

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

SECOND REGULAR SESSION
January 6, 2010 to April 12, 2010

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 12, 2010

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

Augusta, Maine
2010

lake included in the list adopted pursuant to section 420-D, subsection 3, any applicable storm water quality standards adopted pursuant to section 420-D. For redevelopment projects only, the standards for storm water management in section 420-D are met if the proposed development is located in a designated area served by a department-approved management system for storm water as described in section 420-D, subsection 2, as long as the owner or operator of the parcel upon which the proposed development will be located enters into or obtains and remains in compliance with all agreements, permits and approvals necessary for the proposed development to be served by such management system for storm water.

Sec. 2. 38 MRSA §2014 is enacted to read:

§2014. Alternative method

This chapter may not be construed to limit a municipality's home rule authority or its ability to form a watershed district through its interlocal cooperation authority under Title 30-A, chapter 115 but provides an additional and alternative method for the formation of a watershed district and provides powers supplemental and additional to powers conferred by other laws, and may not be regarded as in derogation of or repealing any powers existing under any other law, either general, special or local.

Sec. 3. Retroactivity. This Act applies retroactively to July 1, 2009.

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

Effective March 15, 2010.

CHAPTER 507

H.P. 1217 - L.D. 1716

**An Act To Expedite
Rulemaking Concerning
Agronomic Utilization of
Sludge**

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

Sec. 1. 38 MRSA §1304, sub-§1-C, as enacted by PL 1999, c. 393, §2, is amended to read:

1-C. Rules; agronomic utilization of sludge. Rules adopted by the board relating to the agronomic utilization of sludge are ~~major substantive routine technical~~ rules as defined in Title 5, chapter 375, subchapter ~~H-A 2-A~~. ~~This subsection takes effect January 1, 2000.~~

See title page for effective date.

CHAPTER 508

S.P. 588 - L.D. 1532

**An Act To Align Education
Laws with Certain Federal
Laws**

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

Sec. 1. 20-A MRSA §5205, sub-§3-A is enacted to read:

3-A. Students placed by the Department of Health and Human Services. Notwithstanding subsection 3, a student who is placed by the Department of Health and Human Services with an adult who is not the child's parent or legal guardian in accordance with the educational stability provisions of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351, 122 Stat. 3949 is considered a resident of either the school administrative unit where the student resides during the placement or the school administrative unit where the student resided prior to the placement based on the best interest of the student. The Department of Health and Human Services, in consultation with the department and the school administrative units, shall determine which of the 2 units is appropriate and notify that unit in writing of its determination. The school administrative unit that provides public education for the student shall count the student as a resident student for subsidy purposes.

Sec. 2. 20-A MRSA §6004, sub-§2, ¶B, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

B. Students who attend school under section 5205, subsections 2, ~~3-A~~, 4, 5 and 6, ~~shall must~~ be counted in the school administrative unit in which they attend school.

Sec. 3. 20-A MRSA §7201, sub-§5, as corrected by RR 2005, c. 2, §13, is amended to read:

5. Accessible instructional materials; visual impairment including blindness; Braille instruction. All students must have access to accessible instructional materials and may receive instruction in Braille reading and writing as part of their individualized family service plans or individualized education programs. A student may not be denied the opportunity of instruction in Braille reading and writing solely because the student has some remaining vision. If Braille is not provided to a child who is blind, the reason for not incorporating Braille in the individualized family service plan or individualized education program must be documented in the individualized family service plan or individualized education program. Accessible instructional materials and provisions for the accessibility of online learning programs for indi-

viduals with disabilities must be in alignment with the accessible instructional materials provisions of the federal Individuals with Disabilities Education Improvement Act of 2004, Public Law 108-446, 118 Stat. 2647 and in alignment with the universal design provisions of the 1998 amendments to the federal Higher Education Act of 1965, 20 United States Code, Chapter 28 contained in the federal Higher Education Amendments of 1998, Public Law 105-244, 112 Stat. 1581.

Sec. 4. 20-A MRSA §7205, as amended by PL 1987, c. 395, Pt. A, §72, is further amended to read:

§7205. Review and assistance

It is the intent of the Legislature that a representative of the commissioner visit ~~each~~ special education ~~program at least once every 5 years~~ programs for the purpose of review and assistance and as necessary to comply with federal general supervision requirements. Nothing in this section prohibits a school administrative unit from requesting that a representative of the commissioner visit a particular special education program for the purpose of review and assistance whenever necessary. The commissioner shall comply with each request in a timely fashion.

See title page for effective date.

CHAPTER 509

H.P. 1219 - L.D. 1718

**An Act To Amend the Laws
Relating to Government
Records**

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

Sec. 1. 5 MRSA §92-A, sub-§5, as amended by PL 1997, c. 636, §3, is further amended to read:

5. Record. "Record" means all documentary material, regardless of media or characteristics and regardless of when it was created, made or received ~~and~~ or maintained by an agency in accordance with law or rule or in the transaction of its official business. "Record" does not include extra copies of printed or processed material of which official or record copies have been retained, stocks of publications and processed documents intended for distribution or use or records relating to personal matters that may have been kept in an office for convenience.

"Record" includes records of historic and archival value to the State, regardless of the date of their generation, including all documents determined to have such value to the State by statute and, when appropriate, by the State Archivist.

Sec. 2. 5 MRSA §95, sub-§12, as amended by PL 1991, c. 837, Pt. A, §9, is further amended to read:

12. Copies. To furnish copies of archival material upon the request of any person, on payment in advance of such fees as may be required. Copies of state records transferred pursuant to law from the office of their origin to the custody of the State Archivist, when certified by the State Archivist, under the seal of that office, have the same legal force and effect as if certified by their original custodian. A facsimile of the signature of the State Archivist imprinted by or at the direction of the State Archivist upon any certificate issued by the State Archivist has the same validity as the written signature of the State Archivist; ~~and~~

Sec. 3. 5 MRSA §95, sub-§13, as amended by PL 1991, c. 837, Pt. A, §9, is further amended to read:

13. Photoreproduction and restoration. To provide centralized photoreproduction and records preservation services for government agencies to the extent the State Archivist determines advisable in the administration of the state program and facilities. Such services must be furnished to such agencies at cost.

Fees collected under this subsection must be deposited in the General Fund; ~~and~~

Sec. 4. 5 MRSA §95, sub-§14 is enacted to read:

14. Records explanation available. To prepare a detailed explanation of what constitutes a "record" pursuant to section 92-A, subsection 5 and "records belonging to the State or to a local government or any agency of the State" pursuant to section 95-A, subsection 1. The State Archivist shall include in the explanation practical examples of such records in plain language. Upon request, the State Archivist shall provide the explanation to interested parties at no cost to the requestor and shall post the explanation on a publicly accessible website.

Sec. 5. 5 MRSA §95-A, sub-§1, as amended by PL 1997, c. 636, §7, is further amended to read:

1. Ownership and possession; notice and demand of return. A record created by or belonging to the State, to a local or county government in the State or to any agency of the State remains the property of the State until ownership and possession are formally relinquished in accordance with statute and rules. Whenever the State Archivist has reasonable grounds to believe that records belonging to the State or to a local government or any agency of the State or to which the State or its agencies have a lawful right of possession are in the possession of a person or entity not authorized by the State Archivist, other lawful custodian or by law to possess those records, the State Archivist may issue a written notice and demand to that person or entity for the immediate return of the records. The notice and demand must be sent by certi-