

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 11, 2000

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
2000

check or other evidence determined sufficient by the authority to demonstrate payment of the person's share of total response costs at the waste oil disposal site, unless the authority determines that the payment made by the person at that site was in an amount less than \$2,000, in which case the authority shall pay to that person an amount equal to the amount that person paid in relation to the site. All payments made under this subsection must be from funds transferred from the Maine Rainy Day Fund.

B. Any person eligible under this subsection who presents an invoice for that person's share of total response costs at the site, but who has not yet paid the invoice, receives a negotiable instrument from the authority made payable jointly to that person and any entity identified by the Department of Environmental Protection as assuming liability for total response costs at the site. The negotiable instrument must be in the amount of \$2,000, unless the authority determines that the payment to be made by the person at the site will be in an amount less than \$2,000, in which case the authority shall pay to the person an amount equal to the amount the person is to pay in relation to the site. All payments made under this subsection must be from funds transferred from the Maine Rainy Day Fund.

C. After the payments authorized in paragraphs A and B have been made, additional payments must be made from the available balance from funds transferred from the Maine Rainy Day Fund to all persons who received funds under paragraphs A and B who have paid their settlement share of total response costs, and whose total liability at the site exceeds the amount the persons received under paragraph A or B. Distributions under this paragraph are proportionate to the amount each person paid as the person's share of total response costs at the site. Payments made pursuant to this subsection may not exceed the person's settlement share of total response costs attributable to eligible persons as defined in this subsection multiplied by the total orphan share percentage at the waste oil disposal site. The authority may not issue deferred loans for eligible persons who have received payments pursuant to this subsection. This distribution must occur on ~~April 1~~ June 30, 2000. Any remaining funds in the fund must be transferred to the Groundwater Oil Clean-up Fund.

For purposes of this subsection, "person" means any natural person domiciled in this State; a corporation or partnership in the State; the State; any agency, authority, department, commission, municipality, quasi-municipal corporation, special-purpose district or other instrumentality of the State; a political

subdivision of the State, including but not limited to those defined in Title 14, chapter 741 and Title 30-A, chapter 225; any other entity identified as a responsible party at the waste oil disposal site whose waste oil is identified as delivered to the waste oil disposal site and picked up from an address or location within the State in the records compiled by the Department of Environmental Protection or the United States Environmental Protection Agency or their agents, provided that neither the Federal Government nor any of its agencies, authorities, departments, boards, commissions or instrumentalities are eligible to have any share of their obligation for response costs paid by the fund. A person is not eligible for assistance under this subsection unless the person is a participant in a settlement agreement under which an entity has assumed liability for total response costs at the Wells waste oil disposal site.

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

Effective March 31, 2000.

CHAPTER 605

S.P. 879 - L.D. 2294

An Act to Promote Competition in the Natural Gas Industry

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

Sec. 1. 35-A MRSA §§4504 and 4505, as enacted by PL 1987, c. 141, Pt. A, §6, are repealed.

Sec. 2. 35-A MRSA §4710 is enacted to read:

§4710. Eminent domain

Subject to the provisions of this section, a natural gas utility may take and hold by right of eminent domain lands or rights in lands necessary to the safe, economical and efficient operation of a pipeline and to the provision of adequate service to the public. For purposes of this section, the term "natural gas utility" means an intrastate natural gas pipeline utility or a gas utility other than a gas utility over which the commission's jurisdiction is limited pursuant to section 4702.

1. Conditions and standards. A natural gas utility may take and hold by right of eminent domain lands or rights in lands necessary to the safe, economical and efficient operation of the pipeline and to the provision of adequate service to the public if:

A. The natural gas utility has obtained from the commission:

(1) In the case of a gas utility, authority to provide gas utility service to the area to be served by the proposed pipeline; or

(2) In the case of an intrastate natural gas pipeline utility, authority pursuant to chapter 45 to construct and operate the proposed pipeline;

B. The natural gas utility has complied with the provisions of this chapter and in the case of a foreign natural gas utility with Title 13-A, chapter 12;

C. The natural gas utility has obtained from the commission approval of the location to be taken in a proceeding conducted in accordance with the following.

(1) The commission shall fix a time for a hearing and give written notice of the hearing to the property owner and to the utility seeking to acquire the property. The hearing must be held in the county where the property is situated, unless all parties agree to a different location. At the hearing, all parties in interest may be heard either in person or by attorney, and witnesses may be summoned by either party and attendance compelled as before other judicial tribunals.

(2) The burden of proof to show the necessity of the particular taking rests on the utility seeking to acquire the property.

(3) The decision of a majority of the commissioners is final as to questions of fact.

(4) The commission must issue a written approval if it finds that the taking is necessary and in the public interest, except that the commission's examination of environmental issues affecting the public interest may consist only of whether the natural gas utility has obtained required environmental permits for the proposed pipeline, excluding permits that the utility can not obtain without possessing rights in the property proposed to be taken.

(5) The commission shall issue a written decision within 30 days of a filing of a request for approval, except that the commission may extend its review of the request for an additional 30 days if it determines additional time is necessary to adequately complete its review. The commission may extend its review for more than an additional 30 days if a party requests an extension of more than 30 days and the commis-

sion finds that the additional time is required to avoid unfairness to a party; and

D. The right of eminent domain is exercised in the manner and under the conditions set forth in chapter 65.

2. Public utility facilities. Nothing in this section authorizes a natural gas utility to take by eminent domain property or facilities of another public utility, used or acquired for use in the performance of a public duty, unless expressly authorized in this section or by an act of the Legislature.

3. Owner's consent required. A natural gas utility may not take, without the owner's consent:

A. Meetinghouses;

B. Dwelling houses; or

C. Public or private burying grounds.

4. Public lands. A natural gas utility may not take by eminent domain lands or rights in:

A. A public street or highway;

B. A public park or reservation;

C. Other public property; or

D. The location of a railroad or public utility.

5. Pipeline constructed under or through public property. A natural gas utility may construct a natural gas pipeline under or through a public highway or street, public park or reservation or other public property if the method, plans and specifications for construction have been approved by the authority having jurisdiction over the maintenance of the public highway or street, public park or reservation or other public property and the authority has granted a written location permit to the utility in accordance with section 2302. The natural gas utility has all the rights, privileges and duties arising out of section 2302 to the extent they apply to a natural gas utility.

6. Pipelines constructed over or across railroad or public utility. A natural gas utility may construct a natural gas pipeline over or across the location of a railroad or public utility by agreement with the railroad or public utility or, in the event of failure to agree, with the commission's approval and in a place and manner and under conditions determined by the commission. All work on the property or a railroad or public utility must be done under the supervision and to the satisfaction of the railroad or public utility, but at the natural gas utility's expense.

Sec. 3. Effective date. This Act takes effect 90 days after the adjournment of the Second Regular

Session of the 119th Legislature or August 1, 2000, whichever is later.

See title page for effective date, unless otherwise indicated.

CHAPTER 606

H.P. 1619 - L.D. 2266

An Act to Provide Equity Between Private and Public Electrical Training Programs

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

Sec. 1. 32 MRSA §1101, sub-§4-A, as amended by PL 1995, c. 325, §5, is further amended to read:

4-A. Supervision. One apprentice electrician or one helper electrician may work with and under the supervision of each master electrician, limited electrician or journeyman electrician. A master electrician who teaches an electrical course at a Maine applied technology center, a Maine applied technology region or a Maine technical college or an apprenticeship program registered by the Department of Labor may have a maximum of 12 helper or apprentice electricians under direct supervision while making electrical installations that are a part of the instructional program of the school or apprenticeship program, as long as the total value of each installation does not exceed ~~\$2,500~~ \$5,000. An electrical installation may not be commenced pursuant to this subsection without the prior approval of the director or president of the school or apprenticeship program at which the master electrician is an instructor. These installations are limited to those done in buildings or facilities owned or controlled by:

- A. School administrative units;
- B. Nonprofit organizations; and
- C. Households as defined in Title 36, sections 6206 and 6207.

The Electricians' Examining Board and the municipal electrical inspector of the municipality in which the installation is to be made, if the municipality has an inspector, must be notified of all installation projects entered into pursuant to this subsection prior to the commencement of the project. There must be an inspection by a state electrical inspector or by the municipal electrical inspector of the municipality in which the installation has been made, if the municipi-

pality has an inspector, before any wiring on the project is concealed.

See title page for effective date.

CHAPTER 607

S.P. 907 - L.D. 2359

An Act to Clarify the Authority of the State Board of Optometry

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

Whereas, the State Board of Optometry has always budgeted for and paid for independent staffing at its offices; and

Whereas, the Department of Professional and Financial Regulation has recently advised the board that it can not have outside staffing; and

Whereas, the board has a budget that has been approved that funds the independent staff positions; and

Whereas, in order to continue the board's practice of using independent staff, this legislation must be approved immediately; 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 §2416, as amended by PL 1993, c. 600, Pt. A, §145, is further amended by inserting at the end a new paragraph to read:

The board may employ clerical personnel, define their duties and fix their compensation, subject to the Civil Service Law.

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

1999-00 2000-01

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF