by federal, state or local governments, or grants, gifts, donations or payments from any other source, money in the fund may be applied to loans made to municipalities in the Efficiency Partners Program if achieved energy savings are not sufficient to offset the debt service payments on a loan made through the program. This

fund may include deposits made by energy service companies or vendors to guarantee their commitment to achieve energy savings sufficient to offset debt service payments but may not include any other donations or payments from vendors or interested parties. The fund may be used to provide general interest rate reductions or principal reductions on any loan or group of loans made under the program regardless of energy cost savings achieved through the use of the proceeds of the loans or loan.

Sec. 2. Report. The Maine Municipal Bond Bank shall report to the joint standing committee having jurisdiction over state and local government matters regarding the Efficiency Partners Program established pursuant to the Maine Revised Statutes, Title 30-A, section 5953-C on or before December 1, 1996.

Sec. 3. Task force. The Department of Economic and Community Development shall convene a task force to study a home energy rating system and energy efficiency mortgages.

1. Membership. The task force consists of representatives from the Maine State Housing Authority, the Department of Economic and Community Development and the real estate, mortgage lending, construction, building inspection, consumer, energy supply, energy service and environmental communities.

2. Purpose. The task force shall study whether to adopt a home energy rating system and energy efficiency mortgages. With regard to a home energy rating system and energy efficiency mortgages, the task force shall consider any actions taken by the federal and other state governments with regard to home energy rating systems and energy efficiency mortgages; the potential costs and benefits of such programs; the feasibility of establishing such programs; and options for establishing and operating such programs.

3. Chair; convening meetings; staff. A representative from the Department of Economic and Community Development shall chair the task force and the chair shall convene the first meeting of the task force by August 1, 1994. The department shall provide staff assistance to the task force.

4. Voluntary service. Members of the task force shall serve voluntarily and without reimbursement for expenses.

5. Report. The task force shall report to the joint standing committees having jurisdiction over banking and insurance, energy and natural resources and housing and economic development matters on or before January 1, 1995. Any program recommended

by the task force may not discriminate among fuel types.

Sec. 4. Allocation. The following funds are allocated from the Exxon Fund to carry out the purposes of this Act.

1994-95

**ECONOMIC AND
COMMUNITY
DEVELOPMENT,
DEPARTMENT OF**

Energy Resources Exxon Fund

All Other	\$5,000
Provides for the allocation of funds for the expenses of a task force to study a home energy rating system and energy efficiency mortgages.	

See title page for effective date.

CHAPTER 606

H.P. 1107 - L.D. 1494

An Act to Require the Utilization of an Owner's Representative on State Government Construction Contracts

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

Sec. 1. 5 MRSA §1751, as amended by PL 1993, c. 339, §1, is further amended to read:

§1751. Employment of a clerk-of-the-works

A clerk-of-the-works must be employed to assist in the inspection of the construction of a public improvement when directed by the director. The clerk shall report directly to the professional architect-engineer of record for the project. In addition, the clerk shall provide a report of all correspondence sent or received by the clerk to the owner. The budget for the public improvement must include funding for the clerk. The clerk must be hired through an open advertising and interview process by the owner and the architect-engineer. The clerk candidate recommended by the architect-engineer is subject to approval by both the owner and the director before being hired. The architect-engineer may terminate or impose disciplinary action on the clerk after consulta-

tion with the owner. The clerk must possess qualifications of education and experience in construction technology and administration compatible with the needs of the public improvement. The director may adopt rules relative to this section.

Sec. 2. 5 MRSA §1753 is enacted to read:

§1753. Employment of owner's representative

An owner's representative may be employed to facilitate the construction of a school project under Title 20-A, chapter 609. For purposes of this section, "owner" means the school building committee.

1. Representative's relationship to owner.

The owner's representative may be an employee of the Bureau of General Services, an employee of the owner or an independent contractor. The owner's representative's responsibility is to act as an advisor to the owner. It is the responsibility of the owner's representative to facilitate open communications among all parties, to help to avoid adversarial interactions and to promote a sense of trust and teamwork in order to accomplish the smooth execution of the project and to see that the project is completed at the lowest possible cost and highest degree of quality and workmanship that are consistent with the plans and specifications for the project.

2. Owner's representative qualifications.

The owner's representative must be hired by the owner through an open advertising and interview process and is subject to final approval by the Director of the Bureau of General Services.

3. Representative's responsibilities.

The responsibilities of the owner's representative are, without limitation, to:

A. Prepare for and attend meetings with the owner or a committee representing the owner, prepare minutes of those meetings, maintain a noncommercial history of the building project, submit comments on the budget for the project and maintain project files;

B. Provide guidance to the owner in the selection of an architect or an engineer in accordance with the architect and engineering services procurement process as administered by the Bureau of General Services;

C. Attend a preplanning orientation with the owner, architect and engineer;

D. Attend and participate in meetings with the owner, architect and engineer concerning space requirements, design considerations, cost-containment strategies, energy efficiency considerations, any special requirements and also the