

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

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

Penmor Lithographers
Lewiston, Maine
2005

and policies necessary to implement the recommendations; and be it further

Sec. 3. Legislation authorized. Resolved: That the Joint Standing Committee on Agriculture, Conservation and Forestry may submit a bill to the Second Regular Session of the 122nd Legislature to encourage and support long-term forest management and improved silviculture.

See title page for effective date.

CHAPTER 29

S.P. 445 - L.D. 1265

Resolve, Regarding Source Water Protection

Sec. 1. Report. Resolved: That the Drinking Water Program within the Department of Health and Human Services, in consultation with the Department of Environmental Protection, the Department of Conservation, Maine Geological Survey and the Department of Agriculture, Food and Rural Resources shall submit a report as provided in this section to the Joint Standing Committee on Natural Resources by February 1, 2006. The report must address whether additional requirements are needed for source water protection in this State and describe recommended options to address those needs. Options may include, but are not limited to, water supply source water protection approaches modeled after shoreland zoning, use of statutory performance standards and use of specific land use prohibitions or controls. The report may not address minimum state standards for excavations of 5 or more acres for borrow, clay, topsoil or silt.

After receipt and review of the report, the Joint Standing Committee on Natural Resources may report out legislation to the Second Regular Session of the 122nd Legislature requiring the Drinking Water Program within the Department of Health and Human Services to establish a process to allow public comment on the options recommended by the department and to report to a future Legislature with subsequent recommendations after consideration of the public comments by the Drinking Water Program within the Department of Health and Human Services, the Department of Environmental Protection, the Department of Conservation, Maine Geological Survey and the Department of Agriculture, Food and Rural Resources.

See title page for effective date.

CHAPTER 30

H.P. 955 - L.D. 1369

Resolve, Directing the Intergovernmental Advisory Group to Review Unfunded Mandates

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

Whereas, this resolve directs the Intergovernmental Advisory Group to review certain unfunded mandates; and

Whereas, the review must be initiated before the 90-day period expires in order that the review may be completed and a report submitted in time for submission to the next legislative session; 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

Sec. 1. Intergovernmental Advisory Group to conduct review. Resolved: That the Intergovernmental Advisory Group established in the Maine Revised Statutes, Title 5, section 12004-I, subsection 75-C shall conduct a review of unfunded state mandates that pertain to municipalities and shall identify those unfunded state mandates that were enacted prior to November 23, 1992, the effective date of the Constitution of Maine, Article IX, Section 21, which limits the imposition of unfunded state mandates. In conducting its review, the Intergovernmental Advisory Group shall:

1. Prepare a comprehensive listing of the state mandates placed on municipalities that are considered by the affected units of government to be deserving of analysis and review;

2. Identify for each listed mandate the precise legal origin of the mandate, whether state law or rule, a combination of both or any other originating authority. The Intergovernmental Advisory Group shall also provide notice and analysis of federal mandates that contribute to or conflict with specific state mandates on municipalities;

3. Identify the statewide local government costs of each listed mandate within the limits of practicability; and

4. Identify the characteristics of each listed mandate that cause the affected units of government to

believe the mandate is deserving of review. Identified characteristics may include, but are not limited to, the following:

- A. Archaic or unnecessary features or features lacking significant public purpose;
- B. Inadequate funding;
- C. Disproportionate efforts for the public policy benefit;
- D. Coordination between federal law and regulation and state law and rule;
- E. Subjection to excessive administrative oversight; and
- F. An insufficient structure to predict, measure or control local costs; and be it further

Sec. 2. Participation of other entities. Resolved: That the Intergovernmental Advisory Group, in the conduct of its duties, may seek information from all related state agencies, statewide or regional associations representing municipalities and statewide associations representing the beneficiaries or interests that may be affected by the repeal, modification, redesign, enhanced coordination or delayed implementation of the mandates; and be it further

Sec. 3. Report. Resolved: That, no later than November 2, 2005, the Intergovernmental Advisory Group shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the Joint Standing Committee on State and Local Government and the Legislative Council. In its proposed implementing legislation, the Intergovernmental Advisory Group may include proposals to repeal, modify, redesign, effectively coordinate or delay the implementation of any of the listed mandates, as may be appropriate. The Intergovernmental Advisory Group is not authorized to introduce legislation. Following receipt and review of the report, the Joint Standing Committee on State and Local Government may report out a bill to the Second Regular Session of the 122nd Legislature.

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

Effective May 20, 2005.

CHAPTER 31

H.P. 24 - L.D. 21

Resolve, Directing the Department of Health and Human Services To Adopt Rules Regarding the Licensing of New Opioid Treatment Programs

Sec. 1. Rulemaking. Resolved: That, by November 1, 2005, the Department of Health and Human Services, Office of Substance Abuse shall adopt rules regarding the licensing of new opioid treatment programs to clarify that certificate of need requirements are controlled by the Maine Revised Statutes, Title 22, chapter 103-A and to require the following regarding the licensing process: early discussions among representatives of the proposed program, the municipality and residents of the municipality about the proposed program and options for siting; notice to the public in a local newspaper regarding the proposed program and a public meeting to discuss the program; a public meeting for representatives of the proposed program to present information about opioid treatment and plans for the program and for the public to provide input regarding those plans; and annual meetings for licensed opioid treatment programs and their boards with the municipalities in which they are located and municipal law enforcement and residents. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 32

S.P. 500 - L.D. 1458

Resolve, Regarding the Conveyance of a Right-of-way across the Elizabeth Levinson Center in Bangor

Sec. 1. Commissioner of Administrative and Financial Services authorized to transfer easement with no covenants of title across Elizabeth Levinson Center in Bangor, subject to conditions. Resolved: That the Commissioner of Administrative and Financial Services is authorized and directed to convey to Leo J. Davis, his heirs and assigns, an easement with no covenants of title across the Elizabeth Levinson Center in Bangor. The Commissioner of Administrative and Financial Services shall convey the easement upon the following conditions.