

# 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**

**THE GENERAL EFFECTIVE DATE FOR**  
**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.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1999**

competitive bidding process if the commission finds that the selection of the service provider is:

A. Consistent with programs developed by the Executive Department, State Planning Office; and

B. In the best interests of the State.

**4. Funding level.** The commission shall establish total conservation program expenditures for each transmission and distribution utility that:

A. Are based on the relevant characteristics of the transmission and distribution utility's service territory, including the needs of customers;

B. Do not exceed .15 cent per kilowatt-hour; and

C. Are no less than 0.5% of the total transmission and distribution revenues of the transmission and distribution utility.

For purposes of this subsection, the term "total conservation program expenditures" means expenditures associated with prior conservation efforts, expenditures for conservation programs and assessments made pursuant to subsection 6.

**5. Funding use.** Funding for conservation programs must be expended in a manner consistent with applicable conservation programs.

**6. Program costs.** The commission shall assess transmission and distribution utilities in an equitable manner to produce in any fiscal year an amount of funds equal to the amount that the legislative allocation in that fiscal year from the Conservation Program Fund established under Title 5, section 3305-B exceeds any unencumbered amount in the fund carried forward from the prior fiscal year. Funds collected by the commission pursuant to this subsection must be transferred to the State Planning Office, which shall deposit those funds in the Conservation Program Fund.

**7. Cost recovery.** The commission shall include the cost of conservation programs, including any assessment collected pursuant to subsection 6, in the rates of transmission and distribution utilities.

**8. Rules.** The commission shall adopt rules implementing this section. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

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

1999-00	2000-01
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## EXECUTIVE DEPARTMENT

### State Planning Office - Energy

#### Conservation Program

Positions - Legislative Count	(1,000)	(1,000)
Personal Services	\$37,255	\$50,702
All Other	100,000	100,000

Provides funds for one Policy Development Specialist position within the State Planning Office and consulting expenses to undertake responsibilities pursuant to the Maine Revised Statutes, Title 5, section 3305-B.

#### EXECUTIVE DEPARTMENT

<b>TOTAL</b>	\$137,255	\$150,702
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See title page for effective date.

## CHAPTER 337

### S.P. 418 - L.D. 1207

#### An Act to Amend the Local Highway Laws

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

**Sec. 1. 23 MRSA c. 307, sub-c. II, Art. 1** is amended by repealing the headnote and enacting in its place the following:

#### Article 1

#### Municipalities

**Sec. 2. 23 MRSA §3351** is amended to read:

#### **§3351. Notice to owners to connect**

~~Whenever the paving or repairing of~~ Prior to paving or substantially repairing any street or public highway ~~shall have been ordered by the city government, the road commissioner, the commissioner of public works or such officer as the city government municipal officers may appoint in the absence of a commissioner~~ shall duly serve upon owners of property abutting on ~~such a~~ street or highway and upon all corporations, persons, firms and bridge or water districts occupying ~~such a~~ street or highway a notice directing ~~such~~ owners, corporations, persons, firms and bridge or water districts to make ~~such~~ sewer,

water and conduit connections or other work as may be designated, within 60 days from date of ~~such~~ notice. At the expiration of the time fixed and after ~~such~~ a street has been paved or repaired, no permit ~~shall~~ may be granted to open ~~such~~ that street for a period of 5 years, except as otherwise provided.

**Sec. 3. 23 MRSA §3351-A** is enacted to read:

**§3351-A. Moratorium restoration requirement**

If a municipality issues a permit to open a street within 5 years after that street or highway was paved or substantially repaired, the municipality may require the permittee to relay the full width of the road surface on both sides of the cut for a distance of 20 feet from the furthest outside edges of the cut. If that repair overlaps the edge of a repair from a previous opening, the municipality may require the permittee to relay the full width of the road to the furthest edge of that previous repair. The municipality may prescribe the depth and method of restoring the pavement based upon the class of the street, except that in no case may the depth of the restored pavement be less than 1 1/2 inches.

**Sec. 4. 23 MRSA §3352** is amended to read:

**§3352. Emergency permits**

If the owners, corporations, persons, firms or bridge or water districts comply with the notice given under section 3351, the road commissioner, the commissioner of public works or such officer as the city government municipal officers may appoint in the absence of a commissioner may, in the case of an emergency, grant and renew permits for digging or making excavations in the driveways of any of the public highways of the city municipality for the laying repairing of gas, water, steam, oil, gasoline, petroleum or any other liquid, or ammonia pipes or conduits or for any other lawful purpose. Every permit shall must specify the time prescribed by resolution or ordinance or, when no time is prescribed, the road commissioner, the commissioner of public works or such officer as the city government municipal officers may appoint in the absence of a commissioner shall specify a time during which said the excavation may remain open, the place where such that excavation may be made and the number of square yards of surface which that may be disturbed.

**Sec. 5. 23 MRSA §3354** is amended to read:

**§3354. Record of permits kept; fees**

The road commissioner, the commissioner of public works or such officer as the city government municipal officers may appoint in the absence of a commissioner shall keep a record of all permits granted by him that person, work done by the city

municipal employees excepted. The applicant shall pay to the city municipal treasurer for every permit for making an excavation within the driveways of any public highway paved with broken stone, concrete, bitulithic, granite block, brick, wood block, sheet asphalt or other pavements such fees as shall be established by the municipal officers, such. Those fees may not to exceed the reasonable cost of replacement of the excavated pavement and base material as well as inspections performed by or for the municipality. The requirement for municipal inspections must bear a reasonable relationship to the complexity of the project or the performance history of the permittee. All such fees paid to the city municipal treasurer shall must be regularly accounted for by him in his the treasurer's report to the city government municipal officers and shall constitute a special fund for the repaving of said cuts excavations, repair of any roadway adjacent to the excavations and inspections. When such cuts excavations are repaired or inspected by the street department municipality, the cost thereof shall must be charged to said the special fund. Municipal ordinances and regulations governing activities conducted in accordance with this subchapter may not be arbitrary or capricious.

**Sec. 6. 23 MRSA §3355** is amended to read:

**§3355. Size of opening; filling; protection**

It shall be is unlawful for any person or persons, firm, corporation or bridge or water district, having the right of opening or making excavations within the driveways of public highways in the city municipality, to leave open at any time any trench or excavation of a greater length than 200 feet, except by permission of the officer granting such permit. Such person or persons, firm, corporation or bridge or water district shall fully and completely fill up such a trench to the surface of the roadway before making any further trench or excavation. Such The filling shall must be puddled or rammed as the nature of the soil may require and shall must be done and completed within the time designated in the permit for completing such the trench or excavation. Any person or persons, firm, corporation or bridge or water district, failing to comply with the requirements or infringing on the prohibitions of this section, may be punished by a fine of \$50 for each offense. These requirements, prohibitions and penalties shall may not apply to excavations in grading, building or repairing any of the public highways under the supervision of the city municipal authorities. Such person or persons, firm, corporation or bridge or water district shall protect the paving on either side of the opening by the use of sheet piling or such other means as will prevent the escape of sand from underneath it. In determining the number of square yards of paving disturbed, there shall must be included such area of paving adjoining the trench actually opened as will, in the opinion of

the road commissioner, the commissioner of public works or such officer as the city government municipal officers may appoint in the absence of a commissioner, be required to be taken up and relaid by reason of such failure to properly protect the same.

**Sec. 7. 23 MRSA §3356** is amended to read:

**§3356. Skill required**

If the work or any part thereof of the work mentioned in sections 3351 to 3355 of repairing or filling the trenches or excavations ~~shall be~~ is unskillfully or improperly done, the road commissioner, the commissioner of public works or such officer as the city government municipal officers may appoint in the absence of a commissioner may ~~forthwith~~ immediately cause the ~~same work or any part of the work~~ to be skillfully and properly done and shall keep an account of the expense thereof. In such case, such person or persons, firm, corporation or bridge or water district in default shall forfeit and pay a penalty equal to the whole of ~~said~~ the expense incurred by ~~said commissioner of public works or such officer as the city government may appoint municipality~~, with an addition of 50%. Thereafter, upon the completion of the work and the determination of the costs thereof, the ~~said commissioner of public works or such officer as the city government may appoint~~ shall or appointee may not issue ~~no~~ a further or new permit to any person or persons, firm, corporation or bridge or water district ~~so~~ in default until ~~he shall receive the municipality receives~~, in addition to the fees provided, the amount of the penalty as by this section provided and determined.

**Sec. 8. 23 MRSA §3357** is amended to read:

**§3357. Relaying of pavement**

When any excavation ~~shall be~~ is made in any paved public highway and the trench ~~shall have~~ has been filled as required by sections 3355 and 3356, the ~~commissioner of public works or such officer as the city government may appoint municipality~~ shall relay the pavement or enter into an agreement for relaying of the pavement by the permittee. The ~~If the municipality relays the pavement, the cost thereof of relaying the pavement~~, including materials, labor and inspection, shall must be paid out of any ~~moneys~~ money in the ~~city municipal~~ treasury standing to the credit of the regular fund for this purpose.

**Sec. 9. 23 MRSA §3358** is amended to read:

**§3358. Filing map of location**

The party applying for a permit for ~~said an~~ excavation under sections 3351 to 3358 must file a map or sketch with the road commissioner, the commissioner of public works or such officer as the city government

municipal officers may appoint in the absence of a commissioner, showing the location and size of cuts to be made.

**Sec. 10. 23 MRSA §3359** is amended to read:

**§3359. Minimum excavation for pavement on a concrete base**

~~When~~ Unless otherwise required in a municipal ordinance or regulation, when any excavation shall be is made in any paved public highway and ~~said pavement is repaired by a contractor or the commissioner of public works or such officer as the city government may appoint, the commissioner of public works or such officer as the city government may appoint, where said pavements are the pavement is~~ laid on a concrete base, shall the excavation must have the pavement and concrete cut back on each side of the excavation ditch a distance of 8 inches, and in issuing the permits for cutting the pavements pavement this extra width shall must be charged to the person applying for the same permits.

**Sec. 11. 23 MRSA c. 307, sub-c. II, Art. 2** is repealed.

**Sec. 12. 35-A MRSA §2513**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

**§2513. Relaying of pavement**

When an excavation is made in a paved street, road or highway and the opening is filled as required by sections 2511 and 2512, the municipality or village corporation in which the opening was located shall relay the pavement unless the municipality or village corporation has entered into an agreement pursuant to Title 23, section 3357 requiring the permittee to relay the pavement. The ~~If the municipality or village corporation relays the pavement, the cost of relaying the pavement, including materials, labor and inspection shall, must~~ be paid out of any funds in the special fund for this purpose.

See title page for effective date.

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**CHAPTER 338**

**H.P. 139 - L.D. 201**

**An Act to Amend the Maine  
Criminal Justice Academy  
Requirements for Candidates for  
Sheriff**

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