

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

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J.S. McCarthy Company
Augusta, Maine
1993

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE

FIRST REGULAR SESSION

of the

ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

thority, the laws of the State of Maine and the ordinances of the Town of Kittery.

See title page for effective date.

CHAPTER 27

S.P. 359 - L.D. 1073

An Act to Create a Student Seat on the Board of Trustees of the Maine Maritime Academy

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

Sec. 1. P&SL 1941, c. 37, §1, 2nd ¶, as amended by PL 1975, c. 771, §428, is further amended to read:

The affairs of the school ~~shall be~~ are controlled by a board of ~~12~~ 13 trustees, as ~~heretofore~~ appointed, ~~all~~ 11 of whom are residents of the State of Maine, who, together with their successors, ~~shall be~~ are appointed by the Governor, subject to review by the Joint Standing Committee on Education and to confirmation by the Legislature. All trustees appointed after the effective date of this Act ~~shall~~ October 7, 1967 serve for terms of 5 years and until their successors are duly appointed and qualified. ~~Any~~ A vacancy on the board ~~shall~~ must be filled by appointment by the Governor; subject to review by the Joint Standing Committee on Education and to confirmation by the Legislature; for the remainder of the unexpired term, but the majority of the board shall carry on business during the existence of ~~any~~ a vacancy on the board. A student trustee, who must be a member of the student body at the time of appointment and a permanent resident of the State, must be appointed. To be eligible for appointment as a student member, a student must be enrolled for a minimum of 12 credit hours per semester. The student member is a full voting member of the board of trustees and serves for a one-year term until a successor is qualified. By January 1st of every year, the president of the academy shall solicit a list of 3 eligible students from the student government of the academy. The Governor shall nominate a student trustee from the list of students within 30 days of receiving the list. The nomination is subject to review by the Joint Standing Committee on Education and to confirmation by the Legislature.

See title page for effective date.

CHAPTER 28

S.P. 263 - L.D. 801

An Act to Amend the Charter of the Lewiston-Auburn Water Pollution Control Authority

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.

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

Sec. 1. P&SL 1967, c. 92, §6 is amended to read:

Sec. 6. Inspection, rules and regulations. The authority shall prevent, ~~insofar~~ as much as practicable, the discharge into the sewers of substances which might damage the sewage treatment facilities or interfere with their maintenance and operation, pass through to the receiving waters, or endanger the health and safety of any authority employee. ~~Its~~ The authority's officers and agents ~~shall~~ have free access to all premises served by the sewage treatment facilities at reasonable times in order to inspect the sewers, drains, sewage pumping stations, tanks or treatment works, and determine the amount and character of sewage, drainage or other wastes flowing therefrom from the sewers, drains, sewage pumping stations, tanks or treatment works and whether such sewage, drainage or other wastes are do, or are likely to, damage or impair the sewage treatment facilities or, interfere with their maintenance and operation, pass through to the receiving waters or endanger the health and safety of any authority employee.

The authority may, for the proper operation of its the sewage treatment facilities, issue administrative orders, rules and regulations which shall be are binding on the Auburn Sewerage District and the City of Lewiston and the inhabitants of each, as to the quantity and character of any sewage, drainage or other waste distribution into any sewer connected with ~~said~~ the plant. These orders, rules and regulations may incorporate industrial pretreatment requirements including, without limitation, reporting, monitoring and other requirements imposed on the authority by federal or state law or regulations or requirements adopted by the authority, and the authority may require industrial pretreatment of wastes discharged into the sewage treatment facilities or into any system connecting with the sewage treatment facilities.

Sec. 2. P&SL 1967, c. 92, §7-A is enacted to read:

Sec. 7-A. Permits. The authority may, through its rules and regulations, issue permits or other control mechanisms to individual users of the sewage treatment facilities, for the purposes of controlling the amount and character of the wastes discharged into the sewage treatment plant, and for other requirements imposed on the authority by federal or state law, rules or regulations.

Sec. 3. P&SL 1967, c. 92, §14, as amended by P&SL 1979, c. 70, §1, is further amended to read:

Sec. 14. Lewiston-Auburn Water Pollution Control Board. The authority ~~shall be~~ is under the management and direction of a board of directors, which ~~shall be~~ is known as the Lewiston-Auburn Water Pollution Control Board, also referred to ~~herein~~ as "the board" or "the board of the authority." The board ~~shall consist~~ consists of 7 members. The director of the Lewiston Department of Public Works, the City Administrator of the City of Lewiston, the superintendent and the president of the Auburn Sewerage District and the Manager of the City of Auburn ~~shall be~~ are members of the board by virtue of their respective offices and in the event of the termination of their respective offices they ~~shall~~ continue as members of the board of the authority until their replacements are elected or appointed. If the president of the Auburn Sewerage District Trustees ~~should decline~~ declines to serve or ~~should resign~~ resigns as a member of the board of the authority, ~~he~~ the president shall select another trustee to ~~replace him~~ serve for the remainder of ~~his~~ the term. Notice of ~~such~~ the appointment ~~shall~~ must be given in writing by the clerk of the Auburn Sewerage District to the board of the authority. The Mayor of Lewiston shall appoint, subject to confirmation of the city council, a qualified voter of the City of Lewiston to serve for a 2-year term on the board of the authority and thereafter until ~~his~~ a successor takes office. In the event that either the Lewiston resident so selected or the appointee of the president of the Auburn Sewerage District ~~should cease~~ ceases to be a resident of ~~his~~ that person's respective city, or ~~should die~~ dies, ~~become~~ becomes incapacitated, or otherwise ~~cease~~ ceases to be a member of the Auburn Sewerage District Trustees, or if the president of the Auburn Sewerage District ~~should die~~ dies or ~~become~~ becomes incapacitated while serving on the board of the authority, a successor ~~shall~~ must be elected to serve out the remainder of ~~his~~ the term by the Mayor and City Council of Lewiston or the Auburn Sewerage District Trustees, as the case may be.

Reasonable notice of the date of the meeting and of the necessity of electing a new member of the board of the authority, who may be ~~the~~ an incumbent, ~~shall~~ must be given to the mayor of Lewiston by the secretary or clerk of the authority.

At the initial meeting for organization of the authority, or as soon ~~thereafter~~ after the initial meeting as practicable, the 6 ~~above named~~ members of the board shall elect a 7th member who ~~shall~~ must be a resident of Auburn or Lewiston but ~~shall~~ may not hold any public municipal office or be a member of any municipal board or committee. If the 6 ~~members~~ members are unable to agree upon the naming of a 7th member of the board, any Justice of the Superior Court or Supreme Judicial Court; shall, on petition of any 4 of the members, select the 7th member of the board. The 7th member of the board ~~shall serve~~ serves for a 3-year term and ~~thereafter~~ until

~~his~~ the member's successor is appointed, and may be elected to serve an additional 3-year term of office. When a vacancy occurs in the position of the 7th member of the board, a replacement ~~shall~~ must be elected by the remaining members of the board to serve for the remainder of the term in the same manner as initial elections are held. The members of the board ~~shall~~ serve without compensation, but ~~shall be~~ are reimbursed for their actual expenses incurred in the performance of their duties, on approval of the board.

Sec. 4. P&SL 1967, c. 92, §15, as amended by P&SL 1979, c. 70, §2, is repealed and the following enacted in its place:

Sec. 15. Election of officers. The board shall appoint and determine the compensation of a superintendent who is the administrative officer. The board has the power to remove the superintendent at the board's pleasure. The superintendent must be an individual meeting the requirements for the operator in charge of a wastewater treatment plant under the Maine Revised Statutes, Title 32, chapter 62, except that an uncertified person or unregistered professional engineer who is nevertheless eligible for certification or registration as a professional engineer may be appointed as acting superintendent and serve for a period of up to one year. In the board's discretion, the board may reappoint the acting superintendent for additional one-year terms.

The board may appoint, and may at the board's pleasure remove, a treasurer and clerk who are not members of the board, and both offices, if the board determines it advisable, may be held by the same person. The treasurer shall furnish the board with a bond payable to the authority issued by a surety company authorized to transact business in the State and satisfactory to the board as surety, in such sum as the board may prescribe and conditioned on the faithful performance of the treasurer's duties. The duties of the treasurer and clerk are those usually appertaining to those offices, respectively, and in addition such duties as may from time to time be prescribed by the board. The compensation of the treasurer and of the clerk is determined by the board. The superintendent, with the approval of the board, shall from time to time appoint or employ such engineers and such experts, agents, officers, clerks and other employees as the superintendent determines necessary, and shall determine their duties. The salaries or compensation of all persons appointed or employed under this section, together with other expenses, are paid by the authority and are considered a part of the expense of operation of the authority.

Sec. 5. P&SL 1969, c. 92, §17 is enacted to read:

Sec. 17. Injury to property of the authority or interference with the operation of the authority. Any person who places, discharges, spills, leaks or leaves

any offensive or injurious matter or material on or in the conduits, catch basins or receptacles of or served by the authority contrary to the authority's regulations is liable to pay twice the amount of damages to the authority, to be recovered in any proper action.

Any person who knowingly injures any conduit, pipe, reservoir, flush tank, catch basin, manhole, outlet, engine, pump or other property held, owned or used by the authority is guilty of a Class E crime.

The authority may seek, in a civil action, injunctive relief and civil penalties pursuant to the Maine Revised Statutes, Title 38, section 1252, subsection 8 against an industrial user of the authority that violates any pretreatment standard or requirement administered by the authority.

Notwithstanding other civil or criminal penalties provided by and imposed under federal or state law, except penalties sought by the authority pursuant to Title 38, section 1252, subsection 8, the Lewiston-Auburn Water Pollution Control Board may assess administrative penalties of not more than \$1,000 per day for each violation by an industrial user of any pretreatment standard or requirement administered by the authority. In assessing any penalties under this paragraph, the board must conduct its proceedings in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV. A person aggrieved by any action by the board under this paragraph is entitled to judicial review in the Superior Court in the manner provided in Title 5, chapter 375, subchapter VII. The authority may by rule provide for assessment and collection of the administrative penalties as well as procedures for notification to industrial users of the penalties and enforcement of the administrative penalties provided that these rules are in accordance with the Maine Administrative Procedure Act as specified in this paragraph. The authority may not seek civil monetary penalties under Title 38, section 1252, subsection 8 if the board has assessed administrative penalties under this section. Nothing in this paragraph prohibits the authority from seeking injunctive relief pursuant to Title 38, section 1252, subsection 8 in addition to administrative penalties imposed pursuant to this paragraph.

See title page for effective date.

CHAPTER 29

H.P. 511 - L.D. 669

An Act to Reapportion Maine School Administrative District No. 72

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, Maine School Administrative District No. 72 has submitted a request to the Commissioner of Education pursuant to the Maine Revised Statutes, Title 20-A, section 1255 to determine if the school district's Board of School Directors is apportioned in accordance with the principles of one person, one vote; and

Whereas, the Commissioner of Education has determined that the district's current representation is not apportioned according to the principles of one person, one vote; and

Whereas, a local reapportionment committee has met and approved a reapportionment plan that involves a system of weighted voting with one less director from the Town of Lovell and one more director from the Town of Fryeburg; and

Whereas, Title 20-A, section 1253, subsection 2, paragraph A, subparagraph (1) and Title 20-A, section 1255 contain mutually inconsistent provisions concerning the terms of office of the current school directors; 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. Reapportionment of directors. The Board of School Directors of Maine School Administrative District No. 72 is reapportioned according to the Method B (Weighted Voting) reapportionment plan, which is set forth below:

Municipality	1990 Census	% of Total Pop.	Total Votes	Number of Directors	Per Director	% Voting Power
Brownfield	1034	16.0	160	2	80	8.0%
Denmark	855	13.2	132	2	66	6.6%
Fryeburg	2968	45.8	456	6	76	7.6%
Lovell	888	13.7	138	2	69	6.7%
Stoneham	224	3.5	35	1	35	3.5%