

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

Sec. 2. Transfer of funds. Notwithstanding any other provision of law, on or before October 1, 2006, the State Controller shall transfer \$25,000 from the unappropriated surplus of the General Fund to the Maine Coast Environmental Trust Fund account as established pursuant to the Maine Revised Statutes, Title 12, section 6136.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

MARINE RESOURCES, DEPARTMENT OF

Maine Coast Environmental Trust Fund

Initiative: Provides funds to restore the clam flats in Stockton Harbor.

OTHER SPECIAL REVENUE

FUNDS	2005-06	2006-07
All Other	\$0	\$25,000
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OTHER SPECIAL REVENUE		
FUNDS TOTAL	\$0	\$25,000

See title page for effective date.

CHAPTER 642

S.P. 417 - L.D. 1203

An Act To Amend the Laws Concerning Eminent Domain

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 23 MRSA §244, sub-§1, ¶C, as amended by PL 1989, c. 208, §§12 and 21, is further amended to read:

C. Actual reasonable expenses, but not to exceed ~~\$1,000~~ \$2,500, in searching for a replacement business or farm; and

Sec. 2. 23 MRSA §244, sub-§1, ¶D, as enacted by PL 1989, c. 208, §§12 and 21, is amended to read:

D. Actual reasonable expenses necessary to re-establish a displaced farm, nonprofit organization

or small business at its new site, in accordance with criteria to be established by the department, but not to exceed ~~\$10,000~~ \$20,000.

Sec. 3. 23 MRSA §244, sub-§3, as amended by PL 1989, c. 208, §§12 and 21, is further amended to read:

3. Fixed payments for business or farm displacements. Any displaced person eligible for payments under subsection 1 who is displaced from that person's place of business or farm operation and who is eligible under criteria established by the department may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection 1. The payment ~~shall consist~~ consists of a fixed payment in an amount to be determined according to criteria established by the department, except that any such payment ~~shall be~~ may not be less than \$1,000 nor more than ~~\$20,000~~ \$100,000. A person whose sole business at the displacement dwelling is the rental of property to others ~~shall~~ does not qualify for a payment under this subsection. In the case of a business no payment may be made under this subsection unless the department is satisfied that the business:

- A. Cannot be relocated without a substantial loss of its existing patronage; and
- B. Is not part of a commercial enterprise having more than 3 other establishments not being acquired by the department, ~~which that~~ that are engaged in the same or similar business.

Sec. 4. 30-A MRSA §3101, sub-§§3 and 4 are enacted to read:

3. Business relocation benefits. Whenever the acquisition of real property pursuant to this section results in the displacement of a business or farm, the municipality shall provide payment for moving and related expenses as applicable under Title 23, section 244.

4. Residence relocation benefits. Whenever the acquisition of real property pursuant to this section results in the displacement of a person from a dwelling, the municipality shall provide payment for moving and related expenses, as well as replacement housing as applicable under Title 23, sections 244 to 244-C.

Sec. 5. 30-A MRSA §5204, sub-§§10 and 11 are enacted to read:

10. Business relocation benefits. Whenever the acquisition of real property pursuant to this section results in the displacement of a business or farm, the municipality shall provide payment for moving and

related expenses as applicable under Title 23, section 244.

11. Residence relocation benefits. Whenever the acquisition of real property pursuant to this section results in the displacement of a person from a dwelling, the municipality shall provide payment for moving and related expenses, as well as replacement housing as applicable under Title 23, sections 244 to 244-C.

Sec. 6. In lieu of payments criteria review; report. The Department of Transportation shall review the criteria that are currently used to determine the payments made to businesses and farms in lieu of actual relocation costs under the Maine Revised Statutes, Title 23, section 244, subsection 3. The department shall compile information concerning claims and payments made under Title 23, section 244, subsection 3 since January 1, 2004. The department shall examine the consequences of using net operating income as a basis for in lieu payments, including any necessary consequences under federal law, regulations and programs. For the purposes of this section, "net operating income" means ordinary income less operating expenses from trade or business activities that are directly related to the subject property, excluding depreciation, amortization and interest, although the department may, in addition, use a different formulation of "net operating income." The department shall report by January 15, 2007 to the joint standing committee of the Legislature having jurisdiction over judiciary matters the information collected, the analysis completed, the conclusions reached and any recommended changes in law, rules or practice. The joint standing committee of the Legislature having jurisdiction over judiciary matters may report out legislation to the 123rd Legislature based on the review and report.

Sec. 7. Appropriations and allocations. The following appropriations and allocations are made.

TRANSPORTATION, DEPARTMENT OF

Highway and Bridge Improvement 0406

Initiative: Allocates funds for the additional cost of purchasing certain properties through the eminent domain process.

HIGHWAY FUND	2005-06	2006-07
All Other	\$0	\$46,667
HIGHWAY FUND TOTAL	\$0	\$46,667

See title page for effective date.

CHAPTER 643

H.P. 802 - L.D. 1159

**An Act To Promote Municipal-State
Transportation Investment
Partnerships**

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

Sec. 1. 23 MRSA §703-B is enacted to read:

§703-B. Financing new road construction

If the municipal officers of one or more municipalities determine it necessary that a public road be constructed to spur economic development, downtown revitalization or neighborhood preservation; to create new housing stock; to promote mixed-use or densely settled village centers; or to enhance public safety, then the municipal officers may petition the Department of Transportation to finance from the Highway Fund up to 50% of the cost of the proposed road construction, subject to available funds. The municipality shall have a department-approved transportation plan for state and state aid highways and comply with the policies and procedures adopted by the department. The municipality is responsible for securing the balance of funds and for undertaking project design, permitting and construction following department guidelines. The public road must meet state design standards and function as a major collector or arterial highway as defined in department rules. Prior to the commitment of funds by the department, the department shall notify the participating municipalities of the likely classification of the proposed road and what, if any, changes in classification might result for existing public ways in the project area.

Sec. 2. 23 MRSA c. 19, sub-c. 6-A is enacted to read:

SUBCHAPTER 6-A

**TRANSPORTATION INVESTMENT
PARTNERSHIPS**

§1821. State aid for arterial and major collector highway capital projects

Municipalities may choose to participate in the arterial and major collector highway capital projects program created under this section. Participating municipalities shall have a department-approved transportation plan for state and state aid highways and comply with policies and procedures adopted by the Department of Transportation. The plan must identify those capital improvements needed to remove or mitigate substandard conditions. A participating