

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

for the renovation, construction and expansion of the facilities at the Oak Grove Campus. Any proceeds from the sale of the Kennebec Arsenal property must be deposited in the Maine State Housing Authority's Housing Opportunities for Maine Fund established in the Maine Revised Statutes, Title 30-A, section 4853. These funds must be carried forward until expended; and be it further

See title page for effective date.

CHAPTER 92

H.P. 1070 - L.D. 1465

**Resolve, Authorizing the
Commissioner of Administrative and
Financial Services To Sell or Lease
the Interests of the State in Certain
Real Estate Located in Hallowell and
To Enter into Lease-purchase
Agreements for School Bus
Acquisition**

PART A

Sec. A-1. Definitions. Resolved: That, as used in this resolve, unless the context otherwise indicates, the following terms have the following meanings.

1. "Commissioner" means the Commissioner of Administrative and Financial Services.
2. "State property" means the real estate described in section 3 of this resolve with the buildings and improvements, together with all appurtenant rights and easements, and all personal property located on that property, including vehicles, machinery, equipment and supplies; and be it further

Sec. A-2. Authority to convey property. Resolved: That the State, by and through the commissioner, may:

1. Enter into a lease or leases or convey by sale the interests of the State in the state property;
2. Negotiate, draft, execute and deliver any documents necessary to settle any boundary line discrepancies;
3. Exercise, pursuant to the Maine Revised Statutes, Title 23, chapter 304, the power of eminent domain to quiet for all time any possible challenges to ownership of the state property;
4. Negotiate, draft, execute and deliver any easements or other rights that, at the commissioner's

discretion, may contribute to the value of a proposed sale or lease of the State's interests; and

5. Release any interests in the state property that, at the commissioner's discretion, do not contribute to the value of the remaining state property; and be it further

Sec. A-3. Property interests that may be conveyed. Resolved: That the state property authorized to be sold or leased is: Town of Hallowell Tax Map 6, Lot 27 consisting of 63.5 acres, more or less; and be it further

Sec. A-4. Property to be sold as is. Resolved: That the commissioner may negotiate and execute leases and purchase and sale agreements upon terms the commissioner considers appropriate; however, the state property must be sold "as is," with no representations or warranties.

Title must be transferred by quitclaim deed without covenant and executed by the commissioner; and be it further

Sec. A-5. Exemptions. Resolved: That any lease or conveyance pursuant to this resolve is exempt from any statutory or regulatory requirement that the property first be offered to the Maine State Housing Authority or another state or local agency; and be it further

Sec. A-6. Appraisal. Resolved: That the commissioner must have the current market value of the state property determined by an independent appraiser. The commissioner may list the property for sale or lease with private real estate brokers at their appraised value of the state property and negotiate sales or leases, solicit bids, sell directly to purchasers or enter directly into leases with tenants. The commissioner may reject any offers.

The commissioner shall establish the rent or purchase price and the terms of lease or sale.

If the commissioner elects to solicit bids, the commissioner shall publish notices of sale sufficient to advertise the state property. The commissioner may reject any bids; and be it further

Sec. A-7. Proceeds. Resolved: That any proceeds from sales pursuant to this resolve must be deposited in the Maine State Housing Authority's Housing Opportunities for Maine Fund, established in the Maine Revised Statutes, Title 30-A, section 4853; and be it further

Sec. A-8. Repeal. Resolved: That this resolve is repealed 8 years from its effective date.

PART B

Sec. B-1. Lease-purchase authorization.

Resolved: That notwithstanding the Maine Revised Statutes, Title 5, section 1587, the Commissioner of Administrative and Financial Services on behalf of the Department of Education may enter into lease-purchase contracts or other financing arrangements in fiscal years 2003-04 and 2004-05 for the acquisition of school buses to replace 43 Carpenter buses that must be removed from service for safety reasons. The financing agreements may not exceed 7 years in duration and \$2,500,000 in principal costs. The interest rate may not exceed 6% and the total interest costs may not exceed \$595,000. The annual principal and interest costs must be paid from the appropriate line-category allocations in the Department of Education.

See title page for effective date.

CHAPTER 93

H.P. 1205 - L.D. 1626

Resolve, To Authorize the State To Purchase a Landfill in the City of Old Town

Sec. 1. Acquisition of landfill authorized.

Resolved: That, notwithstanding anything in the Maine Revised Statutes, Title 5, section 1825-B, subsection 1, Title 38, section 1310-X and Title 38, chapter 24 to the contrary, the following provisions apply.

1. The Executive Department, State Planning Office, referred to in this section as "the office," may acquire, own and cause to be operated an existing, Department of Environmental Protection-licensed and generator-owned solid waste disposal facility in the City of Old Town known as the West Old Town Landfill, referred to in this resolve as "the disposal facility," under such terms and conditions as are revenue-neutral to the State and as the office determines are advisable and in the public interest. The acquisition may be subject to a possibility of revert to the seller.

2. The office may establish the terms and conditions of, and execute and deliver, in the name of and on behalf of the State, all contracts the office determines are necessary or appropriate to effect the acquisition and operation of the disposal facility and to undertake all actions the office determines necessary or appropriate to fully perform all obligations established under the contracts. The acquisition agreement must provide that the current owner of the disposal facility is responsible for environmental

liability associated with the operation of the disposal facility prior to acquisition by the office and that a baseline must be established by agreement of the current owner of the disposal facility and the office for determining the existing ground and surface water conditions surrounding the disposal facility as of the date of acquisition.

3. Any agreement for the operation of the disposal facility must be established by the office through a competitive bidding process and must require the operator to indemnify the office for liabilities and costs associated with the acquisition, development and operation of the disposal facility. All persons submitting proposals in response to the request for proposals to operate the disposal facility are required to include with their bids up to a \$20,000 nonrefundable deposit, as determined by the office, to offset the office's costs associated with the transactions authorized under this resolve and the cost to the City of Old Town and the Town of Alton to establish a joint citizen advisory committee authorized under this resolve.

4. Nothing in this resolve permits the abrogation of, abrogates or intends to abrogate the sovereign immunity of the State with respect to the acquisition agreement authorized under this resolve.

5. Notwithstanding the Maine Revised Statutes, Title 38, section 1310-U, the municipality in which the disposal facility is located may not regulate the operation or any other aspect of the disposal facility as provided in Title 38, section 2173 or by means of any municipal ordinances, regulations, licenses or permits, except that the municipality may enact ordinances with respect to the operation of any expansion of the disposal facility, including any expansion of the type of waste the facility is licensed to accept, that contain standards the municipality finds reasonable, including, without limitation, standards concerning conformance with federal and state solid waste rules; fire safety; traffic safety; levels of noise heard outside the facility; the distance from existing residential, commercial or institutional uses; groundwater protection; surface water protection; erosion and sedimentation control; and compatibility of the disposal facility with local zoning and land use controls, as long as the standards are not more strict than those contained in Title 38, chapter 3, subchapter 1, articles 5-A and 6 and Title 38, chapter 13 and the rules adopted under those chapters. The municipality is prohibited from enacting stricter standards than those contained in Title 38, chapter 13 governing the hydrogeological criteria for siting or designing the expansion of or the governing of the engineering criteria related to waste handling and disposal areas of the expanded disposal facility. Such municipal ordinances must use definitions consistent with those adopted by the Department of Environmental Protection, Board of