

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 12, 2009

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

Augusta, Maine
2009

8. Effective date established for rate change. Subject to the notice and waiver requirements of section 307, consumer-owned water utilities electing to set rates under this section may establish an effective date for a rate change of at least one month, but not more than 9 months, from the date the rates are filed with the commission under subsection 7.

9. Review of rates under section 310. Nothing in this section prohibits a consumer-owned water utility from petitioning the commission for review pursuant to section 310 or filing a rate change pursuant to section 6104 in the first instance.

10. Correction of errors. Upon review of a rate filing made pursuant to this section, the commission may order the consumer-owned water utility to correct mathematical or clerical errors.

See title page for effective date.

CHAPTER 238

H.P. 910 - L.D. 1307

An Act To Provide Limited Immunity for Road Association Directors, Commissioners and Volunteers

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

Sec. 1. 23 MRSA §3101, sub-§7 is enacted to read:

7. Immunity from suit. A commissioner, board or owner of a parcel of land who undertakes activities of a road association under this subchapter is immune from civil liability in all actions by owners or lessees of other lots for the following activities:

- A. The determination of repairs and maintenance to be undertaken;
- B. The determination of materials to be furnished or amount of money to be paid by each owner for repairs and maintenance;
- C. The collection of the money from each owner; and
- D. The awarding of a contract authorized under section 3103.

Sec. 2. 23 MRSA §3101, sub-§8 is enacted to read:

8. Environmental violations. Notwithstanding subsection 7, a commissioner, board or owner of a parcel of land is not immune from an enforcement action for a violation of law under the jurisdiction of

the Department of Environmental Protection or a municipality.

See title page for effective date.

CHAPTER 239

H.P. 918 - L.D. 1315

An Act To Amend the Private Way Laws with Regard to Road Associations

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

Sec. 1. 23 MRSA §3101, sub-§2, as enacted by PL 2007, c. 625, §1, is amended to read:

2. Call of meeting. When 4 or more parcels of land are benefited by a private road, private way or bridge as an easement or by fee ownership of the private road, private way or bridge, the owners of any 3 or more of the parcels, as long as at least 3 of the parcels are owned by different persons, may make written application to a notary public to call a meeting. The notary may issue a warrant or similar written notice setting forth the time, place and purpose of the meeting. Copies of the warrant or similar written notice must be mailed by means of the United States Postal Service to the owners of all the parcels benefited by the private road, private way or bridge at the addresses set forth in the municipal tax records at least 30 days before the date of the meeting. ~~If mailing copies of the warrant or similar written notice to all such owners is not possible, the notary shall post a notice in a public place.~~ The notice must inform the owners of the planned meeting's agenda and specify all items to be voted on. Subsequent meetings may be called in the same manner or by a commissioner or board appointed at a previous meeting pursuant to subsection 5.

Sec. 2. 23 MRSA §3101, sub-§4-A is enacted to read:

4-A. Road associations. A road association through its commissioner or board may address present and future repair and maintenance of a private road, private way or bridge until the association is dissolved by a majority vote of its members.

Sec. 3. 23 MRSA §3101, sub-§5-A is enacted to read:

5-A. Easements. A road association under this section may negotiate an easement for the installation of a ditch, drain, culvert or other storm water management infrastructure to benefit the road. The easement must specify when a ditch, drain, culvert or other storm water management infrastructure must be maintained and include reasonable performance standards

to guide the timing and extent of its upkeep and repair. The easement must also be recorded at the registry of deeds in the county in which the property subject to the easement is located. A ditch, drain, culvert or other storm water management infrastructure subject to an easement under this subsection must be under the control of and maintained by the road association.

Sec. 4. 23 MRSA §3105 is repealed and the following enacted in its place:

§3105. Use of town equipment

1. Fire and police protection; protecting or restoring a great pond. The inhabitants of any town or village corporation at a legal town or village corporation meeting may authorize the municipal officers of the town or assessors of the village corporation to use its highway equipment on private roads, private ways or bridges within the town or village corporation, whenever the municipal officers or assessors consider it advisable in the best interests of the town or village corporation for fire and police protection and for the purposes of protecting or restoring a great pond as defined in Title 38, section 480-B, subsection 5 if:

A. The private road, private way or bridge is within the watershed of the great pond;

B. The great pond:

(1) Is listed on the Department of Environmental Protection's list of bodies of water most at risk pursuant to Title 38, section 420-D, subsection 3;

(2) Has been listed as impaired in an integrated water quality monitoring and assessment report submitted by the Department of Environmental Protection to the United States Environmental Protection Agency pursuant to the federal Clean Water Act, 33 United States Code, Section 1315(b) at least once since 2002; or

(3) Is identified as having threats to water quality in a completed watershed survey that uses a protocol accepted by the Department of Environmental Protection;

C. The Department of Environmental Protection or the municipality determines that the private road, private way or bridge is contributing to the degradation of the water quality of the great pond based upon an evaluation of the road, way or bridge using a protocol accepted by the department;

D. The repair complies with best management practices required by the Department of Environmental Protection; and

E. The private road, private way or bridge is maintained by a road association organized under this subchapter or Title 13-B.

See title page for effective date.

CHAPTER 240

H.P. 823 - L.D. 1199

**An Act To Implement the
Recommendations of the Right
To Know Advisory Committee**

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

Whereas, when the Public Access Division and the Public Access Ombudsman were created in statute by Public Law 2007, chapter 603, a sunset of June 30, 2009 was included; and

Whereas, the Public Access Division and the Public Access Ombudsman concept needs to be continued in case funding, other than from the General Fund, is identified; 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 enacted by the People of the State of Maine as follows:

Sec. 1. 1 MRSA §403, as repealed and replaced by PL 1975, c. 758, is amended to read:

§403. Meetings to be open to public

Except as otherwise provided by statute or by section 405, all public proceedings ~~shall~~ must be open to the public, any person ~~shall~~ must be permitted to attend any public proceeding and any public record or minutes of such proceedings that ~~is~~ are required by law ~~shall~~ must be made promptly and ~~shall~~ must be open to public inspection.

Sec. 2. 1 MRSA §405, as amended by PL 2003, c. 709, §1, is further amended to read:

§405. Executive sessions

Those bodies or agencies falling within this subchapter may hold executive sessions subject to the following conditions.

1. Not to defeat purposes of subchapter. ~~These sessions shall~~ An executive session may not be used to defeat the purposes of this subchapter as stated in section 401.