

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

CHAPTER 600

H.P. 1386 - L.D. 1979

**An Act To Allow the Maine
Educational Center for the Deaf and
Hard of Hearing and the Governor
Baxter School for the Deaf To Lease
Classroom Space to Independent
Schools**

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

Whereas, pursuant to the deed of gift from Governor Baxter, Mackworth Island was given to the State of Maine as trustee in trust for the benefit of the people of Maine for state public purposes; and

Whereas, Governor Baxter declared that Mackworth Island was well adapted for recreational and educational purposes and that its use for children would be especially pleasing to him; and

Whereas, there are unused school facilities at the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf on Mackworth Island; and

Whereas, the State has retained ownership of Mackworth Island and the school facilities; and

Whereas, the Legislature finds that it would serve a state public purpose to lease unused school facilities to provide educational opportunities for children; and

Whereas, this legislation will allow the Department of Administrative and Financial Services to enter into agreements to lease unused school facilities at the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf consistent with the deed of gift and state law on excess state property; and

Whereas, this legislation needs to take effect in time to allow for the lease of the unused school facilities for the 2006-2007 school year; 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. 20-A MRSA §7407, sub-§6, as amended by PL 1999, c. 775, §11, is further amended to read:

6. Collection of fees. The school board may charge service and rental fees for use of facilities of the school. ~~Any~~ Except as provided in subsection 12-A, any funds received for service and rental fees must be retained by the school.

Sec. 2. 20-A MRSA §7407, sub-§12-A is enacted to read:

12-A. Lease of school property. The Department of Administrative and Financial Services may enter into lease agreements consistent with the deed of gift from Governor Percival Baxter and in accordance with state law and policy on the lease of state-owned facilities, including but not limited to the provisions of Title 5, chapter 154. Any funds received pursuant to this subsection must first be applied in accordance with Title 5, section 1784. Any excess revenue above the requirements of Title 5, section 1784 may be retained by the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf to be applied to statutorily authorized programs.

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

Effective April 27, 2006.

CHAPTER 601

S.P. 790 - L.D. 2045

**An Act To Implement the
Recommendations of the Commission
To Reform the State Budget Process**

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

Sec. 1. 5 MRSA §1664, as amended by PL 2005, c. 2, Pt. A, §6 and affected by §14, is repealed and the following enacted in its place:

§1664. Form of budget document

1. Form. The state budget document, setting forth a 4-year financial plan for the State Government for each fiscal year of the ensuing biennium and the following biennium, must:

A. Consist of a budget message by the Governor-elect or the Governor that outlines the 4-year financial plan of State Government for the ensuing biennium and the following biennium;

B. Embrace a general budget summary setting forth the aggregate figures of the budget in such a manner as to show the balanced relationship between the total proposed expenditures and the total anticipated revenues together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last completed fiscal year and the fiscal year in progress. The general budget summary must:

(1) Be supported by explanatory schedules or statements, classifying the expenditures contained therein by organization units, objects and funds and the income by organization units, sources and funds; and

(2) Include a summary and details of programs funded through the Fund for a Healthy Maine, presenting the allocation requirements and projected revenues and other available resources shown in a budget fund flow statement and a comparative statement that presents income sources for revenue projections and allocation estimates by program categories;

C. Include a financial plan for the following biennium with forecasted General Fund, Highway Fund and Fund for a Healthy Maine appropriation requirements and projected revenues by income sources as provided in chapter 151-B and other available resources shown in a budget fund flow statement and a comparative statement that presents income sources for revenue projections and appropriation estimates by major program categories;

D. Specifically describe the estimated loss in revenue during the last completed fiscal year and the fiscal year in progress, and the anticipated loss in revenue for each fiscal year of the ensuing biennium, caused by tax expenditures provided in Maine statutes. For purposes of this paragraph, "tax expenditures" means those state tax revenue losses attributable to provisions of Maine tax laws that allow a special exclusion, exemption or deduction or provide a special credit, a preferential rate of tax or a deferral of tax liability;

E. Contain the prioritized public improvements budget estimate required by section 1665, subsection 5;

F. Include statements of the bonded indebtedness of the State Government showing the debt redemption requirements, the debt authorized and unissued and the condition of the sinking funds; and

G. Contain any statements relative to the financial plan that the Governor-elect or the Governor considers desirable or that may be required by the Legislature.

2. Judicial Department appropriations or allocations. If the Governor submits legislation setting forth appropriations or allocations for the Judicial Department that differ from the full budget request submitted by the Judicial Department under Title 4, section 24, the Governor shall simultaneously submit a report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and judiciary matters explaining why the Governor's budget legislation differs from the Judicial Department's budget submission.

3. Office of Program Evaluation and Government Accountability appropriations or allocations. If the Governor submits legislation setting forth appropriations or allocations for the Office of Program Evaluation and Government Accountability that differ from the budget request presented by the Legislative Council on behalf of that office, the Governor shall simultaneously submit a report to the Legislative Council and the Office of Program Evaluation and Government Accountability explaining why the Governor's budget legislation differs from the Legislative Council's budget request.

4. Position identification. The Governor, when submitting the budget to the Legislature, shall submit the budget document and the budget bills in a manner that identifies positions authorized by the Legislature for less than 52 weeks in a fiscal year as "Positions - Full-time Equivalent," or "FTE," and positions authorized by the Legislature for 52 weeks in a fiscal year as "Positions - Legislative Count" for all funds. The State Budget Officer shall implement and administer procedures to ensure sufficient FTE and appropriation or allocation control for positions authorized by the Legislature for less than 52 weeks in a fiscal year.

5. Limit on General Fund appropriation. The total General Fund appropriation for each fiscal year of the biennium in the Governor's budget submission to the Legislature may not exceed the General Fund appropriation limitation established in section 1534.

Sec. 2. 5 MRSA §1665, sub-§1, as amended by PL 2005, c. 2, Pt. A, §7 and affected by §14, is further amended to read:

1. Expenditure and appropriation requirements. On or before September 1st of the even-numbered years, all departments and other agencies of the State Government and corporations and associations receiving or desiring to receive state funds under the provisions of law shall prepare, in the manner

prescribed by ~~and on blanks furnished them by~~ the State Budget Officer, and submit to the officer estimates of their expenditure and appropriation requirements for each fiscal year of the ensuing biennium ~~contrasted with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year.~~ The total General Fund appropriation requests submitted by each department and agency for each fiscal year may not exceed the General Fund appropriation of the previous fiscal year multiplied by one plus the average real personal income growth rate or 2.75%, whichever is less. For purposes of this subsection, "average real personal income growth rate" means the average for the prior 10 calendar years, ending with the most recent calendar year for which data is available, of the percent change in personal income in this State for a calendar year, as estimated by the United States Department of Commerce, Bureau of Economic Analysis, less the percent change in the Consumer Price Index for that calendar year. For purposes of this subsection, "Consumer Price Index" has the same meaning as in Title 36, section 5402, subsection 1. The expenditure estimates must be classified to set forth the data by funds, organization units, character and objects of expenditure. The organization units may be subclassified by functions and activities, or in any other manner, at the discretion of the State Budget Officer.

All departments and other agencies receiving or desiring to receive state funds from the Highway Fund shall submit to the officer estimates of their expenditure and appropriation requirements for each fiscal year of the ensuing biennium that do not exceed the Highway Fund appropriation of the previous fiscal year multiplied by one plus the average real personal income growth rate or 2.75%, whichever is less. The Highway Fund highway and bridge improvement accounts are exempt from this spending limitation.

Sec. 3. 5 MRSA §1665, sub-§2, as corrected by RR 2003, c. 2, §6, is repealed.

Sec. 4. 5 MRSA §1666, as amended by PL 2005, c. 457, Pt. GGG, §1, is further amended to read:

§1666. Review and revision of estimates

The Governor-elect or the Governor, with the assistance of the State Budget Officer, shall review the budget estimates, altering, revising, increasing or decreasing the items of the estimates as may be determined necessary in view of the needs of the various departments and agencies and the total anticipated income of the State Government during the ensuing biennium. This review must cover all budgets regardless of source of funds, including, but not limited to, budgets related to the Highway Fund, the Federal Revenue Sharing Fund and other special

revenue funds. The State Budget Officer, at the direction of the Governor-elect or the Governor shall then prepare a state budget document in the form required by law. The Governor-elect or the Governor is fully responsible for all budgetary recommendations made to the Legislature. The Governor shall transmit the budget document to the Legislature not later than the Friday following the first Monday in January of the first regular legislative session. At that time the Governor shall also transmit ~~any biennial budget bills that authorize appropriations or allocations in the upcoming biennium that the Governor may wish to propose~~ as well as any emergency bills that authorize additional appropriations or allocations in the current fiscal year that the Governor may wish to propose. A Governor-elect elected to a first term of office shall transmit the budget document to the Legislature not later than the Friday following the first Monday in February of the first regular legislative session. At that time the Governor-elect shall also transmit ~~any biennial budget bills that authorize appropriations or allocations in the upcoming biennium that the Governor may wish to propose~~ as well as any emergency bills that authorize additional appropriations or allocations in the current fiscal year that the Governor may wish to propose.

The Governor, when submitting the budget to the Legislature, shall submit the budget document and the General Fund and Highway Fund bills in a manner that identifies the gross amount of resources for each program. The gross unified budget bills and budget document encompass resources from the General Fund, Highway Fund, Federal Expenditures Fund, Federal Block Grant Fund, Other Special Revenue Funds, internal service funds and enterprise funds. Separate gross unified budget bills must be submitted for the General Fund and the Highway Fund. All funds except trust and agency funds, bond funds and costs of goods sold expenditures in internal service funds and enterprise funds are subject to legislative allocation. All programs with Highway Fund allocations and all internal service funds, enterprise funds and Other Special Revenue Funds accounts of the Department of Transportation are subject to legislative allocations and are presented for informational purposes only in the budget document and General Fund budget bills unless a separate Highway Fund budget is not enacted.

A biennial budget bill document transmitted by the Governor or Governor-elect must include a part that asks the Legislature whether it wishes to continue funding each individual tax expenditure, as defined in section 1664, provided in the statutes. The part must include for each tax expenditure a statutory section reference, a brief description of each tax expenditure and the loss of revenue estimated to be incurred by funding source and fiscal year. This paragraph applies with respect to the preparation of the budget document

and biennial budget bills for the ~~1998-1999~~ 2008-2009 biennium and thereafter.

See title page for effective date.

CHAPTER 602

H.P. 1435 - L.D. 2035

An Act Regarding Storm Water Program Administration

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

Sec. 1. 38 MRSA §353-B, sub-§2, ¶A, as amended by PL 2003, c. 246, §1, is further amended to read:

A. The base and maximum fees that may be assessed to categories of discharge activities are as follows.

Discharge Group	Base fee not to exceed	Maximum fee for individual in group
Publicly owned treatment facilities, greater than 6,000 gallons per day but less than 5 million gallons per day and no significant industrial waste	annual fee \$175	none
Publicly owned treatment facilities, 6,000 gallons per day or less	annual fee \$60	\$180

Publicly owned treatment facilities, greater than 5 million gallons per day or with significant industrial waste	annual fee	\$770	none
Major industrial facility, process wastewater (based on EPA list of major source discharges)	annual fee	\$1,850	none
Other industrial facility, process wastewater	annual fee	\$630	none
Food handling or packaging wastewater	annual fee	\$315	\$2,100
Fish rearing facility	annual fee	\$230	\$1,400
Noncontact cooling water	annual fee	\$90	\$7,000
Industrial or commercial sources, miscellaneous or incidental nonprocess wastewater	annual fee	\$115	\$2,100
Municipal combined sewer overflow	annual fee	\$115	\$1,400
Sanitary wastewater, excluding overboard discharge	annual fee	\$60	\$1,200