

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2012 to July 10, 2013

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 9, 2013

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

Augusta, Maine
2013

that the student is no longer presenting a risk of injury or harm to self or others and to provide that the seclusion must be discontinued as soon as possible;

I. In Section 6, subsection 1, paragraph A to provide that physical restraint may be used only as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others and only after other less intrusive interventions have failed or been determined inappropriate;

J. In Section 6, subsection 2, paragraph B to provide that physical restraint may not be used to prevent property destruction or disruption of the environment in the absence of a risk of injury or harm;

K. In Section 6, subsection 3, paragraph B to provide that a student in physical restraint must be continuously monitored until the student no longer presents a risk of injury or harm to self or others;

L. In Section 6, subsection 4, paragraph A to provide that the staff involved in the use of physical restraint must continually assess the student for signs that the student in physical restraint is no longer presenting a risk of injury or harm to self or others and to provide that the physical restraint must be discontinued as soon as possible; and

M. In Section 6, subsection 4, paragraph D to provide that if attempts to release the student from physical restraint have been unsuccessful and the student is still presenting behaviors that create a risk of injury or harm to self or others, the covered entity may request assistance from outside sources such as caregivers, case managers, crisis intervention teams, local emergency management services or other community resources.

3. The rule must be amended in Section 2, subsection 16 to provide that physical restraint does not include a brief period of physical contact necessary to break up a fight.

4. The rule must be amended to require the Department of Education to ensure annually that teachers and administrators throughout the State are provided with consistent and accurate information regarding the requirements of Rule Chapter 33; and be it further

Sec. 2. Expedited amendment process. Resolved: That, notwithstanding the Maine Revised Statutes, Title 5, chapter 375, subchapters 2 and 2-A or any other law, the Department of Education shall amend its Rule Chapter 33: Rule Governing Physical Restraint and Seclusion as provided in this resolve and shall file the amended rule with the Secretary of State

as a final amended rule within 7 business days of the effective date of this resolve. Rules adopted pursuant to this resolve are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Beginning July 1, 2013, any changes to Rule Chapter 33 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A; and be it further

Sec. 3. Report. Resolved: That the Department of Education, not later than January 10, 2014, shall submit a report to the Joint Standing Committee on Education and Cultural Affairs describing the effect of the changes required by this resolve. The Department of Education shall consult with relevant stakeholders and include feedback from these stakeholders in its report. The committee may submit a bill related to the report to the Second Regular Session of the 126th Legislature if the committee determines it is necessary to amend or adjust any language contained in this resolve; and be it further

Sec. 4. Nonregulatory guidance. Resolved: That the Department of Education shall, within 45 days of the effective date of the changes to Rule Chapter 33: Rule Governing Physical Restraint and Seclusion filed with the Secretary of State, develop non-regulatory guidance designed to provide accurate information to teachers and administrators regarding the requirements of the revised rule. The Department of Education shall submit a report detailing these training efforts to the Joint Standing Committee on Education and Cultural Affairs before the end of the Second Regular Session of the 126th Legislature.

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

Effective April 15, 2013.

CHAPTER 9

H.P. 6 - L.D. 4

Resolve, Regarding Legislative Review of Chapter 675: Infrastructure Surcharge and Capital Reserve Accounts, a Major Substantive Rule of the Public Utilities Commission

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 Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

Sec. 1. Adoption. Resolved: That final adoption of Chapter 675: Infrastructure Surcharge and Capital Reserve Accounts, a provisionally adopted major substantive rule of the Public Utilities Commission that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the rule is amended as follows:

1. Language is added to clarify in section 4(A)(1) that the infrastructure surcharge may not result in an increase in revenue requirements greater than 3% of current revenue requirements;
2. Language is added to clarify in section 4(A)(3) that the infrastructure surcharge may not result in an increase in revenue requirements greater than 7.5% of current revenue requirements;
3. Section 4(B)(2) is changed to provide that the amount of the utility's revenue requirement attributed to fund a capital reserve account may not exceed the percentages listed in that paragraph; and
4. Language is added to Section 6(A)(1)(b)(i) to include as an option when calculating rate of return for an investor-owned water utility allowing the investor-owned water utility, the Public Utilities Commission's advisory staff and the Office of the Public Advocate to agree in advance of the filing of the infrastructure surcharge request on the current cost of debt and the return on equity and capital structure to be used.

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

Effective April 16, 2013.

CHAPTER 10
H.P. 327 - L.D. 477

**Resolve, To Open Wild Turkey
Hunting in Wildlife
Management District 27 for the
2013 Spring Turkey Hunting
Season**

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

Whereas, an expanded wild turkey population is having a detrimental effect on early spring blueberry buds in Wildlife Management District 27, threatening the 2013 wild blueberry harvest; and

Whereas, Wildlife Management District 27 consists of many coastal towns and coastal islands containing many of the State's blueberry barrens in Washington County and Hancock County; and

Whereas, the wild blueberry industry is critically important to the Maine economy and the Down-east region in particular; and

Whereas, a spring turkey hunting season in Wildlife Management District 27 would expand opportunities for hunters; 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

Sec. 1. Wildlife Management District 27 open for 2013 spring turkey hunting season. Resolved: That, notwithstanding any other provision of law or rule, except as provided in this section, in 2013, an open spring season is established for the hunting of wild turkey within Wildlife Management District 27 as described in Chapter 4.00 of the Department of Inland Fisheries and Wildlife rules except for those areas closed to hunting described in the Maine Revised Statutes, Title 12, section 12706, subsection 1. The season begins on April 29, 2013 and continues for 5 consecutive weeks until June 3, 2013. Chapter 4.06, Section 1, Paragraphs C, D, E and F of the Department of Inland Fisheries and Wildlife rules apply to the season in Wildlife Management District 27 established by this section.

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

Effective April 25, 2013.
