

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION

July 29, 2005

SECOND REGULAR SESSION

January 4, 2006 to May 24, 2006

THE GENERAL EFFECTIVE DATE FOR

SECOND SPECIAL SESSION

NON-EMERGENCY LAWS IS

OCTOBER 28, 2005

THE GENERAL EFFECTIVE DATE FOR

SECOND REGULAR SESSION

NON-EMERGENCY LAWS IS

AUGUST 23, 2006

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

Penmor Lithographers

Lewiston, Maine

2006

of parking spaces for motor vehicles for the issuance of an agency liquor store license to a store with less than 3,000 square feet of retail space in a downtown location. When considering the issuance of a license, the bureau shall consider the proximity of the proposed agency store to existing agency stores and the potential impact the location of the proposed agency store may have on an existing agency store. The bureau may deny a license if the bureau determines the proposed agency store location is in too close proximity to an existing agency store. For purposes of this subsection, "downtown" has the same meaning as in Title 30-A, section 4301, subsection 5-A.

See title page for effective date.

CHAPTER 597

H.P. 1080 - L.D. 1535

An Act Making Improvements to the Laws Regarding Local Land Use Ordinances

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

Sec. 1. 30-A MRSA §4301, sub-§6-A, as enacted by PL 1991, c. 18, §1, is amended to read:

6-A. Impact fee. "Impact fee" means a charge or assessment imposed by a municipality against a new development to fund or recoup a portion of the cost of new, expanded or replacement infrastructure facilities necessitated by and attributable at least in part to the new development.

Sec. 2. 30-A MRSA §4301, sub-§§7 and 11, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, are amended to read:

7. Implementation program. "Implementation program" means that component of a local growth management program ~~which~~ that begins after the adoption of a comprehensive plan and that includes the ~~policies and~~ full range of municipal policy-making powers, including spending and borrowing powers, as well as the powers to adopt or implement ordinances, codes, rules or other land use regulations which, tools or mechanisms that carry out the purposes and general policy statements and strategies of the comprehensive plan in a manner consistent with the goals and guidelines of subchapter ~~H~~ 2.

11. Moratorium. "Moratorium" means a land use ordinance or other regulation approved by a municipal legislative body ~~which~~ that, if necessary, may be adopted on an emergency basis and given immediate effect and that temporarily defers all

development, or a type of development, by withholding any permit, authorization or approval necessary for the specified type or types of development.

Sec. 3. 30-A MRSA §4360, sub-§3 is enacted to read:

3. Ordinance requirements. A municipality may adopt a rate of growth ordinance only if:

A. The ordinance is consistent with section 4314, subsection 3;

B. The ordinance sets the number of building or development permits, not including permits for affordable housing, at 105% or more of the mean number of permits issued within the municipality during the 10 years immediately prior to the year in which the number is calculated. The mean is determined by adding together the total number of permits issued for each year in the prior 10 years and then dividing by 10;

C. In addition to the permits established pursuant to paragraph B, the ordinance sets the number of building or development permits for affordable housing at no less than 10% of the number of permits set in the ordinance pursuant to paragraph B; and

D. The number of building or development permits allowed under the ordinance is recalculated every 3 years.

Sec. 4. Effective date. This Act takes effect July 1, 2007.

Effective July 1, 2007.

CHAPTER 598

S.P. 811 - L.D. 2077

An Act To Make Adjustments to the Allagash Wilderness Waterway

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

Sec. 1. 12 MRSA §1882, as enacted by PL 1997, c. 678, §13, is repealed and the following enacted in its place:

§1882. Access points and control stations

Except as provided in this section, the bureau may determine the location of access points, control stations and watercourse crossings within the waterway.

1. Spring, summer and fall motor vehicle access to watercourse. Spring, summer and fall access by motor vehicle to the edge of the watercourse must be maintained at:

- A. Chamberlain Thoroughfare Bridge;
- B. Churchill Dam;
- C. Umsaskis Lake Thoroughfare;
- D. Henderson Brook Bridge;
- E. Michaud Farm; and
- F. Twin Brooks.

2. Spring, summer and fall access by motor vehicle to existing short trails. Spring, summer and fall access by motor vehicle to short trails existing on the effective date of this subsection and leading to the watercourse must be maintained at:

- A. John's Bridge, limited to:
 - (1) Unloading and access during the months of May and September;
 - (2) Day use only with a permit from the bureau;
 - (3) Parking outside the restricted zone; and
 - (4) No vehicle access to the water's edge;
- B. Bissonette Bridge road, over the road existing on the effective date of this paragraph to the trail existing on the effective date of this paragraph to the water's edge;
- C. Finley Bogan, from the Inn Road to the top of the high bank;
- D. Ramsey Ledge Campsite, limited to the motor vehicle parking area behind vegetative screening. Self-contained motor vehicle camping is allowed and canoe access is allowed; and
- E. Indian Stream, by the trail existing on the effective date of this paragraph.

3. Snowmobile access to watercourse. The bureau shall maintain 19 snowmobile access points to the watercourse. Snowmobiles are prohibited on Allagash Lake and Allagash Stream.

4. Permanent watercourse crossings. Notwithstanding section 1876, subsection 1, only the following six bridges within the waterway are permanent watercourse crossings:

- A. Henderson Brook Bridge;

B. Reality Bridge, also known as Umsaskis Bridge;

C. Churchill Dam Bridge;

D. John's Bridge;

E. Chamberlain Thoroughfare Bridge; and

F. Allagash Stream Bridge.

Watercourse crossings may not be constructed at the locations of the former Schedule Brook Bridge or the former Bissonette Bridge. Any right or interest granted to any person by the State to construct or maintain a bridge at those sites is extinguished.

Sec. 2. Findings of fact. The Legislature finds that the Henderson Brook Bridge in the Allagash Wilderness Waterway, which is designated as a wild river pursuant to the federal Wild and Scenic Rivers Act, 16 United States Code, Section 1273(a)(ii), is a vital economic link to the Town of Allagash and the surrounding areas, providing access:

1. Timber harvesting. For approved timber harvesting operations of approximately 150,000 tons of timber annually, with an economic value to the region of over \$6,500,000 per year;

2. Employment. To enhanced employment for the residents of the region; and

3. Recreation. To recreational activities in the Allagash region.

Sec. 3. Private rights to "ghost bridges" to be extinguished. The Department of Conservation, Bureau of Parks and Lands shall identify any private right, title or interest held by any person to construct or maintain a bridge at the locations of the former Schedule Brook Bridge or the former Bissonette Bridge, or at any other point within the Allagash Wilderness Waterway, and shall make every effort to enter into agreements with those persons to convey all such rights to the bureau on behalf of the State. Upon conveyance to the State of those rights, all such rights are extinguished. Nothing in this section may be construed to interfere with any person's right to lawfully cross the watercourse as defined in the Maine Revised Statutes, Title 12, section 1872. The department shall report to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters on the progress of these discussions at the time it submits its proposed amendments to the 1999 Allagash Wilderness Waterway management plan under section 4.

Sec. 4. Submission of management plan for review. No later than January 15, 2007, the Department of Conservation, Bureau of Parks and

Lands shall submit all changes proposed to the 1999 Allagash Wilderness Waterway management plan to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters for review. The department may proceed with improvements proposed in the plan that were begun prior to the effective date of this Act, but may not begin any other improvements proposed in the plan until the committee completes its review. Following completion of its review, the committee may report out a bill to the First Regular Session of the 123rd Legislature on any matter pertaining to the management of the Allagash Wilderness Waterway.

Sec. 5. Study. The Commission to Study the Henderson Brook Bridge in the Allagash Wilderness Waterway, referred to in this section as "the commission," is established.

1. Commission membership. The commission consists of 15 members, appointed as follows:

- A. Two members of the Senate, appointed by the President of the Senate;
- B. Three members of the House of Representatives, appointed by the Speaker of the House;
- C. Seven members appointed by the Governor, as follows:
 - (1) Three persons, each representing a statewide environmental organization;
 - (2) One person representing the interests of the Friends of the Allagash;
 - (3) One person representing the interests of J.D. Irving, Limited;
 - (4) One person representing the interests of Clayton Lake Woodlands; and
 - (5) One person representing the interests of Seven Islands Land Company;
- D. The Commissioner of Conservation, or the commissioner's designee;
- E. The Executive Director of the Sportsman's Alliance of Maine, or the executive director's designee; and
- F. The representative of the National Park Service, Boston Support Office having responsibility for assistance to the State on matters pertaining to the Allagash Wilderness Waterway under the National Park Service's Rivers, Trails and Conservation Program, or that person's designee.

In appointing legislative members, the Speaker of the House and the President of the Senate shall ensure that not more than 3 of the 5 appointed Legislators are members of the same political party. The Governor shall make his appointments from names recommended to the Governor by the organizations referenced in paragraph C.

2. Chairs. The first-named Senate member is the Senate chair of the commission and the first-named House of Representatives member is the House chair of the commission.

3. Appointments. All appointments must be made no later than 30 days following the effective date of this Act. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. Within 15 days after appointment of all members, the chairs shall call and convene the first meeting of the commission.

4. Duty. The duty of the commission is to make recommendations on the design of a bridge to replace the existing Henderson Brook Bridge within the Allagash Wilderness Waterway. In performing this duty, the commission shall consider the economic, environmental and aesthetic issues associated with the design, the specific location of the bridge within the immediate area of the existing bridge, approaches to the bridge and the configuration of a motor vehicle access site to the watercourse at the bridge. The commission shall consider designs that locate the bridge abutments away from the edge of the watercourse to the extent that is within economic and engineering constraints. In conducting its study, the commission shall consult with engineering professionals experienced in bridge design and construction, including, but not limited to, design professionals affiliated with the Advanced Engineered Wood Composites Center at the University of Maine.

5. Staff assistance. The Legislative Council shall provide necessary staffing services to the commission.

6. Compensation. Legislative members of the commission are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses related to their attendance at authorized meetings of the commission. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses and, upon a demonstration of financial hardship, a per diem equal to the legislative per diem for their attendance at authorized meetings of the commission.

7. Report. The commission shall submit a preliminary report to the Joint Standing Committee on

Agriculture, Conservation and Forestry no later than November 1, 2006 and shall submit a final report including its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters no later than January 15, 2007. The commission is authorized to introduce legislation related to its report to the First Regular Session of the 123rd Legislature at the time of submission of its final report.

8. Extension. Upon request by the commission, the Legislative Council may grant a limited extension of time for the commission to complete its study and make its final report.

9. Commission budget. The Department of Conservation, Bureau of Parks and Lands shall, no later than 15 days following the effective date of this Act, transfer to the Executive Director of the Legislative Council sufficient funds to fund all per diem and expense costs for legislative members of the commission. All other costs of the commission, including per diem and expenses for other members, must be funded by the bureau from within existing resources. The commission shall hold at least 6 meetings. The Executive Director of the Legislative Council shall administer any funds received by the commission. The executive director shall notify the chairs of the commission when sufficient funding has been received. Within 10 days after its first meeting, the commission shall present a work plan and proposed budget to the Legislative Council for its approval. The commission may not incur expenses that would result in the commission's exceeding its approved budget.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

LEGISLATURE

Study Commissions - Funding 0444

Initiative: Allocates funds for the per diem and expenses of legislative members of the Commission To Study the Henderson Brook Bridge in the Allagash Wilderness Waterway. Funds are provided through a transfer from the Department of Conservation to the Legislature.

OTHER SPECIAL REVENUE

| FUNDS | 2005-06 | 2006-07 |
|-----------------------------------|---------|---------|
| Personal Services | \$0 | \$1,650 |
| All Other | \$0 | \$3,000 |
| <hr/> | | |
| OTHER SPECIAL REVENUE FUNDS TOTAL | \$0 | \$4,650 |

See title page for effective date.

CHAPTER 599

H.P. 1371 - L.D. 1957

An Act To Establish the Midcoast Regional Redevelopment Authority

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

Whereas, the United States Government has announced its intention to close Brunswick Naval Air Station in Cumberland County; and

Whereas, a legal entity needs to be created to accept the assets of the facility and manage a locally driven process for its readjustment and reuse; and

Whereas, it is critical to implement a reuse and readjustment strategy for the facility to preserve the local economies of the affected communities; and

Whereas, the United States Government is planning to transfer the assets for their reuse; 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. 5 MRSA c. 383, sub-c. 3, art. 2-B is enacted to read:

Article 2-B

MIDCOAST REGIONAL REDEVELOPMENT AUTHORITY

§13083-G. Midcoast Regional Redevelopment Authority established

The Midcoast Regional Redevelopment Authority is established to carry out the purposes of this article. The authority is entrusted with acquiring and managing the properties within the geographic boundaries of Brunswick Naval Air Station.

§13083-H. Definitions

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

1. Authority. "Authority" means the Midcoast Regional Redevelopment Authority established in section 13083-G.