

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 6, 2016 to April 29, 2016**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 29, 2016**

**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**  
**2016**

control of all ballots and related materials involved in the recount as soon as possible, except that for a statewide office or statewide referendum or an office or referendum that encompasses more than one county, the Secretary of State, in agreement with the parties involved in the recount, may direct the State Police to retrieve ballots from certain voting jurisdictions so that the recount may be conducted in stages until the requesting candidate or the lead applicant for a referendum recount concedes or until all the ballots are recounted.

**Sec. 28. 21-A MRSA §737-A, 4th ¶**, as enacted by PL 1993, c. 473, §31 and affected by §46, is amended to read:

If, after the official tabulation is submitted to the Governor, the apparent winner is determined the losing candidate, that candidate may request ~~another~~ a recount within 3 business days after the date the Governor receives the tabulation.

**Sec. 29. 21-A MRSA §737-A, sub-§1, ¶¶A and B**, as amended by PL 2003, c. 447, §25, are further amended to read:

A. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is ~~2%~~ 1.5% or less of the total votes cast for that office, a deposit is not required.

B. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is more than ~~2%~~ 1.5% and less than or equal to 4% of the total votes cast for that office, the deposit is \$500.

**Sec. 30. 21-A MRSA §777-A**, as amended by PL 2011, c. 534, §21, is further amended to read:

**§777-A. Registration and enrollment**

Notwithstanding the registration deadline in section 121-A, uniformed service voters or overseas voters may register or enroll at any time prior to 5 p.m. on election day by completing a federal or state voter registration application form and filing it with the registrar or the Secretary of State in person, by mail or by electronic means authorized by the Secretary of State.

**Sec. 31. 21-A MRSA §781-A**, as amended by PL 2011, c. 534, §22, is further amended to read:

**§781-A. Absentee ballot application; procedure on receipt**

Notwithstanding the absentee ballot application deadline in section 753-B, subsection 2, paragraph D, upon receipt of an application or written request for an absentee ballot prior to 5 p.m. on election day from a uniformed service voter or overseas voter that is accepted pursuant to section 753-A or section 783, the clerk or the Secretary of State shall immediately issue an absentee ballot and return envelope by the author-

ized means designated by the voter in the application. If the ballot is to be transmitted to the voter by mail, the clerk or the Secretary of State shall type or write in ink the name and the residence address of the voter in the designated section of the return envelope. The Secretary of State shall provide a return envelope that moves free of postage under federal law.

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

Effective April 10, 2016.

**CHAPTER 448**

**H.P. 1069 - L.D. 1576**

**An Act To Amend Certain Education Laws**

**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 changes made by this legislation could affect budget meetings of school administrative units and town budgets; and

**Whereas**, it is necessary that this legislation take effect prior to the expiration of the 90-day period to allow towns to benefit from the legislation during the next annual budget process; 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 §254, sub-§19** is enacted to read:

**19. Designation of school to enroll certain students.** The commissioner may designate a school administrative unit as the receiving school administrative unit for a student who resides in a school administrative unit that neither maintains a school nor contracts for school privileges pursuant to chapter 115 and is unable to find a school administrative unit willing to enroll the student in one of its schools, upon a written request from the superintendent of the school administrative unit where the student resides setting forth the student's circumstances giving rise to the request.

A. If the commissioner makes a designation under this subsection, the school administrative unit where the student resides shall pay tuition for that

student to the receiving school administrative unit as calculated in accordance with this subsection and chapter 219.

B. If a student subject to a designation under this subsection is receiving special education services, the receiving school administrative unit designated by the commissioner under this subsection is responsible for providing a free, appropriate public education to the student, subject to the provisions of this subsection. The receiving school administrative unit shall invite the school administrative unit where the student resides to participate in individualized education program team meetings for the student, but the authorized representative of the receiving school administrative unit shall make the decision on any issue on which consensus is not reached. The school administrative unit where the student resides shall, in addition to tuition payable pursuant to chapter 219, pay to the receiving school administrative unit:

- (1) Special education tuition;
- (2) Any costs not included in the computation of special education tuition directly related to the student's special education program; and
- (3) Any costs associated with due process proceedings in connection with the student's special education program.

C. Once the commissioner makes a designation under this subsection, the student must be enrolled in the receiving school administrative unit. If dissatisfied with the commissioner's decision, the superintendent of the school administrative unit where the student resides or the superintendent of the receiving school administrative unit may, within 10 calendar days of the commissioner's decision, request that the state board review the designation. The state board shall review the commissioner's determinations and communicate with the commissioner, the superintendents and the parent of the student. The state board may approve or disapprove the designation. The state board shall make a decision within 45 calendar days of receiving the request and shall provide to the commissioner, the superintendents and the parent of the student a written decision describing the basis of the state board's determination. The state board's decision is final and binding.

**Sec. 2. 20-A MRSA §1001, sub-§8,** as amended by PL 2013, c. 581, §2, is further amended to read:

**8. Operate public preschool programs, kindergarten and grades one to 12.** They shall either operate programs in kindergarten and grades one to 12 or otherwise provide for students to participate in

those grades as authorized elsewhere in this Title. To the extent the State provides adequate start-up funding, they may operate public preschool programs or provide for students to participate in such programs in accordance with the requirements of this Title. They shall determine which students attend each school, classify them and transfer them from school to school where more than one school is maintained at the same time. If a school administrative unit neither maintains a school nor contracts for school privileges pursuant to chapter 115 and a student who resides in the school administrative unit is unable to enroll in another school administrative unit, the school board shall direct the superintendent of the school administrative unit where the student resides to make a written request to the commissioner to designate a place of enrollment for the student, pursuant to section 254, subsection 19.

**Sec. 3. 20-A MRSA §2404, sub-§2, ¶¶C and D,** as enacted by PL 2011, c. 414, §5, are amended to read:

C. Except as provided in paragraphs H ~~and~~ I and K, if capacity is insufficient to enroll all students who wish to attend the school, the public charter school shall select students through a random selection process. A list maintained to fill potential vacancies may be carried over to the succeeding year.

D. For a school administrative unit with an enrollment of 500 or fewer students, a public charter school, unless authorized by a school administrative unit, may not enroll more than 5% of a school administrative unit's noncharter public school students per grade level in each of the first 3 years of the public charter school's operation, except that if 5% of a school administrative unit's noncharter public school students per grade level is less than one, a public charter school may enroll one student of the school administrative unit per grade level in each of the first 3 years.

**Sec. 4. 20-A MRSA §2404, sub-§2, ¶G,** as enacted by PL 2011, c. 414, §5, is amended to read:

G. ~~Any~~ A public charter school authorized by a local school board or by a collaborative among local school boards and any noncharter public school converting partially or entirely to a public charter school shall adopt and maintain a policy that gives enrollment preference to pupils who reside within a school administrative unit whose school board authorizes that public charter school or within the former attendance area of that non-charter public school.

**Sec. 5. 20-A MRSA §2405, sub-§4,** as amended by PL 2015, c. 54, §1, is further amended to read:

**4. Reporting and evaluation.** An authorizer shall submit to the commissioner and the Legislature an annual report within ~~60~~ 90 days of the end of each school fiscal year summarizing:

A. The authorizer's strategic vision for chartering and progress toward achieving that vision;

B. The performance of all operating public charter schools overseen by the authorizer, according to the performance measures and expectations specified in the charter contracts;

C. The status of the authorizer's public charter school portfolio of approved charter applications, identifying all public charter schools within that portfolio as:

- (1) Approved, but not yet open;
- (2) Operating;
- (3) Renewed;
- (4) Transferred;
- (5) Terminated;
- (6) Closed; or
- (7) Never opened;

D. The oversight and services provided by the authorizer to the public charter schools under the authorizer's purview; and

E. The total amount of funds collected from each public charter school the authorizer authorized pursuant to subsection 5, paragraph B and the costs incurred by the authorizer to oversee each public charter school.

**Sec. 6. 20-A MRSA §2406, sub-§2, ¶F,** as amended by PL 2011, c. 570, §9, is further amended to read:

F. A request for proposals must require applications to provide or describe thoroughly, at a minimum, all of the following essential elements of the proposed public charter school plan:

- (1) The proposed public charter school's vision, including:
  - (a) An executive summary;
  - (b) The mission and vision of the proposed public charter school, including identification of the targeted student population and the community the school hopes to serve; and
  - (c) Evidence of need and community support for the proposed public charter school, including information on discussions with the school administrative unit where the public charter school will be located concerning recruitment and op-

erations of the public charter school and possible collaboration with nearby school administrative units;

(2) The proposed public charter school's governance plan, including:

(a) Background information on proposed board members and any assurances or certifications required by the authorizer;

(b) Proposed governing bylaws;

(c) An organization chart that clearly presents the school's organizational structure, including lines of authority and reporting between the governing board, staff and any related bodies such as advisory bodies or parent and teacher councils, and any external organizations that will play a role in managing the school;

(d) A clear description of the roles and responsibilities for the governing board, the school's leadership and management team and any other entities shown on the organization chart;

(e) Identification of the proposed founding governing board members and, if identified, the proposed school leader or leaders; and

(f) Background information on the school's leadership and management team, if identified;

(3) The proposed public charter school's plan of organization, including:

(a) The location or geographic area of the school and the proposed catchment area of the school, which may not be designed to exclude areas with high rates of poverty, English language learners, at-risk students or students with disabilities;

(b) The grades to be served each year for the full term of the charter;

(c) Minimum, planned and maximum enrollment per grade per year for the term of the charter;

(d) The school's proposed calendar and sample daily schedule;

(e) Plans and timelines for student recruitment and enrollment, including lottery procedures;

(f) Explanations of any partnerships or contractual relationships central to the school's operations or mission;

(g) The school's proposals for providing transportation, food service and other

- significant operational or ancillary services;
  - (h) A facilities plan, including backup or contingency plans if appropriate;
  - (i) A detailed school start-up plan, identifying tasks, timelines and responsible individuals; and
  - (j) A closure protocol, outlining orderly plans and timelines for transitioning students and student records ~~to new schools~~ as described in section 2411, subsection 8, paragraph C and for appropriately disposing of school funds, property and assets in the event of school closure;
- (4) The proposed public charter school's finances, including:
- (a) A description of the school's financial plan and policies, including financial controls and audit requirements;
  - (b) Start-up and 3-year budgets with clearly stated assumptions;
  - (c) Start-up and first-year cash-flow projections with clearly stated assumptions;
  - (d) Evidence of anticipated fund-raising contributions, if claimed in the application; and
  - (e) A description of the insurance coverage the school proposes to obtain;
- (5) The proposed public charter school's student policy, including:
- (a) The school's plans for identifying and successfully serving students with the wide range of learning needs and styles typically found in noncharter public schools of the sending area;
  - (b) The school's plans for compliance with applicable laws, rules and regulations; and
  - (c) The school's student discipline plans and policies, including those for special education students;
- (6) The proposed public charter school's academic program, including:
- (a) A description of the academic program aligned with the statewide system of learning results under section 6209;
  - (b) A description of the school's instructional design, including the type of learning environment, such as classroom-based or independent study, class size

- and structure, curriculum overview, teaching methods and research basis;
  - (c) The school's plan for using internal and external assessments to measure and report student progress on the measures and metrics of the performance framework developed by the authorizer in accordance with section 2409; and
  - (d) A description of cocurricular or extracurricular programs and how they will be funded and delivered; and
- (7) The proposed public charter school's staff policy, including:
- (a) A staffing chart for the school's first year and a staffing plan for the term of the charter;
  - (b) Plans for recruiting and developing school leadership and staff;
  - (c) The school's leadership and teacher employment policies, including performance evaluation plans; and
  - (d) Opportunities and expectations for parent involvement.

**Sec. 7. 20-A MRSA §2411, sub-§8**, as enacted by PL 2011, c. 414, §5, is amended to read:

**8. School closure and dissolution.** If a public charter school closes for any reason:

A. The authorizer shall oversee and work with the closing public charter school to ensure timely notification to parents, orderly transition of students and student records ~~to new schools~~ and proper disposition of school funds, property and assets in accordance with the requirements of this chapter; ~~and~~

B. The assets of the public charter school must be distributed first to satisfy outstanding payroll obligations for employees of the public charter school and then to creditors of the public charter school. Any remaining funds must be paid to the Treasurer of State to the credit of the General Fund. If the assets of the public charter school are insufficient to pay all parties to whom the public charter school owes compensation, the prioritization of the distribution of assets may be determined by decree of a court of law; and

C. Education records for students transitioning to new schools must be transferred as required in section 6001-B. Education records for a person who for any reason, including graduation, will not be attending a public school in the State after closure of the public charter school must be transferred to the last school administrative unit of residence on record at the public charter school

for that student and must be maintained by that school administrative unit in the same manner as education records of other resident students.

**Sec. 8. 20-A MRSA §2412, sub-§5, ¶L** is enacted to read:

L. Public charter schools are subject to the educator effectiveness requirements in chapter 508 applicable to noncharter public schools in the State.

**Sec. 9. 20-A MRSA §5001-A, sub-§2, ¶E**, as enacted by PL 2009, c. 330, §3, is amended to read:

E. A person enrolled in an online learning program or course, unless the person is enrolled in a virtual public charter school as defined in section 2401, subsection 11.

**Sec. 10. 20-A MRSA §5205, sub-§6, ¶G** is enacted to read:

G. Notwithstanding paragraph D, if the commissioner or state board approves a transfer under this subsection and the student subject to the transfer is receiving special education services, the state subsidy of special education costs for the transferred student may not be reduced as a result of the transfer.

**Sec. 11. 20-A MRSA §7204, sub-§§5 and 6**, as amended by PL 2005, c. 662, Pt. A, §25, are further amended to read:

**5. Due process.** Shall:

A. Adopt or amend rules to assure and protect the rights of due process for children with disabilities; and

B. Inform and train each school administrative unit on the rights of children with disabilities to due process under state laws and rules and federal law and regulations; ~~and~~

**6. Technical assistance.** May, on the request of a school administrative unit, provide technical assistance in the formulation of a plan or subsequent report required of all administrative units. Assistance may not be designed to transfer the responsibility for or actual development of the plan or report; ~~and~~

**Sec. 12. 20-A MRSA §7204, sub-§7** is enacted to read:

**7. Out-of-state placement of a state ward.** May, when a child with a disability who is a state ward is placed in an out-of-state residential treatment center by the Department of Health and Human Services, designate the Department of Education as having responsibility for oversight of the child's individualized education program to ensure that the child receives a free, appropriate public education.

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

Effective April 10, 2016.

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**CHAPTER 449**

**S.P. 446 - L.D. 1241**

**An Act To Increase  
Government Efficiency**

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

**Sec. 1. 4 MRSA §1602, sub-§3**, as amended by PL 1997, c. 523, §2, is further amended to read:

**3. Officers; quorum.** The authority shall elect from its membership a chair and a vice-chair. In addition, the authority may have a secretary and a treasurer, who may be members or nonmembers of the authority. Three members of the authority constitute a quorum and the vote of 3 members is necessary for any action taken by the authority. A vacancy in the membership of the authority does not impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

The authority may meet by telephonic, video, electronic or other similar means of communication with less than a quorum assembled physically at the location of a public proceeding identified in the notice required by Title 1, section 406 only if:

A. Each member can hear all other members, speak to all other members and, to the extent reasonably practicable, see all other members by videoconferencing or other similar means of communication during the public proceeding, and members of the public attending the public proceeding at the location identified in the notice required by Title 1, section 406 are able to hear and, to the extent reasonably practicable, see all members participating from other locations by videoconferencing or other similar means of communication;

B. Each member who is not physically present at the location of the public proceeding and who is participating through telephonic, video, electronic or other similar means of communication identifies all persons present at the location from which the member is participating;

C. A member who participates while not physically present at the location of the public proceeding identified in the notice required by Title 1, section 406 does so only when the member's attendance is not reasonably practical. The reason that the member's attendance is not reasonably