

# 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.**

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**Augusta, Maine**  
**2010**

**5. Maine Land Use Regulation Commission.** Within the jurisdiction of the Maine Land Use Regulation Commission, the project is consistent with zoning adopted by the commission. This criterion does not apply to any project that uses tidal or wave action as a source of electrical or mechanical power.

### PART G

**Sec. G-1. 30-A MRSA §4352, sub-§4,** as amended by PL 2007, c. 656, Pt. A, §2, is further amended to read:

**4. Exemptions.** Real estate used or to be used by a public utility, as defined in Title 35-A, section 102, subsection 13, ~~or~~ by a person who is issued a certificate by the Public Utilities Commission under Title 35-A, section 122 or by a renewable ocean energy project as defined in Title 12, section 1862, subsection 1, paragraph F-1 is wholly or partially exempt from an ordinance only when on petition, notice and public hearing the Public Utilities Commission determines that the exemption is reasonably necessary for public welfare and convenience. The Public Utilities Commission shall adopt by rule procedures to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. G-2. 30-A MRSA §4361** is enacted to read:

**§4361. Coordination of state and municipal decision making; renewable ocean energy projects**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Coastal area" has the same meaning as in Title 38, section 1802, subsection 1.

B. "Renewable ocean energy project" has the same meaning as in Title 12, section 1862, subsection 1, paragraph F-1.

C. "Submerged lands" has the same meaning as in Title 12, section 1801, subsection 9.

**2. Location of renewable ocean energy projects.** A municipality may not enact or enforce a land use ordinance that prohibits siting of renewable ocean energy projects, including but not limited to their associated facilities, within the municipality. Nothing in this section is intended to authorize a municipality to enact or enforce a land use ordinance as applied to submerged lands.

**3. Boundaries; rebuttable presumption.** A municipality may not enact or enforce any land use standard or other requirement regarding a renewable ocean energy project unless the project or part of the project over which the municipality asserts approval authority is located within its boundaries, as estab-

lished in its legislative charter, prior to the effective date of this subsection. In any proceeding regarding the location of a municipality's boundaries for purposes of this section, there is a rebuttable presumption that the boundaries of a municipality in the coastal area do not extend below the mean low-water line on waters subject to tidal influence.

### PART H

**Sec. H-1. Appropriations and allocations.** The following appropriations and allocations are made.

**MARINE RESOURCES, DEPARTMENT OF  
Bureau of Resource Management 0027**

Initiative: Establishes the Ocean Energy Fund with a base allocation.

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

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

Effective April 7, 2010.

## CHAPTER 616

### S.P. 706 - L.D. 1801

#### An Act To Promote the Establishment of Innovative Schools

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

**Whereas,** there is currently no provision for school administrative units to establish innovative schools as set forth in the federal Race to the Top Assessment Program application authorized under the federal American Recovery and Reinvestment Act of 2009; and

**Whereas,** immediate enactment of this legislation is necessary to ensure the State's eligibility to apply for a significant amount of federal funding for continued education reform that is jeopardized by significant and continuing reductions in state funding for education; and

**Whereas**, the residents of the Town of Otis and the Town of Mariaville are in immediate need of dissolving their union school agreement because the Town of Mariaville has become a member of Regional School Unit 24 and the Town of Otis has not and dissolving their union school agreement will enhance the ability of the Town of Otis and the Town of Mariaville to compete as innovative public schools; 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. 20-A MRSA §6212** is enacted to read:

**§6212. Innovative, autonomous public schools**

A school administrative unit may establish and operate an innovative, autonomous public school. The school board may approve an instruction design, a school calendar, a staff selection process and a method for assessing professional development to be used in an innovative, autonomous public school that exceed or differ from, but do not conflict with, applicable statutory and regulatory requirements. The school board shall propose, receive and allocate funding for an innovative, autonomous public school as part of the budget process for that school administrative unit in accordance with this Title. A school board may request waivers as necessary to implement an instructional model and associated curriculum that meet the standards of this section for innovation and autonomy.

**1. Open enrollment.** Any resident student in a school administrative unit is eligible to request enrollment in an innovative, autonomous public school. Enrollment may not be limited to a target population of students. A school board shall establish a method for selecting students when requests for enrollment exceed capacity. A school board may establish a process for determining the maximum enrollment from each municipality in the school administrative unit.

**2. More accountability for student achievement.** An innovative, autonomous public school must demonstrate a system for accountability for student achievement that exceeds, but is not in conflict with, the State's accountability standards and the State's assessment system.

**Sec. 2. Dissolution of Otis-Mariaville Union School authorized.** Notwithstanding the provisions of the Maine Revised Statutes, Title 20-A, chapter 109 and any other provision of law, dissolution of the Otis-Mariaville Union School is governed by the Otis-Mariaville Union School Agreement made in 1985, and a majority town meeting vote by the voters

of either the Town of Otis or the Town of Mariaville is sufficient to terminate the Otis-Mariaville Union School Agreement in accordance with the terms of the agreement.

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

Effective April 7, 2010.

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**CHAPTER 617**

**H.P. 1297 - L.D. 1813**

**An Act Relating to the  
Recommendations of the Office  
of Program Evaluation and  
Government Accountability  
Regarding Emergency  
Communications Services**

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

**Whereas**, in order to ensure the public safety and health and avoid confusion with regard to the E-9-1-1 surcharge, the provisions of this legislation must take effect as soon as possible; 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 §1531, sub-§2, ¶E**, as enacted by PL 2003, c. 678, §2, is amended to read:

~~E. A representative of participating municipalities with populations of less than 5,000, selected from and recommended by the boards of selectmen, town councils or city councils of those municipalities~~ Three representatives of municipalities recommended by a statewide association of municipalities and appointed by the Governor;

**Sec. 2. 25 MRSA §1531, sub-§2, ¶F**, as enacted by PL 2003, c. 678, §2, is repealed.

**Sec. 3. 25 MRSA §1531, sub-§2, ¶G**, as enacted by PL 2003, c. 678, §2, is repealed.

**Sec. 4. 25 MRSA §1531, sub-§4, ¶B**, as enacted by PL 2003, c. 678, §2, is amended to read:

~~B. The member 3 members representing municipalities with populations of less than 5,000 is~~