

# 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.**

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**Augusta, Maine**  
**2009**

University of Maine System, shall administer the fund. The university may utilize the assets of the fund to carry out and effectuate the purposes, duties and responsibilities of this Part, including, but not limited to:

A. To conduct siting studies for offshore wind sites, giving first priority to developments in state waters but also consider siting studies for developments in federal waters that could provide renewable and sustainable power for the State or provide significant economic opportunity. The siting studies will include consideration of wind resource, bathymetry, geophysical conditions, transmission and distribution infrastructure, engineering, environmental effects, multi-use potential, identification of exclusion zones and cost of energy from each site;

B. Using siting information collected under subsection 1, the University of Maine, acting on its own behalf or in conjunction with partners in the private, nonprofit or government sectors, may apply for all federal, state and local approvals necessary to develop a demonstration site to be used for research and development to evaluate new technologies and monitor environmental impacts. The University of Maine will construct and operate this site in a manner consistent with applicable federal, state and local laws and related licenses, permits or other authorizations. The university may contract, subcontract or collaborate with another public or private entity for any activity authorized by this subsection;

C. To design, prototype and test offshore structures composites components that could be manufactured by companies in this State; and

D. To provide a report to the Governor and the Legislature by March 1, 2010 setting forth:

- (1) The operations and accomplishments of the fund during the most recent fiscal year;
- (2) The results of monitoring of the effects of any structures placed in the waters on the environment and fish and wildlife, including marine mammals; and
- (3) The assets and liabilities of the fund at the end of the most recent fiscal year.

**Sec. H-2. Appropriations and allocations.** The following appropriations and allocations are made.

**UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE**

**Maine Marine Wind Energy Demonstration Site Fund N065**

Initiative: Establishes a base allocation for the Maine Marine Wind Energy Demonstration Site Fund for funds received for research, development and product

innovation associated with developing one or more ocean wind energy demonstration sites.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	\$500	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$500	\$500

**Sec. H-3. Contingent effective date.** This Part takes effect only if the General Fund bond issue proposed in Part D is approved by the voters of this State.

Effective pending referendum.

**CHAPTER 415  
H.P. 1028 - L.D. 1475**

**An Act To Correct Errors and Inconsistencies in the Laws of Maine**

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

**Whereas,** acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

**Whereas,** these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

**Whereas,** it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; 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:**

**PART A**

**Sec. A-1. 3 MRS §753,** as repealed and replaced by PL 2007, c. 240, Pt. U, §1, is amended to read:

**§753. Expenses**

All administrative operating expenses of the ~~Maine~~ Legislative Retirement System Program must

be charged to the assets of the ~~Maine~~ Legislative Retirement ~~System~~ Program.

**Sec. A-2. 4 MRSA §1301, first ¶**, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

Every judge serving on the court on or after December 1, 1984, ~~shall~~ **must** be a member of the ~~Maine~~ Judicial Retirement ~~System~~ Program as a condition of employment.

**Sec. A-3. 4 MRSA §1357, sub-§3**, as amended by PL 2007, c. 491, §58 and c. 523, §1, is repealed and the following enacted in its place:

**3. Change of beneficiary.** If the recipient of a service retirement benefit has elected an optional method of payment under subsection 2, paragraphs B to H, and has designated someone other than a spouse or ex-spouse as sole beneficiary, the recipient is permitted a one-time change in the designated beneficiary except as provided in paragraph D, but may not change the already elected payment option or the amount of the benefits under that option, by filing a written designation of the new beneficiary, duly notarized, with the executive director on a form provided or specified by the Maine Public Employees Retirement System. The change of beneficiary permitted by this subsection may only be made prior to the death of the prior designated beneficiary.

A. The benefit payable to the recipient and the new beneficiary must be paid under the same payment option. The amount of the recipient's benefit may not change, and the amount of the new beneficiary's benefit must be the same as the amount of the prior beneficiary's benefit.

B. The effective date of the designation of the new beneficiary is the date the designation is received by the executive director. As of the first day of the month following the effective date of the designation of the new beneficiary, the prior beneficiary is no longer entitled to any benefit payment and, if concurrent payment under subsection 2, paragraph E has been elected, the new beneficiary's benefit must become effective on the same date.

C. The new beneficiary's entitlement to benefits ceases on the earlier of:

(1) The date of the new beneficiary's death; or

(2) The date established when the amount of the prior beneficiary's benefit was established, which is the initial commencement date of benefits to the retiree increased by the life expectancy of the prior beneficiary computed in years and months using actuarial equivalence assumptions recommended by the system's actuary.

Payment of benefits to the new beneficiary must cease as of the first day of the month following the earlier of subparagraph (1) or (2).

D. A recipient who exercises a one-time option under this subsection may revert back to the original designated beneficiary, who will be treated as the new beneficiary for purposes of paragraphs A to C.

**Sec. A-4. 5 MRSA §7051, sub-§6**, as amended by PL 2007, c. 466, Pt. A, §15, is further amended to read:

**6. Temporary and provisional appointments.** Whenever it is impossible to certify eligible persons for appointment to a vacancy in the classified service, the appointing authority may nominate a person to be the director. If the nominee is found by the director to have had experience and training that appear to qualify the nominee for the position, the nominee may be temporarily appointed to fill the vacancy in accordance with policies and procedures developed by the director.

A. The director may make a provisional appointment to fill a technical or professional position that requires a specialized knowledge or training to carry out the duties of the position and that cannot be filled from the eligible register.

B. The director shall establish a policy to protect persons in temporary positions from remaining in a temporary position for an unreasonable period of time, not to exceed one year.

C. The director may authorize, without requiring competitive tests, the appointment of unskilled laborers or persons engaged in custodial and domestic work in state institutions or departments.

**Sec. A-5. 5 MRSA §18252**, as amended by PL 2007, c. 490, §1 and c. 491, §191, is repealed and the following enacted in its place:

**§18252. Membership in districts with Social Security coverage**

A person who is or would be covered by the United States Social Security Act as a result of employment by a participating local district with Social Security coverage may elect to join, not to join, to cease contributions to or to withdraw from the Participating Local District Retirement Program under the following conditions.

**1. Membership.** An employee may join the Participating Local District Retirement Program at the beginning of employment or at any time after beginning employment, as long as that person is still an employee of the participating local district and the district continues to be a participating local district.

A. Purchase of service credit for the period during which the person was not a member of the

Participating Local District Retirement Program is governed by section 18305-A.

**2. Employee who is participating member.** A person who is a participating member of the Participating Local District Retirement Program may elect to cease contributions to that program and, at that person's discretion, may withdraw accumulated contributions in accordance with section 18306-A.

**3. Person who has previously ceased contributions.** A person who has previously elected to cease contributions to the Participating Local District Retirement Program, whether or not accumulated contributions have been withdrawn, may choose to rejoin that program at any time under the following conditions.

B. The employer must still be a participating local district allowing new membership in the Participating Local District Retirement Program.

C. Purchase of service credit for the period during which the person was not a member of the Participating Local District Retirement Program is governed by section 18305-A. Repayment of withdrawn accumulated contributions is governed by section 18304.

**5. Limit on right to rejoin.** The right of a person to rejoin under subsection 3 is limited to 2 occurrences.

**6. Restoration to service.** If any person who is the recipient of a service retirement benefit is covered by the United States Social Security Act upon being restored to service, continuation of that person's benefit is governed by the following.

A. The person may elect to have the service retirement benefit continued during the period of time the person is restored to service and the person may not accumulate any additional service credits.

B. The person may elect to have the service retirement benefit terminated, again become a member of the Participating Local District Retirement Program and begin contributing at the current rate.

(1) The person is entitled to accumulate additional service credits during the period of time the person is restored to service.

(2) When the person again retires, the person is entitled to receive benefits computed on the person's entire creditable service and in accordance with the law in effect at the time.

C. Upon being restored to service, the person must elect to have benefits either continued or terminated. If written notification of the person's election is not received by the executive director within 60 days of restoration to service, the person

is deemed to have elected the provisions of paragraph A. The election, regardless of how it is made, is irrevocable during the period of restoration to service.

**Sec. A-6. 5 MRSA §18252-A, sub-§1,** as amended by PL 2007, c. 490, §2 and c. 491, §192, is repealed and the following enacted in its place:

**1. Membership.** An employee of a participating local district that does not have Social Security coverage and that has a plan provided by the employer under section 18252-B may elect to be a member under the Participating Local District Retirement Program or to be covered under the plan provided by the employer in accordance with the following.

A. A person hired by a participating local district, or rehired following a break in service, after the date on which the employer provides a plan under section 18252-B must elect at the time of hiring or rehiring whether to be a member under the Participating Local District Retirement Program or to be covered under a plan provided by the employer under section 18252-B.

(1) If the person elects to be a member under the Participating Local District Retirement Program, the election is effective as of the date of hire or rehire.

(a) A person who elects to be a member of the Participating Local District Retirement Program may later elect to be covered under a plan provided by the employer under section 18252-B. The person who so elects may, at that person's discretion, withdraw accumulated contributions in accordance with section 18306-A.

(b) A person who elects under division (a) to be covered under a plan provided by the employer under section 18252-B may later elect to again become a member under the Participating Local District Retirement Program, unless to so elect would have the effect of requiring the employer, without the employer's agreement, to make an employer contribution to both that program and the plan provided by the employer under section 18252-B.

(c) A person who elects under division (b) to again become a member of the Participating Local District Retirement Program may, in accordance with section 18305-A, purchase service credit for the period during which the person elected not to be a member of that program. The person may, in accordance with section 18304, repay contributions withdrawn

under division (a) and may, as permitted under other relevant retirement system law, rule and policy, repay other refunded contributions.

(d) A person who, having elected to again become a member under the Participating Local District Retirement Program under division (c), later elects again not to be a member may not thereafter become a member under that program while employed by the same participating local district.

(2) A person who elects to be covered under a plan provided by the employer under section 18252-B may later elect to become a member under the Participating Local District Retirement Program.

(a) Membership service credit for a person joining the Participating Local District Retirement Program under this subparagraph begins as of the effective date of first contributions or pick-up contributions to that program following that person's election under this subparagraph.

(b) A person who joins the Participating Local District Retirement Program under this subparagraph may, in accordance with section 18305-A, purchase service credit for the period during which the person elected not to be a member of that program.

(c) A person who, having elected to become a member under the Participating Local District Retirement Program under this subparagraph, later elects again not to be a member may, at the employee's discretion, withdraw accumulated contributions in accordance with applicable requirements of law and rule and retirement system procedures and may not thereafter become a member under that program while employed by the same participating local district.

B. An employee of the participating local district who is a member under the Participating Local District Retirement Program on the date on which the employer provides a plan under section 18252-B may elect to remain a member under that program or to become covered under a plan provided by the employer under section 18252-B.

(1) If that person elects not to remain a member, the election is effective as of the first day of the month in which no contributions or pick-up contributions are made to the Participating Local District Retirement Program by that person. A person who elects not

to remain a member may, at that person's discretion, withdraw accumulated contributions in accordance with section 18306-A.

(2) A person who elects not to remain a member under the Participating Local District Retirement Program may later elect to again become a member.

(a) Membership service credit for a person who elects to again become a member under the Participating Local District Retirement Program under this subparagraph begins as of the effective date of the first contributions or pick-up contributions to that program following that person's election under this subparagraph.

(b) A person who rejoins the Participating Local District Retirement Program under this subparagraph may, in accordance with section 18305-A, purchase service credit for the period during which that person elected not to be a member of that program. The person may, in accordance with section 18304, repay contributions refunded under subparagraph (1), unless to so elect would have the effect of requiring the employer, without the employer's agreement, to make an employer contribution to both the Participating Local District Retirement Program and the plan provided by the employer under section 18252-B.

(c) A person who, having elected to again become a member under the Participating Local District Retirement Program under this subparagraph, later elects again not to be a member may, at that person's discretion, withdraw accumulated contributions in accordance with section 18306-A and may not thereafter become a member under that program while employed by the same participating local district.

D. If the participating local district does not have a plan provided under section 18252-B, the employees do not have the elections provided under paragraphs A and B.

**Sec. A-7. 12 MRSA §6702, sub-§6,** as amended by PL 2007, c. 607, Pt. A, §2 and Pt. B, §2, is repealed and the following enacted in its place:

**6. Violation.** A person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized;

B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and

C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B.

**Sec. A-8. 12 MRSA §10001, sub-§53**, as amended by PL 2007, c. 651, §2, is further amended to read:

**53. Resident.** ~~For the purposes of this subsection, "resident"~~ "Resident" means a citizen of the United States or an alien who has been domiciled in the State for one year who:

- A. If registered to vote, is registered in this State;
- B. If licensed to drive a motor vehicle, has made application for or possesses a motor vehicle operator's license issued by the State;
- C. If owning a motor vehicle located within the State, has registered each such vehicle in the State; and
- D. Is in compliance with the state income tax laws.

A person who is a full-time student at a college or university in the State and has satisfied the requirements of paragraphs A to D is rebuttably presumed to be a resident in the State during that period.

**Sec. A-9. 13-C MRSA §1331, sub-§2**, as amended by PL 2007, c. 323, Pt. C, §17 and affected by Pt. G, §4, is further amended to read:

**2. Appropriate court.** A corporation shall commence the proceeding under subsection 1 in the appropriate court of the county where the corporation's principal office is located or, if there is no principal office, ~~of in~~ in Kennebec County. If the corporation is a foreign corporation, the corporation shall commence the proceeding in the county in this State where the principal office of the domestic corporation merged with the foreign corporation was located or, if the domestic corporation did not have its principal office in this State at the time of the transaction, ~~of in~~ in Kennebec County.

**Sec. A-10. 14 MRSA §3572, sub-§12**, as enacted by PL 1985, c. 641, §3, is amended to read:

**12. Transfer.** "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, ~~of~~ of disposing of or parting with an asset or an interest in an asset, and includes payment of

money, release, lease or creation of a lien or other encumbrance.

**Sec. A-11. 22 MRSA §1971, sub-§1**, as amended by PL 2007, c. 539, Pt. EE, §1 and c. 572, Pt. A, §16, is repealed and the following enacted in its place:

**1. Establishment.** The position of school nurse consultant is established jointly within the department and the Department of Education. The Director of the Maine Center for Disease Control and Prevention and the Policy Director of Special Services within the Department of Education shall jointly supervise the school nurse consultant.

**Sec. A-12. 22 MRSA §3173-C, sub-§7**, as amended by PL 2003, c. 451, Pt. H, §1 and affected by §3, is further amended to read:

**7. Copayments.** Notwithstanding any other provision of law, the following copayments per service per day are imposed and reimbursements are reduced, or both, to the following levels:

- A. Outpatient hospital services, \$3;
- B. Home health services, \$3;
- C. Durable medical equipment services, \$3;
- D. Private duty nursing and personal care services, \$5 per month;
- E. Ambulance services, \$3;
- F. Physical therapy services, \$2;
- G. Occupational therapy services, \$2;
- H. Speech therapy services, \$2;
- I. Podiatry services, \$2;
- J. Psychologist services, \$2;
- K. Chiropractic services, \$2;
- L. Laboratory and x-ray services, \$1;
- M. Optical services, \$2;
- N. Optometric services, \$3;
- O. Mental health clinic services, \$2;
- P. Substance abuse services, \$2;
- Q. Hospital inpatient services, \$3 per patient day;
- R. Federally qualified health center services, \$3 per patient day, effective July 1, 2004; and
- S. Rural health center services, \$3 per patient day.

The department may adopt rules to adjust the copayments set forth in this subsection. The rules may adjust amounts to ensure that copayments are deemed nominal in amount and may include monthly limits or exclusions per service category. The need to maintain

provider participation in the Medicaid program to the extent required by 42 United States Code, Section ~~1392(a)(30)(A)~~ 1396a(a)(30)(A) or any successor provision of law must be considered in any reduction in reimbursement to providers or imposition of copayments.

**Sec. A-13. 24-A MRSA §3007, sub-§5, ¶B**, as amended by PL 2005, c. 114, §4, is further amended to read:

B. Nonrenewal subject to this section is not effective prior to 30 days after receipt of ~~notice~~ written notice by the insured. Prior to the date of renewal of a policy that has been transferred by an insurer to an affiliate, the insured must receive notice of any changes to the terms of the policy that are less favorable to the insured.

**Sec. A-14. 30-A MRSA §701, sub-§2**, as amended by PL 2007, c. 653, Pt. A, §7 and c. 663, §1, is repealed and the following enacted in its place:

**2. Preparation of noncorrectional services-related estimates.** In order to assess a county tax for noncorrectional services-related expenses, the county commissioners, prior to November 7th in each year for counties on a January to December fiscal year and April 15th for counties on a July to June fiscal year, shall prepare estimates of the sums necessary to pay the noncorrectional services-related expenses that have accrued or may probably accrue for the coming year, including the building and repairing of courthouses and appurtenances, with the noncorrectional services-related debts owed by their counties.

The estimates must be drawn so as to authorize the appropriations to be made to each department or agency of the county government for the year. The estimates must provide specific amounts for personal services, contractual services, commodities, debt service and capital expenditures made or provided by the county for noncorrectional-related services. The estimates must include specific amounts for each noncorrectional service expenditure.

**Sec. A-15. 31 MRSA §714, sub-§2**, as amended by PL 2007, c. 231, §28 and repealed by c. 323, Pt. D, §19 and affected by Pt. G, §4, is repealed.

**Sec. A-16. 32 MRSA §220, sub-§2, ¶B**, as repealed and replaced by PL 2007, c. 390, §1 and amended by c. 402, Pt. F, §12, is repealed and the following enacted in its place:

B. A landscape architect must meet the qualifications established in this paragraph.

(1) To be qualified for admission to the examination to practice landscape architecture in this State, an applicant must submit evidence that:

(a) The applicant has completed a course of study in a school or college of landscape architecture approved by the board, with graduation evidenced by a diploma setting forth a satisfactory degree and 2 years of practical experience in landscape architectural work of a grade and character satisfactory to the board; or

(b) The applicant has training or practical experience, or a combination of both, that in the opinion of the board is fully equivalent to that required in division (a).

(2) An applicant for licensure as a landscape architect in this State who has a current and valid license from another jurisdiction and a certificate from a recognized council of landscape architectural registration boards may offer to render landscape architectural services in the State prior to licensure by the board as long as the applicant first notifies the board in writing that the applicant will be present in the State to offer to render landscape architectural services. The applicant may not render landscape architectural services until duly licensed by the board.

(3) An applicant for renewal of a license issued pursuant to this section shall submit evidence that the applicant meets the qualifications established by the board.

**Sec. A-17. 32 MRSA §1101, sub-§1**, as amended by PL 1999, c. 386, Pt. F, §1, is further amended to read:

**1. Apprentice electrician.** "Apprentice electrician" means a ~~person~~ an apprentice, as defined in Title 26, ~~chapter 44~~ section 2006, subsection 5-A, paragraph A, subparagraph (1), who is engaged in a written agreement to work at and learn the trade of an electrician under the direct supervision of a master, journeyman or limited electrician.

**Sec. A-18. 32 MRSA §3824, sub-§5**, as amended by PL 2007, c. 10, §1 and c. 402, Pt. Q, §8, is repealed and the following enacted in its place:

**5. Temporary licensure.** The board shall adopt rules for the granting of a temporary license to enable psychologists to practice in this State under supervision pending such examination as the board may require. An applicant who possesses at least 1,500 hours of postdoctoral experience and fulfills all the requirements for licensure, with the exception of any required examination, may apply to the board for a temporary license. Upon receiving a completed application and fee as set under section 3833-A, the board shall issue a temporary license that entitles the applicant to practice as a psychologist or psychological examiner under supervision while completing the requirements for

permanent licensure. The temporary license is effective for one year.

**Sec. A-19. 32 MRSA §13723, sub-§7, ¶A,** as amended by PL 2007, c. 344, §10 and c. 402, Pt. DD, §10, is repealed and the following enacted in its place:

A. Prescriptions, orders and records required by this chapter and stocks of prescription and legend drugs are open only to the board, the board's authorized representatives, federal and state law enforcement officers whose duty it is to enforce the laws of this State or of the United States relating to scheduled drugs or controlled substances or to enforce conditions of probation or other supervision imposed by a court relating to scheduled drugs or controlled substances and other law enforcement officers authorized by the board, the Attorney General or the district attorney for the purposes of inspecting, investigating and gathering evidence of violations of law or any rule of the board. A person having knowledge by virtue of the person's office of any such prescription, order or record may not divulge that knowledge, except before a licensing board or representative or in connection with a prosecution or proceeding in court.

**Sec. A-20. 34-B MRSA §1207, sub-§1, ¶B,** as amended by PL 2007, c. 609, §1 and c. 670, §17, is repealed and the following enacted in its place:

B. Information may be disclosed if necessary to carry out the statutory functions of the department; the hospitalization provisions of chapter 3, subchapter 4; the provisions of section 1931; the purposes of sections 3607-A and 3608; the purposes of Title 5, section 19506; the purposes of United States Public Law 99-319, dealing with the investigatory function of the independent agency designated with advocacy and investigatory functions under United States Public Law 88-164, Title I, Part C or United States Public Law 99-319; or the investigation and hearing pursuant to Title 15, section 393, subsection 4-A;

**Sec. A-21. 35-A MRSA §3210-C, sub-§3,** as amended by PL 2007, c. 575, §2 and c. 656, Pt. B, §2, is repealed and the following enacted in its place:

**3. Commission authority.** The commission may direct investor-owned transmission and distribution utilities to enter into long-term contracts for:

A. Capacity resources; and

B. Any available energy associated with capacity resources contracted under paragraph A:

(1) To the extent necessary to fulfill the policy of subsection 2, paragraph A; or

(2) If the commission determines appropriate for purposes of supplying or lowering the cost of standard-offer service or otherwise lowering the cost of electricity for the ratepayers in the State. Available energy contracted pursuant to this subparagraph may be sold into the wholesale electricity market in conjunction with solicitations for standard-offer supply bids.

The commission may direct investor-owned transmission and distribution utilities to enter into contracts under this subsection only as agents for their customers and only in accordance with this section. The commission may permit, but may not require, investor-owned transmission and distribution utilities to enter into contracts for differences that are designed and intended to buffer ratepayers in the State from potential negative impacts from transmission development. To the greatest extent possible, the commission shall develop procedures for long-term contracts for investor-owned transmission and distribution utilities under this subsection having the same legal and financial effect as the procedures used for standard-offer service pursuant to section 3212 for investor-owned transmission and distribution utilities.

The commission may enter into contracts for interruptible, demand response or energy efficiency capacity resources. These contracts are not subject to the rules of the State Purchasing Agent. In a competitive solicitation conducted pursuant to subsection 6, the commission shall allow transmission and distribution utilities to submit bids for interruptible, demand response or energy efficiency capacity resources.

Capacity resources contracted under this subsection may not exceed the amount necessary to ensure the reliability of the electric grid of this State or to lower customer costs as determined by the commission pursuant to rules adopted under subsection 10.

Unless the commission determines the public interest requires otherwise, a capacity resource may not be contracted under this subsection unless the commission determines that the capacity resource is recognized as a capacity resource for purposes of any regional or federal capacity requirements.

The commission shall ensure that any long-term contract authorized under this subsection is consistent with the State's goals for greenhouse gas reduction under Title 38, section 576 and the regional greenhouse gas initiative as described in the state climate action plan required in Title 38, section 577.

**Sec. A-22. 35-A MRSA §3210-C, sub-§7,** as amended by PL 2007, c. 575, §3 and c. 656, Pt. B, §3, is repealed and the following enacted in its place:

**7. Disposition of resources.** An investor-owned transmission and distribution utility shall sell capacity resources and energy purchased pursuant to subsection

3 or take other action relative to such capacity resources and energy as directed by the commission.

Sec. A-23. 35-A MRSA §3210-C, sub-§8, as amended by PL 2007, c. 575, §4 and c. 656, Pt. B, §4, is repealed and the following enacted in its place:

8. Cost recovery. The commission shall ensure that an investor-owned transmission and distribution utility recovers in rates all costs of contracts entered into pursuant to subsection 3, including but not limited to any impacts on the utility's costs of capital. A price differential existing at any time during the term of the contract between the contract price and the prevailing market price at which the capacity resource is sold or any gains or losses derived from contracts for differences must be reflected in rates and may not be deemed to be imprudent.

Sec. A-24. 37-B MRSA §505, sub-§1-A, ¶A, as amended by PL 2007, c. 521, §2 and c. 678, §1, is repealed and the following enacted in its place:

A. The bureau may provide a grant of temporary assistance not to exceed \$600 to a veteran currently a resident of this State who has filed a valid claim for a veteran's pension, pending notification of the award of such a pension, if that veteran is not incarcerated or a permanent resident of a nursing home and requests such assistance. For purposes of this paragraph, "claim for a veteran's pension" means a claim filed with the federal Veterans' Administration pursuant to 38 United States Code, Chapter 15.

Sec. A-25. 37-B MRSA §505, sub-§1-A, ¶B, as amended by PL 2007, c. 521, §2 and c. 678, §1, is repealed and the following enacted in its place:

B. The bureau may provide a grant of emergency assistance not to exceed \$500 to a veteran currently a resident of this State who demonstrates to the bureau's satisfaction a financial need and suffers an emergency, such as damage to that veteran's home due to fire, flood or hurricane, that is not fully compensable by insurance; illness or the illness of an immediate family member; or a similar emergency. In the case of a veteran with terminal illness or catastrophic injury, the director may provide a grant of up to \$1,000. No more than \$1,000 in emergency assistance may be provided to a veteran in any 12-month period. For the purposes of this paragraph, "veteran" has the same meaning as "eligible veteran" in section 504, subsection 4, paragraph A-1. Grants may not be issued for fuel assistance or due to loss of income due to unemployment while the veteran is receiving other unemployment benefits.

Sec. A-26. PL 2007, c. 695, Pt. L, §1, as corrected by RR 2007, c. 2, §32, is repealed.

Sec. A-27. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 22, chapter 1054-A, in the chapter headnote, the words "additional support for people in retraining and education program" are amended to read "additional support for people in retraining and employment program" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

PART B

Sec. B-1. 4 MRSA §162 is amended to read:

§162. Place for holding court; suitable quarters

In each division, the place for holding court shall be located in a state, county or municipal building designated by the Chief Judge, who, with the advice and approval of the Bureau of Public Improvements, is empowered to negotiate on behalf of the State, the leases, contracts and other arrangements he the Chief Judge considers necessary, within the limits of the budget and the funds available under section 163, subsection 3, to provide suitable quarters, adequately furnished and equipped for the District Court in each division.

The facilities of the Superior Court in each county when that court is not in session shall be available for use by the District Court of that division in which such facilities are located. Arrangements for such use shall be made by the Chief Judge.

If the Chief Judge is unable to negotiate the leases, contracts and other arrangements as provided in the preceding paragraph, he the Chief Judge may, with the advice and approval of the Bureau of Public Improvements, negotiate on behalf of the State, the leases, contracts and other arrangements he the Chief Judge considers necessary, within the limits of the budget and funds available under section 163, subsection 3, to provide suitable quarters, adequately furnished and equipped for the District Court in privately owned buildings.

Sec. B-2. 4 MRSA §163, sub-§3 is repealed.

Sec. B-3. 5 MRSA §12004-I, sub-§32, as enacted by PL 1987, c. 786, §5, is amended to read:

32.

Housing	Passamaquoddy	Not	<del>22 MRSA §4733</del>
	Indian Housing	Authorized	30-A MRSA
	Authority - Indian		§4995
	Township		

Sec. B-4. 5 MRSA §12004-I, sub-§33, as enacted by PL 1987, c. 786, §5, is amended to read:

**33.**

Housing	Passamaquoddy	Not	<del>22-MRSA §4733</del>
	Indian Housing	Authorized	<u>30-A MRSA</u>
	Authority -		<u>§4995</u>
	Pleasant Point		

**Sec. B-5. 5 MRSA §12004-I, sub-§34,** as amended by PL 1989, c. 503, Pt. A, §31, is further amended to read:

**34.**

Housing	Penobscot Tribal	Not	<del>22-MRSA §4733</del>
	Reservation	Authorized	<u>30-A MRSA</u>
	Housing		<u>§4995</u>
	Authority		

**Sec. B-6. 18-A MRSA §5-411, sub-§(c), ¶(2),** as enacted by PL 1997, c. 453, §2, is amended to read:

(2). Financial institutions authorized to do business in ~~the this~~ State ~~under as defined in~~ Title 9-B, section 131, subsection ~~12-A~~ 17-A, or their employees; and

**Sec. B-7. 20-A MRSA §1486, sub-§3, ¶F,** as amended by PL 2007, c. 668, §20 and by c. 695, Pt. G, §1, is repealed and the following enacted in its place:

F. The article to be voted on must be in the following form:

(1) "Do you favor approving the (name of regional school unit) budget for the upcoming school year that was adopted at the latest (name of regional school unit) budget meeting?"

Yes No"

**Sec. B-8. 20-A MRSA §1486, sub-§3, ¶G,** as repealed by PL 2007, c. 668, §20 and amended by c. 695, Pt. G, §2, is repealed.

**Sec. B-9. 30-A MRSA §4995,** as enacted by PL 1993, c. 738, Pt. C, §7, is amended to read:

**§4995. Create respective tribal housing authorities**

The Passamaquoddy Tribe, ~~and~~ the Penobscot Nation, ~~as provided in Title 5, section 12004-I,~~ and the Houlton Band of Maliseet Indians are authorized ~~by Title 5, section 12004, subsection 10~~ to create respective tribal housing authorities. The respective tribe, nation or band shall prescribe the manner of selection of the members, their terms and grounds for removal. Except as otherwise provided in this chapter or clearly indicated otherwise, the Maine Housing Authorities Act applies to the tribal housing authorities referred to in this chapter as "authority" or "authorities." The power of tribal housing authorities may be exercised

only within the Indian territory of the respective tribe or nation or the trust land of the Houlton Band of Maliseet Indians. Tribal housing authorities are in substitution for any tribal housing authority previously existing under the laws of the State and assume all the rights and obligations of those predecessor housing authorities. The presently constituted tribal housing authority of the respective tribe or nation continues in existence and may exercise all the authority previously vested by law until the respective tribe or nation creates the tribal housing authority authorized by this section.

**Sec. B-10. PL 2009, c. 213, Pt. A, §13, under the caption "CORRECTIONS, DEPARTMENT OF," in the 11th occurrence relating to "Correctional Center 0162," the Initiative** is amended to read:

Initiative: Deappropriates funds from the elimination of one Office ~~Associate~~ Assistant II position.

**Sec. B-11. PL 2009, c. 213, Pt. A, §24, under the caption "ENVIRONMENTAL PROTECTION, DEPARTMENT OF," in the 12th occurrence relating to "Administration - Environmental Protection 0251," the Initiative** is amended to read:

Initiative: Eliminates one Office ~~Assistant~~ Associate II Supervisor position and one Office Associate II position and reduces funding for associated All Other costs.

**PART C**

**Sec. C-1. 29-A MRSA §2558, sub-§2, ¶B,** as enacted by PL 2009, c. 54, §6 and affected by §7, is amended to read:

B. A person who violates subsection 1 and at the time has one OUI conviction, one conviction for violating this section or one conviction for violating former section 2557 or section 2557-A within the previous 10 years commits a Class C crime for which a minimum fine of \$1,000 and a minimum term of imprisonment of one year must be imposed, neither of which may be suspended by the court.

**Sec. C-2. PL 2009, c. 54, §7** is amended to read:

**Sec. 7. Retroactivity.** ~~This Sections 1 to 4 of this Act applies apply~~ retroactively to September 1, 2008.

**Sec. C-3. Retroactivity.** That section of this Part that amends Public Law 2009, chapter 54, section 7 applies retroactively to April 22, 2009.

**PART D**

**Sec. D-1. PL 2007, c. 661, Pt. C, §6, sub-§2** is amended to read:

**2. Portions of townships and plantations.** The following portions of townships and plantations: that portion of Adamstown Twp., 17801, north of Route 16; Bald Mountain Twp., T4 R3, 25806, excluding areas of Boundary Bald Mountain above 2,700 feet in elevation; a 146.6-acre parcel in the northeast corner of the Chain of Ponds, 07803, along the border with Canada; Chain of Ponds, 07803, an approximately 1,578.4-acre parcel, bounded by the eastern town line at latitude 45.373, longitude -70.625484, proceeding westerly to latitude 45.370087, longitude -70.63231 then to latitude 45.368156, longitude -70.645478 where it intersects the 2,400-foot contour, proceeding along the 2,400-foot contour westerly and then northerly to the intersection of the 2,400-foot contour to the northern town line, following the town line eastward and then southward until reaching the beginning point, latitude 45.373, longitude -70.625484; the portion of Coplin Plt., 07040, north of Route 16; the portion of Dallas Plt., 07050, north of Route 16; the portion of Ebeemee Twp., 21853, east of Route 11; the portion of Kossuth Twp., 29808, north of Route 6; the portion of Lang Twp., 07813, north of Route 16; the portion of Lincoln Plt., 17160, north of Route 16; the portion of Long A Twp., 19809, east of Route 11; the portion of Long Pond Twp., 25833, south of Long Pond and Moose River; the 487.5-acre area above the 2,040-foot elevation around Green Top in Lynchtown Twp., 17810; the portion of Rockwood Strip T1 R1 NBKP, 25844, south of Moose River, Little Brassua Lake and Brassua Lake; the portion of Rockwood Strip T2 R1 NBKP, 25845, south of Little Brassua Lake and Brassua Lake; the portion of Salem Twp., 07820, south of Route 142; the portion of Sandwich Academy Grant Twp., 25849, south of Moose River, Little Brassua Lake and Brassua Lake; ~~that portion of Skinner Twp., 07822, composed of the 193.3-acre area that follows the ridge to Kibby Mountain, bounded on the east and west by the 2,820-foot contour, on the south by the town line and on the north by the line from the 2,820-foot contour through the 3,220-foot contour from Kibby Mountain;~~ Skinner Twp., 07822, an approximately 193.4-acre parcel that follows the ridge to Kibby Mountain, bounded on the east and west by the 2,820-foot contour, on the south by the town line where it intersects the 2,820-foot contour and on the north by a line drawn from latitude 45.4121, longitude -70.54402 to latitude 45.41587, longitude -70.5349 intersecting the 2,820-foot contour; the portion of Soldiertown Twp., T2 R7 WELS, 19811, east of the East Branch Penobscot River; the portion of T1 R8 WELS, 19816, south of Millinocket Lake; the portion of T1 R9 WELS, 21833, southeast of Ambajejus Lake; T24 MD BPP, 29822, excluding a one-mile buffer around Mopang Stream; ~~the 51.9-acre area in T25 MD BPP, 29823, encompassing Black Brook and Black Brook Pond, and the area northeast of Holmes Falls Road;~~ T25 MD BPP, 29823, an approximately 558.5-acre parcel in the Bear Brook and Black Pond area,

bounded by a point along the southern town line, latitude 44.805142, longitude -67.741067, and proceeding in a counterclockwise direction through the following points, latitude 44.808871, longitude -67.744217, latitude 44.812645, longitude -67.750877, latitude 44.816887, longitude -67.76346, latitude 44.817639, longitude -67.768806, latitude 44.817596, longitude -67.770188, latitude 44.817259, longitude -67.771089, latitude 44.816282, longitude -67.771687, latitude 44.815068, longitude -67.771704, latitude 44.810286, longitude -67.767988, latitude 44.802482, longitude -67.759738 intersecting the town line, proceeding easterly along the southern town line to beginning point latitude 44.805142, longitude -67.741067; the portion of T3 R7 WELS, 19821, east of the Seboeis River and East Branch Penobscot River; the portions of T4 Indian Purchase Twp., 19807, area northeast of North Twin Lake and south of Route 11; the portion of T4 R7 WELS, 19824, east of the Seboeis River; the portion of T4 R9 NWP, 21845, east of Route 11; the portion of T5 R7 WELS, 19827, east of the Seboeis River; and the portion of T6 R7 WELS, 19830, east of the Seboeis River; and

**Sec. D-2. PL 2007, c. 661, Pt. C, §6, sub-§4** is amended to read:

**4. Transition; establishment of expedited permitting area and permitted use.** Notwithstanding any other provision of law, ~~prior to the Maine Land Use Regulation Commission's adoption of the rules required by this section,~~ the portion of expedited permitting area located in the State's unorganized and deorganized areas consists of the lands and state waters specified in this section and an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4, is a use requiring a permit, but not a special exception, subject to permitting by the Maine Land Use Regulation Commission or Department of Environmental Protection in accordance with this Act and other applicable law, in all districts and subdistricts located within the expedited permitting area.

**Sec. D-3. Related rulemaking.** No later than June 1, 2010, the Maine Land Use Regulation Commission shall amend its rules adopted in accordance with Public Law 2007, chapter 661, Part C, section 6 to make them consistent with corrections to the descriptions of the expedited permitting area for wind energy development made under sections 1 and 2 of this Part.

## PART E

**Sec. E-1. PL 2009, c. 372, Pt. F, §5, sub-§2** is amended to read:

**2. Prohibition.** A state authority may not enter into a significant occupancy agreement allowing the installation of energy facilities in state transportation corridors until a law approving a plan governing such agreements is enacted. A state authority may not issue

a permit for an energy facility greater than 75 miles in length on land other than the submerged lands of this State or outside the territorial waters of this State as defined in the Maine Revised Statutes, Title 12, section 6001, subsection 48-B until this section is repealed, except that:

- A. An application from such an energy facility may be processed by a state authority up to, but not including, final decision on the application;
- B. Any such applications processed by the Department of Environmental Protection or the Public Utilities Commission that may require adjudicatory proceedings or permit application review may not proceed beyond creation of the evidentiary record; and
- C. Any action, proceeding or decision by a state authority pertaining to such an application is governed by any law enacted pursuant to section 4, subsection 6.

A state authority may not sell or lease public lands as that term is used in Title 35-A, section 3132, subsection 13 for the installation of an energy facility greater than 75 miles in length until a law approving a plan governing the sale or lease of state lands for such installations is enacted or until the energy facility receives a certificate of public convenience and necessity pursuant to Title 35-A, section 3132. Notwithstanding any other statutory provision or exemption, any person proposing to construct a transmission line greater than 75 miles in length and operating at greater than 69 kilovolts must obtain a certificate of public convenience and necessity as required by Title 35-A, section 3132.

**Sec. E-2. PL 2009, c. 372, Pt. K, §5** is enacted to read:

**Sec. K-5. Effective date.** Those sections of this Part that amend the Maine Revised Statutes, Title 35-A, section 3210, subsections 5, 6 and 6-A take effect July 1, 2010.

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

Effective June 17, 2009.

**CHAPTER 416**

**H.P. 210 - L.D. 264**

**An Act To Amend the  
Surcharge for the E-9-1-1  
System**

**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 State's E-9-1-1 service provides significant public safety benefits by enabling the public to dial 9-1-1 in the event of an emergency and speeding up the dispatch of emergency services through automatic caller location information; and

**Whereas**, the E-9-1-1 system is funded by a special statewide surcharge on telephone lines; and

**Whereas**, the E-9-1-1 surcharge is established in statute and had been fixed at 50¢ per line per month since 2001; and

**Whereas**, the surcharge was reduced from 50¢ to 30¢ in 2008; and

**Whereas**, it is necessary to set the E-9-1-1 surcharge as soon as possible to ensure that the money contributed by telephone ratepayers to fund the E-9-1-1 system is used for that purpose and the surcharge amount going forward is consistent with expenditure needs; 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. 25 MRSA §2927, sub-§1-B**, as amended by PL 2007, c. 637, §1, is further amended to read:

**1-B. Statewide E-9-1-1 surcharge.** The activities authorized under this chapter are funded through a special statewide E-9-1-1 surcharge levied on each residential and business telephone exchange line, including private branch exchange lines and Centrex lines, cellular or wireless telecommunications service customers, including prepaid wireless telephone service customers, interconnected voice over Internet protocol service customers and semipublic coin and public access lines. The statewide E-9-1-1 surcharge may not be imposed on more than 25 lines or numbers per customer billing account, except that this limitation does not apply to prepaid wireless telephone services. In the case of cellular or wireless telecommunications service customers, the place of residence of those customers must be determined according to the sourcing rules for mobile telecommunications services as set forth in Title 36, section 2556. The Beginning July 1, 2009, the statewide E-9-1-1 surcharge is 30¢ 37¢ per month per line or number or, in the case of prepaid wireless telephone services, 30¢ 37¢ per month or 30-day increment of service per customer. Beginning July 1, 2010, the statewide E-9-1-1 surcharge is 52¢ per month per line or number or, in the