

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 2, 2002 to April 25, 2002**

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**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2002**

## CHAPTER 521

H.P. 441 - L.D. 562

An Act to Allow Municipalities to  
Create Capital Improvement  
Districts

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

Sec. 1. 30-A MRSA c. 206 is enacted to read:

CHAPTER 206MUNICIPAL CAPITAL IMPROVEMENT  
DISTRICTS§5221. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Assessed share.** "Assessed share" means a special assessment that represents that portion of the total projected cost of an improvement undertaken by a municipality in a capital improvement district that is the obligation of an owner of property within the capital improvement district. The assessed share must be calculated by the municipal officers in the same manner and according to the same standards as the capital costs of sewer improvements are assessed pursuant to sections 3442 and 3444, except the total assessment must be calculated on the basis of the projected cost of the entire improvement rather than any percentage of the projected costs of the improvement, and no type of property within the capital improvement district is exempt from the assessment.

**2. Capital improvement district.** "Capital improvement district" means a defined area within a municipality that is initially privately owned and that has been designated by the municipality as a capital improvement district according to the provisions of this chapter for the interrelated purposes of fairly apportioning the costs of making necessary capital improvements among the owners of property in the capital improvement district and establishing the public elements of the capital improvement district as municipally owned.

**3. Improvement.** "Improvement" means road construction, drainage system development or the installation of sewer or drinking water infrastructure.

**4. Public elements.** "Public elements" of a capital improvement district means legal interests in defined properties located within a capital improvement district. "Public elements" may include public

easements or fee simple titles in specifically defined property or properties.

§5222. Capital improvement districts authorized

A municipality may create one or more capital improvement districts within the municipal boundaries.

§5223. Capital improvement districts; public hearing; notice; referendum votes

In order to establish a capital improvement district, a municipality shall adhere to the following procedures.

**1. Initial determinations.** In order to establish a capital improvement district, the municipal officers shall establish all the public elements of the proposed capital improvement district for presentation to the residents of the municipality at a public hearing held pursuant to subsection 3. The municipal officers shall:

A. Determine the proposed boundaries of the capital improvement district;

B. Identify each separate parcel of property within the proposed capital improvement district and the parcel's owner of record;

C. Describe all improvements to the proposed capital improvement district that need to be made;

D. Calculate an estimate of the costs of the proposed improvements;

E. Calculate the assessed shares and the contingency fee of no more than 25% of that assessment to the property owners in the proposed capital improvement district;

F. Establish the proposed duration of the payment period for the assessed shares;

G. Describe specifically the public elements of the capital improvement district that may be accepted by the voters of the municipality; and

H. Schedule the public hearing pursuant to subsection 3 and the referendum pursuant to subsection 4.

**2. Public notice.** The municipal officers shall provide posted notice of the public hearing held pursuant to subsection 3 in the same place and manner as the posting of a town meeting warrant and publish notice of the public hearing in a newspaper of general circulation within the municipality at least 14 days in advance of the public hearing. The published notice must include:

- A. A description of the proposed boundaries of the capital improvement district;
- B. The proposed improvements to the capital improvement district;
- C. The estimated costs of the proposed improvements;
- D. The public elements of the capital improvement district; and
- E. A brief narrative description and schedule of the referendum conducted pursuant to subsection 4.

At least 14 days in advance of the date of the initial public hearing, the same information provided in the published notice must also be sent by certified mail to all owners of property within the proposed capital improvement district according to the municipality's assessing records. Notice for any additional public hearings must be posted and published in the same manner as notice for the initial public hearing, but mailed notice of the subsequent public hearings is not required.

**3. Public hearing.** Prior to any referendum held pursuant to subsection 4 or 5, the municipal officers shall hold an initial public hearing on the proposed capital improvement district to solicit comments from the residents of the municipality and the owners of property located in the proposed district concerning the:

- A. Proposed boundaries of the capital improvement district;
- B. Type of improvements to the proposed capital improvement district being considered;
- C. Need for the proposed improvements;
- D. Costs of the proposed improvements;
- E. Projected assessed shares and the contingency fee of no more than 25% of that assessment to the owners of property located in the proposed capital improvement district to pay for the improvements being considered;
- F. Proposed duration of the payment period for those special assessments;
- G. Proposed public elements of the capital improvement district; and
- H. Scheduled dates of referenda conducted pursuant to subsection 4 or 5.

The municipal officers may hold additional public hearings as necessary.

**4. Referendum of owners of property in proposed capital improvement district.** The municipal officers shall call and conduct a referendum among the owners of property within the proposed capital improvement district to determine the property owners' willingness to undertake the costs of the proposed improvements to the capital improvement district.

A. The method of calling and voting on the referendum question is as provided in section 2528 except as otherwise provided in this subsection.

B. The registered voters of the municipality who own property within the proposed capital improvement district and the owner or owners of record for each parcel of property located in the proposed capital improvement district reflected on the deed for the property recorded in the registry of deeds within the county as of the preceding April 1st, if the owner or owners are of legal voting age and citizens of the United States, are eligible to vote in the referendum. A person may not cast more than one vote. The municipal officers shall determine who are the legal voters of the proposed capital improvement district and shall prepare or cause to be prepared a list of voters at least 24 hours before the referendum is conducted.

C. The referendum must be scheduled to occur no sooner than 45 days after the date of the initial public hearing held pursuant to subsection 3.

D. A public hearing must be held pursuant to section 2528, subsection 5, only if any of the information presented to the voters at the most recent public hearing called pursuant to subsection 3 is changed prior to inclusion on the ballot.

E. The referendum to be voted on must be worded substantially as follows: "As an owner of property in the proposed capital improvement district described on the reverse side of this ballot or in the attachment to this ballot, are you in favor of authorizing the municipality of \_\_\_\_\_ to apply a special assessment against the property you own in the proposed capital improvement district for a period of \_\_\_\_\_ years, for the purpose of (description of improvements), with the total assessment to all property owners within the capital improvement district not to exceed \$\_\_\_\_\_, plus a contingency of no more than 25% of that assessment, all of which are subject to the property tax collection and lien procedures established by state law, and with said authorization contingent on the voters of the municipality of \_\_\_\_\_ accepting the public costs for the capital improvement district im-

provements before any work is done, specifically described as (description of public elements)?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same.

The municipal officers may proceed with conducting the municipal referendum in accordance with subsection 5 only if 2/3 of those casting ballots pursuant to this subsection vote to approve creating the capital improvement district.

**5. Referendum of municipal voters.** The referendum of the municipal voters may not be called and conducted for the purposes of this chapter unless the referendum held pursuant to subsection 4 resulted in a 2/3 majority vote supporting the ballot question. If the referendum held pursuant to subsection 4 received a 2/3 majority vote, the municipal officers shall call and conduct a referendum for the voters of the municipality to determine if the public elements of the proposed capital improvement district authorized pursuant to subsection 4 are authorized by the voters of the municipality.

A. The method of calling and voting on the referendum question is as provided in section 2528 except as otherwise provided in this subsection.

B. The referendum of the municipal voters must be scheduled to occur within 45 to 90 days after the date of the referendum held pursuant to subsection 4.

C. The referendum to be voted on must be worded substantially as follows: "Are you in favor of establishing a capital improvement district described on the reverse side of this ballot or in the attachment to this ballot and authorizing a special assessment against the several properties in the capital improvement district, with the special assessment running for a period of \_\_\_\_\_ years, for the purpose of (describe improvements), with the total assessment to all owners of property within the capital improvement district not to exceed \$ \_\_\_\_\_, plus a contingency of no more than 25% of that assessment, all of which are subject to the property tax collection and lien procedures established by state law, and are you also in favor of the municipality of \_\_\_\_\_ accepting the public costs for the capital improvement district improvements, specifically described as (describe the public elements), with all associated and ongoing rights, privileges and responsibilities of public ownership?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same.

D. If a majority of those voting approve of the ballot question, the capital improvement district is created. Upon the creation of a capital improvement district, the municipality is authorized to raise revenues pursuant to chapter 223 and expend those revenues for the improvements authorized at referendum.

E. If the owners of property within the proposed capital improvement district or the voters of the municipality fail to establish the capital improvement district, the municipal officers may not act upon a proposal to create the same capital improvement district for a period of 3 years from the date that capital improvement district was rejected by voters.

#### **§5224. Implementation of improvements to capital improvement district**

**1. Advisory committee.** The municipal officers are responsible for implementing improvements to the capital improvement district. For the purposes of overseeing the authorized improvements to the capital improvement district, the municipal officers shall appoint an advisory committee consisting of no fewer than 3 and no more than 7 owners of property within the capital improvement district for the purposes of receiving comments and recommendations on the proposed improvement or improvements within the capital improvement district. Advisory committee members serve at the pleasure of the municipal officers.

**2. Cost of improvement.** The initial cost of an authorized improvement in a capital improvement district is borne by the municipality until the improvement is complete, as determined by the municipal officers. Commencing with the first tax year that begins after the determination by the municipal officers that the improvement is complete, the municipality shall levy a special assessment against each property in the capital improvement district representing that property's annual share of the cost of the improvement as determined by the municipal officers and projected in the referenda ballots that created the capital improvement district, unless the actual total cost of the improvement is determined to be less than projected during the referenda, in which case the special assessments are reduced proportionally to reflect the actual cost.

**3. Method of assessment.** The special assessments must be included in the next annual warrant to the tax collector of the municipality for collection and must be collected in the same manner as state, county and municipal taxes are collected.

**4. Annual report.** The municipality's annual report must record the progress of implementing the

improvements to the capital improvement district. At a minimum, the annual report must include:

- A. The boundaries of the capital improvement district;
- B. The public elements of the capital improvement district;
- C. The improvements to the capital improvement district made by the municipality; and
- D. The total cost of those improvements, the schedule of the assessed shares and contingency fees against the property located within the district to pay for the improvements and the degree to which those assessed shares and contingency fees have been collected.

#### **§5225. Dissolution of capital improvement district**

A capital improvement district created under this chapter may not be dissolved until the debt created by the improvements is finally discharged and the special assessments levied for the purpose of providing for those improvements have been paid or otherwise satisfied. The municipal officers shall dissolve a capital improvement district upon certification of the discharge of debt. The certification of the discharge of debt must be presented to the municipal officers by the municipal treasurer. At a minimum, the certification must include an attestation by the municipal treasurer that all assessed shares levied for the improvements in a capital improvement district have been paid in full or a property tax lien has been recorded in the registry of deeds.

See title page for effective date.

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## CHAPTER 522

### H.P. 1102 - L.D. 1471

#### **An Act to Create a Digital Library to Meet the Educational, Research, Business and Economic Needs of Maine**

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

**Whereas,** creating a digital library will provide access to needed information for all of the State's organizations and individuals; and

**Whereas,** having one central agency responsible for establishing and implementing a digital library would allow for cost efficiencies; 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. 35-A MRSA §7104-B, sub-§2,** as enacted by PL 1999, c. 409, §2, is amended to read:

**2. Authority.** Pursuant to the authority granted in section 7104 and in order to carry out the policy goals established by section 7101, subsections 1, 2 and 4, the commission shall establish a telecommunications education access fund, referred to in this section as the "fund," and require all telecommunications carriers offering telecommunications services in the State and any other entities identified by the commission pursuant to subsection 8 to contribute to the fund. The fund must be available, with any accumulated interest, to qualified libraries ~~and~~ qualified schools and the Raymond H. Fogler Library at the University of Maine to assist in paying the costs of acquiring and using advanced telecommunications technologies.

**Sec. 2. 35-A MRSA §7104-B, sub-§§4, 5 and 7,** as enacted by PL 1999, c. 409, §2, are amended to read:

**4. Use of fund.** The fund must be used to provide discounts to qualified libraries ~~and~~ qualified schools and the Raymond H. Fogler Library at the University of Maine for the following:

- A. Telecommunications services;
- B. Internet access;
- C. Internal connections;
- D. Computers; ~~and~~
- E. Training; and
- F. Content.

**5. Guidelines for funding.** The commission shall allocate money from the fund using the following guidelines:

- A. To ensure a basic level of connectivity for all of the qualified schools and qualified libraries in the State;
- B. To ensure that all qualified schools ~~and~~ qualified libraries and the Raymond H. Fogler Library at the University of Maine are capable of using the advanced technology equipment obtained through the fund;