

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**September 27, 2011**

**SECOND REGULAR SESSION**  
**January 4, 2012 to May 31, 2012**

**THE EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**LAWS IS**  
**SEPTEMBER 28, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 30, 2012**

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

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**Augusta, Maine**  
**2012**

consist of construction during a no-flow period, a temporary cofferdam or a stream diversion. The erosion control plan must also include provisions for dewatering and disposal of dredged and excavated soil material. The disposal of soil material dredged from the stream must comply with the requirements of the State's solid waste management rules;

(9) Test pit logs and test results from a minimum of 2 test pits dug in the footprint of the dam and results of tests done under the direction of a professional engineer on the dam fill material; and

(10) A copy of the property deed, lease, purchase and sale agreement or other legal document establishing that the applicant has title or right to or interest in the property proposed for pond development.

All design materials used to show that the dam design meets the standards of the general permit must be signed and stamped by a professional engineer.

**Sec. 12. 38 MRSA §570-E**, as amended by PL 1999, c. 334, §7, is repealed.

**Sec. 13. 38 MRSA §590-A, first ¶**, as enacted by PL 1987, c. 279, is amended to read:

The term of air emission licenses is 5 10 years, except that the term of licenses for air contaminant sources subject to the state permitting provisions of 40 Code of Federal Regulations, Part 70 is 5 years and licenses issued pursuant to rules adopted pursuant to section 580-B, subsection 4, paragraph D have no term. The board may establish, by rule, shorter license terms for the following source categories as it ~~deems~~ considers necessary to protect the public health, safety and welfare:

**Sec. 14. 38 MRSA §1400** is enacted to read:

**§1400. Rules**

Subject to Title 5, chapter 375, the department may adopt rules as it determines necessary to implement this chapter. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 15. Coastal sand dune rulemaking.**

The Department of Environmental Protection may adopt rules allowing for the reconstruction of an existing structure in a frontal dune if:

1. The frontal dune is protected by a seawall;
2. The structure to be reconstructed existed prior to June 8, 2006;
3. The reconstructed structure is elevated on posts as provided for in rules adopted by the department;

4. Any relocation of the reconstructed structure into the frontal dune is minimized to the extent practicable; and

5. The project meets the standards for all projects contained in the department's rules relating to coastal sand dunes.

Notwithstanding the Maine Revised Statutes, Title 38, section 480-AA, the initial rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A and may be adopted by the Commissioner of Environmental Protection in accordance with Title 38, section 341-H, subsection 2. Any amendments to the rules adopted pursuant to this section are major substantive rules and may be adopted by the Board of Environmental Protection in accordance with Title 38, section 341-H, subsection 1.

**Sec. 16. Transition.** An air emission license issued for a term of 5 years pursuant to the Maine Revised Statutes, Title 38, section 590-A that is in effect on the effective date of this Act is effective for 10 years upon renewal of that license.

See title page for effective date.

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**CHAPTER 539**

**S.P. 584 - L.D. 1719**

**An Act To Update the Powers and Duties of the Bureau of Maine Veterans' Services**

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

**Sec. 1. 37-B MRSA §504, sub-§4, ¶G** is enacted to read:

G. The interment of an eligible veteran or eligible dependent is permanent and final except that the director may allow disinterment as long as there is no cost to the State.

**Sec. 2. Report on coordination of efforts to identify veterans who may be entitled to additional benefits.** No later than February 15, 2013, the office for family independence within the Department of Health and Human Services and the Department of Defense, Veterans and Emergency Management, Bureau of Maine Veterans' Services shall report to the joint standing committee of the Legislature having jurisdiction over veterans matters and the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding the coordination of their efforts to identify veterans who have received or are receiving Medicaid benefits and may be entitled to, but are not receiving, federally funded benefits from the United States Department of

Veterans Affairs. The report may include recommendations for legislation to assist in this veteran identification effort. The joint standing committee of the Legislature having jurisdiction over veterans matters is authorized to report out a bill to the First Regular Session of the 126th Legislature.

See title page for effective date.

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## CHAPTER 540

### S.P. 550 - L.D. 1651

#### An Act To Clarify Health Insurance Benefits for Disabled Participants in the Maine Public Employees Retirement 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,** changes made during the First Regular Session of the 125th Legislature to cost-sharing provisions for the health insurance plan covering retired state employees require individuals who retire after January 1, 2012 and before normal retirement age to pay 100% of the group health plan premium; and

**Whereas,** these changes have created unanticipated consequences affecting individuals receiving disability retirement benefits who are automatically transferred to regular retirement benefits when those regular retirement benefits equal or exceed the disability retirement benefits; and

**Whereas,** individuals who are transferred from disability status to regular retirement status prior to normal retirement age may be required to pay the full cost of the health insurance plan; and

**Whereas,** such costs would be a significant burden for disabled retirees; and

**Whereas,** this situation must be remedied immediately; 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 §285, sub-§7, ¶L,** as enacted by PL 2011, c. 380, Pt. V, §1 and affected by §7, is amended to read:

L. The provisions of paragraphs I and J do not apply to those individuals who are receiving or who have received retirement benefits under section 17907 or section 17929.

**Sec. 2. 20-A MRSA §13451, sub-§3,** as amended by PL 2011, c. 380, Pt. W, §3 and affected by §5, is further amended to read:

**3. Payment by State.** The State shall pay a percentage of the retired teacher members' share of this insurance according to the following schedule:

A. Thirty percent until July 1, 2002;

B. Thirty-five percent from July 1, 2002 to July 31, 2003;

C. Forty percent from August 1, 2003 to December 31, 2005; and

D. Forty-five percent after December 31, 2005.

Except for individuals who are receiving or who have received retirement benefits under Title 5, section 17907 or ~~17929~~ 17929, for a teacher who retires after July 1, 2012, the State shall begin paying the percentage of the retired teacher member's share pursuant to this subsection when the retiree reaches normal retirement age.

For the fiscal years ending June 30, 2012 and June 30, 2013, the State's total cost for retired teachers' health insurance premiums is capped at the fiscal year 2010-11 funding level.

**Sec. 3. Retroactivity.** This Act is retroactive to January 1, 2012.

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

Effective March 20, 2012.

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## CHAPTER 541

### H.P. 1240 - L.D. 1688

#### An Act To Clarify the Status of Patients Held under Involuntary Commitment Applications

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

**Sec. 1. 15 MRSA §393, sub-§4-A,** as enacted by PL 2007, c. 670, §9 and affected by §24, is amended to read:

**4-A. Application for relief.** Except as otherwise provided, a person subject to the federal prohibition against possession of firearms pursuant to 18 United States Code, Section 922(g)(4) as a result of being