

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

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

Penmor Lithographers
Lewiston, Maine
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of age, is a teacher, employee or other official in the school district, school union, educational unit, school, facility or institution in which the student is enrolled. Violation of this paragraph is a Class E crime; or

Sec. 5. 17-A MRSA §260, sub-§1, ¶K is enacted to read:

K. The actor is a psychiatrist, a psychologist or licensed as a social worker or purports to be a psychiatrist, a psychologist or licensed as a social worker to the other person and the other person, not the actor's spouse, is a patient or client of the actor for mental health therapy. As used in this paragraph, "mental health therapy" means psychotherapy or other treatment modalities intended to change behavior, emotions or attitudes and based upon an intimate relationship involving trust and dependency with a substantial potential for vulnerability and abuse. Violation of this paragraph is a Class D crime.

See title page for effective date.

CHAPTER 451

H.P. 870 - L.D. 1273

An Act To Improve the Economic Development of the Indian Tribes

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

Sec. 1. 30-A MRSA §5250-J, sub-§1, as enacted by PL 2003, c. 688, Pt. D, §2, is amended to read:

1. Creation. One or more units of local government, or an organization representing one or more units of local government, or the Aroostook Band of Micmacs, the Houlton Band of Maliseet Indians, the Penobscot Nation or the Passamaquoddy Tribe, may apply to the commissioner for the designation of a Pine Tree Development Zone within the boundaries of the unit or units of local government in accordance with the requirements of this subchapter. County governments may apply on behalf of unorganized territories. Groups of units of local government may apply for multijurisdictional or joint projects. Multijurisdictional applications require designation of one unit of local government as the lead applicant and consent for that designation by each participating unit of local government. Counties may also apply on behalf of a consortium of units of local government. The designation of a Pine Tree Development Zone may not conflict with the provisions of a municipal or other unit of local government charter. Zones that

meet the requirements of subsection 2 are authorized for designation as follows:

A. ~~Aroostook County, including up to 100 acres of land reserved for the Aroostook Band of Micmacs and the Houlton Band of Maliseet Indians;~~

B. The Androscoggin Valley region, including the Lewiston Enterprise Community Zone as designated by the federal Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, Appropriations Act, Public Law 105-277 (1999);

C. ~~The Penobscot Valley region, including up to 500 acres of land reserved for the Penobscot Nation; and~~

D. ~~Washington County and the Downeast region, including up to 500 acres of land reserved for the Passamaquoddy Tribe; and~~

E. Up to 100 acres of land owned by the Aroostook Band of Micmacs and the Houlton Band of Maliseet Indians; up to 500 acres of land owned by the Penobscot Nation; and up to 500 acres of land owned by the Passamaquoddy Tribe.

~~Notwithstanding the property designated in paragraph E, no more than one zone may be established in each of the areas specified in paragraphs A to D, except that the commissioner may designate up to 4 additional zones through the process established in section 5250-L.~~

See title page for effective date.

CHAPTER 452

H.P. 1158 - L.D. 1643

An Act To Clarify and Harmonize State Policy on Groundwater Management

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

PART A

Sec. A-1. 12 MRSA §685-B, sub-§4, ¶C, as amended by PL 1973, c. 569, §11, is further amended to read:

C. Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to assure there will be no undue adverse effect on existing uses, scenic

character, and natural and historic resources in the area likely to be affected by the proposal; ~~and. In making a determination under this paragraph regarding development to facilitate withdrawal of groundwater, the commission shall consider the effects of the proposed withdrawal on waters of the State, as defined by Title 38, section 361-A, subsection 7; water-related natural resources; and existing uses, including, but not limited to, public or private wells, within the anticipated zone of contribution to the withdrawal. In making findings under this paragraph, the commission shall consider both the direct effects of the proposed withdrawal and its effects in combination with existing water withdrawals;~~

Sec. A-2. 22 MRSA §2660-A, sub-§3, ¶D, as enacted by PL 2003, c. 121, §1, is amended to read:

D. For a source not otherwise permitted by the Department of Environmental Protection or the Maine Land Use Regulation Commission, the water withdrawal will not ~~adversely affect existing uses of groundwater or surface water resources, including private wells have an undue adverse effect on waters of the State, as defined by Title 38, section 361-A, subsection 7; water-related natural resources; and existing uses, including, but not limited to, public or private wells, within the anticipated zone of contribution to the withdrawal. In making findings under this paragraph, the commissioner shall consider both the direct effects of the proposed water withdrawal and its effects in combination with existing water withdrawals.~~

Sec. A-3. 38 MRSA §484, sub-§3, ¶F is enacted to read:

F. In making a determination under this subsection regarding a structure to facilitate withdrawal of groundwater, the department shall consider the effects of the proposed withdrawal on waters of the State, as defined by section 361-A, subsection 7; water-related natural resources; and existing uses, including, but not limited to, public or private wells, within the anticipated zone of contribution to the withdrawal. In making findings under this paragraph, the department shall consider both the direct effects of the proposed water withdrawal and its effects in combination with existing water withdrawals.

PART B

Sec. B-1. Development of consistent hydrogeological review procedures. By January 1, 2006, the Department of Environmental Protection, the Maine Land Use Regulation Commission and the Department of Health and Human Services, in

consultation with the Department of Agriculture, Food and Rural Resources, the Maine Geological Survey and other public or private entities or persons that they consider appropriate, shall:

1. Review their existing administrative procedures and practices regarding review of development activities involving groundwater withdrawal;
2. Develop and implement any changes to such administrative procedures and practices that are appropriate and necessary to establish a consistent, efficient and effective approach under their existing legal authority to review pertinent hydrogeological and related natural resources issues; and
3. Submit a report to the Governor and Joint Standing Committee on Natural Resources summarizing actions taken pursuant to this section.

Sec. B-2. Permit fees. The Department of Environmental Protection, the Maine Land Use Regulation Commission, the Department of Health and Human Services and the Maine Geological Survey shall each review their administrative costs of reviewing permit applications under the Maine Revised Statutes, Title 12, chapter 206-A; Title 22, chapter 601; and Title 38, chapter 3, article 6, including administrative costs associated with any required impact studies or monitoring and shall adjust pertinent permit application fees as appropriate to ensure that such fees are adequate to cover such administrative costs. Beginning January 15, 2008, the Department of Environmental Protection, the Maine Land Use Regulation Commission, the Department of Health and Human Services and the Maine Geological Survey shall biennially review their administrative costs of reviewing permit applications under Title 12, chapter 206-A; Title 22, chapter 601; and Title 38, chapter 3, article 6, including administrative costs associated with any required impact studies or monitoring and report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on the adequacy of such fees to cover pertinent administrative costs anticipated in the next biennium.

Sec. B-3. Rulemaking. The Department of Environmental Protection, the Maine Land Use Regulation Commission, the Department of Health and Human Services and the Maine Geological Survey may adopt major substantive rules, as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, to establish a consistent, efficient and effective approach to review of pertinent hydrogeological and related natural resources issues or adjust permit fees as provided in sections 1 and 2 of this Part.

PART C

Sec. C-1. Study of state regulation of groundwater withdrawal. The Land and Water Resources Council established in the Maine Revised Statutes, Title 5, section 3331 and referred to in this Part as "the council" shall undertake a study of current state law regarding regulation of withdrawal of groundwater. The purpose of the study is to identify any changes in state law needed to ensure a consistent, integrated and scientifically sound state policy that ensures that the withdrawal of groundwater does not have an undue adverse effect on waters of the State, as defined by the Maine Revised Statutes, Title 38, section 361-A, subsection 7; water-related natural resources; and existing uses, including, but not limited to, public or private wells, within the anticipated zone of contribution to the withdrawal.

Sec. C-2. Oversight. The council shall begin the study under section 1 no later than October 1, 2005. The study must be carried out under the direction of the council with work performed by a work group composed of appropriate personnel from the Department of Environmental Protection, the Department of Agriculture, Food and Rural Resources, the Maine Land Use Regulation Commission, the Department of Health and Human Services' drinking water program, the Maine Geological Survey, the Department of Economic and Community Development, the Executive Department, State Planning Office and members of the public with expertise in relevant fields of interest, including, but not limited to, agriculture, public water utilities, groundwater law and water bottling and sale. In addition, the work group must include a private domestic well owner and legislative members from the Joint Standing Committee on Natural Resources, the Joint Standing Committee on Agriculture, Conservation and Forestry and the Joint Standing Committee on Business, Research and Economic Development.

Sec. C-3. Staffing assistance. The Maine Geological Survey shall provide staff services to the council and serve as lead agency for purposes of management of the study at the council's direction.

Sec. C-4. Issues to be considered. In developing its recommendations, the council shall:

1. Identify and review provisions under the Maine Revised Statutes, Title 12, chapter 206-A; Title 22, chapter 601; and Title 38, chapter 3, article 6, any other pertinent state laws that may trigger state regulation of a proposed withdrawal of groundwater;

2. Review existing geological, hydrogeological and other related scientific information regarding Maine's groundwater resources in order to assess the efficacy of existing state law for ensuring that

withdrawal of groundwater does not have an undue adverse effect on waters of the State as defined by Title 38, section 361-A, subsection 7; water-related natural resources; and existing uses, including, but not limited to, public or private wells, within the anticipated zone of contribution to the withdrawal;

3. Identify and assess criteria that should influence whether and how the State regulates or otherwise manages withdrawal of groundwater, giving consideration to sizes and uses of withdrawal, including, but not necessarily limited to, the following:

- A. The quantity of proposed withdrawal;

- B. The hydrogeologic characteristics of the aquifer in which the proposed withdrawal will take place;

- C. The duration of the proposed withdrawal;

- D. The size of the land parcel on which the withdrawal occurs;

- E. The location of the proposed withdrawal in relation to wetlands, great ponds or other protected natural resources; and

- F. The nature, size and location of proximate surface waters;

4. Propose any necessary changes to state law, including, but not limited to, a series of regulatory thresholds with appropriate levels of review for each, such as permit-by-rule, that would trigger state regulatory review of withdrawal of groundwater. The council shall recommend such changes that it considers appropriate and necessary to establish a consistent, integrated and scientifically sound state policy regarding groundwater management that ensures that withdrawal of groundwater does not have an undue adverse effect on waters of the State, as defined by Title 38, section 361-A, subsection 7; water-related natural resources; and existing uses, including, but not limited to, public or private wells within the anticipated zone of contribution to the withdrawal;

5. Assess the projected costs to the State of developing and implementing any changes in state law proposed pursuant to subsection 4 and the adequacy of existing departmental resources, including regulatory fees, to develop and implement those changes efficiently and effectively; and

6. Assess the projected costs to applicants for withdrawal of groundwater for complying with any changes in state law proposed in subsection 4.

Sec. C-5. Report. The work group established under section 2 of this Part shall provide updates or reports to the council as determined by the

council. The council shall submit its final report and recommendations to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than November 1, 2007.

Sec. C-6. Rulemaking. By March 15, 2007, the Department of Environmental Protection, the Maine Land Use Regulation Commission, the Department of Health and Human Services and the Maine Geological Survey shall coordinate the adoption of any major substantive rules, as defined in Title 5, chapter 375, subchapter 2-A, needed to implement the recommendations of the council pursuant to section 4 of this Part.

PART D

Sec. D-1. Legislative intent. The purpose of this Act is to promote development and implementation of consistent, integrated and scientifically sound state policy regarding groundwater management through:

1. Establishment of a uniform standard for state regulatory review of the effects on groundwater withdrawal when such review is provided for under existing provisions of the Maine Revised Statutes, Title 12, chapter 206-A; Title 22, chapter 601; and Title 38, chapter 3, article 6;

2. Appropriate changes in administrative procedures and practices, including assessment of permit fees, under current law; and

3. Identification of proposed changes in state law appropriate and necessary to establish and implement a consistent, integrated and scientifically sound state policy regarding groundwater management for subsequent consideration by the Legislature.

Nothing in this Act expands or limits the activities currently subject to regulation under Title 12, chapter 206-A; Title 22, chapter 601; and Title 38, chapter 3, article 6.

See title page for effective date.

CHAPTER 453

S.P. 583 - L.D. 1602

An Act Regarding Implementation of the Central Voter Registration System

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

Sec. 1. 21-A MRSA §1, sub-§6-A, as enacted by PL 2001, c. 637, §1, is amended to read:

6-A. Central voter registration system. "~~Centralized~~ Central voter registration system" means a single electronic information system and database for voter registration information maintained by the Secretary of State and used by all municipal jurisdictions in the State.

Sec. 2. 21-A MRSA §1, sub-§40-B is enacted to read:

40-B. Residence address. "Residence address" means the street and number or other designation indicating the physical location of a person's residence.

Sec. 3. 21-A MRSA §1, sub-§43, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 4. 21-A MRSA §1, sub-§47-A is enacted to read:

47-A. Voter participation history. "Voter participation history" means the indication in the central voter registration system of whether a voter has cast a ballot in a certain election, as reflected on the incoming voting list for that election.

Sec. 5. 21-A MRSA §22, sub-§1, as enacted by PL 1997, c. 248, §1, is amended to read:

1. Public records. All lists, books, documents and records required to be prepared by or filed with a public official are public records, except as otherwise provided in this Title. Public records are open to public inspection during regular business hours under proper protective regulations made by the official charged with their custody.

Sec. 6. 21-A MRSA §23, sub-§1, as amended by PL 2003, c. 584, §2, is further amended to read:

1. Registration and enrollment applications. The registrar shall keep registration and enrollment applications and requests and all documentation of changes in registration and enrollment as part of each active or inactive voter's permanent registration record, ~~except that those records.~~ Records must be kept only 2 years for a voter whose name has been removed from the voting lists of the municipality under sections 161 and 162-A registration has been cancelled or for an applicant whose registration application has been rejected.

Sec. 7. 21-A MRSA §23, sub-§5, as enacted by PL 1985, c. 161, §6, is amended to read:

5. Receipt of incoming voting list. The registrar shall keep the receipt for certified copies of the incoming voting list required by section 624, subsection 2, in ~~his~~ the registrar's office for one year.