

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

SECOND REGULAR SESSION
January 7, 1998 to March 31, 1998

SECOND SPECIAL SESSION
April 1, 1998 to April 9, 1998

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1998

SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 9, 1998

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
1997

1998-99

**HUMAN SERVICES,
DEPARTMENT OF**

Bureau of Health

Positions - Legislative Count	(-2.000)
Personal Services	(\$76,349)

Deallocates funds for 2 Assistant Engineer positions to transfer these positions to the Public Drinking Water Fund, Other Special Revenue.

Sec. 20. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1998-99

**HUMAN SERVICES,
DEPARTMENT OF**

Public Drinking Water Fund

Positions - Legislative Count	(2.000)
Personal Services	\$76,349
All Other	223,651

Provides funds for costs associated with the administration of the safe drinking water revolving loan fund, including funds for 2 Assistant Engineer positions transferred from the Bureau of Health, Federal Expenditures Fund.

**DEPARTMENT OF HUMAN
SERVICES**

TOTAL	\$300,000
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See title page for effective date.

CHAPTER 706

S.P. 726 - L.D. 1968

**An Act to Implement a
Reorganization of the Maine Sardine
Council by the Maine Sardine
Industry**

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

Whereas, the number of companies comprising the sardine industry continues to decline; and

Whereas, one of the main functions of the Maine Sardine Council, to certify the quality of Maine sardines, is no longer necessary since the implementation of the United States Food and Drug Administration's mandatory seafood inspection program on December 18, 1997; and

Whereas, the reorganization of the Maine Sardine Council is necessary as soon as possible in order to support changes that the Maine sardine industry has decided are in the industry's best interest; 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. 32 MRSA §4166, sub-§§1 and 3, as enacted by PL 1991, c. 446, Pt. C, §3, are repealed.

Sec. 2. 32 MRSA §4166, sub-§4-A, as enacted by PL 1993, c. 14, §2, is repealed.

Sec. 3. 32 MRSA §4167, sub-§5, as amended by PL 1993, c. 585, §6, is further amended to read:

5. Executive director; staff. The council may select and employ and fix the salary of an executive director-advertising and merchandising manager to administer the advertising, merchandising, research and development program. The executive director, with the consent of the council, may engage sufficient clerical personnel and other employees for the efficient performance of the executive director's duties. After July 1, 1994, employees of the council may not be considered state employees for any purpose, including the state civil service provisions of Title 5, Part 2 and Title 5, chapter 372, except as provided in paragraphs A and C. For the purposes of the Maine Tort Claims Act, the council is a "governmental entity" and its employees are "employees" as those terms are defined in Title 14, section 8102.

A. A person employed by the council on or after July 1, 1994 is a state employee for purposes of rights and benefits under the Maine State Retirement System under Title 5, Part 20 and for the

purposes of retirement health insurance pursuant to the state employee health insurance program under Title 5, chapter 13, subchapter II.

B. Paragraph A does not apply to a person who was employed by the council between July 1, 1994 and December 1, 1997 and who retired as a state employee before July 1, 1994.

C. A person employed by the council on or after March 1, 1998 is a state employee for purposes of rights and benefits under the state employees health insurance program under Title 5, chapter 13, subchapter II.

Sec. 4. 32 MRSA §4167-A, as amended by PL 1995, c. 307, §11, is repealed.

Sec. 5. 32 MRSA §4168, as amended by PL 1995, c. 307, §§12 to 14, is repealed.

Sec. 6. 32 MRSA §4169, as amended by PL 1995, c. 307, §15, is repealed.

Sec. 7. 32 MRSA §4170, as amended by PL 1995, c. 307, §16, is repealed.

Sec. 8. 32 MRSA §4170-A, as enacted by PL 1993, c. 14, §10, is repealed.

Sec. 9. 36 MRSA §4695, 2nd paragraph, as amended by PL 1995, c. 307, §20, is further amended to read:

An excise tax of ~~30¢~~ 15¢ per case is levied and imposed upon the privilege of packing sardines and an excise tax of ~~40¢~~ 15¢ per case is levied and imposed upon the privilege of packing kippers, steaks or other canned herring products.

Sec. 10. 36 MRSA §4697, as amended by PL 1995, c. 307, §22, is further amended to read:

§4697. Reports of production and payment of tax

Every packer shall, on or before the last day of each month, report to the State Tax Assessor the quantity of sardines, kippers, steaks or other canned herring products packed by the packer during the preceding calendar month, on forms furnished by the State Tax Assessor, and pay to the State Tax Assessor the tax of ~~30¢~~ 15¢ per case on all sardines reported as packed and 10¢ per case on all kippers, steaks or other canned herring products reported as packed. If the State Tax Assessor determines that overpayment of tax has been made, the State Tax Assessor shall make a refund. In making additional assessment or refund determinations, the State Tax Assessor shall rely on the records of the Maine Sardine Council concerning the quantity of sardines, kippers, steaks or other canned herring products packed in each sardine plant that is for sale and suitable for human consumption.

Any packer may pay to the State Tax Assessor in advance a sum of money based on an estimate of the packer's tax for a given number of months and this sum is a credit against future monthly reports of that packer.

Sec. 11. PL 1993, c. 585, §11, sub-§3, 4th and 5th sentences are repealed.

Sec. 12. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1997-98	1998-99
MAINE SARDINE COUNCIL		
Maine Sardine Council		
All Other	(\$62,500)	(\$125,000)
Deallocates funds to reflect reductions in the council's statutory authorities and its revenue.		

Sec. 13. Transfer of retirement liabilities. The following assets, liabilities and accounts as of March 1, 1998 must be transferred to the state regular retirement plan for state employees:

1. The retirement liabilities related to employees of the Maine Sardine Council who are state employees pursuant to the Maine Revised Statutes, Title 32, section 4167, subsection 5, paragraph A;

2. The assets of the consolidated retirement plan for participating local districts derived from or related to the Maine Sardine Council as a participating local district; and

3. All Maine Sardine Council employee contribution accounts in the consolidated retirement plan for participating local districts derived from or related to the Maine Sardine Council as a participating local district.

Sec. 14. Contributions to the state retirement plan. A person employed by the Maine Sardine Council on or after March 1, 1998 is covered under the state regular retirement plan for state employees. The Maine Sardine Council shall make employer retirement contributions at the state regular retirement plan employer contribution rate. Council employees shall make employee contributions at the state regular retirement plan employee contribution rate.

Sec. 15. Retirement health insurance. Any costs associated with coverage of employees of the Maine Sardine Council under the state employee health insurance program under the Maine Revised

Statutes, Title 5, chapter 13, subchapter II for the purposes of retirement health insurance for the period from July 1, 1994 to March 1, 1998 must be paid by the council pursuant to an agreement between the council and the Department of Administrative and Financial Services.

Sec. 16. Retroactivity. That section of this Act that enacts the Maine Revised Statutes, Title 32, section 4167, subsection 5, paragraph A is retroactive to July 1, 1994. Those sections of this Act that require the transfer of retirement liabilities by March 1, 1998; that require contributions to the Maine State Retirement System by the Maine Sardine Council by March 1, 1998; and that require costs associated with coverage of employees and the council to be paid by the council are retroactive to March 1, 1998.

Sec. 17. Retroactivity; transition. That part of this Act that amends the Maine Revised Statutes, Title 36, section 4697 applies retroactively to January 1, 1998. The State Tax Assessor shall credit to a packer of sardines any amount of tax paid under Title 36, section 4697 that is in excess of the 15¢ tax per case on all sardines reported as packed between January 1, 1998 and the effective date of this Act. Any amount credited to a packer of sardines under this section must be applied to any future tax due from that packer of sardines pursuant to Title 36, section 4697.

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

Effective April 3, 1998.

CHAPTER 707

H.P. 1495 - L.D. 2094

An Act to Facilitate Local Distribution of Natural Gas

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

Whereas, the availability of natural gas utility service is of vital importance to the well-being of the State's citizens and economy; and

Whereas, the impending construction of new natural gas pipelines offers an opportunity for the expansion of natural gas utility service in the State; and

Whereas, proceedings are pending at the Public Utilities Commission that could result in the expanded availability of natural gas utility service that raise

issues requiring statutory amendments to address equitably; 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. 35-A MRSA §102, sub-§11, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

11. Person. "Person" includes a corporation, partnership, limited partnership, limited liability company, limited liability partnership, association, trust, estate, any other legal entity or natural person.

Sec. 2. 35-A MRSA §2101, as amended by PL 1995, c. 225, §7, is further amended to read:

§2101. Organization of certain public utilities

~~Corporations~~ A public utility for the operation of telephones and for the purpose of making, generating, selling, distributing and supplying gas or electricity or for the operation of water utilities, ferries or public heating utilities in any municipality, or 2 or more adjoining municipalities, within the State, may be organized as a legal entity authorized under the general corporate law laws of the State, including Title 13-A.

Sec. 3. 35-A MRSA §2104, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§2104. Commission approval required for gas companies to furnish service

No gas utility ~~organized under Title 13-A~~ may furnish its service in or to any municipality within the State, without the approval of the commission, even if no other gas utility is furnishing or is authorized to furnish a similar service. ~~A gas utility providing service on January 1, 1982, shall have until January 1, 1983, to obtain the commission's approval to continue to furnish service.~~

Sec. 4. 35-A MRSA §§2302 and 2306, as enacted by PL 1987, c. 141, Pt. A, §6, are amended to read:

§2302. Pipelines for common carrier transportation

Every corporation organized under the general laws of the State and any public utility owning, controlling, operating or managing any pipeline within or through this State for the transportation as a