

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

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

Augusta, Maine
2011

2-A. Condition for withdrawal. The State shall withdraw from the regional greenhouse gas initiative when a sufficient number of other independent system operator participating states have withdrawn such that the total carbon dioxide emissions budget for the calendar year 2009, as specified in the Memorandum of Understanding, of the remaining other independent system operator participating states is less than 35,000,000 tons. If the condition is met for withdrawal from the regional greenhouse gas initiative, the department shall:

A. Immediately take all necessary steps to withdraw the State from all memoranda of understanding and contracts with states participating in the regional greenhouse gas initiative relating to the regional greenhouse gas initiative; and

B. Submit legislation to the Legislature to make the necessary changes in law to reflect the State's withdrawal from the regional greenhouse gas initiative.

See title page for effective date.

CHAPTER 278

S.P. 147 - L.D. 514

An Act Regarding Conveyance of Easements across Railroad Rights-of-way

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

Sec. 1. 5 MRSA §6209, sub-§6, as amended by PL 1993, c. 728, §13, is further amended to read:

6. Legislative approval. ~~Land~~ Except as provided in subsection 7, land acquired under this chapter may not be sold or used for purposes other than those stated in this chapter, unless approved by a 2/3 majority of the Legislature.

Sec. 2. 5 MRSA §6209, sub-§7 is enacted to read:

7. Conveyance of an access easement across a rail trail. Notwithstanding any other provision of law, the Director of the Bureau of Parks and Lands within the Department of Conservation, with the approval of the Governor and the Commissioner of Conservation, may sell or otherwise convey in accordance with Title 12, section 1814-A access rights by easement across a rail trail acquired under this chapter.

For the purposes of this subsection, "rail trail" means a former railroad right-of-way in which the Department of Conservation holds an ownership interest and that is:

A. No longer used for rail service; and

B. Managed by the Department of Conservation for use as a recreational trail.

Sec. 3. 12 MRSA §598, sub-§4, as enacted by PL 1993, c. 639, §1, is amended to read:

4. Reduced. "Reduced" means a reduction in the acreage of an individual parcel or lot of designated land under section 598-A. "Reduced" does not mean a reduction in the value of the property. "Reduced" does not mean the conveyance of an access right by easement in accordance with section 1814-A.

Sec. 4. 12 MRSA §598, sub-§5, as amended by PL 1997, c. 678, §7, is further amended to read:

5. Substantially altered. "Substantially altered," in the use of designated lands, means changed so as to significantly alter physical characteristics in a way that frustrates the essential purposes for which that land is held by the State. The essential purposes of state parks, historic sites, public access sites, facilities for boats and the Allagash Wilderness Waterway are the protection, management and improvement of these properties for public recreation, conservation, scenic values, nature appreciation, historic preservation and interpretation, public access and related purposes. The essential purposes of public reserved and nonreserved lands are the protection, management and improvement of these properties for the multiple use objectives established in section 1847. The essential purposes of lands acquired through the Land for Maine's Future Board that are not held by the Department of Inland Fisheries and Wildlife or by the Department of Conservation are the protection, management and improvement of those lands for recreation, conservation, farming, open space, plant and animal habitat, scenic values, public access and related purposes. The essential purposes of state-owned wildlife management areas and game farms are the protection, management and improvement of those properties for fish and wildlife habitat and propagation, hunting, trapping, fishing, recreation, propagation and harvesting of forest and other natural products and related purposes. "Substantially altered" does not mean the conveyance of an access right by easement in accordance with section 1814-A.

Sec. 5. 12 MRSA §1814-A is enacted to read:

§1814-A. Easements across rail trails

To the extent permitted by the deed or other instrument of ownership, the director, with the consent of the Governor and the commissioner, may sell or otherwise convey a right of access by easement across a rail trail as provided in this section. For the purposes of this section, "rail trail" means a former railroad right-of-way that is no longer used for rail service, in which the department has an ownership interest and that is managed by the department for use as a recreational trail.

1. Notice. At least 30 days prior to conveying a right of access by easement under this section, the director shall notify interested parties of the proposed conveyance, providing the location and purpose of the access easement and the anticipated date of conveyance. The notice must provide a name and contact information for a person at the bureau to whom inquiries may be made and comments submitted. For the purposes of this section, "interested parties" means owners of property abutting the parcel on which the proposed right of access is located, local trail clubs, statewide trail associations, the municipality in which the proposed easement is located, the Land for Maine's Future Board, each Legislator and other persons with a known interest in the use of the segment of the rail trail affected by the proposed conveyance.

2. Terms of conveyance. The access easement must include terms that ensure the transaction does not unreasonably interfere with the safety, maintenance and continuity of the rail trail. The access easement must ensure that public investment in the rail trail is protected by a negotiated exchange of value. The exchange of value may include, but is not limited to, negotiated improvements to the rail trail or payment of survey, title and appraisal expenses associated with the conveyance of the right of access by easement.

3. Proceeds from sale of an access easement. Proceeds from the sale of a right of access by easement under this section must be deposited in the Maine State Parks and Recreational Facilities Development Fund established under section 1825.

4. Opportunity for review by legislative committee. A Legislator receiving notification under subsection 1 may notify the director of concerns and may in writing request review of the proposed access easement by the joint standing committee of the Legislature having jurisdiction over parks and lands matters. A Legislator requesting a review under this subsection shall notify the chairs of the joint standing committee of the request.

When a request for legislative review is received under this subsection, the director may not finalize the transfer until the legislative committee has met and reviewed the proposed transaction.

See title page for effective date.

CHAPTER 279

H.P. 583 - L.D. 776

An Act To Create a Fair Process for Energy Service Companies Contracting with Maine Schools

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

Sec. 1. 20-A MRSA §15915, sub-§1, as amended by PL 2005, c. 499, §1, is repealed and the following enacted in its place:

1. Initial agreement for energy conservation improvements. A school administrative unit may enter into an agreement of up to 20 years with an energy services company. For the purposes of this section, "energy services company" means a company or 3rd-party financing company that provides design, installation, operation, maintenance and financing of energy conservation or combined energy conservation and related air quality improvements at existing school administrative unit facilities. The school administrative unit's costs to enter into such an agreement are not applicable to the unit's school construction project costs, the debt service on which is eligible for subsidy purposes under section 15907. Such an agreement is deemed to be a professional service, which is not subject to the competitive bidding requirements of Title 5, section 1743-A, if the agreement:

A. Provides for operation or maintenance of the improvement for at least 5 years or the entire term of the financing agreement if longer than 5 years;

B. Requires a guaranty by the contractor that the improvement will meet performance criteria set forth in the agreement for at least 5 years or for the entire term of the financing agreement if longer than 5 years; and

C. Has a total contract cost, excluding private or federal grant funds, interest and operating and maintenance costs, of less than \$2,500,000 for any school building.

A school administrative unit may select an energy services company on the basis of a request for qualifications or a request for proposals, and it is not required to use a competitive method set forth in this chapter and Title 5, section 1743-A and Private and Special Law 1999, chapter 79. The selection process must include at a minimum a request for qualifications or a request for proposals that is advertised in a newspaper of general circulation in the school administrative unit and a newspaper of general circulation in the City of Augusta. The deadline for receipt of requests for qualifications or requests for proposals may not be less than 15 days from the last day the advertisement was published. The school administrative unit shall establish an interview committee, which must include the superintendent of the school administrative unit and at least one school board member. The interview committee shall interview not fewer than 3 energy services companies unless a smaller number of energy services companies responds to the request for qualifications or request for proposals. A request for qualifications or a request for proposals may not contain terms that re-