

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

work conducted in response to this resolve and any findings and recommendations to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters by January 4, 2005; and be it further

Sec. 6. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

**INLAND FISHERIES AND WILDLIFE,
DEPARTMENT OF**

**Inland Fisheries and Wildlife – Outdoor
Heritage Fund Grant 0892**

Initiative: Allocates funds for the cost of conducting a required study.

Other Special Revenue Funds	2003-04	2004-05
All Other	\$50,000	\$0
Other Special Revenue		
Funds Total	\$50,000	\$0

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

Effective June 9, 2003.

CHAPTER 72

S.P. 583 - L.D. 1628

**Resolve, Concerning Reauthorization
of a 1997 Pollution Control Bond
Issue**

Preamble. Whereas, the Treasurer of State may not sell the remaining \$1,000,000 in bonds authorized but not yet issued from the \$13,000,000 pollution control bond issue authorized by the voters in 1997 unless the Legislature reauthorizes the issuance of those bonds; and

Whereas, the Department of Environmental Protection requires this \$1,000,000 in bonds to meet its projected plan for the cleanup of remaining large tire stockpiles in 2004 in order to protect public health and safety and the environment; now, therefore, be it

Sec. 1. Extension for issuing. Resolved: That, pursuant to the provisions of the Constitution of Maine, Article IX, Section 14, the period for issuance of bonds or of bond anticipation notes authorized but unissued pursuant to Public Law 1997, chapter 561, authorized by the voters in a statewide election held on

November 4, 1997, for the cleanup of tire stockpiles, is further extended for a 5-year period.

See title page for effective date.

CHAPTER 73

H.P. 364 - L.D. 472

**Resolve, Directing the Community
Preservation Advisory Committee To
Study Issues Pertaining to Barriers to
Affordable Housing in the State**

Sec. 1. Community Preservation Advisory Committee to study issues pertaining to affordable housing. Resolved: That the Community Preservation Advisory Committee, as established in the Maine Revised Statutes, Title 30-A, section 4350, referred to in this resolve as "the committee," shall undertake a comprehensive study to identify regulatory or other barriers to the creation of affordable housing in the State. For each barrier identified, the committee shall make recommendations on ways to reduce that barrier and to provide incentives for the creation of affordable housing. The committee's study must include, but is not limited to, a review of and recommendations on methods to remove or reduce barriers to the creation or availability of affordable housing created by:

1. State rules or local regulations that inhibit the construction of new affordable housing units or the renovation of existing buildings for the purpose of creating affordable housing units. The committee's recommendations in this area must be consistent with the legitimate concerns of the State and the local communities for healthy neighborhoods, sound environmental practices, sustainable affordability and inclusive communities;
2. Zoning or zoning practices that create barriers to affordable housing;
3. Laws pertaining to municipal impact fees, as allowed under Title 30-A, section 4354, to the extent those laws create barriers to the creation of affordable housing. In reviewing this issue, the committee shall consider and make recommendations on exempting affordable housing units from such impact fees and applying that exemption only to affordable housing located within a locally designated growth area identified in the municipality's comprehensive land use plan. If the committee recommends such an exemption, its recommendations must include specific recommendations on how an exemption would be calculated and applied and what impact that exemption would have on the ability of a municipality to

adequately fund infrastructure improvements necessitated by the construction of those units;

4. Laws pertaining to municipal moratoria on development permits, as allowed under Title 30-A, section 4356, to the extent those laws create barriers to the creation of affordable housing. In reviewing this issue, the committee shall consider and make recommendations on exempting affordable housing units from such moratoria and applying that exemption only to affordable housing located within a locally designated growth area identified in the municipality's comprehensive land use plan;

5. Laws pertaining to municipal rate of growth ordinances, as allowed under Title 30-A, section 4314, to the extent those laws create barriers to the creation of affordable housing units. In reviewing this issue, the committee shall consider and make recommendations on exempting affordable housing units from such laws pertaining to municipal rate of growth ordinances;

6. Barriers to the creation of affordable rental housing, including the unavailability of deposit assistance, in areas of the State where rental housing is unaffordable;

7. Barriers to the construction or availability of affordable housing for veterans, seniors, retirees, persons with disabilities and homeless persons; and

8. Other barriers to the construction or availability of affordable housing identified by the committee or by stakeholders; and be it further

Sec. 2. Consultation with stakeholders.

Resolved: That the committee shall consult with stakeholders during this study and in the development of its recommendations. Those stakeholders include, but are not limited to, the following:

1. The Commissioner of Economic and Community Development;

2. The Director of the Maine State Housing Authority;

3. The Executive Director of the State Planning Office within the Executive Department;

4. The President of the Maine State Chamber of Commerce;

5. The Executive Director of the Maine Municipal Association;

6. The President of the Maine Association of Planners;

7. A representative from a neighborhood association;

8. A representative from a city council;

9. A municipal officer;

10. A representative from a town planning board;

11. A representative from a nonprofit housing developer;

12. A representative from a for-profit housing developer;

13. A representative from a land trust;

14. A representative from a manufactured housing manufacturer;

15. A representative from a financial institution;

16. A representative from the business community;

17. A representative of the York County Initiative to End Homelessness;

18. A representative of the Genesis Community Loan Fund;

19. A representative from an organization in the Lewiston-Auburn area that is active in matters pertaining to affordable housing;

20. A representative of the Maine Affordable Housing Network; and

21. A person representing the AFL-CIO; and be it further

Sec. 3. Staff assistance. Resolved: That the Executive Department, State Planning Office shall, within its existing budgeted resources, provide staffing assistance to the committee in conducting this study; and be it further

Sec. 4. Drafting assistance. Resolved: That the Office of Policy and Legal Analysis shall draft any legislation recommended by the committee to implement its recommendations; and be it further

Sec. 5. Report. Resolved: That the committee shall incorporate its findings and recommendations, including suggested legislation, into the annual report required under the Maine Revised Statutes, Title 30-A, section 4350, subsection 9, paragraph A and provide a copy of the report to the Joint Standing Committee on Business, Research and Economic Development no later than December 1, 2003; and be it further

Sec. 6. Legislation. Resolved: That the Joint Standing Committee on Business, Research and Economic Development may report out a bill during

the Second Regular Session of the 121st Legislature on issues pertaining to barriers to affordable housing.

See title page for effective date.

CHAPTER 74

H.P. 1206 - L.D. 1627

Resolve, Regarding Legislative Review of Chapter 14: Rules Governing Alternative Methods of Payment of Overtime for Certain Drivers and Drivers Helpers, a Major Substantive Rule of the Department of Labor, Bureau of Labor Standards

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

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

Sec. 1. Adoption. Resolved: That final adoption of Chapter 14: Rules Governing Alternative Methods of Payment of Overtime for Certain Drivers and Drivers Helpers, a provisionally adopted major substantive rule of the Department of Labor, Bureau of Labor Standards that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized; and be it further

Sec. 2. Department to request legal opinion. Resolved: That the Department of Labor shall ask the Attorney General to provide a legal opinion by September 1, 2003 as to the ability of the Department of Labor to take into account hours worked outside the State when determining whether overtime pay is required for work within the State; and be it further

Sec. 3. Report to labor committee. Resolved: That the Department of Labor shall meet with the Joint Standing Committee on Labor in September 2003, at the committee's request, to report on the Attorney General's opinion and the department's response to the opinion, including any proposed changes to the rule described in section 1.

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

Effective June 16, 2003.

CHAPTER 75

H.P. 292 - L.D. 372

Resolve, to Improve Community Safety and Sex Offender Accountability

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

Whereas, completion of the study established in this resolve to review policies affecting sentencing, registration, release and placement of sex offenders is of vital interest to the citizens of this State and must be completed as soon as possible; and

Whereas, immediate passage of this resolve is necessary to provide for full consideration of these important issues, timely completion of the study and submission of recommendations for consideration by the Second Regular Session of the 121st Legislature; 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

Sec. 1. Commission established. Resolved: That the Commission to Improve Community Safety and Sex Offender Accountability, referred to in this resolve as "the commission," is established; and be it further

Sec. 2. Commission membership. Resolved: That the commission consists of the following 18 members:

1. One member of the Senate, appointed by the President of the Senate;