

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

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE

FIRST REGULAR SESSION

of the

ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

in bylaws the date on which annual meetings will be held for the purpose of electing officers.

See title page for effective date.

CHAPTER 32

H.P. 62 - L.D. 92

An Act to Provide for Water Rights to the Town of New Gloucester

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 P&SL 1923, c. 72, §2, first sentence, as repealed and replaced by P&SL 1975, c. 48, is amended to read:

For any of the purposes ~~aforsaid set forth in this Act~~, or for the preservation and purity of ~~said its water~~, said the district is hereby authorized to take and use water from Royal River, or from any spring, pond, brook or other source of water in the Towns of Yarmouth and New Gloucester, except that the use of any source of water in the Town of New Gloucester by the district will be allowed only after approval by a joint body of equal number of representatives from both the Yarmouth Water District Board of Trustees and the selectmen of the Town of New Gloucester, or from any springs, brook, pond or other source of water in the Town of North Yarmouth, or to purchase from any other water district or company; to conduct and distribute ~~the same water~~ into and through the ~~said~~ Towns of Yarmouth and North Yarmouth; to survey for, locate, lay, erect and maintain suitable dams, reservoirs and machinery, pipes, aqueducts and fixtures; to carry its pipes or aqueducts under, in and over the Royal River, so called, or under or over any water course or body of water, bridge, street, railroad, highway or other way; and ~~said the~~ district is further authorized to enter upon and excavate any highway or other way, in such manner as least to disturb ~~the same that way~~, and shall leave ~~said those~~ ways in as safe and passable condition as before such excavation; to enter, pass over and excavate any lands, and to take and hold by purchase or otherwise, any real estate, rights of way or of water, and in general to do any acts necessary, convenient or proper

for carrying out any of the purposes hereinbefore specified in this section.

See title page for effective date.

CHAPTER 33

H.P. 745 - L.D. 1012

An Act to Amend the Waldoboro Utility District Charter

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 1963, c. 146, §14, as amended by P&SL 1991, c. 34, §2, is further amended to read:

Sec. 14. Trustees and officers; tenure of office; election to office; organization; vacancies; compensation. All of the affairs of said district are managed by a board of 3 trustees, who must be residents of the Town of Waldoboro and who are chosen as provided in this section.

The 3 trustees serving on October 1, 1993 serve to the completion of their current terms. A vacancy in any of these offices is filled for the balance of the term as provided in this section. Successors are elected to 3-year terms as provided in this section.

At the next annual meeting of the town after October 1, 1993, 2 additional trustees must be elected, the first to serve until the annual meeting of the town occurring 2 years after the election of those additional trustees and until the first trustee's successor is elected and qualified and the 2nd to serve until the annual meeting of the town occurring 3 years after the election of the 2nd trustee and until that trustee's successor is elected and qualified. Successors are elected to 3-year terms as provided in this section.

~~As soon as convenient after acceptance of this act, the municipal officers of the Town of Waldoboro shall appoint 3 trustees of said district to hold office as follows: One to serve until the first annual meeting of said town following the acceptance of this act; one to serve until the 2nd annual meeting of said town following said acceptance; and one to serve until the 3rd annual meeting of said town following such acceptance. At each~~

annual meeting of said town, ~~beginning with the first annual meeting after acceptance of this act, one trustee is one or more trustees are elected by ballot as provided in this section to serve until the annual meeting of said town occurring 3 years after the election of the trustee and until the trustee's successor is elected and qualified.~~ When any trustee ceases to be a resident of said district, the trustee vacates the trustee's office as trustee. All trustees, if residents of said district, are eligible for reelection or reappointment as provided in this section.

The nomination of all candidates for trustee to be elected as provided by this act must be by nomination papers signed in the aggregate for each candidate by not less than 25 nor more than 50 qualified voters resident in said district. Nomination papers must be made available by the municipal clerk to prospective candidates during the 40 days prior to the final date of filing and, before issuance, the town clerk may complete each sheet by filling in the name of the candidate, the title and term of office ~~which that~~ is being sought. Each voter who signs a nomination paper shall add the candidate's place of residence with the street and number, if any. The voter may subscribe only to as many nomination papers for each office as there are vacancies to be filled. All nomination papers must be filed with the clerk during business hours on or before the 35th day next prior to the day of election. With the nomination papers, there must be filed the consent in writing of the persons proposed as candidates, agreeing to accept the nomination if nominated, not to withdraw and, if elected at the municipal election, to qualify as the quasi-municipal officer. When filed, the nomination papers must be made available by the clerk to public inspection under supervision. The clerk shall keep them in the office for 6 months. In case any candidate who has been duly nominated under the provisions of this section dies before the day of election, or withdraws in writing, or the candidate moves from said district, the vacancy may be supplied in the manner provided for such nominations, except that the time limit for filing such nomination papers does not apply. The name so supplied for the vacancy, if the ballots have not been printed, is placed on the ballots instead of the original nomination; or if the ballots have been printed, new ballots containing the new nomination, if practical, are furnished, or slips containing the new nomination are printed under the direction of the town clerk which are pasted upon said ballots and over the name of the candidate whose nomination has been vacated, and becomes part of said ballots as if originally printed on the ballot. The ballot in said district must contain names of all candidates so nominated in such district alphabetically arranged, printed in one column under the heading "For Trustee of the Waldoboro Utility District." Above such heading must be printed "Vote for _____ (the number to be elected to be inserted). Make a cross or a check mark to the right of the name(s) voted for." As many blank spaces must be left after the names of the candidates as there are trustees to be elected in which the voter may, by writing, insert the name of any person

or persons for whom the voter desires to vote. In preparing the voter's ballot the voter shall mark a cross (X) or a check mark () against and to the right of such names on said ballot as the voter desires to vote for, not to exceed the number of trustees so to be elected in said district. At each annual meeting of said Town of Waldoboro, balloting for trustee of said district takes place concurrently with balloting for the municipal officers of said town, but separate ballots are provided for trustee of the district as provided for in this section. The result of such election is declared by the municipal officers of said Town of Waldoboro and due certificate of the result filed with the town clerk and the clerk of the district. The district shall reimburse the town for the expense of any district election.

~~As soon as convenient after the appointment, the first board of trustees shall hold a meeting at some convenient place in the district, to be called by any member of the board in writing, designating the time and place and delivered in and to the other 2 members not less than 2 full days before the meeting; if the trustees agree to a time and place for the meeting, a notice is not required. At this original meeting the trustees shall organize by electing from their own members a chair, a treasurer and a clerk and adopting a corporate seal. The trustees may adopt and establish bylaws, consistent with the laws of the State and necessary for their own convenience and for the proper management of the affairs of the district, and perform any other acts within the powers delegated to them by law.~~

Within one week after each annual election, the trustees shall meet for the purpose of electing a chair, treasurer and clerk to serve for the ensuing year and until their successors are elected and qualified. The trustees from time to time may choose and employ, and fix the compensation of, any other necessary officers and agents who shall serve at their pleasure. The treasurer shall furnish bond in such sum and with such sureties as the trustees shall approve, the cost of the bond to be paid by the district.

Members of the board of trustees are eligible to any office under the board. The trustees are entitled to receive as compensation for their services an amount to be determined by them not to exceed \$300 each per year, but if they fail to determine a salary they are entitled to receive \$10 each for each meeting of the board that they attend. The treasurer may be allowed such compensation as the trustees shall determine.

The trustees are sworn to the faithful performance of their duties as such, which includes the duties of any member who serves as clerk or clerk pro tem. They shall make and publish an annual report, including a report of the treasurer, and such report may be included in, and published as part of the town report.

Vacancies in the office of trustee from whatever cause are filled by appointment by the remaining trust-

ees until the next annual election. If at any annual election there exists a vacancy in an unexpired term, a trustee is elected to fill such vacancy for such unexpired term, and the voters of the district shall cast the ballots as prescribed in this section, voting for as many candidates as there are offices to be filled.

See title page for effective date.

CHAPTER 34

S.P. 315 - L.D. 948

An Act Relating to the Portland Harbor Commission and Portland Harbor

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, it is essential that this legislation take effect before July 1, 1993 because Long Island will no longer be a part of the City of Portland after that date; and

Whereas, unless this legislation is enacted as an emergency measure the composition of the Portland Harbor Commission will not comply with the laws of this State; 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. P&SL 1981, c. 98, §2, first ¶, as amended by P&SL 1989, c. 61, §1, is further amended to read:

Sec. 2. Commission established. There is established a Board of Harbor Commissioners for Portland Harbor, which ~~shall be~~ is a public body corporate and politic and is charged with responsibility for the regulation of navigation and commerce within Portland Harbor in accordance with the provisions of this Act. The commission ~~shall consist~~ consists of 7 5 members and ~~shall have~~ has a quorum of ~~4~~ 3 members. Two mem-

bers of the commission ~~shall~~ must be appointed by the City of Portland, and these members ~~shall~~ must be and continue to be residents of the City of Portland during tenure. Two members of the commission ~~shall~~ must be appointed by the City of South Portland, and these members ~~shall~~ must be and continue to be residents of the City of South Portland. ~~Three members~~ One member of the commission ~~shall~~ must be appointed by the Governor, with the concurrence of the ~~City Councils~~ city councils of Portland and South Portland. ~~One of the gubernatorial appointees shall be a holder of a commercial fishing license and one of the gubernatorial appointees shall be a person representing commercial, marine or shipping interests.~~ All appointments ~~shall be~~ are for terms of 3 years and ~~shall~~ must be staggered. Members appointed to fill a vacancy shall serve for the remainder of the unexpired term. Each member shall continue to serve after expiration of that member's term until a successor is appointed and qualified provided that service ~~shall may~~ not continue in excess of 60 days after expiration of the term. The ~~7~~ 5 members appointed shall annually elect from their own membership a chair and a clerk; and may from time to time adopt such procedural rules as are necessary for the proper conduct of the business of the commission. A member may be removed for cause or, in the case of those members appointed by the city councils, upon a determination that the member is not a resident. Removal ~~shall~~ must be by the appointing council or, in the case of the gubernatorially appointed ~~members~~ member, by the Governor with concurrence of both of the 2 councils.

Sec. 2. P&SL 1981, c. 98, §6 is amended to read:

Sec. 6. Rulemaking. The commission shall from time to time adopt such rules as it ~~deems~~ considers necessary and proper, not inconsistent with law, for keeping open convenient channels for the passage of vessels, promoting navigational safety in the waters under its control and protecting persons having riparian rights, including, without limitation, procedures, standards and fees, and subject to the provisions of section 5, subsection 1 of this Act for the issuance of permits to build or extend wharves and other structures or to fill or excavate; to limit the speed of vessels within the harbor; to permit moorings; and to cause the removal of derelict and abandoned vessels. The commission may impose reasonable penalties by rule for violation of the rules, which penalties ~~shall~~ may not be in excess of \$500 a day for each violation. The commission ~~shall not promulgate~~ may not adopt any rule other than as an emergency without first presenting ~~such the~~ rule to the Department of Transportation, ~~Bureau of Transportation Planning and Services~~ for review and comment. The commission shall send any proposed rules to the councils of each city at the same time the proposed rules are sent to the Department of Transportation. Thereafter the commission shall hold a public hearing, preceded by publication, as to the subject matter of the rule and the time and place of the public hear-