

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

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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

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-

ing, at least 7 days prior to the hearing. The rules ~~shall~~ be effective 45 days from the date on which notice of such rulemaking is sent to the ~~City Managers~~ city managers of Portland and South Portland, addressed to the ~~City Councils~~ city councils of the cities, unless either ~~City Council~~ city council takes official action disapproving the rule or rules, in whole or in part, prior to the expiration of the 45-day period. All rules of the commission ~~shall~~ remain in effect until repealed or amended, as provided in this section, or when limited by the terms ~~thereof~~ of this section. When the commission determines that an emergency involving the public health, safety or welfare requires that a rule take effect immediately, it may ~~promulgate~~ adopt that rule with immediate effect upon notice to the ~~City Councils~~ city councils and such findings ~~shall be~~ are conclusive, provided that the reasons constituting the emergency are set forth ~~therein in the notice~~. Such emergency rules ~~shall be effective for not more than 14 days, unless extended after a public hearing after 7 days' prior published notice. In no case shall may such rule be extended for a period in excess of 60 days from the date originally promulgated~~ adopted and the rule ~~shall expire~~ expires immediately upon disapproval by either ~~City Council~~ city council.

Sec. 3. P&SL 1981, c. 98, §7, sub-§1 is amended to read:

1. Harbor master and deputy; appointment. The rules of the commission ~~shall~~ must be enforced and carried out by a harbor master and one or more deputy harbor masters appointed by the commission. Rules of the commission may be enforced and carried out by Portland and South Portland police officers as provided in subsection 4. It shall be is the duty of the harbor master or his the harbor master's deputies to collect in the name of the commission all penalties incurred for the violation of such rules and the money so received shall be applied by the commission to carry out the purpose of this Act. The appointment of the harbor master and of any deputy harbor master ~~shall be is~~ by the commission pursuant to rules of the commission adopted pursuant to section 6. The persons so appointed ~~shall receive~~ are entitled to compensation fixed by rules of the commission as provided in section 6. Each deputy ~~shall have~~ has all the powers and authority of the harbor master. The harbor master and deputies ~~shall~~ hold office for a term of one year from the date of approval of the appointment, but either may be removed by the commission at any time during such term, for cause, after notice and an opportunity to be heard. The commission shall fill any vacancy only for the remainder of the term, provided that such appointment ~~shall be is~~ approved by the ~~City Councils~~ city councils.

Sec. 4. P&SL 1981, c. 98, §7, sub-§4 is enacted to read:

4. Enforcement. In addition to their powers as police officers, Portland or South Portland police offi-

cers have all the powers conferred upon the Portland harbor master by state law, municipal ordinance, this Act or rules adopted pursuant to this Act, except that police officers may not exercise the powers of harbor masters to assign moorings under the Maine Revised Statutes, Title 38, section 3. Police officers from Portland or South Portland may exercise these powers anywhere within Portland Harbor. Nothing in this section may be construed to limit the authority granted by state law to harbor commissions, harbor masters, deputy harbor masters or police officers.

Sec. 5. P&SL 1981, c. 98, §10 is amended to read:

Sec. 10. Appropriations and budget approval by cities. Each city may appropriate or lend such money or contribute such services for the use of the commission as it ~~deems~~ considers reasonable and proper to further the purposes of this Act. The commission's fiscal year ~~shall run~~ runs from July 1st to June 30th. The commission shall submit its annual budget to the Portland City Council and the South Portland City Council no later than March 1st of each year. Each city must act upon the commission's budget prior to July 1st. Unless approved by the city council of each city, the commission may not spend more money than the amount authorized in its approved budget. Any surplus at the end of the fiscal year may not lapse but must be carried forward and accounted for by the commission in its next budget submission.

Sec. 6. P&SL 1989, c. 61, §§2 and 3 are repealed.

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

Effective June 4, 1993.

CHAPTER 35

H.P. 1020 - L.D. 1366

An Act to Undedicate Certain Revenues of the Department of Environmental Protection

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

Sec. 1. Funding source study. The Commissioner of Environmental Protection shall conduct a study on the present mix of funding from Federal Expenditures, Other Special Revenue and the General Fund for the Department of Environmental Protection. This study must identify the specific funding resources, the historical context in which those resources were established and the amounts that would be affected if all dedicated revenues were undedicated as General Fund revenues.