

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

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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.

J.S. McCarthy Company
Augusta, Maine
1995

this section, the amount of the shortfall in assets must be calculated as a percent of the total amount of assets required to make all of the full actuarial value transfers. That percentage must then be applied to the full actuarial value for each person's electing such a transfer, reducing each person's full actuarial value and related transferred service credit by that percentage, so that the transferred service credit, so reduced, is fully funded.

4. If, after all lump-sum distributions and transfers of actuarial values as provided under this section are made, assets remain in the Child Development Services System's participating local district plan, the full remaining balance of assets must be distributed to Child Development Services System for retention or distribution back to Child Development Services System's funding source or sources, as required by applicable law.

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

Effective April 10, 1996.

CHAPTER 79

S.P. 749 - L.D. 1859

An Act to Authorize the Disposition of Property Interests at the Pineland Center

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

Sec. 1. Definitions. As used in this Act, unless the context otherwise indicates, the following terms have the following meanings.

1. Commissioner. "Commissioner" means the Commissioner of Administrative and Financial Services.

2. Lease. "Lease" refers to real property leases and includes but is not limited to ground leases and leases with option to purchase.

3. Pineland Conversion Committee. "Pineland Conversion Committee," referred to in this Act as the "committee," consists of the Commissioner of Administrative and Financial Services or the commissioner's designee who serves as chair; the Director of the Bureau of General Services within the Department of Administrative and Financial Services; the chair or any member of the Governor's Task Force on Pineland Center Reuse as of October 1995 as established by Executive Order 4 Fiscal Year 1994-95; a representative appointed by the Board of Selectmen of the Town

of New Gloucester; and a representative appointed by the Governor.

4. State property. "State property" means the property known as "the Pineland Center," containing approximately 299.92 acres, and described in the following deeds recorded in the Cumberland County Registry of Deeds: Book 822, Page 249; Book 822, Page 251; Book 822, Page 253; Book 822, Page 257; Book 823, Page 385; Book 826, Page 79; Book 844, Page 28; and Book 1796, Page 401; together with the buildings and improvements, all appurtenant rights and easements and all personal property located on that property, including vehicles, machinery, equipment and supplies.

Sec. 2. Authority to convey real estate. The State, through the commissioner and upon a majority vote of the committee, may:

1. Enter into agreements. Enter into agreements for sale or lease of all or portions of the state property at such prices and upon such terms as the committee determines, in its sole discretion subject to any federal, state or local permits or approvals required by law;

2. Enter into leases. Execute and deliver a lease or leases, or deeds as described in section 5, and other instruments transferring interests in all or portions of the state property at such prices and upon such terms as the committee determines, in its sole discretion;

3. Settle boundary discrepancies. Negotiate, draft, execute and deliver any documents necessary to settle any boundary line discrepancies;

4. Eminent domain. Exercise, pursuant to the Maine Revised Statutes, Title 23, chapter 3, the power of eminent domain for the purpose of quieting for all time any possible challenges to ownership of the state property and for no other purpose;

5. Contribute to value. Negotiate, draft, execute and deliver any easements or other rights that could contribute to the value of a proposed sale or lease of the State's interests; and

6. Release interest. Release any interests in the state property that do not contribute to the value of the remaining state property.

Sec. 3. Membership; appointment. The committee established in section 1, subsection 3 consists of 5 members, appointed by the Governor, to serve until such time as the Governor appoints members to the Pineland Development Authority pursuant to section 13 or all interests in the state property have been conveyed. A committee member's term does not extend beyond 2 years from the

effective date of this Act. Immediately after appointment, the member shall assume that member's duties. Any vacancy must be filled for the unexpired term by the Governor. Three members are required for the committee to take action as long as at least one member voting in favor of any committee action is either the chair or a member of the Governor's Task Force on Pineland Center Reuse or the representative appointed by the municipal officers of the Town of New Gloucester. A vacancy in the committee does not impair the right of committee members to exercise all the rights and perform all the duties of the committee. The Governor may remove a member from the committee for misconduct.

A committee member is not entitled to receive compensation for services but is entitled to receive reimbursement for necessary expenditures, including travel expenses incurred in carrying out these services. A committee member is not an employee of the State or its agencies.

Sec. 4. Conflict of interest. A committee member may not acquire any interest, direct or indirect, in any contract or proposed contract of the committee. A committee member may not participate in any decision on any contract entered into by the committee if that individual has any interest, direct or indirect, in any firm, partnership, corporation, association or other entity that may be a party to any contract or financially involved in any transaction with the committee.

Sec. 5. Property to be sold "as is." The state property must be leased or sold "as is," with no representations or warranties.

Title must be transferred by quitclaim release deed without covenant and executed by the commissioner.

Sec. 6. Qualifications of potential bidders, purchasers or lessees. The committee may establish reasonable criteria for the qualification of parties eligible to submit bids or offers to purchase or lease all or any portion of the state property. The criteria must address the parties' technical and financial ability to complete any development plans submitted to the committee.

Sec. 7. Exemptions. Any lease or conveyance pursuant to this Act is exempt from any statutory or regulatory requirement that the state property first be offered to the Maine State Housing Authority or another state or local agency.

Sec. 8. Marketing. The commissioner shall have the current market value of the state property determined by a qualified appraiser. The commissioner may market the state property by:

1. Marketing plans. Soliciting marketing plans for sale or lease of the state property. The commissioner has authority to select a marketing plan and to enter into a contract with the successful applicant;

2. Listing property. Listing the state property for sale or lease with private real estate brokers at its appraised value;

3. Bids. Soliciting bids from potential purchasers or lessees; or

4. Direct sale. Selling directly to purchasers or entering directly into leases with tenants.

If the commissioner elects to solicit bids, the commissioner shall publish notices of sale sufficient to advertise the properties.

Sec. 9. Development plans. The committee may require all potential bidders, purchasers or lessees to submit comprehensive plans describing their proposed development projects, including financial arrangements to ensure completion of the project for the Pineland Center.

Sec. 10. Remediation. One million dollars must be appropriated from the General Fund for remediating certain environmental contamination at the Pineland Center property and, within available funds, assisting the Town of New Gloucester with zoning and site-use planning related to the Pineland property. The funds must be deposited into the "All Other Line Category, Public Improvements - Planning - Construction - Administration, Bureau of General Services." These funds must be expended upon recommendation of the Director of the Bureau of General Services.

Sec. 11. Perry Hayden Hall. The building known as "Perry Hayden Hall," together with sufficient land lying southerly of Morse Road, must first be offered to School Administrative District 15, referred to in this section and section 12 as "SAD 15," to satisfy applicable land use laws and ordinances and as required for school purposes. SAD 15 has a period of time not to exceed 180 days from the effective date of this Act to conduct any studies and evaluations to determine whether Perry Hayden Hall and associated real estate are suitable for use as a school and to enter into written purchase and sale agreement, lease, lease with option to buy or option to buy with the State through the commissioner.

Sec. 12. Transfer of management authority. Nine months from the effective date of this Act, the commissioner shall report to the Governor on the status of marketing efforts for the state property. If, after reviewing the report, the Governor determines that the committee has received a written offer or offers to purchase or has entered into

a legally binding agreement or agreements for sale or lease of substantially all of Pineland Center, including Perry Hayden Hall if SAD 15 has elected not to purchase or lease, the Governor may not appoint members to the Pineland Development Authority, and the committee shall continue until terminated by the Legislature or until all interests in the state property are sold or leased.

If the Governor determines that the committee has not received an oral or written offer or offers to purchase or entered into a legally binding agreement or agreements for sale or lease of substantially all of Pineland Center including Perry Hayden Hall if SAD 15 has elected not to purchase or lease, the Governor shall appoint members to the Pineland Development Authority, which assumes management responsibility for the Pineland Center property in accordance with the terms of this Act. Upon appointment of members to the authority, all functions of the committee are transferred to the authority and the committee is terminated.

Sec. 13. Pineland Development Authority. The Pineland Development Authority is established as a body corporate and politic and a public instrumentality of the State to carry out the provisions of this Act. The authority manages the state property in the name of the State.

It is declared that the purposes of this Act are public and that the authority is performing a governmental function in carrying out this Act.

1. Definitions. For purposes of this section, the following terms have the following meanings.

A. "Authority" means the Pineland Development Authority.

B. "Pineland" or "Pineland Center" means the property consisting of approximately 299.92 acres, as further described in section 1, subsection 2.

C. "Maine Municipal Bond Bank" is defined in the Maine Revised Statutes, Title 30-A, section 5903, subsection 1.

D. "Readjustment" means use of the Pineland Center following the cessation of use by the Department of Mental Health and Mental Retardation.

2. Powers; membership; obligations. The authority is a public municipal corporation and may:

A. Sue and be sued;

B. Have a seal and alter the seal at its pleasure;

C. Adopt and amend bylaws covering its procedures and rules for the purposes set forth in this Act; develop and adopt rules in accordance with the Maine Administrative Procedure Act; publish bylaws and rules as necessary or advisable; and cause records of its proceedings to be kept;

D. Utilize the services of the Department of Administrative and Financial Services that are available and expedient and all charges for services provided by the department may be paid to the department by the authority as mutually agreed upon;

E. Utilize the Division of Financial and Personnel Services within the Department of Administrative and Financial Services as the authority's fiscal agent. The division shall provide regular financial reports to the authority and the commissioner on funds received and expended. The authority shall reimburse the division for its services to the authority;

F. Accept the cooperation of the State or its agencies in the construction, maintenance, reconstruction, operation and financing of the Pineland Center and the readjustment of the Pineland Center, if any, and take necessary actions to utilize that aid and cooperation;

G. Be eligible as a "governmental unit" to borrow money from the Maine Municipal Bond Bank pursuant to the Maine Revised Statutes, Title 30-A, section 5953;

H. Exercise those powers enumerated in section 2, subsection 1;

I. Employ such assistants, attorneys, experts and other employees and consultants as the authority considers necessary or desirable for its purposes; and

J. Take all other lawful action necessary and incidental to effectuate the purposes set forth in this Act.

3. Income and expenses. The authority may make all expenditures necessary within available resources to carry out the purposes of this Act.

Any notes, obligations or liabilities under this Act may not be considered a debt or obligation of the State or a pledge of the faith and credit of the State; but those notes, obligations and liabilities are payable exclusively from funds provided to or obtained by the authority pursuant to this Act. Pecuniary liability of any kind may not be imposed upon the State because of any act, agreement, contract, tort, malfeasance, misfeasance or nonfeasance by or on the part of the authority or its agents, servants or employees. The

records and correspondence relating to negotiations are confidential and members of the authority, any assistants, attorneys, experts, contractors or employees are not employees of the State or its agencies. The authority is deemed to qualify for all lawyer-client privileges.

4. Membership; appointment. The authority consists of a board of 13 directors appointed by the Governor, each to serve for 3 years; except that of those first appointed, one director is appointed for one year, one director for 2 years, one director for 3 years and one director for 4 years. Immediately after their appointment, the directors shall assume their duties.

The Governor shall make the 13 appointments, as follows:

- A. The commissioner or the commissioner's designee;
- B. The Director of the Bureau of General Services within the Department of Administrative and Financial Services or the director's designee;
- C. The chair or any member of the Governor's Task Force on Pineland Center Reuse as of October 1995, as established by Executive Order 4 Fiscal Year 1994-95;
- D. Two representatives from the Town of New Gloucester;
- E. One representative from the Town of Pownal;
- F. One representative from the Town of North Yarmouth;
- G. One representative from the Town of Gray;
- H. The Commissioner of Economic and Community Development or the commissioner's designee;
- I. The Director of the State Planning Office or the director's designee; and
- J. Three additional members appointed by the Governor.

Representatives from the towns listed in paragraphs D, E, F and G are selected as follows. Municipal officers from the towns of Gray, New Gloucester, North Yarmouth and Pownal shall each submit to the Governor the names of 3 candidates for appointment to the authority. The Governor, in the Governor's sole discretion, shall select from the group of candidates one representative from each of the towns, except that the Governor shall select 2 representatives from the Town of New Gloucester.

Seven members constitute a quorum. Seven affirmative votes are required for the board of directors to take action. The affirmative votes must include the votes of 2 representatives appointed pursuant to paragraphs C to G.

The liability of the authority is governed by the Maine Tort Claims Act. Directors are not subject to any personal liability for actions taken as board members.

A director is not entitled to receive compensation for services to the authority but is entitled to receive reimbursement for necessary expenditures, including travel expenses incurred in carrying out these services.

The commissioner or the commissioner's designee is the chair of the authority.

Any vacancy must be filled for the unexpired term by the Governor. A vacancy in the authority does not impair the right of quorum of the directors to exercise all the rights and perform all the duties of the authority. The Governor may remove a member from the authority for misconduct.

5. Special utility districts. The authority may form special utility districts and provide municipal utility services within its jurisdiction. The board of directors has the authority of a municipal legislative body for these purposes. A special utility district formed under this subsection does not have the power of eminent domain. The purposes of a special utility district may include but are not limited to the following.

- A. The authority may provide sewer services as a sanitary district under the Maine Revised Statutes, Title 38, chapter 11, subchapters III and IV. The authority may establish a board of trustees for the sanitary district and appoint the members of the board or may act as the trustees of the district.
- B. The authority may provide solid waste disposal services as a refuse disposal district under the Maine Revised Statutes, Title 38, chapter 17.
- C. The authority may provide water as a water district under the Maine Revised Statutes, Title 35-A, Part 6. The authority may establish a board of trustees for the district and appoint the members of the board or may act as the trustees of the district.

6. Conflict of interest. A director, officer or employee of the authority may not acquire any interest, direct or indirect, in any contract or proposed contract of the authority. A director, officer or employee may not participate in any decision on any contract entered into by the authority if that individual has any interest, direct or indirect, in any firm,

partnership, corporation or association that is a party to the contract or if that individual is financially involved in any transaction with the authority; except that this prohibition does not apply to the execution of agreements by banking institutions for the deposit or handling of authority funds in connection with any contract or to utility services for which rates are fixed or controlled by a governmental agency.

7. Report to the Legislature; department review; operating budget. Beginning January 1, 1998, the authority shall present an annual report to the Legislative Council and send copies to the joint standing committee of the Legislature having jurisdiction over state and local government matters and the commissioner. The report must include a description of the authority's activities for the preceding fiscal year, including a report of its receipts and expenditures from all sources.

Within 60 days of the date on which the directors are appointed and assume their duties, the authority shall present to the commissioner for the commissioner's approval a proposed operating budget for the remainder of the fiscal year. Beginning January 1, 1998, the authority shall present an annual proposed operating budget for the next fiscal year beginning July 1st to the commissioner for approval.

All expenditures of the authority are subject to audit by appropriate state agencies.

8. Termination of authority. The authority is not dissolved until:

A. The authority is terminated by the Legislature; and

B. All money borrowed from the Maine Municipal Bond Bank, pursuant to the Maine Revised Statutes, Title 30-A, section 5951, together with interest and premiums, has been repaid or a sufficient amount for repayment has been irrevocably set aside in trust for repayment of the sum borrowed, together with interest and premiums.

All funds, property interests or other assets held by the authority at the time of termination revert to the State.

Sec. 14. Funding. The Department of Administrative and Financial Services must designate, from the amounts appropriated to carry out the purposes of this Act, amounts sufficient to meet the requirements of the Maine Revised Statutes, Title 30-A, section 5685.

See title page for effective date.

CHAPTER 80

H.P. 1025 - L.D. 1440

An Act to Repeal the Gross Receipts Tax

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

Sec. 1. Proof of gross receipts tax repeal savings reduction of rates charged. All persons licensed by this State as a nursing home within the meaning of the Maine Revised Statutes, Title 22, section 1812-A prior to the repeal of Title 36, section 2822, subsection 2 who increased their rates by 7% after July 1, 1993 shall reduce rates charged to consumers of nursing home services by 7% and shall provide proof to those consumers that the rates charged for nursing home care no longer include an amount related to the gross receipts tax. The Department of Human Services shall send a letter to all nursing home consumers that notifies those consumers that the gross receipts tax of 7% has been repealed effective January 1, 1997. All persons licensed by the State as a nursing home must include a statement concerning the repeal of the 7% gross receipts tax on the first bill provided to consumers of those nursing homes in calendar year 1997.

See title page for effective date.

CHAPTER 81

H.P. 1330 - L.D. 1822

An Act to Authorize a Bond Issue to Encourage and Support Economic Development

Preamble. Two thirds of both Houses of the Legislature deeming it necessary in accordance with the Constitution of Maine, Article IX, Section 14, to authorize the issuance of bonds on behalf of the State of Maine to provide funds for the capitalization of the Small Enterprise Growth Fund and the Agricultural Marketing Loan Fund.

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

Sec. 1. Authorization of bonds to provide for the capitalization of the Small Enterprise Growth Fund and the Agricultural Marketing Loan Fund. The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding \$11,000,000 to raise funds for the capitalization of the Small Enterprise Growth Fund and the