

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 190

S.P. 809 - L.D. 2070

Resolve, To Ensure the Availability of Public Drinking Water Supplies

Sec. 1. Department of Environmental Protection; public water systems stakeholders.

Resolved: That the Department of Environmental Protection shall work with the drinking water program of the Department of Health and Human Services, the Public Utilities Commission, the United States Environmental Protection Agency, environmental groups, community public water systems and the Attorney General's office with regard to pending rule-making activities pursuant to the Maine Revised Statutes, Title 38, section 470-H in order to reconcile, to the extent feasible, the objectives of protecting aquatic life and other uses as provided in Title 38, section 470-H and the objective of allowing community public water systems to use their existing water supplies to provide water service. In order to carry out the objectives of this resolve, the department shall submit proposed rules to the Board of Environmental Protection for consideration pursuant to Title 38, section 470-H and, as necessary, shall propose statutory changes. The proposed statutory changes must be submitted to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 1, 2007; and be it further

Sec. 2. Authority to report legislation.

Resolved: That the joint standing committee of the Legislature having jurisdiction over natural resources matters may report out legislation to the First Regular Session of the 123rd Legislature in connection with proposed statutory changes proposed by the Department of Environmental Protection pursuant to section 1.

See title page for effective date.

CHAPTER 191

H.P. 1287 - L.D. 1847

Resolve, To Require the Department of Labor, in Consultation with Interested Parties, To Examine the Laws and Practices Regarding the Definition of "Employment" for Purposes of Unemployment Compensation

Sec. 1. Definition of employment. Resolved: That the Department of Labor, in consultation with interested parties, shall study the laws and practices used in defining "employment" for purposes

of unemployment compensation. The study must include an examination of the following issues and any others the department or an interested party determines to be appropriate:

1. The adequacy of current laws and standards that define "employment" for purposes of unemployment compensation, including the Maine Revised Statutes, Title 26, section 1043, subsection 11, paragraph E, to distinguish accurately between persons who are bona fide independent contractors and those who should be considered employees;
2. The need for, or benefit of, revising the Department of Labor survey instrument used to determine who is a bona fide independent contractor;
3. The need for, or benefit of, the State's adopting Internal Revenue Service guidelines for determining who is a bona fide independent contractor;
4. The need for, or benefit of, the State's adopting the same criteria for determining who is a bona fide independent contractor for purposes of unemployment compensation that it now follows for purposes of workers' compensation; and
5. The need for, or benefit of, the State's instituting a precertification program for bona fide independent contractors similar to programs in Montana and other states; and be it further

Sec. 2. Report. Resolved: That the Department of Labor, after consultation with interested parties, shall submit a report to the joint standing committee of the Legislature having jurisdiction over labor matters by January 15, 2007 regarding this resolve. The report must include findings, recommendations and any proposed implementing legislation. The joint standing committee of the Legislature having jurisdiction over labor matters may report out legislation relating to the subject matter of this resolve to the First Regular Session of the 123rd Legislature; and be it further

Sec. 3. Participants in study. Resolved:

That, in conducting the study under section 1 and preparing the report under section 2, the Department of Labor shall call upon interested parties to participate and offer comment and shall offer equal participation to representatives of both management and labor interests, including, but not limited to, representatives of:

1. Contractors who employ the services of subcontractors;
2. Self-employed, unincorporated subcontractors;

3. Persons engaged in the installation of flooring materials; and

4. Attorneys who practice in labor law, including the areas of unemployment compensation and workers' compensation law; and be it further

Sec. 4. Funding. Resolved: That the Department of Labor shall seek outside funds from the Federal Government, nonprofit foundations and other appropriate public or private sources to fund the costs of the study. Contributions to support the study may not be accepted from any party having a pecuniary or other vested interest in the outcome of the matters being studied. To the extent that outside contributions are inadequate to pay for all costs of the study, the department shall make every effort to complete the study and report within existing budgeted resources.

See title page for effective date.

CHAPTER 192

S.P. 760 - L.D. 1973

Resolve, To Improve Quality and Access to Mental Health Care Through the Development of a Joint Strategic Plan

Sec. 1. Strategic plan. Resolved: That the Department of Health and Human Services, referred to in this resolve as "the department," shall collaborate with the Dorothea Dix Psychiatric Center and the Riverview Psychiatric Center and seek input from Acadia Hospital and Spring Harbor Hospital and community hospitals that have psychiatric beds, consumers of mental health services and community mental health service providers to develop a comprehensive strategic plan for the provision of hospital-based mental health services. The plan must create a coordinated safety net of programs and services that will serve Maine's citizens in the future.

1. The plan development must consist of the following 3 steps:

A. Step one, in which the 4 mental health hospitals shall work together with the department to compile a first draft of the strategic plan;

B. Step 2, in which the community hospitals that have psychiatric beds shall work together with the 4 mental health hospitals and the department to compile a 2nd draft of the strategic plan. This plan must be presented to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 15, 2007; and

C. Step 3, in which the department shall invite the participation of consumers of mental health services and community mental health services providers. The department shall consider the input of the consumers and providers provided in this step.

All participants from steps one to 3 shall then work together to compile a final draft of the strategic plan, which must then be presented to the joint standing committee of the Legislature having jurisdiction over health and human services matters by March 15, 2007.

2. The participants in the development of the draft strategic plans may request the assistance of the Office of Fiscal and Program Review with regard to data and the fiscal impact of program design and the provision of services.

See title page for effective date.

CHAPTER 193

S.P. 827 - L.D. 2095

Resolve, Authorizing the Department of Conservation, Bureau of Parks and Lands To Convey Certain Lands

Preamble. The Constitution of Maine, Article IX, Section 23 requires that real estate held by the State for conservation or recreation purposes may not be reduced or its uses substantially altered except on the vote of 2/3 of all members elected to each House.

Whereas, certain real estate authorized for conveyance by this resolve is under the designations described in the Maine Revised Statutes, Title 12, section 598-A; and

Whereas, the Director of the Bureau of Parks and Lands within the Department of Conservation may sell or exchange lands with the approval of the Legislature in accordance with the Maine Revised Statutes, Title 12, sections 1837 and 1851, now, therefore, be it

Sec. 1. Director of Bureau of Parks and Lands authorized, but not directed, to convey certain real estate in Winterville Plantation, County of Aroostook. Resolved: That the Director of the Bureau of Parks and Lands within the Department of Conservation may by quitclaim deed without covenant convey for appraised fair market value, and on such other terms and conditions as the director may direct, to Richard Vaillancourt and Norma Vaillancourt, of Eagle Lake, Maine, with a mailing address of Post Office Box 6, Eagle Lake, Maine 04739, a certain lot of land in Winterville Plantation, County of Aroostook, State of Maine,