

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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
1999

by the Legislature. The Commissioner of Transportation is a member ex officio. The Commissioner of Transportation may designate a deputy, director, assistant or other officer or employee of the department to represent the Commissioner of Transportation at meetings of the authority with full power to act and vote on behalf of the Commissioner of Transportation. Upon the expiration of the term of office of any member, the Governor shall appoint a new member who serves in office for a term of 7 years and until a successor is duly appointed and qualified, and any member of the authority is eligible for reappointment. In the event of a vacancy in the membership of the authority caused by the death, incapacity, resignation or removal of a member, the Governor shall appoint a member to fill that vacancy only for the unexpired term of office of the member whose death, incapacity, resignation or removal created the vacancy, but the newly appointed member may be reappointed at the end of the unexpired term in accordance with this subsection. In all events, a member may not be appointed to the authority who is not a resident of the State at the time of the appointment and qualification, or who has not been a qualified voter in the State for a period of at least one year next preceding the appointment.

Sec. 2. 23 MRSA §1965, sub-§2, ¶¶A-1 and A-2 are enacted to read:

A-1. The authority consists of the Commissioner of Transportation, who is an ex officio member, and:

(1) Four members appointed by the Governor pursuant to paragraph A. Three members of the authority constitute a quorum and 3 votes are required for the authority to act on any matter, although a lesser number may adjourn a meeting;

(2) On and after August 1, 2000, 5 members appointed by the Governor pursuant to paragraph A. Three members of the authority constitute a quorum and 3 votes are required for the authority to act on any matter, although a lesser number may adjourn a meeting; and

(3) On and after August 1, 2002, 6 members appointed by the Governor pursuant to paragraph A. After August 1, 2002, 4 members of the authority constitute a quorum and 4 votes are required for the authority to act on any matter, although a lesser number may adjourn a meeting.

A-2. In making appointments under this subsection, the Governor shall ensure that after August

1, 2002 or at the earliest opportunity thereafter, the authority includes at least one person who is a resident of York County and who is named by the Governor as that county's representative on the authority; one person who is a resident of Cumberland County and who is named by the Governor as that county's representative on the authority; one person who is a resident of Androscoggin County and who is named by the Governor as that county's representative on the authority; and one person who is a resident of Kennebec County and who is named by the Governor as that county's representative on the authority. A member named to represent a certain county ceases to be a member if that person's residency changes to another county. Vacancies created as a result of changes in residency must be filled by the Governor as provided for other vacancies in paragraph A.

Sec. 3. 23 MRSA §1965, sub-§2, ¶B, as enacted by PL 1981, c. 595, §3, is amended to read:

B. Immediately after their appointments, the members of the authority shall enter upon their duties. The Governor shall name one of the appointed members as ~~chairman~~ **chair** of the authority. The authority shall elect a secretary and treasurer who need not be a member of the authority, and shall elect an executive director or general manager who is not a member of the authority. ~~Three members of the authority shall constitute a quorum and 3 votes shall be required for the authority to act on any matter, although a lesser number may adjourn.~~ No vacancy in the authority impairs the right of a quorum of the members to exercise all the rights and perform all the duties of the authority.

Sec. 4. Existing members not affected. Nothing in this Act may be construed to affect the appointment or term of members of the Maine Turnpike Authority appointed prior to the effective date of this Act.

See title page for effective date.

CHAPTER 178

H.P. 192 - L.D. 270

An Act to Enable Counties to Establish Electricity Agencies

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

Sec. 1. 30-A MRSA §903-A is enacted to read:

§903-A. Electricity services

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

A. "Aggregator" has the same meaning as defined in Title 35-A, section 3201.

B. "Competitive electricity provider" has the same meaning as defined in Title 35-A, section 3201.

C. "Retail access" has the same meaning as defined in Title 35-A, section 3201.

2. Establishment. County commissioners may establish a county electricity agency, referred to in this section as an "agency," to serve as a public aggregator for any electricity consumers, public or private, located within a county.

3. Powers. An agency is authorized to:

A. Enter into agreements with electricity consumers located within a county to aggregate their electric service needs within that county for the purpose of purchasing electricity on a group basis on or after the beginning date of retail access; and

B. Exercise any other powers or authority that county commissioners are authorized to exercise and that the county commissioners expressly delegate to the agency.

An agency may not require any electricity consumer to join or be served by the agency.

4. Agency board; appointment; terms; vacancy. The affairs of an agency are managed by a board of 9 persons appointed by the county commissioners. All board members must be residents of the county and no more than 3 may reside in any one commissioner district established under section 66. Board members serve for a 3-year term of office and may be reappointed, except that members of the first board have the following staggered terms chosen by lot at the board's first meeting.

A. Three members serve a one-year term.

B. Three members serve a 2-year term.

C. Three members serve a 3-year term.

When a vacancy occurs on the board as a result of death, resignation, removal from the county, permanent incapacity or for any other reason, the county commissioners shall appoint a person to fill the vacancy for the unexpired term of office.

5. Funding; expenses; liabilities. All funding of and expenditures by an agency, including compensation of board members, must be authorized in the county budget. In order to raise revenues to fund its operations, an agency may impose a charge on consumers served by the agency, as long as any such charges are clearly identified and disclosed to consumers. All revenues and expenses of an agency must be segregated from other county revenues and expenses and separately accounted.

Nothing in this section may be construed to authorize an agency or a county through an agency to incur any indebtedness or liability on behalf of or payable by the State. Any debt or liability created or incurred by an agency or a county through an agency pursuant to this section is the responsibility of the agency or the county and does not constitute or create in any way a debt or liability of the State. An action taken by an agency or a county pursuant to any authority granted under this section may not be construed to constitute a pledge of the faith and credit of the State. All contracts entered into by an agency or a county pursuant to this section must contain a statement to the effect that the agency or county is solely responsible for all liabilities arising from the contract and that neither the faith and credit nor the taxing power of the State is pledged to the payment of any such liabilities.

6. Conflict of interest. A person may not hold office as an agency board member if the person owns, controls or otherwise has a direct financial interest in any competitive electricity provider.

7. Reservation of powers. Nothing in this section limits any other power or authority that county commissioners or others may have to provide services, including services related to the purchase and sale of electricity.

8. Subject to applicable law. Nothing in this section exempts an agency from the provisions of Title 35-A, including provisions relating to aggregators.

See title page for effective date.

CHAPTER 179

H.P. 537 - L.D. 744

An Act to Change the Way Nursery License Fees Are Established

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

Sec. 1. 32 MRSA §1901, sub-§1-A, as enacted by PL 1993, c. 256, §2, is amended to read: