

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 7, 1994 to June 30, 1995**

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**NON-EMERGENCY LAWS IS**  
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**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**  
**1995**

bers as follows: the chair of the State Board of Nursing, one member of the State Board of Nursing who is approved to practice as an advanced practice registered nurse, the chair of the Board of Licensure in Medicine, the chair of the Board of Osteopathic Licensure, the chair of the Board of Commissioners of the Profession of Pharmacy and one member of the public appointed by the Governor.

**2. Chair.** The council chair rotates annually among the chairs of the respective boards. The chair of the State Board of Nursing serves as the first chair of the council; the chair of the Board of Licensure in Medicine serves as the 2nd chair; the Chair of the Board of Osteopathic Licensure serves as the 3rd chair; and the chair of the Board of Commissioners of the Profession of Pharmacy serves as the 4th chair. The term of the public member is 4 years.

**3. Duties.** The council shall make recommendations to the State Board of Nursing regarding the prescription of drugs and devices by advanced practice registered nurses. The council may make other recommendations regarding the practice of advanced practice registered nursing as it considers appropriate.

The duties of the council are advisory in nature.

**Sec. 10. Transition provision.** Notwithstanding the Maine Revised Statutes, Title 32, section 2152, an advanced practice registered nurse must be appointed to the next vacancy for appointment or reappointment of a public member to the State Board of Nursing. The next vacancy for appointment or reappointment of a licensed practical nurse after the appointment of the advanced practice registered nurse must be filled by the appointment of a public member.

**Sec. 11. Effective date.** That section of this Act that repeals the Maine Revised Statutes, Title 32, section 2102, subsection 2, paragraph B and those sections that enact Title 32, section 2102, subsections 2-A and 5-A, section 2201-A and section 2205-B take effect January 1, 1996.

See title page for effective date, unless otherwise indicated.

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## CHAPTER 380

H.P. 314 - L.D. 418

### An Act to Amend the Governmental Structure and Budget Approval Process for Cumberland County

**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, the Cumberland County budget process is in urgent need of revision; and

Whereas, Cumberland County government has grown tremendously in recent years in terms of size, responsibility and cost and is currently in need of restructuring; 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. 30-A MRSA §82, sub-§4, ¶C** is enacted to read:

C. The county commissioners of Cumberland County are entitled to receive the salary specified in section 2, regardless of whether that county has a full-time county manager.

**Sec. 2. 30-A MRSA §82, sub-§5** is enacted to read:

**5. Cumberland County manager required.** Notwithstanding the other provisions of this section, no later than January 1, 1996, the county commissioners of Cumberland County shall hire a full-time county manager, who works under their direction to oversee the implementation of county policy and the day-to-day administration of county operations. The appointment, compensation and tenure of the manager are the same as provided for a county administrator pursuant to subsections 1 and 2. The manager:

A. Is responsible for the administration of all departments and offices controlled by the county commissioners;

B. In conjunction with the county commissioners, department heads and budget committee, shall develop a proposed county budget for the coming year, which must be presented to the commissioners no later than October 1st;

C. Shall keep the county commissioners and the county legislative delegation informed as to the financial condition of the county and collect all data necessary to prepare the budget;

D. Shall attend all meetings of the county commissioners, except when the manager's removal or suspension is being considered; and

E. Shall carry out other administrative duties assigned by the commissioners.

**Sec. 3. 30-A MRSA §741**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is repealed.

**Sec. 4. 30-A MRSA §741-A** is enacted to read:

**§741-A. Cumberland County Budget Advisory Committee**

Notwithstanding sections 701 and 702, the county commissioners working in conjunction with the Cumberland County Budget Advisory Committee, established in this section, and the county manager, established in section 82, subsection 5, are responsible for establishing the county budget as provided in this article. The county commissioners shall appropriate money for county expenditures according to the budget established in accordance with this article.

**1. Membership; caucus; election.** The Cumberland County Budget Advisory Committee consists of the Cumberland County commissioners and 9 municipal officers. The county commissioner members serve on the budget committee in an advisory capacity only and may not vote on any committee matter. The municipal officer members are elected in accordance with this section.

A. There must be 3 members from each commissioner's district.

B. On or before August 15th of each year the county commissioners shall notify all municipal officers to caucus by county commissioner district at a specified date, time and place for the purpose of electing members to the budget committee. Public notice of the meeting must be issued at least 10 days before the meeting is held.

C. The commissioner for each district shall serve as the nonvoting moderator for that district caucus. At the caucus, the municipal officers shall nominate by motion from the floor proposed members to fill any vacancies on the budget committee. For each vacancy the nominee receiving the most votes from among the officers present and voting is elected as a budget committee member.

D. Committee membership terminates when a budget advisory committee member ceases to be a municipal officer or to reside in the commissioner district from which elected. Vacancies occurring on the budget advisory committee must be filled by the committee, subject to confirmation by a majority of the county commissioners. If a vacancy occurs with less than one year remaining in the term of office, the person selected by the committee serves for the balance of the unexpired term. If a vacancy of one year or more occurs, the person selected by the committee serves until the next municipal officers' caucus. At that time a replacement is selected to serve for the balance of the unexpired term. The person appointed to fill the vacant office must be a municipal officer in the same commissioner district as the person vacating the office.

**2. Chair; terms; compensation; procedures.** Administration of the budget advisory committee is as follows.

A. The budget advisory committee shall select its own chair, vice-chair and secretary each year.

B. Members serve for 3-year terms and may not serve more than 2 consecutive terms.

C. Members may be compensated. The amount and conditions must be unanimously approved by the budget advisory committee and the county commissioners.

D. The committee shall adopt rules of procedure and bylaws each year. In a procedural situation not addressed by these rules and bylaws, Robert's Rules of Order prevail.

E. The county commissioners shall provide the budget advisory committee with necessary clerical assistance, office expenses and suitable meeting space as well as access to appropriate county files and information.

**3. Meetings.** The budget advisory committee shall conduct its meetings in public in accordance with this subsection and shall record its minutes and votes.

A. The county commissioners shall call an organizational meeting of the budget advisory committee each year within 2 weeks after caucus elections.

B. The county commissioners or the chair of the budget advisory committee may call a meeting for the purpose of discussing county financial matters and approving a county budget.

**Sec. 5. 30-A MRSA §742**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is repealed.

**Sec. 6. 30-A MRSA §742-A** is enacted to read:

**§742-A. Budget procedures**

**1. Budgetary planning meetings.** During the month of September, county commissioners shall meet with the county manager and county department heads to establish county budgetary needs for the ensuing year. County budget advisory committee members shall attend these meetings, which must be held in the county courthouse and must be open to the public.

**2. Draft budget.** On or before October 1st, the county commissioners shall submit a draft budget to the budget advisory committee.

**3. Proposed budget.** The budget advisory committee shall review the draft budget with the county commissioners at meetings during the month of October and shall prepare a proposed budget. The budget advisory committee may increase, decrease or alter the county commissioners' draft budget as long as:

A. The budget advisory committee enters into its minutes an explanation for any suggested change in the estimated expenditures and revenues initially presented by the county commissioners; and

B. In the proposed budget, the total estimated revenue, together with the amount of county tax to be levied, at least equals the total estimated expenditures.

**4. Public hearings.** Public hearings on the proposed budget must be held by the budget advisory committee and county commissioners in each commissioner's district before November 30th. Notice of these hearings must be given at least 10 days before the hearing in newspapers of general circulation within the county. Written notice and a copy of the proposed budget must be sent by mail, or delivered in person, to the clerk of each municipality in the county. The municipal clerk shall notify the municipal officials of the receipt of the proposed budget and the date of the hearings.

**5. Adoption of final budget.** After the public hearings are completed, the budget advisory committee may further increase, decrease or alter the proposed budget based on information obtained during the public hearing process. The proposed budget must be approved by a majority vote of the budget advisory committee at a duly called meeting not later than December 15th. The budget advisory committee shall send the approved budget to the county commissioners. The county commissioners may adopt the budget as submitted or after increasing,

decreasing or altering the budget by a majority vote by December 31st.

**6. Effect of adoption.** Once the budget is finalized as provided in subsection 5, it is final and not subject to further action by the county commissioners or the budget advisory committee.

**7. Interim budget.** Until a budget is finally approved, the county must be operated on an interim budget, which may not exceed the previous year's budget.

**Sec. 7. 30-A MRSA §743**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is repealed.

**Sec. 8. 30-A MRSA §743-A** is enacted to read:

**§743-A. Filing of county budget**

A copy of the adopted budget must be filed with the State Auditor on forms approved by the Department of Audit and must be retained by the State Auditor for 3 years.

**Sec. 9. 30-A MRSA §§744, 745 and 746** as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are repealed.

**Sec. 10. Transition.** Notwithstanding those sections of this Act that repeal the Maine Revised Statutes, Title 30-A, sections 741 to 746 and that enact Title 30-A, sections 741-A, 742-A and 743-A, until a county manager is employed by the Cumberland County commissioners, an interim budget committee known as the "Cumberland County Budget Committee" shall formulate the county budget as provided in this section. Finalization of the county budget must follow the procedures described in Title 30-A, sections 741-A, 742-A and 743-A except that:

1. The approved budget sent to the county commissioners following the budget committee's December vote is final unless modified by unanimous vote of the county commissioners; and

2. Reference in Title 30-A, sections 741-A, 742-A and 743-A to the Cumberland County Budget Advisory Committee must be read as reference to the Cumberland County Budget Committee; and reference to Cumberland County manager and to Cumberland County commissioners and manager must be read as reference to the county commissioners only.

**Sec. 11. Cumberland County Budget Committee; Budget Advisory Committee terms.** This Act does not terminate the terms of the current members of the Cumberland County Budget Advisory Committee. Members of the Cumberland County Budget Advisory Committee on the effective date of this Act continue to hold office as members of

the interim Cumberland County Budget Committee or its successor, the Cumberland County Budget Advisory Committee, until the term for which they were selected expires, after which time vacancies must be filled as provided by this Act.

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

Effective June 30, 1995.

**CHAPTER 381**

**H.P. 372 - L.D. 507**

**An Act to Exclude Certain Parks from the Definition of Mobile Home Parks**

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

**Sec. 1. 10 MRSA §9085**, as enacted by PL 1983, c. 553, §17, is amended to read:

**§9085. Rules**

The board may make and enforce all necessary rules for the administration of this subchapter, and may repeal or amend such rules from time to time as may be in the public interest, insofar as that action is not in conflict with any of the provisions of this subchapter. All rules of the Department of Human Services governing mobile home parks in effect on the effective date of this subchapter shall remain in effect for a period not to exceed one year, unless sooner amended or repealed by the board. The board shall accept as compliance with its rules documentation submitted by a seasonal mobile home park that substantially similar provisions required by other federal or state agencies have been met that duplicate provisions required by the board regarding matters of safety and health. In cases where there are federal and state laws, rules or regulations containing similar provisions, the stricter standard must apply.

See title page for effective date.

**CHAPTER 382**

**S.P. 441 - L.D. 1209**

**An Act to Amend the Laws Pertaining to the Marine Resources Advisory Council**

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas**, vacancies exist on the Marine Resources Advisory Council and the Department of Marine Resources is involved in pressing matters that are vital to the future of the State's fisheries; 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. 5 MRSA §12004-G, sub-§27**, as enacted by PL 1987, c. 786, §5, is amended to read:

27. Marine Resources Advisory Council (to the Department of Marine Resources)	<u>Marine Resources Advisory Council</u> ( <del>to the Department of Marine Resources</del> )	<u>\$25/Day Expenses Only</u>	12 MRSA §6024
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**Sec. 2. 12 MRSA §6024, sub-§1-A**, as amended by PL 1989, c. 788, §1, is further amended to read:

**1-A. Appointment; composition; term; compensation.** The Marine Resources Advisory Council, established by Title 5, section 12004-G, subsection 27, ~~shall consist~~ consists of 9 15 members. The Chair of the Lobster Advisory Council ~~shall be~~ is an ex officio member of the council. Each other member ~~shall be~~ is appointed by the Governor and ~~shall be~~ is subject to review by the joint standing committee of the Legislature having jurisdiction over marine resources and to confirmation by the Legislature. ~~Seven of the appointed members shall be selected from persons directly engaged in commercial activities or industries based on marine resources. These 7 members shall be selected so as to adequately represent, together with the Chair of the Lobster Advisory Council, the various aspects of commercial fisheries' activities over which the department has jurisdiction. One of the appointed members shall be selected from persons who represent recreational fishing interests. Seven members must be persons who are licensed under this Part to engage in commercial harvesting activities. Those 7 members are selected by the Governor from names recommended to the Governor by groups representing commercial harvesting interests. Each member must represent a different commercial harvesting activity, except that~~