

# MAINE STATE LEGISLATURE

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

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

**FIRST SPECIAL SESSION**  
**November 28, 1995 to December 1, 1995**

**SECOND REGULAR SESSION**  
**January 3, 1996 to April 4, 1996**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 4, 1996**

**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**

register of probate appointed by the Governor to fill the vacancy until a successor is chosen at election must be enrolled in the same political party as the register of probate whose term is vacant. In making the appointment, the Governor shall choose from any recommendations submitted to the Governor by the county committee of the political party from which the appointment is to be made.

**Sec. 3. 30-A MRSA §1, sub-§2-A** is enacted to read:

**2-A. Permanent incapacity.** "Permanent incapacity" means a guardian or conservator has been appointed by a court of competent jurisdiction to manage the affairs of an office holder.

**Sec. 4. 30-A MRSA §63, first ¶,** as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

When no choice is effected or a vacancy happens in the office of county commissioner by death, resignation, removal from the county, permanent incapacity or for any other reason, the Governor shall appoint a person to fill the vacancy. That person shall hold office until the first day of January following the next biennial election at which a person ~~shall be~~ is elected to fill the office.

**Sec. 5. 30-A MRSA §151, sub-§3,** as amended by PL 1995, c. 245, §4, is further amended to read:

**3. Vacancy.** If a person chosen treasurer as provided in subsection 1 declines to accept or a vacancy occurs by reason of death, resignation, removal from the county, permanent incapacity or for any other reason, the Governor may appoint a suitable resident of the county to serve as treasurer. When that person has accepted the office, provided a bond and been sworn, that person is treasurer until the first day of January following the next biennial election, at which election a treasurer must be chosen for the remainder of the term, if any; but, in any event, that person holds office until another is chosen and qualified.

A. In the case of a vacancy in the term of a treasurer who was nominated by primary election before the general election, the treasurer appointed by the Governor must be enrolled in the same political party as the treasurer whose term is vacant. In making the appointment, the Governor shall choose from any recommendations submitted to the Governor by the county committee of the political party from which the appointment is to be made.

**Sec. 6. 30-A MRSA §371,** as repealed by PL 1995, c. 156, §1 and as amended by c. 245, §6, is repealed.

**Sec. 7. 30-A MRSA §371-A,** as enacted by PL 1995, c. 156, §2, is repealed.

**Sec. 8. 33 MRSA §601, 2nd ¶,** as amended by PL 1989, c. 502, Pt. B, §40, is further amended to read:

Vacancies ~~shall~~ caused by death, resignation, removal from the county, permanent incapacity as defined in Title 30-A, section 1, subsection 2-A or any other reason must be filled for the unexpired term by election as provided for in section 602 at the next general election, as defined in Title 21-A, section 1, subsection 19, after their occurrence. In the meantime, the Governor may fill vacancies by appointment, and the person so appointed shall hold office until the first day of January next after the election. Until a vacancy is filled by appointment by the Governor, the deputy register ~~shall serve~~ serves as acting register as provided in section 605.

See title page for effective date.

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## CHAPTER 684

S.P. 660 - L.D. 1720

### **An Act to Allow the Adjutant General to Sell Unfit and Unneeded Property and Apply Proceeds to the Military Bureau's Capital Repair Account, to Authorize the Adjutant General to Transfer Real Property, and to Authorize the Military Bureau to Retain the Proceeds of Armory Rentals**

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

**Sec. 1. 37-B MRSA §3, sub-§1, ¶D,** as amended by PL 1983, c. 594, §2, is further amended to read:

D. Have the following powers and duties.

- (1) ~~He~~ The Adjutant General shall administer the department subordinate only to the Governor.
- (2) ~~He~~ The Adjutant General shall establish methods of administration consistent with the law necessary for the efficient operation of the department.
- (3) ~~He~~ The Adjutant General may prepare a budget for the department.

(4) ~~He~~ The Adjutant General may transfer personnel from one bureau to another within the department.

(5) ~~He~~ The Adjutant General shall supervise the preparation of all state informational reports required by the federal military establishment.

(6) ~~He~~ The Adjutant General shall keep an accurate account of expenses incurred and, in accordance with Title 5, sections 43 to 46, make a full report to the Governor as to the condition of the military forces, and as to all business transactions of the Military Bureau, including detailed statements of expenditures for military purposes.

(7) ~~He shall be~~ The Adjutant General is responsible for the custody, care and repair of all military property belonging to or issued to the State for the military forces and shall dispose of military property belonging to the State ~~which that~~ is unserviceable. ~~He~~ The Adjutant General shall account for and deposit the proceeds from that disposal with the Treasurer of State who shall credit them to the ~~General Fund~~ Construction and Capital Repair Account of the Military Bureau.

(8) ~~He~~ The Adjutant General may sell for cash to officers of the state military forces, for their official use, and to organizations of the state military forces, any military or naval property ~~which that~~ is the property of the State. ~~He~~ The Adjutant General shall, with ~~his~~ an annual report, render to the Governor an accurate account of the sales and ~~shall~~ deposit the proceeds of the sales with the Treasurer of State who shall credit them to the General Fund.

(9) ~~He~~ The Adjutant General shall represent the state military forces for the purpose of establishing the relationship between the federal military establishment and the various State military staff departments.

(10) ~~He~~ The Adjutant General shall accept, receive and administer federal funds for and on behalf of the State ~~which that~~ are available for military purposes or ~~which that~~ would further the intent and specific purposes of this chapter and chapter 3.

(11) ~~He~~ The Adjutant General shall acquire, construct, operate and maintain military facilities necessary to comply with this Title and Title 32 of the United States Code and shall operate and maintain facilities

now within or hereafter coming within the jurisdiction of the Military Bureau.

(12) ~~He~~ The Adjutant General may adopt rules pertaining to compliance with state and federal contracting requirements, subject to the Maine Administrative Procedure Act, ~~title~~ Title 5, chapter 375. Those rules ~~shall~~ must provide for approval of contracts by the appropriate state agency.

**Sec. 2. 37-B MRSA §§152 to 154** are enacted to read:

**§152. Armory Rental Fund; authority to rent armories**

**1. Fund established.** The Armory Rental Fund is established in the Military Bureau as a nonlapsing fund to assist in defraying the operation and maintenance expenses of the Military Bureau's state-owned facilities. Funds in the Armory Rental Fund are in addition to appropriations for these purposes made to the Military Fund.

**2. Rental proceeds.** Rental proceeds from the rental of armories under this section must be paid into the State Treasury and credited to the Armory Rental Fund to be used for operation and maintenance expenses at the various state-owned facilities of the Military Bureau. Rental proceeds credited to the Armory Rental Fund are in addition to the appropriations made for operation and maintenance expenses included for that purpose in the Military Fund.

**§153. Authority to rent armories**

The Military Bureau may rent armories for activities that do not conflict with the military training mission.

**§154. Capital Repair Account**

The Capital Repair Account is established in the Military Bureau as a nonlapsing fund to assist in defraying the capital repair of state-owned properties of the Military Bureau. The bureau may not spend \$300,000 or more for any single capital repair project unless that expenditure is approved in advance by the Legislature. Not later than January 1st of each odd-numbered year, the bureau shall submit a list to the Legislature that identifies the location, nature and cost of each planned capital repair project costing less than \$300,000.

**Sec. 3. 37-B MRSA §264**, as enacted by PL 1983, c. 460, §3, is repealed and the following enacted in its place:

**§264. Inspection and condemnation**

1996-97

**1. Sale of property; proceeds.** The Adjutant General shall designate an officer to inspect military property, real and personal, and may condemn any inspected property that the Adjutant General determines to be unfit for use by the military. Property condemned under this subsection may be sold by the Adjutant General. Real property condemned under this subsection may not be sold for less than its appraised value as determined by a person licensed as a real estate appraiser under Title 32, chapter 123.

All proceeds from the sale of condemned property must be paid into the State Treasury and credited to the Capital Repair Account of the Military Bureau established under section 154.

**2. Designation of property; sale.** The Adjutant General may sell an armory or other real property of the Military Bureau if the Adjutant General has:

- A. Completed the appraisal required under subsection 1; and
- B. Except as provided in subsection 3, obtained approval of the Legislature to sell that armory or other real property. For the purposes of this subsection, the term "approval of the Legislature" means the enactment by the Legislature and signing by the Governor of a resolve authorizing the sale of that armory or other real property.

All proceeds of the sale of an armory or other real property under this subsection must be paid into the State Treasury and credited to the Capital Repair Account of the Military Bureau established under section 154.

**3. Exceptions; authorization to sell.** Notwithstanding subsection 2, paragraph B, the Adjutant General is authorized to sell the following armories:

- A. The Brunswick Armory;
- B. The Newport Armory;
- C. The Rumford Armory;
- D. The Sanford Armory; and
- E. The South Portland Armory.

**4. Easements and rights-of-way.** Notwithstanding subsection 2, the Adjutant General may, with written approval of the Governor, grant easements and rights-of-way on real property held by the Military Bureau.

**Sec. 4. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

**DEFENSE AND VETERANS' SERVICES, DEPARTMENT OF Capital Repair Account**

Capital Expenditures	\$500,000
Provides authorization to make expenditures from the Capital Repair Account to undertake capital repair projects.	

**Sec. 5. Effective date.** That section of this Act that enacts the Maine Revised Statutes, Title 37-B, section 152 takes effect on July 1, 1997.

See title page for effective date, unless otherwise indicated.

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**CHAPTER 685**

**H.P. 1291 - L.D. 1773**

**An Act to Ensure the Continued Stability of Services for Persons with Mental Retardation**

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

**Whereas,** agencies providing services to people with mental retardation are facing severe increases in workers' compensation insurance rates due to a reclassification of the worksites; and

**Whereas,** current reimbursement for services being provided by these agencies is not adequate to pay the increased workers' compensation insurance rates; and

**Whereas,** the Department of Mental Health and Mental Retardation has failed to develop a plan to resolve this problem; and

**Whereas,** some agencies face the possibility of closure due to their inability to make payment of their workers' compensation insurance premiums; 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. 34-B MRS §5481** is enacted to read: