

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 20, 2007

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

Penmor Lithographers
Lewiston, Maine
2007

Health and Human Services shall complete the assessment and planning process for individuals who currently meet the criteria in section 1 no later than October 1, 2007; and be it further

Sec. 6. Report. Resolved: That, by November 1, 2007, the Department of Health and Human Services shall report to the Joint Standing Committee on Health and Human Services on the progress made to implement this resolve. This report must recount the activities to date and identify any needs to be addressed. The joint standing committee is authorized to submit legislation that it determines necessary to further the intent of this resolve to the Second Regular Session of the 123rd Legislature.

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

Effective June 6, 2007.

CHAPTER 62

H.P. 1238 - L.D. 1780

Resolve, To Convene a Working Group To Review Statutory Language and Propose Standards To Ensure the Use of Respectful Language

Sec. 1. Convene working group. Resolved: That the Maine Developmental Disabilities Council, referred to in this resolve as "the council," shall convene a working group to review the terminology that is currently contained in the Maine Revised Statutes to refer to persons with disabilities. The council may propose standards to be used prospectively by the Revisor of Statutes when preparing bills that enact or amend legislative language referring to persons with disabilities. In convening the working group, the council shall invite the participation of representatives of the Maine Disability Advocacy Coalition and other interested parties. In preparing its recommendations, the working group:

1. May identify terms that it recommends be designated for substitution and may recommend replacement terms;
2. Shall ensure that any proposal for terminology changes reflects a positive approach to persons with disabilities;
3. Shall include in any proposal language that ensures that terminology changes may not be implemented if the change would alter or render ambiguous the substantive meaning of any statutory unit;

4. Shall ensure that any proposed language changes are not in conflict with or prohibited by federal requirements; and

5. May recommend that each department, bureau and agency of State Government, when adopting or amending its rules and policies and when publishing or republishing its publications, incorporate the standards proposed; and be it further

Sec. 2. Report and recommendations. Resolved: That, by November 1, 2007, the council shall report to the Joint Standing Committee on Health and Human Services the findings and recommendations of the working group, including any necessary implementing legislation; and be it further

Sec. 3. Authority for legislation. Resolved: That, after receipt and review of the report and recommendations submitted pursuant to section 2, the Joint Standing Committee on Health and Human Services may submit legislation to the Second Regular Session of the 123rd Legislature.

See title page for effective date.

CHAPTER 63

H.P. 728 - L.D. 968

Resolve, Regarding Legislative Review of Portions of Chapter 587: In-stream Flow and Lake and Pond Water Levels, a Major Substantive Rule of the Department of Environmental Protection

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

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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. Adoption. Resolved: That final adoption of portions of Chapter 587: In-stream Flow and Water Level Standards, a provisionally adopted major substantive rule of the Department of Environmental Protection that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the rule is amended as follows:

1. Language is added to clarify that the rule establishes river and stream flow requirements and lake and pond water level requirements;

2. Throughout the rule, reference to "water flow plan" is changed to "alternative water flow" and "water level plan" is changed to "alternative water level";

3. In the summary it is provided that a water use that fails to comply with the requirements of the rule is subject to penalties pursuant to the Maine Revised Statutes, Title 38, section 349;

4. In section 1 a provision is added to make the rule apply to withdrawals or other activity or direct or indirect removal, diversion or use of the waters that causes the natural flow or water level to be altered for all nontidal fresh surface waters of the State;

5. In section 2 a provision is added to define "water user" to mean a person whose withdrawal or other activity or direct or indirect removal, diversion or use of the water by means of a structure or facility causes the natural flow or water level to be altered in any nontidal fresh surface waters of the State;

6. In section 1(D) new provisions are added relating to withdrawal certificates to provide:

A. That a withdrawal certificate must allow withdrawals up to the system design capacity of a community water system;

B. That considerations of economic and technical feasibility must include consideration of the water system's legislative charter or other authority, watershed protection benefits of the existing source and the financial viability of the water system, as long as the conditions and limitations of the certificate can be accomplished within the Public Utilities Commission's existing approved rate schedule of the system or do not in and of themselves cause a water system to request a rate increase of its customers;

C. That a water system is allowed to incorporate the cost of compliance with conditions of a certificate into the system's long-range capital plan;

D. That approval of withdrawal certificate conditions is required by the Department of Health and Human Services' drinking water program with technical assistance from the Office of the Public Advocate on economic issues; and

E. That the intent of the certificate process is to accommodate the needs of the water systems while striving to move towards achievement of water quality requirements;

7. In section 2(F) the definition of "system design capacity" is amended to add a provision that the amount of water that is available for water system purposes is expressed as annual withdrawal in total gallons per year;

8. In section 2(F) it is provided that existing system infrastructure includes water treatment and distribution facilities and other necessary structures;

9. Each reference to "groundwater extraction" is removed from the rule;

10. In section 5(A) language is added to the narrative requirements to provide that withdrawals or other activity or direct or indirect removal, diversion or use of Class A, B or C waters must maintain flows sufficient to protect all water quality standards;

11. In sections 5(B) and 5(C) language is added to provide that flow requirements established by the standard allowable alteration in Class A, B and C waters may not be less than the seasonal aquatic base flow, except when natural conditions alone cause those flows to be less;

12. In section 7 language is added to provide that the review of the alternative water flow or alternative water level by other state natural resource agencies and the public is a 30-day review and excludes reference to review by federal agencies;

13. In section 7(B) language is added providing that at the request of an applicant, the Department of Environmental Protection may conduct field evaluations sufficient to determine an alternative water flow or alternative water level;

14. In section 8(A) language is deleted specifying that flows or water levels may be established provided they are protective of all water quality standards, including all designated uses and characteristics of the water body;

15. In section 8(A) it is provided that amendments or modifications to an existing permit that do not alter the manner of use or the amount of the water withdrawal, as stated in the permit, do not require review under the rule;

16. In section 10(B) it is provided that an existing water system has 5 years from the date it is notified by the Department of Environmental Protection of non-compliance with the in-stream flow or water level requirements to obtain a water system withdrawal certificate and to enter into an agreement to take the necessary actions;

17. In section 12 it is provided that any activity altering the flow or water level that requires a new or

reissued permit must be regulated according to the flow and water level requirements in the rule; and

18. Any technical changes to the rule necessary to accomplish the changes described in this resolve are made.

The Board of Environmental Protection is not required to hold hearings or undertake further proceedings prior to final adoption of the rule in accordance with this section.

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

Effective June 6, 2007.

CHAPTER 64
H.P. 1277 - L.D. 1830

**Resolve, Regarding Legislative
Review of Portions of Chapter
872: Exemptions from the Ban
on Sale of Mercury-added
Switches, Relays and
Measuring Devices, a Major
Substantive Rule of the
Department of Environmental
Protection**

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

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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. Adoption. Resolved: That final adoption of portions of Chapter 872: Exemptions from the Ban on Sale of Mercury-added Switches, Relays and Measuring Devices, a provisionally adopted major substantive rule of the Department of Environmental Protection that has been submitted to the Leg-

islature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective June 6, 2007.

CHAPTER 65
H.P. 1268 - L.D. 1816

**Resolve, Authorizing the State
Tax Assessor To Convey the
Interest of the State in Certain
Real Estate in the Unorganized
Territory**

Sec. 1. State Tax Assessor authorized to convey real estate. Resolved: That the State Tax Assessor is authorized to convey by sale the interest of the State in real estate in the Unorganized Territory as indicated in this resolve. Except as otherwise directed in this resolve, the sale must be made to the highest bidder subject to the following provisions.

1. Notice of the sale must be published 3 times prior to the sale, once each week for 3 consecutive weeks, in a newspaper in the county where the real estate lies except in those cases in which the sale is to be made to a specific person or persons as authorized in this resolve, in which case notice need not be published.

2. A parcel may not be sold for less than the amount authorized in this resolve. If identical high bids are received, the bid postmarked with the earliest date is considered the highest bid.

If bids in the minimum amount recommended in this resolve are not received after the notice, the State Tax Assessor may sell the property for not less than the minimum amount without again asking for bids if the property is sold on or before April 1, 2008.

Employees of the Department of Administration and Financial Services, Bureau of Revenue Services and spouses, siblings, parents and children of employees of the Bureau of Revenue Services are barred from acquiring from the State any of the real property subject to this resolve.

Upon receipt of payment as specified in this resolve, the State Tax Assessor shall record the deed in the appropriate registry at no additional charge to the purchaser before sending the deed to the purchaser.

Abbreviations and plan and lot references are identified in the 2004 State Valuation. Parcel descriptions are as follows: