

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

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 28, 2011

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

Augusta, Maine
2011

7-A. Geothermal heat pump. "Geothermal heat pump" means a central heating or central cooling system that pumps heat to or from the ground.

Sec. 2. 10 MRSA §1415-G, sub-§1, as amended by PL 2005, c. 350, §11, is further amended to read:

1. Residential construction, remodeling and renovation. Except as provided in this section, during the construction, remodeling or renovation of a multifamily residential structure, a person may not install electric space heating equipment as the primary heating system if that construction, remodeling or renovation is funded in whole or in part by public funds, guarantees or bond proceeds. For purposes of this section, "multifamily residential structure" means a residential structure with more than one dwelling unit and "electric space heating equipment" does not include electric thermal storage space heating equipment or a geothermal heat pump.

See title page for effective date.

CHAPTER 301

H.P. 1083 - L.D. 1474

An Act To Amend the Beano Laws

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

Sec. 1. 17 MRSA §317, first ¶, as amended by PL 1999, c. 74, §2, is further amended to read:

The Chief of the State Police ~~has the power to~~ may adopt rules, not inconsistent with law, that are necessary for the administration and enforcement of this chapter and for the licensing, conduct and operation of the amusement commonly known as "Beano" or "Bingo" and for the permitting and operation of commercial beano halls. The Chief of the State Police ~~has the power and authority to~~ may regulate, supervise and exercise general control over the operation of such amusement and commercial beano halls, including, but not limited to, the payment of prizes and the use of equipment. Any rule adopted by the Chief of the State Police concerning the value of prizes that may be awarded must include a provision that no single prize may exceed \$400 in value and that no more than \$1,400 in total prizes may be awarded on any one occasion except that once per calendar year on one occasion a licensee may award up to \$2,000 in total prizes. In establishing such rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter ~~H-A~~ 2-A, the Chief of the State Police must, in addition to the standards set forth in other provisions of this chap-

ter, use the following standards setting forth conduct, conditions and activity considered undesirable:

See title page for effective date.

CHAPTER 302

H.P. 1130 - L.D. 1538

An Act To Amend the Laws Governing the Maine Turnpike Authority and To Implement Certain Recommendations of the Government Oversight Committee in the Office of Program Evaluation and Government Accountability Report Concerning the Maine Turnpike Authority

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

Whereas, this legislation makes adjustments to the management and operations of the Maine Turnpike Authority; and

Whereas, it is necessary that these changes be implemented as soon as possible to allow the Maine Turnpike Authority to correct prior deficiencies; 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. 5 MRSA §12004-F, sub-§4, as enacted by PL 1987, c. 786, §5, is amended to read:

4.

Maine Turnpike Authority, <u>Board of Directors</u>	Legislative Per Diem	23 MRSA § 1965 <u>1964-A</u>
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Sec. 2. 23 MRSA §1961, sub-§2, as amended by PL 1995, c. 504, Pt. C, §1, is further amended to read:

2. Cooperation with the Department of Transportation. ~~The Department of Transportation must be provided each year the operating surplus of the Maine Turnpike Authority. The Maine Turnpike Authority authority may issue bonds or other obligations to pay~~

for ~~Department of Transportation~~ department projects. These amounts are considered necessary for use by the department for construction, reconstruction, operation and maintenance of all roads on the state highway system, which serve and benefit users of the turnpike by providing direct and indirect access to and from the turnpike as part of the integrated highway system. Due to the utilization of the state highway system by users of the turnpike, the turnpike and its users have received and will continue to receive a benefit from, or have caused and will continue to cause, or both, the State acting by and through the ~~Department of Transportation~~ department to incur costs for the construction, operation and maintenance of the state highway system, which provides direct and indirect access to and from the turnpike to areas in the State for which the State may properly be and should be compensated from the tolls to be collected. The ~~Maine Turnpike Authority~~ authority must be maintained to carry out the purposes of this chapter in cooperation with the ~~Department of Transportation~~ department.

Sec. 3. 23 MRSA §1961, sub-§6, as amended by PL 1995, c. 613, §1 and affected by §7, is further amended to read:

6. Appropriation. On or before January 31st of each year, the authority shall present to each regular session of the Legislature for its approval a the authority's revenue fund budget for the operating expenses of the authority for the calendar year that begins after the adjournment of that regular session and shall present to each regular session of the Legislature for informational purposes a statement of the revenues necessary for during the next calendar year to fund capital expenditures and reserves; and to meet the requirements of any resolution authorizing bonds of the authority during that calendar year, including debt service and the maintenance of reserves for debt service and reserve maintenance. The authority shall present a detailed budget of expenditures from the authority's reserve maintenance fund for the next calendar year and shall include cross-references to show the total of similar expense categories that are paid from both the revenue and reserve maintenance funds. The authority may only pay revenue fund operating expenses in accordance with allocations approved by the Legislature or as necessary to satisfy the requirements of any resolution authorizing bonds of the authority. The operating surplus must be transferred to the Department of Transportation and expended in accordance with allocations approved by the Legislature. If alterations to the authority's revenue fund budget are needed, they must be reported by financial order to the joint standing committee of the Legislature having jurisdiction over transportation matters.

Sec. 4. 23 MRSA §1961, sub-§7 is enacted to read:

7. Funds for department projects. As part of the budget presented in subsection 6, the authority shall allocate funds for department projects in an amount such that the 3-year rolling average of the allocation equals at least 5% of annual operating revenues. All department projects are subject to mutual agreement of the authority and the department.

Sec. 5. 23 MRSA §1964, sub-§§2-A and 2-B are enacted to read:

2-A. Away agency. "Away agency" means a tolling authority in a jurisdiction other than the State that imposes an administrative fee or a civil liability on the registered owner of a vehicle whose operator fails to pay a required toll for the use of a highway, bridge or tunnel.

2-B. Board. "Board" means the board of directors of the authority established pursuant to section 1964-A.

Sec. 6. 23 MRSA §1964, sub-§4-A, as enacted by PL 1995, c. 504, Pt. C, §2, is amended to read:

4-A. Department project. "Department of ~~Transportation~~ project" means the rehabilitation, reconstruction or construction of any highway or bridge on the state highway system determined by the department and the authority to have a sufficient relationship to the public's use of the turnpike in accordance with section 1974, subsection 6: and is a project or allocation to:

A. Build or improve an interchange;

B. Maintain, build or improve an access road;

C. Study or plan a future highway corridor and study related issues;

D. Maintain, build or improve a park and ride lot or other transportation infrastructure for all modes of transportation relating to turnpike use;

E. Purchase, lease or improve highway-related infrastructure; or

F. Pay debt incurred by the authority for any capital project purpose in paragraphs A to E.

Sec. 7. 23 MRSA §1964, sub-§6-A, as amended by PL 1995, c. 613, §2 and affected by §7, is repealed.

Sec. 8. 23 MRSA §1964, sub-§§7-A and 7-B are enacted to read:

7-A. Reserve maintenance fund. "Reserve maintenance fund" means a fund established by a resolution authorizing bonds of the authority as a source to pay for turnpike maintenance, turnpike rehabilitation, insurance, emergency repairs of the turnpike, remediation of turnpike deficiencies and other perennial costs

and selected capital projects as recommended by a consulting engineer.

7-B. Revenue fund. "Revenue fund" means a fund established by a resolution authorizing bonds of the authority as the initial depository for all operating income of the authority; certain operating expenses, defined by bond resolutions, are paid from the revenue fund before further transfers are made to funds for debt service, reserve maintenance and general reserves.

Sec. 9. 23 MRSA §1964-A is enacted to read:
§1964-A. Board of directors

The authority is managed by a board of 7 members. Except for the member from the department who serves *ex officio*, all members are appointed by the Governor subject to review by the joint standing committee of the Legislature having jurisdiction over transportation matters and to confirmation by the Senate.

1. Qualifications. The 7 members of the board are as follows:

A. The Commissioner of Transportation or the commissioner's designee from within the department, who serves *ex officio*;

B. Four members, one each from York, Cumberland, Androscoggin and Kennebec counties who serves as the representative from the county in which the member resides; and

C. Two at-large members who are residents of the State.

2. Term. Each appointed member holds office for 6 years or until a qualified successor has been confirmed. Each term expires on March 31st of the last year of the term. The terms of the appointed members must be staggered so that no more than one term expires in any given year.

3. Vacancy. A member's term is vacated if the member dies, resigns, becomes incapacitated, is removed for cause or no longer meets a requirement under which the member was appointed. By majority vote of the remaining members, the board may declare and bring to the Governor's attention any circumstances creating a vacancy. When a vacancy occurs, the Governor may appoint a member to serve only for the unexpired portion of the term vacated.

4. Removal. The Governor may remove a member from the board only for gross misconduct. For purposes of this subsection, "gross misconduct" means financial malfeasance, a deliberate or reckless failure to attend to duties required for governance of the authority or unexcused absences from 4 or more meetings of the board in a 12-month period.

5. Chair. The Governor may appoint the chair from among members appointed to the board. In the absence of such appointment or if the position of chair is vacated, the board may elect a chair from among the members of the board. The chair must be appointed or elected for a one-year term at the board's annual meeting.

6. Annual meetings; quorum; action. The board shall convene annually at a meeting held in September and more often as determined by the chair. Four members of the board constitute a quorum. Four votes are required to act on any matter, although a lesser number may adjourn a meeting.

7. Compensation. Appointed members of the board are compensated in accordance with Title 5, section 12004-F, subsection 4.

8. Executive director. At its annual meeting each September, the board shall appoint or reappoint an executive director who is not a member of the board. An executive director's first appointment is subject to review by the joint standing committee of the Legislature having jurisdiction over transportation matters and to confirmation by the Senate.

9. Secretary and treasurer. At its annual meeting each year, the board shall elect a secretary and a treasurer, who may be the same person and need not be a member of the board. The secretary and treasurer are responsible in their respective capacities directly to the board and may be relieved of their duties only by the board. Before the issuance of any bonds under this chapter, the secretary and the treasurer shall each execute a security bond in the penalty of \$50,000. Each security bond must be approved by the Attorney General and conditioned upon the faithful performance of the duties of the secretary and treasurer. The bond must be filed in the office of the State Auditor.

10. Compliance audits. In addition to retaining an annual auditor, the board shall retain a separate compliance auditor who shall:

A. Periodically monitor the authority's financial operations and management controls;

B. Test selected transactions for policy compliance;

C. Make quarterly findings directly to the board and to the joint standing committee of the Legislature having jurisdiction over transportation matters;

D. Recommend to the board any necessary or advisable improvements to management systems, policies or controls; and

E. Render an annual compliance and management report in conjunction with the report of the authority's annual auditor.

Sec. 10. 23 MRSA §1965, as amended by PL 2007, c. 270, §1, is further amended to read:

§1965. Maine Turnpike Authority; powers

1. Powers. The Maine Turnpike Authority, as created by Private and Special Law 1941, chapter 69 and as authorized by Title 5, section 12004-F, subsection 4, is and ~~shall continue~~ continues to be a body both corporate and politic in the State and may:

- A. Sue and be sued;
- B. Have a seal and alter the seal at pleasure;
- C. Adopt from time to time and amend bylaws covering its procedure and rules governing use of the turnpike and any of the other services made available in connection with the turnpike; develop and adopt, in accordance with ~~the Maine Administrative Procedure Act~~, Title 5, chapter 375, rules governing the use of the turnpike and other services; publish those bylaws, rules as publication is necessary or advisable; and cause records of its proceedings to be kept;
- D. Construct, maintain, reconstruct and operate a toll turnpike from a point at or near Kittery in York County to a point at or near Augusta in Kennebec County, except that the traveled way may not be widened or expanded beyond 3 lanes for each direction of travel from the southern terminus of the turnpike to mile marker 53 and beyond 2 lanes for each direction of travel elsewhere on the turnpike without the express approval of the Legislature.

Except as provided in section 1965-A, a license, permit or approval necessary for the widening or expansion of the turnpike may not be issued by any state agency unless that agency makes an affirmative finding that the widening or expansion is consistent with state transportation policy, as established in section 73, as well as rules implementing that policy;

- D-1. Construct, acquire, install, maintain and reconstruct communications facilities and equipment within the boundaries of the turnpike for the use of the authority, the use of others or both on such terms and conditions as the authority may determine;
- E. Acquire, hold and dispose of personal property for its purposes;
- F. Acquire in the name of the authority by purchase, eminent domain, lease or otherwise, real property and rights or easements therein ~~deemed~~ determined by it necessary or desirable for its purposes, and use that property;
- G. Acquire any such real property by the exercise of the power of eminent domain in the manner provided by section 1967;

H. Charge and collect fees, fares and tolls for the use of the turnpike and other services made available in connection with the turnpike and use the proceeds of such fees, fares and tolls for the purposes provided in this chapter, both as subject to and in accordance with such agreement with bondholders as may be made as provided in this chapter;

I. Make contracts with the United States or any instrumentality or agency of the United States, another state or any instrumentality, municipality or agency of another state, including multi-state entities composed of other state agencies, this State or any of its agencies or instrumentalities, municipalities, public corporations, or bodies existing therein, private corporations, partnerships, associations and individuals;

J. Accept grants and the cooperation of the United States or any agency thereof in the construction, maintenance, reconstruction, operation and financing of the turnpike and do any and all things necessary in order to avail itself of that aid and cooperation and repay any such grant or portion thereof;

J-1. ~~Provide Contract with other public agencies and political subdivisions of the State to provide maintenance services on connecting interstate highways for a maximum road distance of 5 miles from the point of connection with the turnpike and only~~ in accordance with reimbursement arrangements that are ~~mutually~~ mutually satisfactory to the authority ~~and the department~~;

K. Employ such assistants, agents and servants, engineering, traffic, architectural and construction experts and inspectors and attorneys and such other employees as it ~~deems~~ considers necessary or desirable for its purposes;

L. Exercise any of its powers in the public domain of the United States, unless the exercise of those powers is not permitted by the laws of the United States;

M. Borrow money, make, issue and sell at public or private sale negotiable notes, bonds and other evidences of indebtedness or obligations of the authority for the purposes set forth in this chapter and secure the payment of that obligation or any part thereof by pledge of all or any part of the operating revenues of the turnpike;

N. Enter into loan or security agreements with one or more lending institutions, including, but not limited to, banks, insurance companies and pension funds, or trustees for those institutions for purposes for which bonds may be issued and to exercise with respect to such loan or security agreements all of the powers delineated in this chapter for the issuances of bonds;

O-1. Provide for an annual amount not to exceed a maximum of \$4,700,000 to secure obligations issued pursuant to section 1968, subsection 2-A or to pay principal, interest or premium, if any, with respect to these obligations, after money has been set aside or adequate provision has been made to pay operating expenses and to meet the requirements of any resolution authorizing revenue bonds of the authority;

O-2. Make a contract or enter into an agreement with or provide certifications and assurances to the Department of Transportation, or any other 3rd party, necessary in connection with the determination of ~~Department of Transportation department~~ projects, the issuance of bonds or other obligations pursuant to section 1968, subsection 2-A, the pledge of revenues to the payment of these bonds or obligations or the payment of the costs or a portion of the costs of ~~Department of Transportation department~~ projects;

P. Provide from revenues to or for the use of the department funds for the maintenance, construction or reconstruction of interchanges determined pursuant to section 1974, subsection 3, for which the authority has not otherwise provided;

Q. Use toll revenues to provide payment of obligations, if any, as may be due to the United States in order to continue the use of the turnpike as a toll type facility;

S. Prior to the issuance of any bonds, issue interim certificates in such manner and with such conditions as the authority may determine to be exchanged for those bonds when issued;

S-1. Utilize the Department of Transportation, Office of Legal Services or the Department of the Attorney General for general counsel, bond counsel, labor defense, workers' compensation, legislative issues and other required legal services on a fee-for-service basis at rates determined by those agencies;

T. Take all other lawful action necessary and incidental to these powers;

U. Adopt rules, in accordance with the Maine Administrative Procedure Act, to establish a logo signing program on the turnpike. The authority may charge fees for signs that contain names, symbols, logos or other ~~identifiers~~ identifiers of specific commercial enterprises. This paragraph may not be interpreted as limiting the authority's general power to collect fees under paragraph H; ~~and~~

V. Develop programs whereby a patron of the turnpike who uses the authority's electronic toll collection system, as defined in section 1980, subsection 2-A, paragraph B, may elect to use the pa-

tron's electronic toll collection system device to pay for services other than tolls for the use of the turnpike, whether those services are provided by the authority itself or 3rd parties, and allow the patron to participate in similar programs developed by other tolling authorities; ~~and~~

W. Provide, receive or exchange services with other political agencies, political subdivisions of a state or tolling authorities upon terms beneficial to the authority.

2. Membership of the authority. The membership of the authority shall be as follows:

~~A. Members of the authority are appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over transportation and subject to confirmation by the Legislature. The Commissioner of Transportation is a member ex officio. The Commissioner of Transportation may designate a deputy, director, assistant or other officer or employee of the department to represent the Commissioner of Transportation at meetings of the authority with full power to act and vote on behalf of the Commissioner of Transportation. Upon the expiration of the term of office of any member, the Governor shall appoint a new member who serves in office for a term of 7 years and until a successor is duly appointed and qualified, and any member of the authority is eligible for reappointment. In the event of a vacancy in the membership of the authority caused by the death, incapacity, resignation or removal of a member, the Governor shall appoint a member to fill that vacancy only for the unexpired term of office of the member whose death, incapacity, resignation or removal created the vacancy, but the newly appointed member may be reappointed at the end of the unexpired term in accordance with this subsection. In all events, a member may not be appointed to the authority who is not a resident of the State at the time of the appointment and qualification, or who has not been a qualified voter in the State for a period of at least one year next preceding the appointment.~~

~~A 1. The authority consists of the Commissioner of Transportation, who is an ex officio member, and:~~

~~(1) Four members appointed by the Governor pursuant to paragraph A. Three members of the authority constitute a quorum and 3 votes are required for the authority to act on any matter, although a lesser number may adjourn a meeting;~~

~~(2) On and after August 1, 2000, 5 members appointed by the Governor pursuant to paragraph A. Three members of the authority~~

~~constitute a quorum and 3 votes are required for the authority to act on any matter, although a lesser number may adjourn a meeting; and~~

~~(3) On and after August 1, 2002, 6 members appointed by the Governor pursuant to paragraph A. After August 1, 2002, 4 members of the authority constitute a quorum and 4 votes are required for the authority to act on any matter, although a lesser number may adjourn a meeting.~~

~~A. 2. In making appointments under this subsection, the Governor shall ensure that after August 1, 2002 or at the earliest opportunity thereafter, the authority includes at least one person who is a resident of York County and who is named by the Governor as that county's representative on the authority; one person who is a resident of Cumberland County and who is named by the Governor as that county's representative on the authority; one person who is a resident of Androscoggin County and who is named by the Governor as that county's representative on the authority; and one person who is a resident of Kennebec County and who is named by the Governor as that county's representative on the authority. A member named to represent a certain county ceases to be a member if that person's residency changes to another county. Vacancies created as a result of changes in residency must be filled by the Governor as provided for other vacancies in paragraph A.~~

~~B. Immediately after their appointments, the members of the authority shall enter upon their duties. The Governor shall name one of the appointed members as chair of the authority. The authority shall elect a secretary and a treasurer, who need not be members of the authority. The offices of secretary and treasurer may be held simultaneously by the same person. The authority shall elect an executive director or general manager who is not a member of the authority. A vacancy in the authority does not impair the right of a quorum of the members to exercise all the rights and perform all the duties of the authority.~~

~~C. Before the issuance of any bonds under this chapter, the secretary and the treasurer shall each execute a security bond in the penalty of \$50,000. Each security bond must be approved by the Attorney General and must be conditioned upon the faithful performance of the duties of the secretary's and treasurer's offices, which bond must be filed in the office of the State Auditor. Each member of the authority is entitled to compensation according to the provisions of Title 5, chapter 379. The Governor may remove a member from the authority only for gross misconduct.~~

Sec. 11. 23 MRSA §1966, sub-§2, as amended by PL 1997, c. 743, §1, is further amended to read:

2. Coordination between authority and department on construction or reconstruction. All contracts and agreements relating to the construction or reconstruction of the turnpike and the construction or reconstruction of its connecting tunnels and bridges, overpasses, underpasses, interchanges and toll facilities must be approved by coordinated with the Department of Transportation and the turnpike and connecting tunnels and bridges, overpasses, underpasses, interchanges and barriers must be constructed or reconstructed under the supervision of the department and performed in a fashion generally consistent with applicable department standards under oversight of professional engineers registered in the State. The department shall coordinate with the authority on all department projects that are likely to affect turnpike projects and operations.

Contractors and subcontractors on all authority construction and reconstruction projects must be equal opportunity employers and, in connection with contracts in excess of \$250,000, also pursue in good faith affirmative action programs designed to remedy underrepresentation of minorities, women and persons with disabilities. The authority may by rule provide for the enforcement of this requirement. To the extent practical, the authority may use program and technical information developed by and available through the Department of Transportation to carry out this subsection.

All authority construction and reconstruction projects are governed by the prevailing wage provisions in Title 26, chapter 15.

Sec. 12. 23 MRSA §1966, sub-§2-A is enacted to read:

2-A. Contracts for goods and services. Except as otherwise permitted by law, contracts for goods and services must be awarded by the authority through a competitive procurement process. The requirement for competitive procurement may be waived:

A. By the executive director when the purchase is for \$25,000 or less and the executive director determines that procurement from a single source is the most economical, effective and appropriate means of fulfilling a demonstrated need;

B. By the chair of the board when the chair determines that procurement is required by a state of emergency; or

C. By the board pursuant to a written finding that:

(1) Procurement from a single source is the most economical, effective and appropriate means of fulfilling a demonstrated need;

(2) The service or product is uniquely available from only one source; or

(3) Only one known source can meet the authority's needs within the required time.

Sec. 13. 23 MRSA §1966, sub-§2-B is enacted to read:

2-B. Contracts for engineering services. When bond indentures require the authority to appoint an engineering consultant who may thereby gain a disproportionate advantage when competing for other design and inspection contracts, the authority shall adopt policies to mitigate this advantage and promote a fair distribution of the available work among qualified competing applicants.

Sec. 14. 23 MRSA §1969, sub-§1, ¶A, as amended by PL 1995, c. 504, Pt. C, §6, is further amended to read:

A. To the payment of the cost of the construction and reconstruction of the turnpike or to the payment to the Department of Transportation of the cost of ~~Department of Transportation~~ department projects;

Sec. 15. 23 MRSA §1974, sub-§6, as enacted by PL 1995, c. 504, Pt. C, §7, is amended to read:

6. Revenues to secure special obligation bonds for department projects; determination of project eligibility for funding. Subject to the terms and conditions of this chapter, the authority may authorize turnpike revenues to be transferred to a trustee or agent designated by the authority and that trustee or agent shall hold these revenues in trust to secure or to be applied to the payment of obligations issued pursuant to section 1968, subsection 2-A and as provided for in a resolution authorizing the issuance of these bonds or in a related trust indenture or loan or other security agreement.

The Department of Transportation shall provide the authority with a list of proposed ~~Department of Transportation~~ department projects and any other information requested by the authority and relating to a project on the list. The Department of Transportation and the authority shall determine ~~Department of Transportation~~ department projects that are eligible for funding with proceeds from bonds authorized by section 1968, subsection 2-A. In making this determination, the department and the authority may consider the following factors:

- A. The existing access roads and the state highway system;
- B. The traffic impact of the maintenance, construction or reconstruction on the existing road network;
- C. The total cost of the state highway system;

D. The probable change in departmental expenditures resulting from maintenance, construction or reconstruction of the project;

E. The relative number of vehicles using or expected to use the project on the way to or from the turnpike;

F. The road distance or average road distance of the project or portions of the project from the nearest entrance to or exit from the turnpike;

G. The effect that maintenance, construction or reconstruction will have on the flow of traffic to, from and on the turnpike and in diverting vehicular traffic off or away from the turnpike;

H. The proportionate usage of the state highway system by vehicles using the turnpike and vehicles not using the turnpike;

I. Vehicle classification and travel characteristics;

J. Origins and destinations of trips;

K. Fuel type and consumption;

L. Existing sources of revenue; and

M. Any other factors considered relevant, including, but not limited to, expert opinion.

Sec. 16. 23 MRSA §1977, as amended by IB 1991, c. 1, §9, is further amended to read:

§1977. Trust funds

Subject to any agreement with the bondholders, all revenue received from the operation of the turnpike after deducting expenditures required for the construction, reconstruction, operation and maintenance of the turnpike and for the payment of the principal and the interest on the bonds of the authority or otherwise in accordance with the provisions thereof, and after deducting the ~~operating surplus amount~~ amount provided to the ~~Department of Transportation~~ department pursuant to ~~section 1961, subsection 7~~, must be held and invested by the authority to establish trust funds for reserve and sinking funds for the retirement of bonded indebtedness.

Sec. 17. 23 MRSA §1980, sub-§2-A, ¶G, as repealed and replaced by PL 2003, c. 591, §2, is amended to read:

G. The authority shall notify the Secretary of State, who shall, in accordance with Title 29-A, section 154, subsection 6, suspend the registration certificate and plates issued for the vehicle involved in the alleged failure to pay if a registered owner:

- (1) Does not dispute a notice of liability and pay the tolls, administrative fees and civil penalties as required by paragraph C, subparagraph (4);

(2) Does not pay the required tolls, administrative fees and civil penalties within 30 days of a final decision of a violation clerk as provided in paragraphs I and J; ~~or~~

(3) Does not pay the required tolls, administrative fees and civil penalties within 30 days of final adjudication of liability under paragraph K; or

(4) Does not pay the required tolls, administrative fees or civil penalties within 30 days of final adjudication of liability by an away agency with whom the authority has a reciprocal collection arrangement under subsection 2-C.

When notifying the Secretary of State under this paragraph, the authority shall send a notice by certified mail, return receipt requested, informing the registered owner of the pending suspension.

Sec. 18. 23 MRSA §1980, sub-§2-B, ¶B, as amended by PL 2001, c. 473, §1, is further amended to read:

B. A photograph, micro-photograph, videotape or other recorded image prepared for enforcement of authority tolls is for the exclusive use of the authority in the discharge of its duties under this section. This material is confidential and is not available to the public or to any person employed by the authority whose duties do not require access to the material. The authority shall make this information available to a law enforcement officer upon request and may share this information with other toll administrative agencies as provided in section 1982. Except as provided in this subsection or as may be necessary to prove a claim for indemnification under subsection 2-A, paragraph F or to prosecute a criminal offense, this material may not be used in a court in an action or proceeding.

Sec. 19. 23 MRSA §1980, sub-§2-C is enacted to read:

2-C. Reciprocity with away agencies. The authority may enter into reciprocal collection arrangements with away agencies in accordance with this subsection. When an away agency certifies with supporting evidence that the operator of a motor vehicle registered in this State has failed to pay a toll, the authority may collect the civil penalties and tolls properly imposed by the away agency as though those penalties and tolls were imposed by the authority if:

A. The away agency has its own effective reciprocal procedures for collecting penalties and tolls imposed by the authority and does, in fact, reciprocate in collecting penalties and tolls of the authority by employing sanctions that include denial

of a person's right to register or reregister a motor vehicle;

B. The penalties, exclusive of tolls, claimed by the away agency against an owner of an automobile registered in this State do not exceed \$100 for a first violation or \$600 for all pending violations;

C. The away agency provides due process and appeal protections to avoid the likelihood that a false, mistaken or unjustified claim will be pursued against an owner;

D. An owner of an automobile registered in this State may present evidence to the away agency or to the authority by mail, telephone, electronic means or other means to invoke rights of due process without having to appear personally in the jurisdiction where the violation occurred; and

E. The reciprocal collection arrangement between the authority and the away agency provides that each party may charge the other a fee sufficient to cover the costs of collection services, including costs incurred by an agency that registers motor vehicles.

Sec. 20. 23 MRSA §4206, sub-§1, ¶N, as amended by PL 2005, c. 277, §2, is further amended to read:

N. To make contracts and enter into agreements with and make assurances and certifications to the Maine Turnpike Authority, and other 3rd parties, necessary in connection with determination of ~~Department of Transportation~~ department projects and the issuance of bonds or obligations pursuant to section 1968, subsection 2-A; and

Sec. 21. Transition; staggered terms; board of directors of the Maine Turnpike Authority. A member of the Maine Turnpike Authority appointed pursuant to the former Maine Revised Statutes, Title 23, section 1965, subsection 2:

1. Is subject to the 6-year term imposed pursuant to Title 23, section 1964-A, subsection 2;

2. Notwithstanding the requirement in Title 23, section 1964-A, subsection 2 that terms expire on March 31st, serves until one year prior to the end of that member's current term; and

3. Continues as a member of the board of directors of the Maine Turnpike Authority until the end of the 6-year term specified in subsections 1 and 2 or until the position becomes vacant due to resignation, death, incapacity or removal of that member, whichever comes first.

As each position becomes vacant, the Governor shall appoint or reappoint a member to a new term of 6 years or less in such fashion as to complete a rotation that will, as soon as possible, yield terms that are stag-

gered to comply with Title 23, section 1964-A, subsections 1 and 2.

Sec. 22. Transition; budget of Maine Turnpike Authority. Notwithstanding the Maine Revised Statutes, Title 23, section 1961, subsection 6, on or before January 31, 2012, the Maine Turnpike Authority shall submit a revenue fund budget for January 1, 2013 to June 30, 2013. Beginning in 2013, the authority shall submit its annual budget in compliance with Title 23, section 1961, subsection 6.

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

Effective June 10, 2011.

CHAPTER 303

H.P. 1159 - L.D. 1576

An Act To Clarify the Award of Fees in Domestic Violence Cases

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 federal Violence Against Women Act of 2000 has a requirement regarding management of costs and fees in protection from abuse orders; and

Whereas, all applicants for funding under the federal Violence Against Women Act of 2000 are required to certify that laws, policies and practices do not require, in connection with the filing, issuance, registration or service of a protection order or a petition for a protection order to protect a victim of domestic violence, stalking or sexual assault, that the victim bear the costs associated with the issuance of a protection order; and

Whereas, there are concerns that Maine's protection from abuse statute is ambiguous about the awards of attorney's fees and court costs; and

Whereas, this legislation needs to take effect before the expiration of the 90-day period so that grant certifications can be made in good faith; 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. 19-A MRSA §4007, sub-§1, ¶L, as amended by PL 2005, c. 510, §10, is further amended to read:

L. Ordering the defendant ~~or, if the complaint is dismissed, the plaintiff~~ to pay court costs or reasonable attorney's fees;

Sec. 2. 19-A MRSA §4007, sub-§1, ¶L-1 is enacted to read:

L-1. Ordering the plaintiff to pay court costs or reasonable attorney's fees, or both, only if a judgment is entered against the plaintiff after a hearing in which both the plaintiff and the defendant are present and the court finds that the complaint is frivolous;

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

Effective June 10, 2011.

CHAPTER 304

S.P. 10 - L.D. 1

An Act To Ensure Regulatory Fairness and Reform

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

Whereas, during the First Regular Session of the 125th Legislature, the Joint Select Committee on Regulatory Fairness and Reform held 7 public meetings throughout the State and received hundreds of recommendations for regulatory reform from the public, the regulated business community, environmental advocacy groups and other stakeholders; and

Whereas, through 2 subsequent public hearings and numerous work sessions on those recommendations, the committee reached unanimous agreement on the provisions in this Act to implement a number of significant and critical regulatory reforms; and

Whereas, these reforms must take effect immediately to ensure regulatory fairness, improve the business climate of the State, encourage job creation and retention and expand opportunities for Maine people; 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,