

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.

J.S. McCarthy Company
Augusta, Maine
2001

Whereas, there are energy conservation and air quality improvement projects that are awaiting funding but are currently being delayed due to this lack of clarity in the law; 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Sec. 1. 20-A MRSA §15915, sub-§1, as repealed and replaced by PL 1987, c. 402, Pt. A, §134, is amended to read:

1. Initial agreement. Any school administrative unit may enter into an agreement of up to 20 years with a private party, such as an energy service or 3rd-party financing company, for the design, installation, operation, maintenance and financing of energy conservation or combined energy conservation and air quality improvements at school administrative unit facilities. Such an agreement is deemed to be a professional service, which is not subject to the competitive bidding requirements of Title 5, section 1743-A, if the agreement:

A. Provides for operation or maintenance of the improvement for at least 5 years or the entire term of the financing agreement if longer than 5 years;

B. Requires a guaranty by the contractor that the improvement will meet performance criteria set forth in the agreement for at least 5 years or for the entire term of the financing agreement if longer than 5 years; and

C. Has a total contract cost, excluding interest and operating and maintenance costs, of less than \$1,000,000 for any school building.

A school administrative unit may select contractors for these professional services on the basis of a request for qualifications or a request for proposals and it is not required to use a competitive method set forth in this chapter and Title 5, section 1743-A and Private and Special Law 1999, chapter 79. The selection process must include at a minimum a request for qualifications or a request for proposals that is advertised in a newspaper of general circulation in the school administrative unit and a newspaper of general circulation in the City of Augusta. The school administrative unit shall interview not less than 3 service providers unless a smaller number of service providers responds to the request for qualifications or requests for proposals. The performance criteria in the

agreement is subject to approval by the Department of Administrative and Financial Services, Bureau of General Services. A request for qualifications or proposals may not contain terms that require service providers to have more than 3 years of experience in the energy conservation field or the use of equipment that is not generally available to service providers or terms that are otherwise included for the purpose of bias or favoritism toward a particular service provider. Objections to the terms of a request for qualifications or proposals under this subsection are deemed waived if not delivered in writing to the office of the superintendent of schools in that school administrative unit within 21 days of the last publication of the newspaper advertisement.

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

Effective June 8, 2001.

CHAPTER 377

S.P. 348 - L.D. 1162

An Act to Ensure Telecommunications Protections for Deaf and Hard-of-hearing People

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

Sec. 1. 26 MRSA §1419, sub-§1, ¶B-2, as enacted by PL 1997, c. 751, Pt. A, §1, is amended to read:

B-2. "Specialized customer telecommunications equipment" means telecommunications equipment used by persons with disabilities to conduct telephone communications. "Specialized customer telecommunications equipment" includes but is not limited to teletypewriters, artificial larynges, signaling devices, amplified handsets, large number dial overlays, direct telephone dialing, fax machines, equipment necessary to use short message services or text message services or other equipment used by persons with disabilities to provide access to telephone networks.

Sec. 2. 26 MRSA §1419-B is enacted to read:

§1419-B. Equal access for deaf, hard-of-hearing or speech-impaired consumers to wireless telecommunication services

1. Equal access program. In order to ensure that telecommunication services are available to deaf, hard-of-hearing or speech-impaired consumers at a cost that is reasonably comparable to the cost of such

services to other telephone customers, the Bureau of Rehabilitation Services, Division of Deafness, referred to in this section as the "division," with the assistance of the Public Utilities Commission, shall establish an equal access program in accordance with this section that offers to customers of wireless or cellular service providers a rebate comparable to the discount provided to customers of landline telephone services under Title 35-A, section 7302. The equal access program must be designed to ensure that an intrastate call made by or received by a deaf, hard-of-hearing or speech-impaired consumer using specialized interpretative equipment does not result in an unreasonable cost burden on the consumer as a result of the extended length of the call. The division, with the assistance of the Public Utilities Commission, shall establish the equal access program in accordance with this section no later than January 1, 2002.

2. Fund. There is established within the division the Equal Access Fund, referred to in this section as the "fund." The fund is nonlapsing. The fund receives assessments deposited pursuant to subsection 5. The fund may be used only for the purposes of the equal access program to provide rebates in accordance with subsection 3.

3. Program design. The division, with the assistance of the Public Utilities Commission, shall design the equal access program so as to offer a 70% rebate of the cost of an intrastate cellular or wireless call that is made:

A. By or received by a certified deaf, hard-of-hearing or speech-impaired person using a teletypewriter;

B. Using the state telecommunications relay service; or

C. By an agency or community service center serving deaf, hard-of-hearing or speech-impaired persons, if the agency or center is certified by the division as eligible to receive the credit.

4. Customers qualifying for the reduction. The division, with the assistance of the Public Utilities Commission, shall design the equal access program so that the granting of a rebate is accomplished in a manner that facilitates customer use of the program and achieves, as far as practicable, a level of customer acceptance that is no less than that achieved by the discount provided under Title 35-A, section 7302.

5. Funding. The division shall annually assess providers of intrastate cellular or wireless services in accordance with this subsection and shall deposit the funds collected in the fund. The division shall assess providers of intrastate cellular or wireless services in accordance with a schedule established by the Public Utilities Commission. The amount of the assessment

must be based on identified needs of the equal access program for the coming year, less any amounts carried forward in the fund from the previous year. The Public Utilities Commission shall determine which providers are to be assessed under this subsection based on an evaluation of the extent of business activity undertaken by the providers in the State and the practicalities of making the assessment. The Public Utilities Commission shall include as many providers as reasonably practicable in order to ensure a fair and broad allocation of the assessment. A provider of intrastate cellular or wireless service shall provide to the Public Utilities Commission, on request, records relating to its gross revenues. At the request of a provider, the Public Utilities Commission may issue a protective order in accordance with the Maine Rules of Civil Procedure, Rule 26(c) to protect any confidential business information provided by the provider. Records placed under protective order by the Public Utilities Commission pursuant to this subsection are within the scope of a privilege against discovery within the meaning of Title 1, section 402, subsection 3, paragraph B and are not public records while under the protective order.

6. Authority. The division and the Public Utilities Commission may issue any orders or adopt any rules the division or the commission determines to be appropriate or necessary in order to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

7. Reports. By December 31, 2002 and again by December 31, 2004, the Telecommunications Relay Services Advisory Council as established in Title 5, section 12004-I, subsection 74-A-1, shall provide to the joint standing committee of the Legislature having jurisdiction over utilities matters a report of its findings, together with any recommendations, with regard to whether changes in technology, laws or other factors have eliminated or modified the need for the equal access program or whether changes to the program are appropriate.

8. Repeal. This section is repealed October 31, 2005.

Sec. 3. 35-A MRSA §8704, sub-§1, as amended by PL 1993, c. 708, Pt. J, §12, is further amended to read:

1. Membership. The advisory council consists of 12 members as follows:

A. The Director of the Division of Deafness, Bureau of Rehabilitation Services, Department of Education Labor, or a designee;

- B. The Chair of the Advisory Committee to the Division of Deafness established by Title 5, section 12004-I, subsection 40, or a designee;
- C. One member from the Public Utilities Commission, appointed by the commissioners;
- D. One member from the office of the Public Advocate, appointed by the Public Advocate; and
- E. ~~Seven~~ Eight members appointed by the Governor as follows:

- (1) One member from the Governor Baxter School for the Deaf;
- (2) One member from a statewide association for the deaf;
- (3) One member from a center on deafness;
- (4) One member from a company providing telecommunications relay service in this State;
- (5) One member of a telephone association in this State; ~~and~~
- (6) Two members from the general public who must rely on ~~TDD's~~ TTYs for telecommunications; ~~and~~
- 7. One member representing a cellular or wireless service provider.

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

	2001-02	2002-03
LABOR, DEPARTMENT OF		
Rehabilitation Services		
All Other	\$500	\$500
Provides funds to provide rebates to certain wireless or cellular service provider customers in accordance with this Act.		

See title page for effective date.

CHAPTER 378

H.P. 1160 - L.D. 1560

An Act Authorizing Patients to Designate Visitors

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

Sec. 1. 22 MRSA §1711-D is enacted to read:

§1711-D. Designation of visitors in hospital settings

1. Designation of visitors. A patient in a hospital licensed pursuant to chapter 405 may designate persons to be considered as immediate family members for the purpose of granting visitation rights. The following provisions apply to the designation of visitors under this section.

A. The patient must be 18 years of age or older or a minor who is authorized by law to consent to health care.

B. The patient must be a patient in a critical care unit that restricts visitors to immediate family members, or emergency room that restricts visitors to immediate family members.

C. The patient may designate visitors under this section by communicating the designation to a health care provider at the hospital orally or in writing. The patient may designate visitors, change the designation or revoke the designation at any time.

D. A hospital shall provide to patients in the hospital a process by which to designate visitors under this section and shall note in the patient's medical record the names of designated visitors, the date of the designation and any changes in the designation.

E. Except as provided in subsection 2, a hospital may not deny visitation to the patient by a designated visitor during hospital visiting hours.

2. Exceptions. A hospital may deny visitation with a patient to any visitor designated under this section if:

A. The hospital denies all visitors;

B. The hospital determines that the presence of the visitor might endanger the health or safety of the patient or interfere with the primary operations of the hospital; or

C. The patient has communicated orally or in writing the choice not to visit with the visitor.

3. Rulemaking. By March 1, 2002, the department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

See title page for effective date.
