

# 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.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

**CHAPTER 719**

**H.P. 1647 - L.D. 2277**

**An Act to Implement the Recommendations of the Majority of the Joint Standing Committee on Utilities and Energy Arising from Its Government Evaluation Act Review of the Office of the Public Advocate**

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

**Whereas,** the Office of the Public Advocate needs immediate supplemental funding to support its current case load and obligations; 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 §116, sub-§8, ¶C-1,** as enacted by PL 1993, c. 633, §2 and affected by §3, is amended to read:

C-1. Except as specified in this subsection, funds that are not expended at the end of a fiscal year do not lapse but must be carried forward to be expended for the purposes specified in this section in succeeding fiscal years; but, with the exception of funds carried forward from fiscal year 1996-97 to fiscal year 1997-98, unexpended funds in excess of 10% of the total annual assessment authorized in this section must, at the option of the Public Advocate, either be presented to the Legislature in accordance with paragraph A for reallocation and expenditure or used to reduce the utility assessment in the following fiscal year. In the case of funds carried forward from fiscal year 1996-97 to fiscal year 1997-98, 100% of these funds may be expended for the purposes specified in this section.

**Sec. 2. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1997-98	1998-99
<b>EXECUTIVE DEPARTMENT</b>		
<b>Public Advocate</b>		
All Other	\$60,483	

Provides funds from the unexpended balance at the end of fiscal year 1996-97 to cover increased costs associated with rate cases and the closing of the Maine Yankee Nuclear Power Plant.

<b>Public Advocate</b>		
Personal Services	\$13,000	\$30,000
All Other		350,000
		<hr/>
<b>TOTAL</b>	13,000	380,000

Provides for the allocation of funds to pay salary increases for the Public Advocate and the Public Advocate's staff and to cover costs of consultants and expert witnesses to handle cases involving electric industry restructuring, telephone utility regulation and the Maine Yankee Nuclear Power Plant decommissioning.

<b>EXECUTIVE DEPARTMENT</b>	<hr/>	<hr/>
<b>TOTAL</b>	\$73,483	\$380,000

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

Effective April 7, 1998.

**CHAPTER 720**

**H.P. 1657 - L.D. 2286**

**An Act to Implement the Recommendations of the Majority of the Joint Standing Committee on Agriculture, Conservation and Forestry Regarding Enhancing Forest Resource Assessment**

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

**Sec. 1. 12 MRSA §8867,** as amended by PL 1991, c. 722, §4, is repealed.

**Sec. 2. 12 MRSA §8867-A** is enacted to read:

**§8867-A. Rulemaking**

No later than November 1, 1998, the Commissioner of Conservation shall provisionally adopt rules in accordance with Title 5, chapter 375 to implement this subchapter. Rules adopted pursuant to this subchapter are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and must be submitted to the Legislature no later than January 1, 1999 for review.

The Commissioner of Conservation shall consult with the Commissioner of Environmental Protection and the Commissioner of Inland Fisheries and Wildlife to ensure that bureau rules are consistent with wildlife habitat and environmental protection.

**Sec. 3. 12 MRSA §8868, sub-§1**, as enacted by PL 1989, c. 555, §10, is amended to read:

**1. Clear-cut.** "Clear-cut" means any timber harvesting on a forested site greater than 5 acres in size ~~which over a 10 year period that results in an average~~ a residual basal area of trees over ~~6~~ 4 1/2 inches in diameter measured at 4 1/2 feet above the ground of less than 30 square feet per acre, unless ~~one or both of the following conditions exist~~ condition exists:

~~A. If, after harvesting, the average residual basal area of trees over 1 inch in diameter measured at 4 1/2 feet above the ground is 30 square feet per acre or more, a clear cut does not occur until the average residual basal area of trees 6 inches or larger measured at 4 feet above the ground is less than 10 square feet per acre; or~~

B. After harvesting, the site has a well-distributed stand of ~~trees~~ acceptable growing stock as defined by rule of at least 5 feet in height that meets the regeneration standards defined under section 8869, subsection 1.

**Sec. 4. 12 MRSA §8868, sub-§2-A** is enacted to read:

**2-A. Parcel.** "Parcel" means a contiguous tract or plot of forest land owned by a landowner. Multiple contiguous tracts, plots or parcels of forest land owned by the same landowner are considered a single parcel for the purposes of this subchapter.

**Sec. 5. 12 MRSA §8868, sub-§3-A** is enacted to read:

**3-A. Separation zone.** "Separation zone" means an area that surrounds a clear-cut and separates it from other clear-cuts.

**Sec. 6. 12 MRSA §8868, sub-§4**, as enacted by PL 1989, c. 555, §10, is amended to read:

**4. Timber harvesting.** "Timber harvesting" means the cutting or removal of ~~at least 50 cords of~~

timber for the primary purpose of selling or processing forest products.

**Sec. 7. 12 MRSA §8869, sub-§2-A** is enacted to read:

**2-A. Separation zones.** For a parcel of land 100 acres or less, a clear-cut must be separated from any other clear-cut by at least 250 feet.

For a parcel of land over 100 acres, a clear-cut must be separated from any other clear-cut by a defined area equal to at least the area contained within the perimeter of the clear-cut. For a parcel of land over 100 acres, each defined separation zone must be identified with a specific clear-cut and be a minimum of 250 feet in width and may not be designated to meet the separation zone requirements for any other clear-cut.

The Commissioner of Conservation may establish, by rule, more stringent separation zone standards for clear-cuts greater than 35 acres.

**Sec. 8. 12 MRSA §8869, sub-§3**, as enacted by PL 1989, c. 555, §10, is amended to read:

**3. Forest management plans for clear-cuts over 35 acres.** For ~~clear-cuts of 50~~ a clear-cut of 35 acres or more, the landowner, or agent of the landowner, shall develop, prior to harvest, a forest management plan for that clear-cut signed by a professional forester that conforms to the standards set forth in subsections 1 and 2. The plan must state the purpose of the clear-cut. This plan must be kept on file by the landowner or agent of the landowner and be available for inspection by the bureau until adequate regeneration in accordance with the standards set forth in subsection 1 is established.

**Sec. 9. 12 MRSA §8876**, as enacted by PL 1989, c. 875, Pt. J, §10, is amended to read:

#### **§8876. Forest Resource Assessment Program**

There is established in the Bureau of Forestry a Forest Resource Assessment Program. ~~The purposes of this program are to:~~ The purpose of the Forest Resource Assessment Program is to systematically and continually assess the ability of the State's forests to provide sustainable forest resources and socioeconomic benefits for the people of this State. The Director of the Bureau of Forestry, referred to in this subchapter as "the director," shall implement this program to:

**1. Current status.** Assess the current status of forest resources, ~~including, but not limited to, timber, forest land base, fiber, recreation, water, wildlife and soil~~ using standards of forest sustainability developed in accordance with section 8876-A;

**2. Future demand.** Project future demand for ~~these forest~~ resources based on a common economic forecast developed by the State Planning Office and on other appropriate economic projections;

**3. Trends.** Identify trends in resource utilization and forecast supply available to meet the projected demands; and

**4. Potential shortfalls.** Identify potential shortfalls in forest resources and the management and policy actions necessary in the public and private sector to avoid shortfalls; and

~~5. Recommendations. Recommend to the Governor and the Legislature the administrative and legislative policies or actions needed to refine or redirect state agency programs and stimulate or remove obstacles to private sector action in a manner that contributes to an adequate supply of natural resources.~~

~~The Director of the Bureau of Forestry shall establish and consult with technical working groups composed of members of the existing staff of the Department of Conservation and other persons knowledgeable in the areas referenced in subsection 1 and related fields to carry out the purposes of this chapter. The working groups must have expertise in forest management, forest utilization, recreation management, land use regulation, wildlife and fisheries management, watershed management and other areas as determined appropriate by the director.~~

The director shall coordinate the efforts of this program fully with ongoing bureau and federal forestry program planning efforts and with the efforts of the Maine Economic Growth Council to develop a long-term plan for the State's economy pursuant to Title 10, section 929-B.

**Sec. 10. 12 MRSA §8876-A** is enacted to read:

**§8876-A. Forest sustainability**

The director shall establish a process to assess forest sustainability. In developing this process, the director shall build on the principles of sustainability developed by the Northern Forest Lands Council established by Congress in 1990 and the criteria developed by the Maine Council on Sustainable Forest Management pursuant to Executive Order #11 dated April 25, 1995.

**1. Standards.** Standards must be established to assess each of the criteria listed in this subsection by January 1st of the year indicated. The following standards must be specific, measurable and understandable by both forest managers and the general public:

A. Soil productivity by 2001;

B. Water quality, wetlands and riparian zones by 1999;

C. Timber supply and quality by 1999;

D. Aesthetic impacts of timber harvesting by 2003;

E. Biological diversity by 2002;

F. Public accountability of forest owners and managers by 1999; and

G. Traditional recreation by 2003.

**2. Process.** The director shall identify individuals with scientific background and practical experience in each of the criteria areas listed in subsection 1 and convene technical working groups. In the development of standards pursuant to subsection 1, the director and working groups shall assess current status and trends, the desired objectives and actions to reach the objectives. Each working group shall identify a range of alternative standards and recommend a set of standards based on a comprehensive review of available information and an assessment of the economic impacts of implementing the standards. The director shall coordinate the efforts of each working group and provide an opportunity for public comment on the recommended standards prior to final adoption.

**3. Report.** The director shall report to the joint standing committee of the Legislature having jurisdiction over forestry matters with a recommendation for each set of standards and an articulated goal for each criterion by the date specified in subsection 1. At the time of the report, the director shall indicate the recommended timetable for revisiting the particular criterion and standards.

**4. Monitoring.** As each set of standards is adopted, the director shall develop a system to monitor statewide progress in achieving those standards and begin monitoring. Standards and monitoring systems must be in place for all criteria by July 1, 2004.

**Sec. 11. 12 MRSA §8877-A** is enacted to read:

**§8877-A. Determination of supply and demand for timber resources**

The director shall use a variety of methods, including those specified in this section, to assess the status of timber resources, project future demand for these resources and forecast the supply available to meet the projected demands.

**1. Forest inventory.** The director, in cooperation with the United States Forest Service, shall conduct a forest inventory and analysis program. The inventory must be based on plot data collected annually in a manner that provides for the entire State to be inventoried on a cycle of not more than 5 years. Plot data must be collected and compiled to provide for analysis by ownership class and geographic region. The director shall provide for collection of supplemental plot data when needed to assess the impact of catastrophic events on the State's forests or significant changes in harvesting levels or methods.

**2. Remote sensing data.** The director shall review data collected using remote sensing technology to determine the area of forest types and gross changes in forest types.

**3. Timber supply modeling.** The director shall coordinate efforts to project future timber supply using forest models based on growth, harvest and other dynamic factors affecting the forest. The models must allow for statewide projections and projections for geographic regions and landowner classes.

**Sec. 12. 12 MRSA §8878,** as enacted by PL 1989, c. 875, Pt. J, §10, is repealed.

**Sec. 13. 12 MRSA §§8878-A and 8879** are enacted to read:

**§8878-A. Annual report on clearcutting**

The director shall prepare and publish an annual report that summarizes clearcutting statewide by geographic region and by ownership class. For the purposes of this section, "clearcutting" means harvesting that results in an area meeting the definition of a clear-cut in section 8868, subsection 1.

**1. Information.** For landowners owning 100,000 acres or more of forest land statewide, the summary must include aggregate data and frequency distributions and must present the following information:

- A. Total area clear-cut;
- B. Area clear-cut as a percentage of a landowner's statewide land ownership;
- C. Stated purposes for clearcutting;
- D. The number of clear-cuts over 75 acres in size;
- E. Total acres planted; and
- F. Total acres precommercially thinned.

**2. Sources of information.** The summary must be based on landowner harvest reports required under

section 8885. The director may request additional information and provide field verification as resources allow.

**§8879. Biennial report on the state of the State's forests**

The director shall publish a biennial report on the state of the State's forests. The director must submit a copy of the report to the joint standing committee of the Legislature having jurisdiction over forestry matters by January 1st of odd-numbered years beginning January 1, 1999.

**1. Content.** The report must describe the condition of the State's forests based on historical information and information collected and analyzed by the bureau for the biennium. The report must provide an assessment at the state level of progress in achieving the standards developed pursuant to section 8876-A. The director shall also provide observations on differences in achieving standards by landowner class. The report must summarize importing and exporting of forest products for foreign and interstate activities. The director shall obtain public input during the preparation of the report through public hearings and other appropriate methods.

**2. Recommendations.** The report must include recommendations for state and private actions designed to address the needs identified in the assessment.

A. State action recommendations must be defined in terms of necessary policies, programs, staff and budgetary requirements to achieve specific goals.

B. Recommendations for actions on privately held forest lands may be developed separately for large, industrial ownerships and small, non-industrial ownerships. These recommendations must be defined in terms of actions needed to achieve specific goals.

**Sec. 14. 12 MRSA §8885, sub-§1,** as enacted by PL 1989, c. 555, §12 and affected by c. 600, Pt. B, §11, is amended to read:

**1. Harvest report.** Any Except as provided in subsection 1-A, an owner of forest land who sells forest products or harvests forest products for that owner's commercial use shall submit a report to the director stating the species, volume and stumpage price per unit of measure for each transaction, the municipality or township where the stumpage was located, the estimated acreage of the harvest, the harvest method employed and the extent of whole-tree harvesting of both solid and chipped wood. For lump-sum sales, the purchaser shall be responsible for submitting the report.

**Sec. 15. 12 MRSA §8885, sub-§1-A** is enacted to read:

**1-A. Alternate harvest report.** The director may develop alternate forms for or methods of collecting harvest information from landowners who do not harvest timber on a regular basis. The director shall define landowners subject to the provisions of this subsection and provide report forms pursuant to section 8883, subsection 2.

**Sec. 16. 12 MRSA §8885, sub-§2-A** is enacted to read:

**2-A. Report on clear-cuts.** When timber harvesting produces a clear-cut as defined in section 8868, the landowner shall report to the director the acreage of the clear-cut and the purpose of the clear-cut.

**Sec. 17. 12 MRSA §8885, sub-§3**, as enacted by PL 1989, c. 555, §12 and affected by c. 600, Pt. B, §11, is amended to read:

**3. Reports.** Reports required under subsections 1 shall be and 2 are due January 1st and July 1st. Reports required under subsection 2 shall be due during the month of January. If the period of cutting under subsection 1 or 2 extends beyond December 31st of any calendar year, a report shall be submitted during the month of January for the preceding year. A person filing a harvest notification form pursuant to section 8883 must complete and return to the bureau a harvest report whether or not the landowner has harvested that year.

**Sec. 18. 12 MRSA §8886, sub-§2**, as enacted by PL 1989, c. 555, §12 and affected by c. 600, Pt. B, §11, is amended to read:

**2. Annual price reports.** The bureau shall publish, ~~semiannually~~ annually, a report on prices as specified below. These reports ~~shall~~ must be reported by zones as determined by the director and ~~shall~~ must include a statewide average of all zones.

A. The reports ~~shall~~ must include stumpage prices paid for forest tree species of the State as reported pursuant to section 8885. Prices for other forest products may be collected using acceptable survey techniques.

B. The reports ~~shall~~ must include mill delivered prices paid by primary processors, wood wholesalers and wood brokers of the State.

See title page for effective date.

**CHAPTER 721**

**H.P. 1669 - L.D. 2292**

**An Act to Revise the Salaries of Certain County Officers**

**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 has become necessary to revise the salaries of certain county officers; and

**Whereas**, it is desired to have these revisions retroactive to January 1, 1998; 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 §2, sub-§1-B**, as amended by PL 1997, c. 448, §§1 and 2 and as affected by §3, is repealed and the following enacted in its place:

**1-B. County officers' salaries.** Notwithstanding other sections of this chapter, counties that are not required to obtain legislative approval of their budgets under section 702 are not required to obtain legislative approval of the salaries of county officers under this section. The county commissioners, treasurers, sheriffs, judges of probate, registers of probate and registers of deeds in those counties whose budgets require legislative approval under section 702 are entitled to receive in weekly, biweekly or monthly payments annual salaries from the county treasury as follows:

1998

A. Androscoggin County:

(1) Commissioners