

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

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 25, 2002

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
2002

Governor to be used for the implementation of collective bargaining agreements for state employees and for other economic items contained in this Act in fiscal year 2001-02 and fiscal year 2002-03. Positions supported from sources of funding other than the General Fund must be funded whenever possible from those other sources.

Sec. B-2. Authorization for reimbursement of costs associated with contract resolution.

The Department of Administrative and Financial Services may be reimbursed from the salary plan program for the costs of contract resolution, administration, implementation and other costs required by the process of collective bargaining and negotiation procedures.

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

Effective January 15, 2002.

CHAPTER 45

S.P. 751 - L.D. 2085

An Act Relating to the Transfer to GNE, LLC of Certain Privileges Bestowed by the Legislature upon Great Northern Paper, Inc.

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

Whereas, the State has granted certain rights, privileges, immunities and franchises to Great Northern Paper, Inc. and its predecessors in interest, through a series of private and special laws, including, but not limited to, the authority to build, own, operate and maintain paper production facilities and to construct, own and operate dams and hydroelectric and related facilities for the purpose of generating and transmitting electricity; and

Whereas, there is ambiguity regarding the extent to which the rights, privileges, immunities and franchises granted by the State to Great Northern Paper, Inc. and its predecessors in interest, other than those otherwise granted to a corporation under the Maine Revised Statutes, Title 13-A, are transferable or deemed to be transferable in connection with the sale or other conveyance by Great Northern Paper, Inc., or its successors in interest, of its dams and hydroelectric and related facilities located in the State; and

Whereas, the waters of the State of Maine are owned in perpetuity by the State in trust for the people of the State; and

Whereas, Great Northern Paper, Inc. has entered into an agreement to sell its dams and hydroelectric and related facilities, with an anticipated closing in January 2002; and

Whereas, the sale of the dams and hydroelectric and related facilities will benefit the pulp and paper production and related facilities that are located in the towns of Millinocket and East Millinocket, and the Katahdin region will benefit from the operation of and capital investment, both present and future, in the dams and hydroelectric and related facilities; and

Whereas, the Legislature finds that the Katahdin region will benefit by an increase in the electric transmission line capacity serving the region; and

Whereas, GNE, LLC intends to seek permits to invest approximately \$92,000,000 over 20 years to improve the dams and hydroelectric and related facilities and to seek permits expeditiously to invest approximately \$16,000,000 to increase to 130 megawatts the electric transmission line capacity connected to the dams and hydroelectric and related facilities and serving the Katahdin region; and

Whereas, the sale of the dams and hydroelectric and related facilities will result in a capital gain to Great Northern Paper, Inc., on which it will pay state income tax; 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. Authority to transfer corporate rights. Great Northern Paper, Inc. and its assigns, designees, transferees and any other successors to any of the rights, privileges, immunities or franchises that have been granted by private and special law to Great Northern Paper, Inc. and its predecessors in interest, may, in connection with the sale, mortgage or other conveyance of any interest in its dams and hydroelectric and related facilities, referred to in this Act as "hydropower facilities," sell or transfer any such rights, privileges, immunities or franchises related to the hydropower facilities and, notwithstanding any private and special law to the contrary, but subject to all other applicable provisions of law, including, but not limited to, the Maine Revised Statutes, Title 35-A, sell or transfer and transmit electricity to any 3rd parties. Nothing in this paragraph may be construed to affect or limit any rights, privileges, immunities or franchises granted by private and special law to or

obligations, conditions or limitations imposed upon Great Northern Paper, Inc. and its predecessors in interest with respect to anything other than the hydropower facilities.

In connection with the closing of the sale of the hydropower facilities by Great Northern Paper, Inc., Great Northern Paper, Inc. shall enter into an agreement allowing Great Northern Paper, Inc. to purchase for a 10-year period, with an option to purchase for another 5 years, an amount of electricity that is not less than the amount of electricity generated by the hydropower facilities. If such an agreement is not entered into, Great Northern Paper, Inc. may not sell or transfer, pursuant to the authority granted under this section, any of the rights, privileges, immunities or franchises that have been granted by private and special law to Great Northern Paper, Inc. and its predecessors in interest and may not, pursuant to the authority granted under this section, sell, transfer or transmit electricity to any 3rd party.

The holder of any license issued under Part I of the Federal Power Act, 18 United States Code, Sections 791a - 825r, for the Hydropower Facilities shall provide to the Governor and the Legislators representing the districts located within the counties of Penobscot, Piscataquis and Aroostook written notice of any of the following events sent by certified mail, and shall provide the notified persons with an opportunity to meet and discuss any resulting impacts to the Katahdin region, in any of the following circumstances: prior to the filing of any application to transfer any such license; prior to the filing of any notification required by the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 United States Code, Section 18a with respect to the Hydropower Facilities; and no later than 10 days after the cessation of all paper production at either the paper production facility in Millinocket or the paper production facility in East Millinocket for a period of at least 90 days, referred to in this Act as a "Paper Mill Closing." If the holder of any such license fails to comply with the requirements of this paragraph, the holder of the license may not sell or transfer, pursuant to the authority granted under this Act, any of the rights, privileges, immunities or franchises that have been granted by private and special law to Great Northern Paper, Inc. and its predecessors in interest and may not, pursuant to the authority granted under this Act, sell, transfer or transmit electricity to any 3rd party.

The authorizations granted and the obligations, conditions and limitations imposed under this Act are pursuant and subject to the State's ownership of the waters of the State.

Sec. 2. Conditions and limitations. Within the period beginning at commencement of operation of increased electric transmission line capacity serving

the Katahdin region and ending 15 years after the transfer to GNE, LLC of the Hydropower Facilities, if there is a Paper Mill Closing the owner of the Hydropower Facilities shall pay an annual amount of \$75,000 to the economic development body serving the Katahdin region, as identified by the Department of Economic and Community Development, for each Paper Mill Closing. Payments cease upon the resumption of paper production at the affected mill. For purposes of this section, "increased electric transmission line capacity serving the Katahdin region" means any electric transmission lines that will allow the continuous transmission of electricity generated by the Hydropower Facilities to or from any consumer other than the paper production facility in Millinocket or the paper production facility in East Millinocket and having a capacity to transmit in excess of 70 megawatts.

The owner of the Hydropower Facilities and the owner of the paper production facility in Millinocket or the paper production facility in East Millinocket may not enter into any agreement or understanding with each other under which the owner of the paper production facility in Millinocket or the paper production facility in East Millinocket receives revenue from the sale of electricity from the Hydropower Facilities and there is a Paper Mill Closing for the purpose of allowing or increasing the sale of the electricity from the Hydropower Facilities to any other purchaser or entity or into the wholesale electric market. If the owner of the paper production facility in Millinocket or the paper production facility in East Millinocket enters into such an agreement or understanding, the owner of the paper production facility shall pay to the Treasurer of State, upon the Paper Mill Closing, an amount equal to the value of all tax credits or reimbursements relating to property associated with that paper production facility received by the owner pursuant to the Maine Revised Statutes, Title 36, chapter 915 after the effective date of this Act. If the owner of the Hydropower Facilities enters into such an agreement or understanding, the owner of the Hydropower Facilities may not sell or transfer, pursuant to the authority granted under section 1 of this Act, any of the rights, privileges, immunities or franchises that have been granted by private and special law to Great Northern Paper, Inc. and its predecessors in interest and may not sell, transfer or transmit, pursuant to the authority granted under section 1 of this Act, electricity to any 3rd party.

Sec. 3. P&SL 1969, c. 62 is repealed.

Sec. 4. P&SL 1997, c. 71 is repealed.

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

Effective January 28, 2002.

CHAPTER 46

S.P. 737 - L.D. 2048

An Act to Authorize the Yarmouth School Department to use the Construction-Manager-at-Risk Method of Construction Delivery for Locally Funded School Projects

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

Whereas, at a referendum vote conducted on June 12, 2001, the voters of the Town of Yarmouth approved the issuance of locally funded general obligation securities of the Town of Yarmouth without state participation in an amount not to exceed \$20,543,000 for school facility improvements at the Rowe School, Yarmouth Elementary School and Yarmouth High School; and

Whereas, the Yarmouth High School portion of the project involves the construction of additions and renovations to the existing high school building that must be carefully phased to avoid disruption of education; and

Whereas, the improvements to the Rowe School involve the demolition of an existing building, possible removal of hazardous material from the site and new construction; and

Whereas, the Yarmouth School Department and its advisors have determined that it will be less disruptive to education, more efficient and more cost effective to employ the construction-manager-at-risk method of construction delivery rather than the design-bid-build method of construction delivery for these projects; and

Whereas, the Maine Revised Statutes, Title 5, section 1743-A and the pilot program established by Private and Special Law 1999, chapter 79 do not permit the use of the construction-manager-at-risk method of construction delivery for school construction and renovation projects with a cost of more than \$10,000,000 even if they are locally funded; 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 preserva-

tion of the public peace, health and safety; now, therefore,

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

Sec. 1. Manager-at-risk method of construction. Notwithstanding the Maine Revised Statutes, Title 5, section 1743-A and Private and Special Law 1999, chapter 79, the Yarmouth School Department is authorized to employ the construction-manager-at-risk method of construction delivery rather than the design-bid-build method of construction delivery for the school facility improvements at the Rowe School and Yarmouth High School that were authorized by the voters of the Town of Yarmouth at a referendum conducted on June 12, 2001. The Yarmouth School Department shall use the procedures for selecting an architect or engineer established pursuant to Title 5, section 1742, subsection 6 and rules adopted pursuant to that subsection to select the construction manager at risk. The Yarmouth school facility improvements must be constructed in accordance with all other applicable requirements of the Maine Revised Statutes.

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

Effective February 7, 2002.

CHAPTER 47

S.P. 704 - L.D. 1906

An Act to Amend the Charter of the Corinna Sewer District

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

Whereas, this legislation allows the date of the annual meeting of the Corinna Sewer District to be set by the trustees of the district; and

Whereas, the next annual meeting of the Corinna Sewer District is scheduled for the first Saturday in June; and

Whereas, the 90-day period may not terminate until after the scheduled date for the annual meeting; 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 preserva-