

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 2008

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 18, 2008

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

Penmor Lithographers
Lewiston, Maine
2008

deeper than 4 feet at any point and is in place prior to the children's entering the water;

4. Children 8 years of age and under wear a life jacket in the water; and

5. Children over 8 years of age have had swimming lessons and can demonstrate the ability to swim, or must wear a life jacket.

Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A and must be adopted and in effect no later than June 1, 2008; and be it further

Sec. 2. Notice regarding water activities.

Resolved: That the Department of Health and Human Services shall adopt rules that require a family child care provider or child care facility that offers water activities without a lifeguard on duty to provide written notice to the parent or guardian of every child who participates in water activities that there will not be a lifeguard on duty.

Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

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

Effective April 14, 2008.

CHAPTER 200

S.P. 771 - L.D. 1977

**Resolve, To Establish a
Statewide Protocol for the
Early Detection and Treatment
of Autism**

Sec. 1. Work group. Resolved: That the Department of Education and the Department of Health and Human Services shall convene an interdepartmental work group to develop and establish a uniform statewide protocol for screening children from 18 to 30 months of age for signs of autism, to examine models that meet criteria for evidence-based clinical trials to support individual young children with the diagnosis of autism served through the Child Development Services System and to examine the interdepartmental system for capacity and service availability. The interdepartmental work group shall report to the joint standing committees of the Legislature having jurisdiction over education and cultural affairs and health and human services matters by January 15, 2009. The joint standing committees of the Legislature having jurisdiction over education and cultural affairs and health and human services matters may submit legisla-

tion to the First Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 201

S.P. 904 - L.D. 2275

**Resolve, Authorizing the
Creation of a Veterans Campus
and the Conveyance of the
State's Interest in Certain Real
Property in the City of Bangor**

Preamble. Whereas, the proportion of veterans in Maine's population consistently is among the highest in the nation, the 2000 Federal Census estimated that nearly 155,000 veterans live in Maine and approximately 16% of the State's population over 18 years of age is composed of veterans; and

Whereas, the Maine Veterans' Homes was created by this State to provide long-term nursing care to Maine veterans pursuant to the Maine Revised Statutes, Title 37-B, chapter 11, and the Veterans Housing Coalition of Maine is a nonprofit organization incorporated in this State for the purpose of providing residential housing for veterans in need; and

Whereas, a diverse committee of stakeholders, including veterans' representatives, municipal officials, state officials, current campus occupants and Saxl Park committee members, has achieved unanimous agreement on a set of recommendations reflected in this resolve to create a veterans' campus of diverse services on a site in Bangor, which currently is part of the overall Dorothea Dix Psychiatric Center campus; and

Whereas, the Maine Veterans' Homes currently operates a 120-bed skilled nursing facility and a 30-bed residential care facility for veterans on a 15-acre parcel of land on a portion of the grounds of the Dorothea Dix Psychiatric Center, which land was donated by this State in 1994; and

Whereas, the Maine Veterans' Homes now intends to play a lead role in construction of an integrated veterans' campus, including a veterans' community-based outpatient clinic that is anticipated to be operated by the United States Department of Veterans Affairs, a veterans' hospice to be operated by the Maine Veterans' Homes and offices for the Bureau of Maine Veterans' Services located within the community-based outpatient clinic, on land adjacent to the existing Maine Veterans' Homes nursing facility at Bangor; and

Whereas, the Maine Veterans' Homes currently occupies almost all of its existing 15-acre parcel on the grounds of the Dorothea Dix Psychiatric Center and will require approximately 8.21 additional acres of

land to construct the new buildings and appurtenances contemplated for the integrated veterans' campus; and

Whereas, the Veterans Housing Coalition of Maine now intends to play a lead role in the renovation and creation of independent housing for veterans in a former state facility on the campus to be conveyed to the coalition pursuant to Resolve 2005, chapter 209; and

Whereas, the Saxl Park Committee has worked to maintain and promote the walking trails, athletic fields and other features of the area on the campus, which is known and established as Saxl Park, for use and enjoyment by the citizens of Bangor, veterans, visitors and others and for organized school sports activities; and

Whereas, the Department of Administrative and Financial Services, Bureau of General Services is authorized by its existing authority pursuant to the Maine Revised Statutes, Title 5, chapter 153 to lease to the Maine Veterans' Homes the land described in this resolve to allow Maine Veterans' Homes to begin site work for the development of the integrated veterans' campus in Bangor as soon as possible; and

Whereas, the components of this project will be developed in accordance with any campus plan adopted by the Department of Administrative and Financial Services, Bureau of General Services and otherwise in cooperation with the Dorothea Dix Psychiatric Center, the Bureau of General Services, Saxl Park, the Maine Veterans' Homes, John Bapst Memorial High School and other existing public users having an interest in land at the Dorothea Dix Psychiatric Center; now, therefore, be it

Sec. 1. Definitions. Resolved: That, as used in this resolve, the following terms have the following meanings.

1. "Commissioner" means the Commissioner of Administrative and Financial Services.

2. "State property" means the real estate described in section 4 with the buildings and improvements, together with all appurtenant rights and easements, and all personal property located on that property, including vehicles, machinery, equipment and supplies.

3. "Maine Veterans' Homes" means that entity created pursuant to the Maine Revised Statutes, Title 37-B, chapter 11 to provide certain medical care and housing for veterans.

4. "Veterans Housing Coalition of Maine" means the private nonprofit organization incorporated in Maine to provide independent residential housing for veterans in need; and be it further

Sec. 2. Authority to convey state property to establish a veterans' campus. Resolved:

That the commissioner is authorized to negotiate, draft, execute and deliver any documents necessary to transfer, lease or otherwise make available certain state property or property interests in Bangor for the purpose of creating an integrated veterans' campus. Any transfer must be executed on such terms as determined by the commissioner to be in the best interest of the State following an appraisal of the property. The property to be transferred is generally understood to be that described in section 4 and in Resolve 2005, chapter 209. The amount of property and the boundaries of any property to be transferred or otherwise to be made available must be determined by the commissioner in the commissioner's sole discretion. The commissioner may condition any conveyance pursuant to this resolve upon a requirement that any community-based outpatient clinic constructed at the site provide suitable office space for the Bureau of Maine Veterans' Services at no cost to the State. The commissioner also may condition any conveyance to the Maine Veterans' Homes upon the requirement that the Maine Veterans' Homes deed to the State approximately .37 acres of land and construct, at no cost to the State, replacement facilities at the Dorothea Dix Psychiatric Center to replace any facilities displaced by development of the integrated veterans' campus in Bangor; and be it further

Sec. 3. Property to revert to State. Resolved:

That any property transferred pursuant to this resolve for the purpose of providing a site for the location of an integrated veterans' campus in Bangor must be conveyed with the restriction that title to such property must revert to the State if such property ceases to be used to serve veterans. The State's purposes, to be specified in the relevant documents executing any conveyance, generally are to provide hospice care, a community-based outpatient clinic, housing for veterans in need and other services for veterans. If the state property is not used for such purposes by June 30, 2011 or ceases at any time thereafter to be used for such purposes, the property reverts to the State. If the property reverts to the State, the commissioner, after consultation with the Superintendent of the Dorothea Dix Psychiatric Center, may return the property to state use or seek qualified developers and proposals for the further sale or lease of the state property as long as the proposals are compatible with other uses on the Dorothea Dix Psychiatric Center campus; and be it further

Sec. 4. Description of property transferred. Resolved: That the state property authorized to be transferred pursuant to this resolve is bounded and described as follows:

A certain lot or parcel of land, together with improvements, located northerly of State Street in the City of

Bangor, County of Penobscot, State of Maine being more particularly described as follows:

Beginning at a 5/8" iron rebar marking the intersection of the northerly sideline of State Street and the most southerly corner of a parcel of land owned by Maine Veterans' Homes as described in book 5316, page 195 at the Penobscot County Registry of Deeds. Said rebar is depicted on a plan entitled "Standard Boundary Survey of Lands Located on State Street and Hogan Road, City of Bangor, County of Penobscot, State of Maine, Plan for Maine Veterans' Homes" dated February 8, 1993 and prepared by SMRT of Portland, Maine;

Thence, generally southwesterly by and along the northerly sideline of State Street following a curve to the right having a radius of 1463.09 feet, an arc length of 525.22 feet and a chord bearing and distance of S 55°15'30" W and 522.5 feet to a 5/8" capped iron rebar stamped "AMES A/E PLS 2311";

Thence, S 24°27'20" E by and along said State Street a distance of 31.8 feet to a 5/8" capped iron rebar stamped "AMES A/E PLS 2311";

Thence, S 69°38'10" W by and along the northerly sideline of said State Street a distance of 78.8 feet to a point marking the intersection of the northerly sideline of State Street and the easterly sideline of an easement along State Hospital Drive, so called;

Thence, N 20°21'55" W along said easement a distance of 30.2 feet to an angle point;

Thence, N 39°13'40" E along said easement a distance of 62.4 feet to a point of curvature;

Thence, following a curve to the left having a radius of 355.00 feet and an arc length of 272.49 feet to a point of tangency;

Thence, N 04°45'05" W along said easement a distance of 500.2 feet to a point of curvature;

Thence, following a curve to the left having a radius of 780.00 feet and an arc length of 167.98 feet to a point of tangency;

Thence, N 17°05'25" W along said easement a distance of 124.0 feet to a point of curvature;

Thence, following a curve to the right having a radius of 270.00 feet and an arc length of 93.16 feet to a point of tangency;

Thence, N 02°40'45" E along said easement a distance of 98.7 feet to a point on a nontangent curve;

Thence, following a nontangent curve to the left having a radius of 163.00 feet, an arc length of 220.01 feet and a chord bearing and distance of N 43°24'20" E and 203.7 feet to a point. Said point being approximately 30 feet easterly of the centerline of an access road leading to the southerly entrance of Dorothea Dix Psychiatric Center;

Thence, N 64°48'25" E a distance of 181.4 feet to a 5/8" capped iron rebar stamped "AMES A/E PLS 2311";

Thence, S 80°31'15" E a distance of 146.0 feet to a 5/8" capped iron rebar stamped "AMES A/E PLS 2311" marking the westerly line of land of said Maine Veterans' Homes as described in book 5316, page 195 at the Penobscot County Registry of Deeds;

Thence, S 09°25'45" W by and along the westerly line of said Maine Veterans' Homes a distance of 588.1 feet to a 4" x 4" granite monument;

Thence, S 75°42'25" W by and along said Maine Veterans' Homes a distance of 217.0 feet to a 5/8" iron rebar;

Thence, S 05°00'25" E by and along said Maine Veterans' Homes a distance of 257.8 feet to a 5/8" iron rebar;

Thence, S 52°14'55" E by and along said Maine Veterans' Homes a distance of 423.6 feet to the point of beginning;

For source of title refer to deeds from George W. Spratt to the State of Maine as described in book 601, page 24; Gibson, Prescott and Hersey to the State of Maine as described in book 601, page 26; and Trustees of Hersey Estate to The State of Maine as described in book 601, page 27, all recorded at the Penobscot County Registry of Deeds.

The above-described parcel of land is benefited by an easement for access and utilities (width of easement varies). Said easement is generally described as leading from State Street and running northerly to the Dorothea Dix Psychiatric Center, being known as State Hospital Drive, and depicted on a plan entitled "Property of The State of Maine, State Street & Hogan Road, Bangor, Maine, Property to be Conveyed to Maine Veterans' Homes" dated March 5, 2007, last revised September 25, 2007 and prepared by AMES A/E of Bangor, Maine.

The above-described parcel is also conveyed subject to all and with the benefit of all terms, conditions, easements and restrictions of record.

The above-described parcel of land contains 8.21 acres. Bearings are based on Grid North, Maine East Zone, NAD27 as taken from the above-referenced plan; and be it further

Sec. 5. Property to be conveyed as is. Resolved: That the property to be conveyed pursuant to this resolve must be conveyed as is, with no representations or warranties. Title must be transferred by quitclaim deed without covenant or release deed; and be it further

Sec. 6. Competitive selection of landlord for the community-based outpatient clinic. Resolved: That any conveyance of land made pursu-

ant to this resolve may be conditioned by the commissioner upon a requirement that the entity to which the property is conveyed must lease a sufficient portion of that land to a nonowner entity upon the nonowner's selection by the United States Department of Veterans Affairs to construct a community-based outpatient clinic at the integrated veterans' campus in Bangor. The construction plans of any owner entity or nonowner entity must be approved by both the Department of Administrative and Financial Services, Bureau of General Services and the Maine Veterans' Homes, and an owner entity is allowed to recover in a lease to a nonowner the owner's costs to develop the site used by the nonowner entity. If a nonowner entity needs to demonstrate its ability to control the site to be fairly considered during any selection process conducted by the United States Department of Veterans Affairs to construct a community-based outpatient clinic in Bangor, the owner entity shall enter into an option agreement or other arrangement sufficient to permit such control to be demonstrated by the nonowner entity; and be it further

Sec. 7. Exemptions. Resolved: That any conveyance made pursuant to this resolve is exempt from any statutory or regulatory requirement that the property described herein must first be offered for use to the Maine State Housing Authority or to any other federal, state or local agency; and be it further

Sec. 8. Execution of documents. Resolved: That the State, by and through the commissioner, is authorized to execute:

1. A deed to transfer the property according to the terms herein;
2. Negotiate, draft, execute and deliver any documents necessary to settle any boundary line disputes for the property described herein;
3. Exercise the power of eminent domain to quiet title, if necessary, regarding the property described herein;
4. Negotiate, draft, execute and deliver any easements or other rights that, in the discretion of the commissioner, may contribute to the value of the transfer of the State's interest in the property described herein; and
5. Release any interests in the property described herein that, in the discretion of the commissioner, do not contribute to the value of the state property adjacent to the property described herein; and be it further

Sec. 9. Proceeds. Resolved: That any proceeds generated pursuant to this resolve must be distributed as follows.

1. Any proceeds from the sale of the state property must be deposited into the Department of Administrative and Financial Services, Bureau of General Services' capital repair and improvement account for

capital improvements as designated by the commissioner.

2. Any proceeds from the lease of state property pursuant to this resolve must be deposited in the Real Property Lease Internal Service Fund Account or such other appropriate account as may be determined by the commissioner; and be it further

Sec. 10. Authority to appoint Saxl Park Advisory Committee. Resolved: That the Superintendent of the Dorothea Dix Psychiatric Center or its successor facility may appoint the Saxl Park Advisory Committee, referred to in this section as "the advisory committee," consisting of up to 11 voting members and as many nonvoting members as are determined necessary or useful to assist the superintendent in the operation, management and improvement of Saxl Park.

1. The 11 voting members of the advisory committee include:

- A. A representative of the City of Bangor;
- B. A representative from among the organizations that use the park;
- C. A member of the public who is a City of Bangor resident;
- D. A representative of the Maine Veterans' Homes;
- E. A representative of the Veterans Housing Coalition of Maine;
- F. A representative of the commissioner;
- G. Up to 4 other additional members; and
- H. The Superintendent of the Dorothea Dix Psychiatric Center or the superintendent's designee, who serves as chair of the advisory committee.

The committee, with the approval of the superintendent, may establish such internal administrative practices as it determines best, including those regarding the terms of members, time and places of meetings and method of decision-making, except that the superintendent shall keep and maintain the records of the committee.

2. The Director of the Bureau of General Services within the Department of Administrative and Financial Services is authorized to establish an account to accept and expend gifts on behalf of the advisory committee for the purpose of maintaining, operating and improving the park. Notwithstanding any other provision of state law, the receipt and expenditure of privately raised funds to benefit the park, except expenditures for public improvement projects of \$100,000 or more, are exempt from the Maine Revised Statutes, Title 5, chapters 153 and 155. Nothing in this section may be construed to exempt any other expenditure from Title 5, chapters 153 and 155; and be it further

Sec. 11. Master plan to be developed. Resolved: That the Director of the Bureau of General Services within the Department of Administrative and Financial Services, to the extent practicable within existing resources, shall convene a stakeholder group to develop a master plan to guide the future of the state property that is the subject of this resolve. Any such plan must recognize the historical and current uses of the site as well as the establishment of the integrated veterans' campus. The stakeholder group must include representatives of the municipality, the Dorothea Dix Psychiatric Facility, veterans' organizations, tenants, Saxl Park and others as determined by the Director of the Bureau of General Services; and be it further

Sec. 12. Repeal. Resolved: That the authority to convey the property set forth in section 2 and section 9 is repealed 5 years from the effective date of this resolve.

See title page for effective date.

CHAPTER 202

H.P. 1621 - L.D. 2258

Resolve, Regarding Legislative Review of Portions of Chapter 3: Maine Clean Election Act and Related Provisions, a Major Substantive Rule of the Commission on Governmental Ethics and Election Practices

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 3: Maine Clean Election Act and Related Provisions, a provisionally

adopted major substantive rule of the Commission on Governmental Ethics and Election Practices that has been submitted to the Legislature 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 April 14, 2008.

CHAPTER 203

H.P. 1394 - L.D. 2010

Resolve, Directing the Commissioner of Agriculture, Food and Rural Resources To Review and Make Recommendations Regarding the Regulation of Dog and Cat Breeding Facilities

Sec. 1. Commissioner of Agriculture, Food and Rural Resources to convene a working group. Resolved: That the Commissioner of Agriculture, Food and Rural Resources shall convene a working group to evaluate the regulation of dog and cat breeding facilities in the State and recommend any changes necessary to ensure the humane treatment of animals and effective enforcement of state laws. The commissioner shall invite a representative of each of the following stakeholder groups to participate in the working group: the Maine Veterinary Medical Association, the Maine Federation of Humane Societies, an animal advocacy organization, the Federation of Maine Dog Clubs, the American Kennel Club, the Down East Sled Dog Club, the Maine Animal Control Officers Association and the Maine Town and City Clerks' Association. The commissioner shall invite one owner of a licensed breeding kennel and one owner of a licensed cat breeding facility to participate in the working group. The director of the animal welfare program within the Department of Agriculture, Food and Rural Resources, the state veterinarian assigned to the animal welfare program and a member of the Animal Welfare Advisory Council designated by the commissioner shall participate in the working group. The department shall provide staff to and coordinate meetings of the working group using existing resources or funds specifically donated to facilitate this undertaking; and be it further

Sec. 2. Duties. Resolved: That the Commissioner of Agriculture, Food and Rural Resources, in consultation with the working group under section 1, shall review: