

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTIETH LEGISLATURE**  
**FIRST REGULAR SESSION**  
**December 6, 2000 to June 22, 2001**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 21, 2001**

**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**  
**2001**

purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

## CHAPTER 348

### S.P. 209 - L.D. 774

#### An Act to Require the Destruction of Certain Confiscated and Forfeited Handguns

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

**Sec. 1. 12 MRSA §7035, sub-§7**, as amended by PL 1995, c. 346, §1, is further amended to read:

**7. Sale of arms and ammunition.** The commissioner may sell all property held or confiscated by the State for violation of laws relating to the protection of inland fisheries and wildlife, except that a confiscated or forfeited handgun that was confiscated or forfeited because it was used to commit a homicide must be destroyed by the State unless the handgun was stolen and the rightful owner was not the person who committed the homicide, in which case the handgun must be returned to the owner if ascertainable. For purposes of this subsection, "handgun" means a firearm, including a pistol or revolver, designed to be fired by use of a single hand. The commissioner shall transmit all money received by the sales to the Treasurer of State to be credited to the department.

**Sec. 2. 15 MRSA §5821, sub-§3-A**, as enacted by PL 1989, c. 448, §2, is amended to read:

**3-A. Firearms and other weapons.** Law enforcement officers may seize all firearms and dangerous weapons that they may find in any lawful search for scheduled drugs in which scheduled drugs are found. Except for those seized weapons listed in a petition filed in the Superior Court pursuant to section 5822, all weapons seized, after notice and opportunity for hearing ~~shall~~ must be forfeited to the State by the District Court 90 days after a list of the weapons and drugs seized is filed in the District Court in the district in which the weapons and drugs were seized. A weapon ~~shall~~ need not be forfeited if the owner appears prior to the declaration of forfeiture and satisfies the court, by a preponderance of evidence, of all of the following:

A. That the owner had a possessory interest in the weapon at the time of the seizure sufficient to exclude every person involved with the seized drugs or every person at the site of the seizure;

B. That the owner had no knowledge of or involvement with the drugs and was not at the site of the seizure; and

C. That the owner had not given any involved person permission to possess or use the weapon.

Post-hearing procedures ~~shall be~~ are as provided in section 5822.

A confiscated or forfeited handgun that was confiscated or forfeited because it was used to commit a homicide must be destroyed by the State unless the handgun was stolen and the rightful owner was not the person who committed the homicide, in which case the handgun must be returned to the owner if ascertainable. For purposes of this subsection, "handgun" means a firearm, including a pistol or revolver, designed to be fired by use of a single hand.

**Sec. 3. 17-A MRSA §1158**, as amended by PL 1995, c. 252, §1, is further amended by adding at the end a new paragraph to read:

A confiscated or forfeited handgun that was confiscated or forfeited because it was used to commit a homicide must be destroyed by the State unless the handgun was stolen and the rightful owner was not the person who committed the homicide, in which case the handgun must be returned to the owner if ascertainable. For purposes of this section, "handgun" means a firearm, including a pistol or revolver, designed to be fired by use of a single hand.

See title page for effective date.

## CHAPTER 349

### S.P. 391 - L.D. 1287

#### An Act Concerning the Administration of County Government

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

**Sec. 1. 30-A MRSA §51, sub-§2**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

**2. Salaries; full compensation.** These salaries are in full compensation for all services of the commissioners, including the management of the jails and for any expenses or travel to and from the county seat for any commissioner, except as provided in subsection 3, ~~section 82, subsection 4~~ and section 105.

**Sec. 2. 30-A MRSA §82, sub-§4**, as amended by PL 1995, c. 380, §1, is repealed.

**Sec. 3. 30-A MRSA §124**, as amended by PL 1999, c. 14, §1, is further amended by adding at the end a new paragraph to read:

The procurement of goods or services pursuant to this section that involves the expenditure of \$10,000 or less may be accepted by oral proposal or bids.

**Sec. 4. 30-A MRSA §381, sub-§3**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

**3. Tenure of office.** Deputies ~~shall~~ must be originally appointed for a probationary period ~~of not more than 6 months~~ consistent with the provisions of section 2701 governing municipal employment and thereafter may be appointed or reappointed for a term of 3 years.

A. The failure of a sheriff to reappoint a deputy, except for appointment at the end of the probationary period, is subject to the procedures and standards for dismissal of an applicable collective bargaining agreement.

**Sec. 5. 30-A MRSA §501, sub-§3**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

**3. Dismissal, suspension, discipline.** ~~A~~ Following a reasonable probationary period consistent with the provisions of section 2701, a county officer or department head may dismiss, suspend or otherwise discipline a department employee only for cause, except as provided in paragraph A. Cause for dismissal, suspension or disciplinary action must be a just, reasonable, appropriate and substantial reason for the action taken that relates to or affects the ability, performance of duties, authority or actions of the employee or the public's rights or interests.

A. An employee may be dismissed by a county officer or department head only for cause and only with the prior approval of the county commissioners or personnel board, except that county employees may be laid off or dismissed, with the approval of the county commissioners or personnel board, to meet the requirements of budget reductions or governmental reorganization.

B. In every case of suspension or disciplinary action other than dismissal, at the employee's request, the county commissioners or personnel board shall investigate the circumstances and fairness of the action and, if they find the charges unwarranted, shall order the employee's reinstatement to the employee's former position with no loss of pay, rights or benefits resulting from the suspension or disciplinary action.

**Sec. 6. 30-A MRSA §924**, as amended by PL 1993, c. 573, §3, is further amended to read:

### **§924. Surplus funds**

The county commissioners of each county shall use ~~the unexpended balances and the actual revenue in excess of estimates from the previous~~ any unencumbered surplus funds at the end of a fiscal year in the following fiscal year only as provided in this section, except that the Androscoggin County commissioners shall act in accordance with section 725, subsection 9.

**1. Restore contingent fund.** The county commissioners shall first use any unencumbered surplus funds to restore the contingent account as provided in section 922, subsection 2.

**2. Reduce tax levy.** After restoring the contingent account under subsection 1, the county commissioners shall use any unencumbered surplus funds to reduce the tax levy in the ~~ensuing~~ following fiscal year as provided in this subsection. On the first day of each fiscal year, the ~~The~~ county commissioners shall use any remaining unencumbered surplus funds in excess of ~~10%~~ 15% for the fiscal year beginning in 2002, 18% for the fiscal year beginning in 2003 and 20% for the fiscal year beginning in 2004 and each fiscal year thereafter of the amount to be raised by taxation in ~~that~~ the following fiscal year to reduce the tax levy in that year. The county commissioners may not commit taxes to be raised in any fiscal year until the county commissioners have complied with this subsection.

**3. Other uses; working capital.** ~~The~~ After compliance with subsection 2, the county commissioners may use any remaining unencumbered surplus funds to fund a county charter commission, as provided in section 1322, subsection 4, or to establish or fund a capital reserve account under section 921, as provided in section 5801. If not used for these purposes, any remaining surplus funds may not be expended but shall must be retained as working capital for the use and benefit of the county.

**4. Unencumbered surplus funds defined.** As used in this section, the term "unencumbered surplus funds" means the actual revenue in excess of estimates, as filed with the Department of Audit for that fiscal year; all unexpended account balances at the end of that fiscal year, not including capital reserve accounts established pursuant to section 921; all overlay as permitted under section 706; and any unexpended balances carried forward from prior fiscal years, including amounts retained as working capital.

See title page for effective date.