Bills for LPC Subcommittee on Appropriations, Education, Energy, Labor, Taxation & Elections

(Bills in order of Committee of jurisdiction)
129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document No. 1918

H.P. 1366                                      House of Representatives, January 6, 2020

An Act To Amend the Laws Regarding the Reserve Funds of Certain School Organizational Structures

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on January 2, 2020. Referred to the Committee on Education and Cultural Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Presented by Representative CLOUTIER of Lewiston.
Cosponsored by Senator LIBBY of Androscoggin and Representatives: CRAVEN of Lewiston, DODGE of Belfast, FECTEAU of Biddeford, HANDY of Lewiston, HUBBELL of Bar Harbor, TEPLER of Topsham.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §1312, sub-§1, as amended by PL 1989, c. 132, §2, is further amended to read:

1. Establishment. A school administrative district may establish a reserve fund for school construction projects, financing the acquisition or reconstruction of a specific type of capital improvement or financing the acquisition of a specific item or type of capital equipment if the purpose of the reserve fund includes a description of the purpose of the reserve fund, and receiving voter approval. The board of directors shall be the trustee of the reserve fund. The reserve fund shall must be deposited or invested by the treasurer under the direction of the board.

Sec. 2. 20-A MRSA §1312, sub-§3, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

3. Expenditure of money from reserve funds. The board of directors may expend the sum in the reserve fund when authorized to do so by a vote of the district at a district meeting or a district budget meeting, when an article for that purpose is set out in the warrant calling the meeting, except that the board of directors may expend funds from a reserve fund by a vote of the board:

A. In the event of an emergency that requires the immediate expenditure of funds and when, in responding to the emergency, returning to the voters for permission is cost-prohibitive; or

B. When such an expenditure is required by law.

The vote to expend funds from the reserve fund pursuant to paragraph A or B must be recorded in the meeting minutes of the board of directors.

Sec. 3. 20-A MRSA §1491, sub-§1, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

1. Establishment. A regional school unit may establish a reserve fund for school construction projects, financing the acquisition or reconstruction of a specific type of capital improvement or financing the acquisition of a specific item or type of capital equipment if the purpose of the reserve fund includes a description of the purpose of the reserve fund, and receiving voter approval. The regional school unit board is the trustee of the reserve fund. The reserve fund must be deposited or invested by the treasurer of the regional school unit under the direction of the regional school unit board.

Sec. 4. 20-A MRSA §1491, sub-§3, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

3. Expenditure of money from reserve funds. The regional school unit board may expend the sum in the reserve fund when authorized to do so by a vote of the regional school unit at a regional school unit meeting or a regional school unit budget meeting.
when an article for that purpose is set out in the warrant calling the meeting, except that
the regional school unit board may expend funds from a reserve fund by a vote of the
board:

A. In the event of an emergency that requires the immediate expenditure of funds
and when, in responding to the emergency, returning to the voters for permission is
cost-prohibitive; or

B. When such an expenditure is required by law.
The vote to expend funds from the reserve fund pursuant to paragraph A or B must be
recorded in the meeting minutes of the regional school unit board.

Sec. 5. 20-A MRSA §1706, sub-§1, as enacted by PL 1989, c. 132, §3, is
amended to read:

1. Establishment. A community school district may establish a reserve fund for
school construction projects, financing the acquisition or reconstruction of a specific or
type of capital improvement or financing the acquisition of a specific item or type of
capital equipment any direct instruction or instructional support purpose by including a
request in the district budget, which must include a description of the purpose of the
reserve fund, and receiving voter approval.
The district school committee shall be the trustee of the reserve fund. The reserve fund
shall must be deposited or invested by the treasurer under the direction of the school
committee.

Sec. 6. 20-A MRSA §1706, sub-§3, as enacted by PL 1989, c. 132, §3, is
amended to read:

3. Expending money from reserve funds. The district school committee may
expend the sum in the reserve fund when authorized to do so by a vote of the district at a
district meeting or a district budget meeting, when an article for that purpose is set out in
the warrant calling the meeting, except that the district school committee may expend
funds from a reserve fund by a vote of the committee:

A. In the event of an emergency that requires the immediate expenditure of funds
and when, in responding to the emergency, returning to the voters for permission is
cost-prohibitive; or

B. When the expenditure is required by law.
The vote to expend funds from the reserve fund pursuant to paragraph A or B must be
recorded in the meeting minutes of the district school committee.

Sec. 7. 20-A MRSA §8468, sub-§1, as corrected by RR 1991, c. 2, §64 and
amended by PL 2003, c. 545, §5, is further amended to read:

1. Establishment. A career and technical education region may establish a reserve
fund for a school construction project, the acquisition or reconstruction of a specific item
or type of capital improvement or the acquisition of a specific item or type of capital
equipment any direct instruction or instructional support purpose by establishing such a
reserve fund including a request in the region budget, which must include a description of the purpose of the reserve fund, pursuant to this chapter. The cooperative board is the trustee of such a reserve fund.

Sec. 8. 20-A MRSA § 8468, sub-§ 3, as amended by PL 1991, c. 518, § 32, is further amended to read:

3. Expending money from a reserve fund. The cooperative board may expend a sum in a reserve fund if permitted by the conditions of any indebtedness secured by the reserve fund and if approved in the region budget. A separate article for that purpose must be included in the region budget proposal. The cooperative board may expend funds from a reserve fund by a vote of the board without the expenditure's having to be included in the region budget or region budget proposal:

   A. In the event of an emergency that requires the immediate expenditure of funds and when, in responding to the emergency, returning to the voters for permission is cost-prohibitive; or

   B. When the expenditure is required by law.

The vote to expend funds from the reserve fund pursuant to paragraph A or B must be recorded in the meeting minutes of the cooperative board.

SUMMARY

This bill allows boards of school administrative districts, regional school units, community school districts and career and technical education regions to expend reserve funds by a vote of the board for emergencies necessitating immediate expenditures when obtaining voter permission would be cost-prohibitive or when the expenditures are required by law.

It also changes what a reserve fund may be established for, from funding school construction projects, financing the acquisition or reconstruction of a specific type of capital improvement or financing the acquisition of a specific item or type of capital equipment, to providing funds for any direct instruction or instructional support purpose.
129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document No. 2024
S.P. 714 In Senate, January 14, 2020

An Act To Remove from the Calculation of the Cost of Education the Maine Public Employees Retirement System Teacher Plan Unfunded Actuarial Liability

(AFTER DEADLINE)

__________________________________________________________
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.
Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator MILLETT of Cumberland.
Cosponsored by Representative KORNFIELD of Bangor and Senators: BREEN of Cumberland, President JACKSON of Aroostook, Representatives: BRENNAN of Portland, DODGE of Belfast, FARNSWORTH of Portland, INGWERSEN of Arundel, McCREA of Fort Fairfield.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §5806, sub-§2, as repealed and replaced by PL 2013, c. 497, §1, is amended to read:

2. Maximum allowable tuition. The maximum allowable tuition charged to a school administrative unit by a private school is the rate established under subsection 1 or the state average per public secondary student cost as adjusted, whichever is lower, plus an insured value factor. The insured value factor is computed by dividing 5% of the insured value of school buildings and equipment by the average number of pupils enrolled in the school on October 1st and April 1st of the year immediately before the school year for which the tuition charge is computed. From school year 2009-2010 to school year 2013-2014, a school administrative unit is not required to pay an insured value factor greater than 5% of the school's tuition rate or $500 per student, whichever is less, unless the legislative body of the school administrative unit votes to authorize its school board to pay a higher insured value factor that is no greater than 10% of the school's tuition rate per student. For the 2014-2015 school year, a school administrative unit is not required to pay an insured value factor greater than 6% of the school's tuition rate per student, unless the legislative body of the school administrative unit votes to authorize its school board to pay a higher insured value factor that is no greater than 10% of the school's tuition rate per student. Beginning in the 2015-2016 school year, a school administrative unit is not required to pay an insured value factor greater than the amount of the prior school year's insured value factor adjusted by a percentage equal to the percentage change in the state share percentage of the total cost of funding public education in the prior school year as determined by section 15671, subsection 7, paragraph C as compared to the applicable percentage for the current school year. In no case may the insured value factor be less than 6% or greater than 10% of the school's tuition rate per student, unless the legislative body of the school administrative unit votes to authorize its school board to pay an insured value factor that exceeds the amount otherwise permitted by this subsection by no more than 5% of the school's tuition rate per student. For the 2013-2014 school year only, the maximum allowable tuition charged to a school administrative unit by a private school that participates in the Maine Public Employees Retirement System must be increased above the amount otherwise permitted under this section by an amount equal to the calculated normal cost of teacher retirement for that school divided by the number of enrolled students as of October 1, 2012.

Sec. 2. 20-A MRSA §15671, sub-§7, ¶C, as amended by PL 2019, c. 343, Pt. C, §2, is repealed.

SUMMARY

Current law provides a method of calculating the state share percentage of the total cost of funding public education from kindergarten to grade 12 that includes the unfunded actuarial liability of the Maine Public Employees Retirement System as it applies to teachers. This bill repeals that provision of law.
An Act To Restore Local Ownership and Control of Maine's Power Delivery Systems

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

Presented by Representative BERRY of Bowdoinham.
Cosponsored by President JACKSON of Aroostook and
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §12004-G, sub-§36 is enacted to read:

36. Public Utilities Maine Power Legislative Per Diem and Expenses
    Delivery Authority Board 35-A MRSA §4002

Sec. 2. 35-A MRSA §3501, sub-§1, ¶D and E, as amended by PL 1999, c.
398, Pt. A, §85 and affected by §§104 and 105, are further amended to read:

D. The portion of any municipal or quasi-municipal entity providing transmission
and distribution services; and

E. Any transmission and distribution utility wholly owned by a municipality;

Sec. 3. 35-A MRSA §3501, sub-§1, ¶F is enacted to read:

F. The Maine Power Delivery Authority established in chapter 40.

Sec. 4. 35-A MRSA c. 40 is enacted to read:

CHAPTER 40

MAINE POWER DELIVERY AUTHORITY

§4001. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms
have the following meanings.

1. Authority. "Authority" means the Maine Power Delivery Authority established in
section 4002.

2. Board. "Board" means the Maine Power Delivery Authority Board established in
Title 5, section 12004-G, subsection 36.

3. Cost of service. "Cost of service" means the total amount that must be collected
by the authority to recover its costs but does not include any return on capital investment
unless a return is required as security for debt service.

4. Customer-owner. "Customer-owner" means a person to whom the authority
provides electricity.

5. Generating source. "Generating source" means a machine or device that
produces electric energy by any means.
6. Previous franchisee. "Previous franchisee" means an individual or entity having any title or interest in any property, rights, easements or interests authorized to be acquired by the authority under this chapter.

7. Utility facility. "Utility facility" means an item of plant used or useful in providing transmission and distribution utility service and includes, but is not limited to, transmission lines, office buildings, equipment and transportation equipment.

8. Utility property. "Utility property" means any tangible or intangible asset, liability, obligation, plan, proposal, share, agreement or interest of a utility; any facility in development or planning by the utility as of January 1, 2019; and, without limitation, the entire utility and any part or portion of the utility.

§4002. Maine Power Delivery Authority established; board members

The Maine Power Delivery Authority is established to provide for its customer-owners in this State reliable electric transmission and distribution services at the lowest possible cost in accordance with this chapter.

1. Governance; board. The authority is created as a body corporate and politic and a public instrumentality of the State and is governed by the Maine Power Delivery Authority Board in accordance with this section.

The board is composed of 10 members, appointed by the Governor and confirmed by the Legislature, all of whom must be residents of the State. One member must be a residential consumer of electricity, one member must be a representative of a commercial consumer of electricity and one member must be a representative of an industrial consumer of electricity. No more than 5 of the members may be members of the same political party. The Governor shall appoint members as follows:

A. Five members residing in the service territory of the State that was served by the investor-owned transmission and distribution utility serving the largest number of customers in the State on January 1, 2000;

B. Two members residing in the territory of the State that was served by the investor-owned transmission and distribution utility serving the 2nd largest number of customers in the State on January 1, 2000;

C. One member residing in the territory of the State that was served by the investor-owned transmission and distribution utility serving the 3rd largest number of customers in the State on January 1, 2000;

D. One member chosen from a list of at least 2 proposed members provided by an organization representing the consumer-owned transmission and distribution utilities in the State, other than the authority, serving at least 1,000 customers each; and

E. One member chosen from a list of at least 2 proposed members provided by the executive board of a bona fide labor organization or an association of employees representing at least 10% of the workforce employed by transmission and distribution utilities in the State.
2. **Term of office.** A member of the board serves for a term of 6 years except that members of the first board serve as follows, determined by lot by those members after their appointment: 4 members serve 6-year terms, 3 members serve 4-year terms and 3 members serve 2-year terms. A member serves until the end of the member's term or until the member's successor has been appointed, whichever is later. If there is a vacancy in the board, it must be filled in the same manner described in subsection 1 and the person appointed to fill a vacancy serves for the unexpired term of the member whose vacancy the person is filling. Members may be reappointed.

3. **Quorum and chair.** Six members of the board constitute a majority and a quorum. The board shall elect from its members a chair and a vice-chair. The vice-chair shall serve as acting chair in the absence of the chair.

4. **Voting.** All decisions of the board must be made by a majority vote of the board.

§4003. Powers and duties

1. **Powers: generally.** The authority is a consumer-owned transmission and distribution utility and has all the powers and duties of a transmission and distribution utility under this Title, as affected by the provisions of chapter 35, within the service territories of the investor-owned transmission and distribution utilities whose utility facilities it acquires under this chapter.

2. **Limits on authority: generating property.** The authority may not own or operate a generating source or purchase electric capacity or energy from a generating source, except as the commission may approve in order to allow the authority to maintain or improve system reliability.

3. **Operations.** The authority shall contract by means of a competitive public solicitation the services of a qualified nongovernmental entity, referred to in this section as "the contractor," to provide operations and administrative services.

4. **Employees.** The employees of the contractor retained to operate the authority's facilities are considered private employees, with all the rights and responsibilities of private employees. The contractor shall hire any person who was an employee of the investor-owned transmission and distribution utility at the time the authority acquired the investor-owned transmission and distribution utility who is a qualified, nonexempt employee subject to collective bargaining agreements of the acquired investor-owned transmission and distribution utility, to the extent of the contractor's need for personnel to provide sound operation, and shall retain these employees for a period of 5 years after first beginning operations. If otherwise qualified, any such employee may not be terminated as a result of the 5-year period expiring. The contractor shall honor and maintain the terms of any collective bargaining agreements in effect at the time the authority acquired the investor-owned transmission and distribution utility for the remaining term of any collective bargaining agreement, except that, when 2 or more contracts exist, the employees' wages, salaries and benefits must be made reasonably equal to the higher of those provided in the contracts or must exceed those previously paid by the acquired investor-owned transmission and distribution utility.
Upon the conclusion of a contract pursuant to subsection 3, the authority, in soliciting for a new contract, shall give preference to service providers who agree to maintain or improve the terms of the collective bargaining agreement in existence on the conclusion of the prior contract.

5. Acquisition of utility property. Within one year of appointment of the first board, the authority shall purchase all utility facilities in the State owned or operated or held for future use by any investor-owned transmission and distribution utility, except that the board, by vote of at least 8 members, may extend the period by 12 months. The board may also purchase or assume any other utility property should it determine such an acquisition to be in the interest of its customer-owners. The board shall finance the purchase by issuing debt in accordance with chapter 9.

A. The authority shall pay to the previous franchisee the net book value of the utility facilities and any utility property, as reported in the most recent report prior to the effective date of this chapter by the investor-owned transmission and distribution utility to the commission or to the Federal Energy Regulatory Commission, unless the authority and the previous franchisee mutually agree on a different purchase amount.

B. A final decision of the authority to offer a price for utility facilities and any utility property may be appealed by a previous franchisee to the Law Court in the same manner as an appeal taken from a judgment of the Superior Court in a civil action.

C. If a final purchase of any utility facilities and any utility property has not been accomplished within one year of the appointment of the first board, or within 12 months after that date if the board extends the date in accordance with this subsection, the authority may take the utility facilities and any utility property by eminent domain in the same manner and under the same conditions as set forth in chapter 65.

6. Regional transmission. The service territories of the authority initially remain in the transmission system to which they belonged on the effective date of this chapter until changed by majority vote of the board.

7. Name. The authority may adopt an alternative or abbreviated name for business purposes.

8. Consumer-owned transmission and distribution utilities: application. This subsection controls the treatment of consumer-owned transmission and distribution utilities and the application of law to the authority.

A. This chapter may not be construed to affect the powers, authorities or responsibilities of any consumer-owned transmission and distribution utility existing on the effective date of this chapter or created after that date. The authority may not oppose the extension of the service territory of a consumer-owned transmission and distribution utility existing prior to the effective date of this chapter to include the entirety of a municipality in which the consumer-owned transmission and distribution utility provides electric service as long as the authority is reasonably compensated for the assets and appurtenances required.
B. Notwithstanding any other provision of this chapter to the contrary, the authority is subject to section 3104; section 3210-C, subsections 3, 7 and 11; sections 3212 and 3212-A; and section 3214, subsection 2-A.

§4004. Rates

The rates and all other charges of the authority must be sufficient to pay in full the cost of service, including the cost of debt and any payments in lieu of taxation. No debt or liability of the authority is a debt or liability of the State or any agency or instrumentality of the State other than the authority, and neither the State nor any agency or instrumentality of the State other than the authority guarantees any debt or liability of the authority.

§4005. Tax-exempt; payments in lieu of taxes

1. Tax exemptions. The authority is a public municipal corporation within the meaning and for the purposes of Title 36, section 651, and the property of the authority is exempt from taxation to the extent provided in that section. Notwithstanding any other provision of law, income of the authority, as a public instrumentality, is exempt from all taxation or assessment by the State or any political subdivision of the State.

All bonds, notes and other evidences of indebtedness issued by the authority in accordance with chapter 9 are legal obligations of the authority, and the authority is a quasi-municipal corporation within the meaning and for the purposes of Title 30-A, section 5701. All bonds, notes and other evidences of indebtedness issued by the authority are legal investments for savings banks in this State and are exempt from state income tax.

2. Payments in lieu of taxes. Rates charged by the authority must include sufficient amounts to allow the authority to make payments in lieu of taxes in accordance with this subsection. The authority, to the extent its revenues exceed current expenditures and any necessary reserves in any fiscal year, shall make payments in lieu of taxes with respect to its utility facilities or property to any municipality, county or other political subdivision to which an investor-owned transmission and distribution utility whose utility facilities the authority acquired pursuant to this chapter paid taxes and in the same amount as those taxes would have been if the investor-owned transmission and distribution utility continued to own the property or utility facilities. If the authority owns and manages a service territory formerly franchised to an investor-owned transmission and distribution utility for at least one month during fiscal year 2019-20 or fiscal year 2020-21, for each such month, the authority also shall make timely payment in lieu of taxes to the State in the amount of 1/12 of the most recent, full-year taxes paid to the State by the investor-owned transmission and distribution utility. Such payment to the State must be reduced by any amount paid in lieu of taxes pursuant to this subsection.

§4006. Governmental function

The authority, as a public instrumentality, performs a governmental function in the carrying out of the provisions of this chapter, but no debt or liability of the authority may be considered a debt or liability of the State.
§4007. Termination of the authority

The authority may not be dissolved or cease operations except by authorization of law and only if all debt and liabilities of the authority have been paid or a sufficient amount for the payment of all debt and liabilities has been placed in an irrevocable trust for the benefit of the holders of the debt.

§4008. Accountability, transparency and reporting

The authority is subject to the same standards of governmental review and freedom of access as the Public Utilities Commission. By April 15th of each year, the authority shall submit a report to the joint standing committee of the Legislature having jurisdiction over utilities matters summarizing present and future activities and the performance of the authority in meeting its obligations to its ratepayers and employees.

Sec. 5. Review of laws and report. The Public Utilities Commission shall examine all laws that may be affected by this Act or need to be changed as a result of this Act, including laws governing the Maine Power Delivery Authority and laws relating to investor-owned transmission and distribution utilities that may be eliminated as a result of this Act. The commission shall determine any modifications to laws that may be necessary or appropriate as a result of this Act or to effectuate the purposes of this Act and shall submit proposed legislation to the Joint Standing Committee on Energy, Utilities and Technology no later than January 15, 2020. The Joint Standing Committee on Energy, Utilities and Technology may report out a bill relating to the subject matter of this Act to the Second Regular Session of the 129th Legislature.

SUMMARY

This bill creates the Maine Power Delivery Authority as a consumer-owned utility to acquire and operate all transmission and distribution systems in the State currently operated by the investor-owned transmission and distribution utilities known as Central Maine Power Company and Emera Maine.
An Act To Allow for the Establishment of Commercial Property Assessed Clean Energy Programs

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

Sec. 1. 35-A MRSA c. 101 is enacted to read:

CHAPTER 101

COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY

§ 10201. Declaration of public purpose

It is declared that the establishment and implementation of commercial property assessed clean energy, or commercial PACE, programs to finance energy savings improvements are public purposes.

§ 10202. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Commercial PACE.** "Commercial PACE" means commercial property assessed clean energy.

2. **Commercial PACE agreement.** "Commercial PACE agreement" means an agreement that authorizes the creation of a commercial PACE assessment on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement.

3. **Commercial PACE assessment.** "Commercial PACE assessment" means an assessment made against qualifying property to finance an energy savings improvement.

4. **Commercial PACE ordinance.** "Commercial PACE ordinance" means an ordinance adopted by the legislative body of a municipality for the purpose of participating in a commercial PACE program.

5. **Commercial PACE program.** "Commercial PACE program" means a program established under this chapter by the trust, a third party contracted by the trust or a municipality, under which commercial property owners can finance energy savings improvements on qualifying property.

6. **Energy savings improvement.** "Energy savings improvement" means an improvement or series of improvements to qualifying property that, as determined by the trust, are new and permanently affixed to qualifying property and that:
   
   A. Will result in increased energy efficiency and substantially reduced energy use and:
(1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the trust; or

(2) Involves weatherization of commercial or industrial property in a manner approved by the trust; or

B. Involves a renewable energy installation, an energy storage system as defined in section 3481 subsection 6, an electric thermal storage system or any heating equipment that meets or exceeds standards established or approved by the trust.

7. Qualifying property. "Qualifying property" means real commercial property that:

A. A—Does not have a residential mortgage;

B. B—Qualifies for a medium non-residential, large non-residential or wholesale electric utility rate class;

A,C.—Consists of five or more rental units if the property is a commercial building designed for residential use; and

B.—

D. D—Is located in a municipality that has adopted a commercial PACE ordinance and participates in a commercial PACE program pursuant to this chapter.

New construction projects that will meet these criteria upon project completion are qualifying properties if the commercial PACE assessment is used to finance energy savings improvements that allow the property to significantly exceed the energy standards of the Maine Uniform Building and Energy Code or the applicable energy code in the municipality where the project is located, as determined by the trust. A commercial PACE lender may disburse funds for new construction projects before project completion.

8. Renewable energy installation. "Renewable energy installation" means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, highly efficient wood heating systems, geothermal systems and wind systems.


§ 10203. Commercial PACE programs

1. Establishment; administration. The trust, a 3rd party contracted by the trust or a municipality that has adopted a commercial PACE ordinance may establish a commercial PACE program. Notwithstanding any other provision of law to the contrary, the trust may use funds from its administrative fund, or program funds, or fees on commercial PACE assessments to pay reasonable
administrative expenses of the trust, a 3rd party contracted by the trust or a municipality incurred to carry out the purposes of this chapter.

2. **Energy savings improvement financing.** Financing for energy savings improvements may be provided by any funds available for those improvements, except for proceeds from the regional greenhouse gas initiative as defined in Title 38, section 580-A, subsection 19. If funds are provided by a nongovernmental lender, including, but not limited to, banks and investment firms, the nongovernmental lender has the contractual right to receive commercial PACE assessment payments. Commercial PACE financing may cover up to 100% of an energy savings improvement's costs, including audits, energy savings improvement development and application fees.

3. **Program administration; municipal participation and liability.** A commercial PACE program must be administered as follows.

   A. A municipality that has adopted a commercial PACE ordinance may:

      (1) Administer the functions of a commercial PACE program, including, but not limited to, entering into commercial PACE agreements with commercial property owners and collecting commercial PACE assessments; or

      (2) Enter into a contract with the trust to administer some or all functions of the commercial PACE program for the municipality.

   B. The trust may enter into a contract with a municipality that has adopted a commercial PACE ordinance to administer commercial PACE program functions in the municipality.

   C. The trust may enter into a contract with a 3rd-party administrator to administer a commercial PACE program for a municipality.

   D. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the trust or to any other person for claims, of whatever kind or nature, under or related to a commercial PACE program established under subsection 1, including, without limitation, claims for or related to uncollected commercial PACE assessments.

   E. Other than the fulfillment of its obligations specified in a commercial PACE agreement, a municipality has no liability to a commercial property owner for or related to energy savings improvements financed under a commercial PACE program.

4. **Quality assurance system.** Subject to the availability of funds, the trust shall, within one year of the establishment of a commercial PACE program under subsection 1, adopt by rule a comprehensive quality assurance system for the commercial PACE program. In developing a quality assurance system under this subsection, the trust must consult with industry stakeholders, including, but not limited to, representatives of clean energy and energy efficiency programs, contractors and environmental, energy efficiency and labor organizations.
5. **Terms and conditions.** The trust may, by rule, establish terms and conditions under which municipalities and commercial property owners may participate in a commercial PACE program established under subsection 1, which may include, but are not limited to, terms and conditions related to program design, implementation and administration, cost sharing, collection of commercial PACE assessments and recording of liens. The trust may vary the terms and conditions established under this subsection applicable to a participating municipality from those of other participating municipalities by mutual agreement with that municipality. Any terms or conditions established by the trust may not conflict with other provisions of this chapter.

6. **Model documents; educational materials.** Subject to the availability of funds, the trust shall develop and provide to municipalities model commercial PACE ordinances, model commercial PACE agreements, other model forms and documents and educational materials for use by municipalities in the implementation of commercial PACE programs.

§ 10204. **Consumer Underwriting and disclosure**

1. **Underwriting.** A commercial PACE agreement entered into pursuant to a commercial PACE program must comply with underwriting requirements established by rule by the trust. Underwriting requirements established by the trust must, at a minimum:

   A. Provide that the term of the commercial PACE agreement not exceed the estimated useful life of the financed energy savings improvements;

   B. Require that the estimated cost savings from the energy savings improvements over the useful life of such improvements exceed the direct costs to the commercial property owner of such improvements;

   C. Require proof of ownership of the qualifying property;

   D. Require that the qualifying property:

      (1) Is current on property taxes and sewer charges;

      (2) Has no outstanding and unsatisfied tax or sewer liens;

      (3) Is not subject to a reverse mortgage; and

      (4) Is not subject to a mortgage or other lien on which there is a recorded notice of default, foreclosure or delinquency that has not been cured;

   E. Require that the owner or owners of the qualifying property certify that there are no overdue payments on mortgages secured by the property; and

   F. Require escrows for commercial PACE assessment payments when appropriate.

2. **Consumer disclosure; truth in lending.** A commercial PACE agreement entered into pursuant to a commercial PACE program must provide consumer disclosure consistent with the
principles of truth in lending as specified in rules adopted by the trust. In adopting such rules, the trust shall seek advice from the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection and consumer credit industry stakeholders. Notwithstanding Title 9-A, section 1-202, commercial PACE assessments are not subject to the Maine Consumer Credit Code, Article 8-A.

3. **Consumer privacy.** The provisions of the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999), and the applicable implementing federal regulations regarding the privacy of consumer information, apply to all consumer financial information obtained by the trust or municipalities or their designees in implementing commercial PACE programs under this chapter.

§ 10205. Commercial PACE assessments; collection; priority

1. **Collection of assessments.** Commercial PACE assessments constitute a lien against the qualifying property on which they are made until they are paid, and must be assessed and collected by the trust, a 3rd-party administrator contracted by the trust, a municipality or an agent designated by the trust or a municipality in any manner allowed under the commercial PACE program, consistent with applicable law.

2. **Notice; recording; filing.** A notice of a commercial PACE agreement must be recorded; filing in the appropriate registry of deeds. The recording; filing of this notice creates a commercial PACE lien against the property subject to the commercial PACE assessment until the amounts due under the terms of the commercial PACE agreement are paid in full. A notice recorded; filed under this subsection must, at a minimum, include:

   A. The amount of funds disbursed or to be disbursed pursuant to the commercial PACE agreement;

   B. The names and addresses of the current owners of the qualifying property subject to the commercial PACE assessment;

   C. A description of the qualifying property subject to the commercial PACE assessment, including its tax map and lot number;

   D. The duration of the commercial PACE agreement;

   E. The name and address of the entity filing the notice; and

   F. Written verification of mortgage lender consent, if applicable.

3. **Priority.** A commercial PACE assessment, together with all interest thereon and penalties for default in payment thereof, and associated attorney’s fees and collection costs, takes precedence over all other liens or encumbrances except for a lien for real estate taxes of the municipality; municipal sewer and water district liens. Commercial PACE assessment liens constitute from the date of recording of the lien, a priority lien against the qualifying property, subject only to those liens set out in 36 M.R.S. § 552, 38 M.R.S. § 1208, 38 M.R.S. § 1050, and 35-A M.R.S. § 6111-A, where the qualifying property is located on real property, except that the priority of such a commercial PACE assessment over any lien held by an existing mortgage holder (i.e., the holder of a bona fide mortgage recorded prior to and without notice of a PACE assessment) is subject to the written consent of such existing mortgage holder.
4. Mortgage lender notice and consent. Any financial institution holding a lien, mortgage or security interest in or other collateral encumbrance upon the property for which a commercial PACE assessment is sought must be provided written notice of the commercial property owner's intention to participate in the commercial PACE program and acknowledge in writing to the commercial property owner and municipality that they have received such notice and consented to the imposition of the commercial PACE assessment and resulting lien. A commercial PACE assessment may not be approved until the financial institution holding the lien, mortgage or security interest in or other encumbrance on the property has provided written consent to the commercial property owner and municipality that the property borrower may participate and enroll the collateral property in the commercial PACE program. This written consent must be recorded in the registry of deeds.

5. Collection, default and foreclosure. Acceleration not permitted. A commercial PACE assessment runs with the property for which a notice is properly recorded as set forth above shall burden the property subject to the recorded notice in the same manner as a municipal property tax lien. The portion of the assessment that has not yet become due is not eliminated by foreclosure and the lien shall not be accelerated or extinguished until fully repaid. A commercial PACE assessment recorded in the registry of deeds, and the interest, fees, and any penalties thereon and attorney's fees incurred in collection thereof shall be collected in the same manner as the real property taxes of the commercial PACE municipality on real property, including, in the event of default or delinquency, by recording of liens and the method of foreclosure set forth in 36 M.R.S. §§ 942 and 943. Each lien shall be recorded and released in the manner provided for real property tax liens.

6. Judicial sale or foreclosure by third party lienholder. In the event of a judicial or non-judicial sale or foreclosure of a property by a third-party lienholder subject to a commercial PACE lien, such commercial PACE assessment lien shall survive the foreclosure or sale to the extent of any unpaid installment payment, interest, penalties and fees of the commercial PACE assessment secured by the commercial PACE assessment lien that were not the paid from the proceeds of sale of the property. All parties with mortgages or liens on that property, including without limitation commercial PACE lien holders, must receive on account of such mortgages or liens, a sale proceeds in accordance with the priority established in this chapter and by applicable law. A commercial PACE assessment is not eliminated by foreclosure and cannot be accelerated. Only the portion of a commercial PACE assessment that is in arrears at the time of foreclosure takes precedence over other mortgages or liens; the remainder transfers with the property at resale. Unless otherwise agreed by the commercial PACE lender, all payments on the commercial PACE assessment that become due after the date of transfer by foreclosure or judicial sale shall continue to be secured by a commercial PACE lien on the property and shall be the responsibility of the transferee.

7. Release of lien. A municipality shall discharge a commercial PACE lien created under subsection 2 upon full payment of the amount specified in the commercial PACE agreement. The discharge of a commercial PACE lien under this subsection must be recorded with the appropriate registry of deeds and shall include record reference to the original notice of the commercial PACE agreement set forth in subsection 2 above.
§ 10206. Commercial property owners

1. Purchase of goods and services. A commercial property owner who has entered into a commercial PACE agreement under this chapter may purchase directly all goods and services for the energy savings improvements described in the commercial PACE agreement, subject to vendor certification by the trust and other requirements of the trust. Goods and services purchased by a commercial property owner for the energy savings improvements under a commercial PACE agreement are not subject to any public procurement ordinance or statute.

2. Rights. Commercial property owners retain all rights under contract or law against parties other than the municipality or the trust with respect to energy savings improvements financed through commercial PACE agreements.

§ 10207. Annual report

The trust shall report annually on the implementation of this chapter as part of the report required under section 10104, subsection 5.

§ 10208. Rulemaking

Rules adopted under this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§ 10209. Construction; home rule

Nothing in this chapter may be construed to limit the home rule authority of a municipality.

§ 10210. Conformity to changed standards

If standards are adopted by any state or federal agency subsequent to a municipality's adoption of a commercial PACE ordinance or participation in a commercial PACE program and those standards substantially conflict with the municipality's manner of participation in the commercial PACE program, the municipality shall take necessary steps to conform its participation to those standards.

SUMMARY

This bill allows the Efficiency Maine Trust or a municipality to establish a commercial property assessed clean energy program to finance energy savings improvements on qualifying property.
129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document
H.P. 1358

No. 1892
House of Representatives, December 24, 2019

An Act To Make Changes to the So-called Dig Safe Law

Submitted by the Public Utilities Commission pursuant to Joint Rule 203.
Received by the Clerk of the House on December 20, 2019. Referred to the Committee on Energy, Utilities and Technology pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

ROBERT B. HUNT
Clerk

Presented by Representative BERRY of Bowdoinham.
Cosponsored by Senator LAWRENCE of York and
Representative: LANDRY of Farmington, Senator: BLACK of Franklin.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 23 MRSA §3360-A, sub-§1, ¶E, as amended by PL 2011, c. 588, §2, is further amended to read:

E. "Underground facility" means any item of personal property buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, electric energy, oil, gas or other substances and including, but not limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, appurtenances and those parts of poles below ground. This definition Except for liquefied propane gas distribution systems that have underground pipes. "Underground facility" does not include liquefied propane gas distribution systems that are not included within the scope of 49 Code of Federal Regulations, Part 192 and. "Underground facility" does not include highway drainage culverts or under drains.

Sec. 2. 23 MRSA §3360-A, sub-§6-C, as amended by PL 2011, c. 588, §9, is further amended to read:

6-C. Penalties. In an adjudicatory proceeding, the Public Utilities Commission may, in accordance with this subsection, impose an administrative penalty on any person who violates this subsection. The administrative penalty may not exceed $500 $1,000, except that, if the person has been found in violation of this subsection within the prior 12 months, the administrative penalty may not exceed $5,000 $10,000. Administrative penalties imposed pursuant to this subsection are in addition to any other remedies or forfeitures provided by law and any liability that may result from the act or omission constituting the violation. Before imposing any penalties under this subsection, the commission shall consider evidence of the record of the violator, including, to the extent applicable, the number of successful excavations undertaken by the violator or the number of locations successfully marked by the violator during the prior 12 months. The commission may require a person who violates any provision of this section to participate, at the expense of the violator, in an educational program developed and conducted by the system.

The Public Utilities Commission may impose administrative penalties for any of the following violations:

A. Failure of an excavator to give notice of an excavation as required under subsection 3, except to the extent the excavator is exempt from the provisions of subsection 3 pursuant to other provisions of this section;

B. Excavation by an excavator in a reckless or negligent manner that poses a threat to an underground facility;

C. Excavation by an excavator that does not comply with the requirements of subsection 4-C, except to the extent the excavator is exempt from the provisions of subsection 4-C pursuant to subsection 5-C;

D. Failure of an underground facility operator to mark the location of the operator's underground facilities within the time limits required by subsection 4;
E. Marking by an underground facility operator of the location of an underground facility in a reckless or negligent manner; or

F. Failure of an excavator to comply with the requirements of subsection 5-C, 5-D, 5-E, 5-I or 5-J.

The commission shall establish by rule standards for when and at what level penalties must be assessed under this subsection. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

SUMMARY

This bill specifies that liquefied propane gas distribution systems that have underground pipes are subject to the so-called dig safe law.

It also increases the administrative penalties for violations of the so-called dig safe law from $500 to $1,000 for a violation and from $5,000 to $10,000 for a subsequent violation occurring within 12 months of an earlier violation.
An Act To Require a Cable System Operator To Provide a Pro Rata Credit When Service Is Cancelled by a Subscriber

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.
Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

Presented by Representative BERRY of Bowdoinham.
Cosponsored by Senator LAWRENCE of York and
Representatives: BLUME of York, CAIAZZO of Scarborough, FAY of Raymond,
GROHOSKI of Ellsworth, TERRY of Gorham.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 30-A MRSA §3010, sub-§1-A, as amended by PL 2007, c. 548, §2, is further amended to read:

1-A. Service disconnection. A franchisee must discontinue billing a subscriber for a service within 10 working days after the subscriber requests that service disconnection unless the subscriber unreasonably hinders access by the franchisee to equipment of the franchisee on the premises of the subscriber to which the franchisee must have access to complete the requested disconnection. A franchisee shall grant a subscriber a pro rata credit or rebate if that subscriber requests service disconnection during the first 2 weeks of a monthly billing period.

Sec. 2. 30-A MRSA §3010, sub-§2-A, as enacted by PL 2007, c. 104, §1, is amended to read:

2-A. Notice on subscriber bills; credits and refunds. Every franchisee shall include on each subscriber bill for service a notice regarding the subscriber's right to a pro rata credit or rebate for interruption of service upon request in accordance with subsection 1 or cancellation of service in accordance with subsection 1-A. The notice must include a toll-free telephone number and a telephone number accessible by a teletypewriter device or TTY for contacting the franchisee to request the pro rata credit or rebate for service interruption. The notice must be in nontechnical language, understandable by the general public and printed in a prominent location on the bill in boldface type.

SUMMARY

This bill requires a cable system operator to grant a subscriber a pro rata credit or rebate if that subscriber requests service disconnection during the first 2 weeks of a monthly billing period.

Submitted by the Department of Health and Human Services pursuant to Joint Rule 203. Reference to the Committee on Health and Human Services suggested and ordered printed.

ROBERT B. HUNT
Clerk

Presented by Representative BAILEY of Saco.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §2843, sub-§4, as amended by PL 2017, c. 101, §2, is further amended to read:

4. Records. Each municipality shall maintain a record of any endorsed permit received pursuant to subsection 3 or 3-A in the electronic death registration system described in section 2847. These records must be open to public inspection. A copy of an endorsed permit must be made available to a member of the public upon a request made to the municipal clerk. The State Registrar of Vital Statistics may adopt routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A to carry out the purposes of this subsection.

SUMMARY

This bill eliminates municipal paper record retention requirements for maintaining death disposition permits and requires those permits to be maintained in the electronic death registration system. A copy of a permit must be made available to a member of the public upon a request made to the municipal clerk.
Resolve, To Create the Frequent Users System Engagement Collaborative

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.
Reference to the Committee on Health and Human Services suggested and ordered printed.

ROBERT B. HUNT
Clerk

Presented by Representative MORALES of South Portland.
Cosponsored by Senator SANBORN, L. of Cumberland and
Representatives: FECTEAU of Biddeford, GATTINE of Westbrook, RECKITT of South
Portland, STEWART of Presque Isle, WARREN of Hallowell.
Sec. 1. Frequent Users System Engagement Collaborative established. Resolved: That the Frequent Users System Engagement Collaborative, referred to in this resolve as "the collaborative," is established.

Sec. 2. Membership. Resolved: That the collaborative consists of the director of the Maine State Housing Authority or the director's designee, who shall serve as chair, and other members appointed by the director as follows:

1. The Commissioner of Health and Human Services or the commissioner's designee;
2. The Commissioner of Corrections or the commissioner's designee;
3. One member representing the Statewide Homeless Council;
4. One member representing the Maine Sheriffs' Association;
5. One member representing providers of emergency health services; and
6. Any other members with relevant expertise as determined by the director.

Sec. 3. Duties. Resolved: That the collaborative shall develop a plan to provide stable housing and community services to 200 persons who are homeless or at risk of homelessness who are the most frequent consumers of high-cost services, such as psychiatric hospitals, emergency shelters, emergency rooms, police, jails and prisons.

Sec. 4. Report. Resolved: That, no later than January 1, 2021, the collaborative shall submit a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters. The report must include the collaborative's plan to provide stable housing and community services developed pursuant to section 3, including the cost savings that could be achieved by reductions in the use of high-cost services and any recommendations developed by the collaborative on providing stable housing and community services to persons consuming high-cost services. The joint standing committee of the Legislature having jurisdiction over health and human services matters may report out a bill to the First Regular Session of the 130th Legislature related to the report.

SUMMARY

This resolve establishes the Frequent Users System Engagement Collaborative in order to develop a plan to provide stable housing and community services to 200 persons who are homeless or at risk of homelessness who are the most frequent consumers of high-cost services, such as psychiatric hospitals, emergency shelters, emergency rooms, police, jails and prisons. The collaborative must submit a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters no later than January 1, 2021 on its plan and recommendations. The joint standing committee of the Legislature having jurisdiction over health and human services matters is authorized to report out a bill to the First Regular Session of the 130th Legislature related to the report.
129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

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An Act To Protect Communications between Bargaining Agents and Bargaining Unit Members

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.
Reference to the Committee on Judiciary suggested and ordered printed.

[Signature]
ROBERT B. HUNT
Clerk

Presented by Representative SYLVESTER of Portland.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 26 MRSA §976 is enacted to read:

§976. Confidential communications

Communications between a bargaining agent and a member of a bargaining unit represented by that bargaining agent are confidential in any proceeding before the board to the same extent that such communications would be subject to the lawyer-client privilege under the Maine Rules of Evidence if the bargaining agent were a lawyer. The board may not accept evidence regarding such communications during any proceeding except under circumstances in which it would be admissible if the bargaining agent were a lawyer.

Sec. 2. 26 MRSA §979-V is enacted to read:

§979-V. Confidential communications

Communications between a bargaining agent and a member of a bargaining unit represented by that bargaining agent are confidential in any proceeding before the board to the same extent that such communications would be subject to the lawyer-client privilege under the Maine Rules of Evidence if the bargaining agent were a lawyer. The board may not accept evidence regarding such communications during any proceeding except under circumstances in which it would be admissible if the bargaining agent were a lawyer.

SUMMARY

This bill makes communications between a bargaining agent and a municipal or state employee confidential in proceedings before the Maine Labor Relations Board to the same extent that such communications would be subject to the lawyer-client privilege under the Maine Rules of Evidence if the bargaining agent were a lawyer.
An Act To Preserve the Value of Abandoned Properties by Allowing Entry by Mortgagees

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.
Reference to the Committee on Judiciary suggested and ordered printed.

Presented by Representative MARTIN of Eagle Lake.
Cosponsored by President JACKSON of Aroostook and Representatives: FECTEAU of Biddeford, HUBBELL of Bar Harbor, JORGENSEN of Portland.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 14 MRSA §6326, as enacted by PL 2013, c. 521, Pt. B, §1 and affected by §2, is amended to read:

§6326. Order of abandonment for residential properties in foreclosure

1. Plaintiff request. The plaintiff in a judicial foreclosure action may present evidence of abandonment as described in subsection 2-A and may request a determination pursuant to subsection 3 that the mortgaged premises have been abandoned if:

A. More than 50% of the mortgaged premises is used for residential purposes; and

B. The mortgaged premises are the subject of an uncontested foreclosure action or an uncontested foreclosure judgment has been issued with respect to the premises and a foreclosure sale with respect to the premises is pending pursuant to this subchapter. An action or judgment is uncontested if:

   (1) The mortgagor has not appeared in the action to defend against foreclosure;

   (2) There has been no communication from or on behalf of the mortgagor to the plaintiff for at least 90 days showing any intent of the mortgagor to continue to occupy the premises or there is a document of conveyance or other written statement, signed by the mortgagor, that indicates a clear intent to abandon the premises; and

   (3) Either all mortgagees with interests that are junior to the interests of the plaintiff have waived any right of redemption pursuant to section 6322 or the plaintiff has obtained or has moved to obtain a default judgment against such junior mortgagees.

2. Evidence of abandonment. For the purposes of this section, evidence of abandonment showing that the mortgaged premises are vacant and the occupant has no intent to return may include, but is not limited to, the following:

A. Doors and windows on the mortgaged premises are continuously boarded up, broken or left unlocked;

B. Rubbish, trash or debris has observably accumulated on the mortgaged premises;

C. Furnishings and personal property are absent from the mortgaged premises;

D. The mortgaged premises are deteriorating so as to constitute a threat to public health or safety;

E. A mortgagee has changed the locks on the mortgaged premises and neither the mortgagor nor anyone on the mortgagor's behalf has requested entrance to, or taken other steps to gain entrance to, the mortgaged premises;

F. Reports of trespassers, vandalism or other illegal acts being committed on the mortgaged premises have been made to local law enforcement authorities;
G. A code enforcement officer or other public official has made a determination or finding that the mortgaged premises are abandoned or unfit for occupancy;

H. The mortgagor is deceased and there is no evidence that an heir or personal representative has taken possession of the mortgaged premises; and

I. Other reasonable indicia of abandonment.

2-A. **Presumption of abandonment.** Mortgaged premises are presumed to be abandoned property if:

A. A code enforcement officer or other public official determines that the mortgaged premises are abandoned; or

B. Three or more of the following subparagraphs apply to the mortgaged premises:

   (1) There are:

      (a) One or more doors on the mortgaged premises that are boarded up, broken off or continuously unlocked;

      (b) Multiple windows that are boarded up or closed off; or

      (c) Multiple windowpanes that are broken;

   (2) Gas, electric or water service to the mortgaged premises has been terminated or utility consumption is so low that it indicates the mortgaged premises are not regularly occupied;

   (3) Rubbish, trash or debris has accumulated on the mortgaged premises;

   (4) Newspapers, flyers or mail has accumulated on the mortgaged premises;

   (5) Furnishings and personal property are absent from the mortgaged premises;

   (6) A mortgagee has changed the locks on the mortgaged premises and neither the mortgagor nor anyone on the mortgagor's behalf has requested entrance to, or taken other steps to gain entrance to, the mortgaged premises;

   (7) One or more of the written statements signed by the homeowner indicate a clear intent to abandon the mortgaged premises;

   (8) A law enforcement agency has received reports of at least 2 separate incidents of trespass, vandalism or other illegal acts being committed on the mortgaged premises in the 180 days before determination of abandonment is sought;

   (9) The mortgagor is deceased and there is no evidence that an heir or personal representative has taken possession of the mortgaged premises; and

   (10) There are other reasonable indicia of abandonment.

2-B. **Affidavit based on personal knowledge.** An affidavit attesting to the conditions described in subsection 2-A and any other facts evidencing abandonment must be signed by and based on personal knowledge of the affiant and state the basis for that personal knowledge. A person may submit one or more affidavits as evidence of abandonment.
3. Court determination of abandonment; vacation of order. The plaintiff may at any time after commencement of a foreclosure action under section 6321 file with the court a motion to determine that the mortgaged premises have been abandoned.

A. If the court finds by clear and convincing evidence, based on testimony or reliable hearsay, including affidavits by public officials and other neutral nonparties, that the mortgaged premises have been abandoned, the court may issue an order granting the motion and determining that the premises are abandoned.

B. The court may not grant the motion if the mortgagor or a lawful occupant of the mortgaged premises appears and objects to the motion.

C. The court shall vacate the order under paragraph A if the mortgagor or a lawful occupant of the mortgaged premises appears in the action and objects to the order prior to the entry of judgment.

4. Effect of court determination of abandonment. Upon the issuance of an order of abandonment under subsection 3 determining that the mortgaged premises are abandoned:

A. The foreclosure action may be advanced on the docket and receive priority over other cases as the interests of justice require;

B. The period of redemption provided for in section 6322 is shortened to 45 days from the later of the issuance of the judgment of foreclosure and the order of abandonment;

C. If the mortgaged premises include dwelling units occupied by tenants as their primary residence, the plaintiff shall assume the duties of landlord for the rental units as required by chapter 709 upon the later of the issuance of the judgment of foreclosure and the order of abandonment; and

D. The plaintiff shall notify the municipality in which the premises are located and shall record the order of abandonment in the appropriate registry of deeds within 30 days from the later of the issuance of the judgment of foreclosure and the order of abandonment.

5. Entry by mortgagee. Upon the issuance of an order of abandonment under subsection 3, the mortgagee or its mortgage servicer or designee may peaceably enter mortgaged premises or cause others to peaceably enter for the limited purpose of inspections, repairs and maintenance as required by this subsection or as otherwise ordered by the court. If the mortgaged premises are occupied by a tenant lawfully in possession, at least 7 days' notice must be given to the tenant, unless emergency repairs are required, in which case reasonable notice must be provided to the tenant.

A. It is unlawful for a mortgagee, its mortgage servicer or a 3rd-party agent or other person acting on behalf of a mortgagee to enter residential property that is not abandoned for the purpose of forcing, intimidating, harassing or coercing a lawful occupant of the residential property to vacate that property in order to render the property vacant and abandoned or to otherwise force, intimidate, harass or coerce a lawful occupant of the residential property to vacate that property so that it may be considered abandoned.
B. Liability for the unlawful conduct described in paragraph A extends to any mortgagee for whose benefit the actions were initiated, in addition to any agent, employee or subcontractor of the mortgagee who retained, hired or otherwise enlisted the perpetrator.

Sec. 2. 14 MRSA §6327 is enacted to read:

§6327. Abatement of nuisance by mortgage servicer

1. Actions to abate nuisance. Upon receipt of an affidavit or declaration under penalty for false swearing that property is abandoned in midforeclosure and a nuisance, a mortgage servicer or its designee may enter the property for the purpose of abating the identified nuisance, preserving property or preventing waste and may take steps to secure the property, including but not limited to:

A. Installing missing locks on exterior doors. If any locks are changed, the mortgage servicer shall provide a lockbox. Working locks may not be removed or replaced unless all doors are secured and there is no means of entry, in which case only one working lock may be removed and replaced;

B. Replacing or boarding up broken or missing windows;

C. Winterizing, including draining pipes and disconnecting or turning on utilities;

D. Eliminating building code or other violations;

E. Securing exterior pools and spas;

F. Performing routine yard maintenance on the exterior of the residence; and

G. Performing pest and insect control services.

2. Record of entry. The mortgage servicer or its designee shall make a record of entry pursuant to this section by means of dated and time-stamped photographs showing the manner of entry and personal items visible within the residence upon entry.

3. Removal of personal items. Neither the mortgage servicer nor its designee may remove personal items from the property unless the items are hazardous or perishable. The mortgage servicer or its designee shall create a written inventory of items removed.

4. Notice before entry. Prior to each entry pursuant to this section, a mortgage servicer or its designee shall ensure that a notice is posted on the front door of each property that includes the following:

A. A statement that until foreclosure and sale is complete, the property owner or occupant authorized by the owner has the right to possession;

B. A statement that the property owner or occupant authorized by the owner has the right to request any locks installed by the mortgage servicer or its designee be removed within 24 hours and replaced with new locks accessible by only the property owner or the occupant authorized by the owner.
C. A toll-free, 24-hour telephone number that the property owner or occupant authorized by the owner may call in order to gain timely entry. Timely entry must be provided no later than the next business day; and

D. The telephone number of the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection's foreclosure hotline with a statement that the property owner may have the right to participate in foreclosure mediation.

5. Maintenance of records. The mortgage servicer or its designee shall maintain records of entry onto the property pursuant to this section for at least 4 years from the date of entry.

6. Occupied property. If, upon entry pursuant to this section, the property is found to be occupied, the mortgage servicer or its designee shall leave the property immediately and notify the county or municipality. Neither the mortgage servicer nor its designee may enter the occupied property regardless of whether the property constitutes a nuisance or complies with local code enforcement standards.

7. Notice that property not abandoned. If a mortgage servicer is contacted by the mortgagor and notified that the property is not abandoned, the mortgage servicer shall notify the county or municipality and thereafter neither the mortgage servicer nor its designee may enter the property regardless of whether the property constitutes a nuisance or complies with local code enforcement standards.

8. County and municipality liability. A county or municipality is not liable for any damages caused by an act or omission of the mortgage servicer or its designee pursuant to this section.

Sec. 3. 30-A MRSA §3106-A, sub-§4, as enacted by PL 2015, c. 244, §1, is amended to read:

4. Determination of abandonment. Before a municipality may initiate corrective measures to address property defects pursuant to this section, either a court or the municipal officers must have determined that the mobile home has been abandoned according to the evidence of abandonment described in Title 14, section 6326, subsection 2 2-A, paragraph A, C, D, E, F, G or H or paragraph B, subparagraph (1), (5), (6), (8) or (9).

A. The municipal officers shall provide notice to the responsible party and hold a hearing before making a determination that a mobile home has been abandoned. The notice of hearing must:

(1) State the scheduled date, time and location of the hearing; and

(2) Inform the responsible party that, upon a finding of abandonment, the municipality may require the responsible party to correct any property defects within 60 days of issuing a notice to correct.

B. A hearing under paragraph A must be held not less than 7 days after receipt or publication of the notice.
C. An order issued by the municipality determining that a mobile home is abandoned may be combined with the notice to correct set forth in subsection 5.

Sec. 4. 30-A MRSA §3106-B, sub-§4, as reallocated by RR 2015, c. 1, §35, is amended to read:

4. Determination of abandonment. Before a municipality may initiate corrective action measures to address property defects pursuant to this section, either a court or the municipal officers must have determined that the property has been abandoned according to the evidence of abandonment described in Title 14, section 6326, subsection 2 A., paragraph A, C, D, E, F, G or H or paragraph B, subparagraph (1), (5), (6), (8) or (9).

A. The municipal officers shall provide notice to the responsible parties and hold a hearing before making a determination that a property has been abandoned. The notice of hearing must:

(1) State the scheduled date, time and location of the hearing; and

(2) Inform the responsible parties that, upon a finding of abandonment, the municipality may require the responsible parties to correct any property defects within 30 days of the issuance of a notice to correct or, if a permit is required to correct property defects, the municipality may require the responsible parties to promptly seek a permit and to correct the defects within 30 days of the issuance of the permit.

B. A hearing under paragraph A may be held no less than 7 days after receipt or publication of the notice.

C. An order issued by the municipality determining that a property is abandoned may be combined with the notice to correct set forth in subsection 5.

SUMMARY

The purpose of this bill is to assist communities and financial institutions when a home becomes abandoned by the property owner. This bill allows, under specific circumstances, a mortgagee or mortgage servicer to enter the property, secure the property and prevent further deterioration. This bill enhances the existing abandoned property laws and provides specific procedures for mortgage servicers and their designees to enter abandoned property for the purpose of abating an identified nuisance, preserving property or preventing waste. Mortgage servicers and their designees must post notices on properties prior to entering them, and the notices must contain information about the rights of the property owners and authorized occupants. Mortgage servicers and their designees may not enter property that is occupied.
D.

E. Commissioners, treasurers, district attorneys, sheriffs, registers of deeds, registers of probate and budget committee members of county governments;

F. Municipal officers: municipal clerks, treasurers, managers or administrators, assessors, code enforcement officers and deputies for those positions; planning board members and budget committee members of municipal governments;

G. Officials: superintendents, assistant superintendents and school board members of school administrative units; and

H. Officials of a regional or other political subdivision who, as part of the duties of their offices, exercise executive or legislative powers. For the purposes of this paragraph, "regional or other political subdivision" means an administrative entity or instrumentality created pursuant to Title 30-A, chapter 115 or 119 or a quasi-municipal corporation or special purpose district, including, but not limited to, a water district, sanitary district, hospital district, school district of any type, transit district as defined in Title 30-A, section 3501, subsection 1 or regional transportation corporation as defined in Title 30-A, section 3501, subsection 2.

**SUMMARY**

This draft makes the following changes to the requirements for training:

1. It clarifies that an official must complete training within 120 days of assuming the duties of the position.
2. It expands the municipal officials required to completed training to include code enforcement officers, town managers and administrators and planning board members and clarifies that deputies of municipal clerks, treasurers, managers or administrators, assessors and code enforcement officers must also complete the training.
3. It clarifies that school superintendents, assistant superintendents and school board members are required to complete training.
Right to Know Advisory Committee  
Improve FOAA Subcommittee  

PROPOSED DRAFT LEGISLATION TO AMEND FOAA TRAINING LAW  
Approved at Dec. 18th Subcommittee meeting;  
change to include deputies in municipal positions

Sec. 1.  1 MRSA §412 is amended to read:

§412. Public records and proceedings training for certain elected officials and public access officers

1. **Training required.** A public access officer and an official subject to this section shall complete a course of training on the requirements of this chapter relating to public records and proceedings. The official or public access officer shall complete the training not later than the 120th day after the date the official takes the oath of office to assume the person's duties as an elected official or the person is designated as a public access officer pursuant to section 413, subsection 1.

2. **Training course; minimum requirements.** The training course under subsection 1 must be designed to be completed by an official or a public access officer in less than 2 hours. At a minimum, the training must include instruction in:
   
   A. The general legal requirements of this chapter regarding public records and public proceedings;
   
   B. Procedures and requirements regarding complying with a request for a public record under this chapter; and
   
   C. Penalties and other consequences for failure to comply with this chapter.

An official or a public access officer meets the training requirements of this section by conducting a thorough review of all the information made available by the State on a publicly accessible website pursuant to section 411, subsection 6, paragraph C regarding specific guidance on how a member of the public can use the law to be a better informed and active participant in open government. To meet the requirements of this subsection, any other training course must include all of this information and may include additional information.

3. **Certification of completion.** Upon completion of the training course required under subsection 1, the official or public access officer shall make a written or an electronic record attesting to the fact that the training has been completed. The record must identify the training completed and the date of completion. The official shall keep the record or file it with the public entity to which the official was elected or appointed. A public access officer shall file the record with the agency or official that designated the public access officer.

4. **Application.** This section applies to a public access officer and the following officials:

   A. The Governor;
   
   B. The Attorney General, Secretary of State, Treasurer of State and State Auditor;
   
   C. Members of the Legislature elected after November 1, 2008;
An Act To Amend the Unemployment Compensation Laws

(EMERGENCY)

Submitted by the Department of Labor pursuant to Joint Rule 203. Received by the Secretary of the Senate on December 20, 2019. Referred to the Committee on Labor and Housing pursuant to Joint Rule 308.2 and ordered printed.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BELLOWS of Kennebec.
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 to the laws governing unemployment compensation will have an adverse impact on the employer community if implemented; and

Whereas, this legislation makes changes to those laws that are necessary to eliminate the adverse impact; 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. 26 MRSA §1221, sub-§3, ¶A, as amended by PL 2019, c. 343, Pt. TTT, §1, is further amended to read:

A. At the time the status of an employing unit is ascertained to be that of an employer, the commissioner shall establish and maintain, until the employer status is terminated, for the employer an experience rating record, to which are credited all the contributions that the employer pays on the employer's own behalf. This chapter may not be construed to grant any employer or individuals in the employer's service prior claims or rights to the amounts paid by the employer into the fund. Benefits paid to an eligible individual under the Employment Security Law must be charged against the experience rating record of the claimant's most recent subject employer, except that, beginning January 1, 2022, benefits paid to an eligible individual under the Employment Security Law must be charged against the experience rating record of the claimant's employers in a ratio inversely proportional to the claimant's employment beginning with the most recent employer, or to the General Fund if the otherwise chargeable experience rating record is that of an employer whose status as such has been terminated; except that no charge may be made to an individual employer but must be made to the General Fund if the commission finds that:

(1) The claimant's separation from the claimant's last employer was for misconduct in connection with the claimant's employment or was voluntary without good cause attributable to the employer;

(2) The claimant has refused to accept reemployment in suitable work when offered by a previous employer, without good cause attributable to the employer;

(3) Benefits paid are not chargeable against any employer's experience rating record in accordance with section 1194, subsection 11, paragraphs B and C;

(5) Reimbursements are made to a state, the Virgin Islands or Canada for benefits paid to a claimant under a reciprocal benefits arrangement as authorized in section 1082, subsection 12, as long as the wages of the claimant transferred to the other state, the Virgin Islands or Canada under such an arrangement are less
than the amount of wages for insured work required for benefit purposes by section 1192, subsection 5;

(6) The claimant was hired by the claimant's last employer to fill a position left open by a Legislator given a leave of absence under chapter 7, subchapter 5-A, and the claimant's separation from this employer was because the employer restored the Legislator to the position after the Legislator's leave of absence as required by chapter 7, subchapter 5-A;

(7) The claimant was hired by the claimant's last employer to fill a position left open by an individual who left to enter active duty in the United States military, and the claimant's separation from this employer was because the employer restored the military serviceperson to the person's former employment upon separation from military service;

(8) The claimant was hired by the claimant's last employer to fill a position left open by an individual given a leave of absence for family medical leave provided under Maine or federal law, and the claimant's separation from this employer was because the employer restored the individual to the position at the completion of the leave; or

(9) The claimant initiated a partial separation or reduction of hours and that partial separation or reduction of hours was agreed to by the employee and employer.

Sec. 2. 26 MRSA §1221, sub-§3, ¶C-2 is enacted to read:

C-2. For the purposes of paragraph A, the experience rating record of the most recent subject employer may not be charged with benefits paid to a claimant whose work record with that employer totaled 5 consecutive weeks or less of total or partial employment, in which case the most recent subject employer with whom the claimant's work record exceeded 5 consecutive weeks of total or partial employment must be charged if that employer would have otherwise been chargeable had not subsequent employment intervened.

Sec. 3. 26 MRSA §1221, sub-§4-A, ¶C, as amended by PL 2007, c. 352, Pt. A, §2, is further amended to read:

C. The commissioner shall:

(1) Promptly notify each employer of the employer's rate of contributions as determined for the 12-month period commencing January 1st of each year. The determination is conclusive and binding upon the employer unless within 30 days after notice of the determination is mailed to the employer's last known address or, in the absence of mailing, within 30 days after the delivery of the notice, the employer files an application for review and redetermination, setting forth the employer's reasons. If the commissioner Division of Administrative Hearings grants the review, the employer must be promptly notified and must be granted an opportunity for a hearing. An employer does not have standing in any proceedings involving the employer's rate of contributions or contribution liability to contest the chargeability to the employer's experience rating record of
any benefits paid in accordance with a determination, redetermination or decision pursuant to section 1194, except upon the ground that the services for which benefits were found to be chargeable did not constitute services performed in employment for the employer and only when the employer was not a party to the determination, redetermination or decision or to any other proceedings under this chapter in which the character of the services was determined. The employer must be promptly notified of the commission's Division of Administrative Hearings' denial of the employer's application or the commission's redetermination, both of which are subject to appeal pursuant to Title 5, chapter 375, subchapter 7, which is subject to appeal pursuant to section 1226; and

(2) Provide each employer at least monthly with a notification of benefits paid and chargeable to the employer's experience rating record. In the absence of an application for redetermination filed in the manner and within the period prescribed by the commission 30 days after the notification was mailed, a notification is conclusive and binding upon the employer for all purposes. A redetermination made after notice and opportunity for hearing and the commission's findings of fact may be introduced in subsequent administrative or judicial proceedings involving the determination of the rate of contributions of an employer for the 12 month period commencing January 1st of any year and has the same finality as provided in this section with respect to the findings of fact made by the commission in proceedings to redetermine the contribution rates of an employer. Any request for reconsideration must be made in accordance with section 1226.

Sec. 4. 26 MRSA §1221, sub-§11, ¶D, as amended by PL 1979, c. 651, §28, is further amended to read:

D. The amount due specified in any assessment from the commissioner shall be conclusive on the employer or governmental entity, unless not later than 15 days after the assessment was mailed to the last known address, the employer or governmental entity files an application for redetermination by the commission Division of Administrative Hearings setting forth the grounds for such application.

Sec. 5. 26 MRSA §1225, sub-§2, as amended by PL 1993, c. 312, §3, is further amended to read:

2. Jeopardy assessment. If the Director of Unemployment Compensation determines that the collection of any contribution, interest or penalty under this subchapter, as amended, will be jeopardized by delay, the director may immediately assess the contributions, interest or penalties, whether or not the time prescribed by law or any rules issued pursuant to section 1082, subsection 2, for making reports and paying the contributions has expired, and shall give written notice of the assessment to the employer. In these cases, the right to appeal to the commission Division of Administrative Hearings, as provided in section 1226, is conditioned upon payment of the contributions, interest or penalties so assessed, or upon giving appropriate security to the commissioner for the payment thereof.
Sec. 6. 26 MRSA §1232, sub-§2, as enacted by PL 1993, c. 312, §5, is amended to read:

2. Failure to file or pay taxes; determination to prevent renewal, reissuance or other extension of license or certificate. If the commissioner determines that an employer who holds a state-issued license or certificate of authority to conduct a profession, trade or business has failed to file a return at the time required under this chapter or has failed to pay a tax liability due under this chapter that has been demanded, and the employer continues to fail to file or pay after at least 2 specific written requests to do so, the commissioner shall notify the employer in writing by certified mail, return receipt requested, that refusal to file the required tax return or to pay the overdue tax liability may result in loss of license or certificate of authority.

This written notice must include information about the opportunity to request a fact-finding interview for the purpose of determining essential facts, negotiating a payment agreement and determining the appropriateness of further enforcement under this section.

If the employer requests a fact-finding interview within 30 days, the commissioner shall schedule the interview at which the commissioner shall attempt to negotiate a reasonable payment agreement. The employer must be notified in writing if the commissioner's determination is to prevent renewal, reissuance or extension of the license or certificate of authority by the issuing agency. If the employer enters into a payment agreement, a determination may not be made under this section until the employer fails to comply with the agreement.

If the employer continues, for a period in excess of 30 days from notice of possible denial of renewal or reissuance of a license or certificate of authority, to fail to file or show reason why the person is not required to file or if the employer continues not to pay, the commissioner shall notify the employer in writing of the determination to prevent renewal, reissuance or extension of the license or certificate of authority by the issuing agency.

A review of the determination is available by filing an appeal under section 1226 to the Maine Unemployment Insurance Commission Division of Administrative Hearings. Either by failure to proceed to the next step of appeal or by exhaustion of the steps of appeal, the determination of the commissioner's right to prevent renewal or reissuance becomes final unless otherwise determined by appeal.

In any event, the license or certificate of authority in question remains in effect until all appeals are taken to their final conclusion. This subsection may not be invoked for any tax liability under appeal.

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

SUMMARY

This bill makes the following changes to the laws governing unemployment compensation.
1. Current law provides that, beginning January 1, 2022, benefits paid to an individual under the laws governing unemployment compensation must be charged against the experience rating record of the claimant's employers in a ratio inversely proportional to the claimant's employment beginning with the most recent employer. This bill strikes that language and instead restores the previous language governing the employer benefit charging model.

2. It provides that the experience rating record of the most recent subject employer may not be charged with benefits paid to a claimant whose work record with that employer totals 5 or fewer consecutive weeks.

3. It provides that, in the absence of an application for redetermination filed within 30 days after the mailing of notification of benefits paid and chargeable to the employer's experience rating, the notification is conclusive and binding. Under the bill, any request for reconsideration must be made under the laws governing appeals of determination or assessment.

4. It replaces references to the Unemployment Insurance Commission with references to the Division of Administrative Hearings to conform with changes made in Public Law 2017, chapter 284, Part AAAAA.
Resolve, To Establish a Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

Presented by Representative FECTEAU of Biddeford.
Cosponsored by President JACKSON of Aroostook and Representatives: BERRY of Bowdoinham, CROCKETT of Portland, DOUDERA of Camden, FARNSWORTH of Portland, JORGENSEN of Portland, MORALES of South Portland, STOVER of Boothbay, Senator: LIBBY of Androscoggin.
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 resolve establishes the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions; and

Whereas, the study must be initiated before the 90-day period expires in order that the study may be completed and a report submitted in time for submission to the next legislative session; 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. Commission established. Resolved: That the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions, referred to in this resolve as "the commission," is established.

Sec. 2. Commission membership. Resolved: That, notwithstanding Joint Rule 353, the commission consists of 10 members appointed as follows:

1. Two members of the Senate appointed by the President of the Senate, including a member from each of the two parties holding the largest number of seats in the Legislature;

2. Two members of the House of Representatives appointed by the Speaker of the House, including a member from each of the two parties holding the largest number of seats in the Legislature;

3. The Director of the Maine State Housing Authority, or the director's designee;

4. One member representing the Office of the Governor, appointed by the Governor;

5. Two public members, one representing a statewide municipal association and one representing a statewide organization that advocates for affordable housing, appointed by the President of the Senate; and

6. Two public members, one representing a regional planning association and one representing the real estate industry, appointed by the Speaker of the House.

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the commission.

Sec. 4. Appointments; convening of commission. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the commission. If 30 days or more
after the effective date of this resolve a majority of but not all appointments have been
made, the chairs may request authority and the Legislative Council may grant authority
for the commission to meet and conduct its business.

Sec. 5. Duties. Resolved: That the commission is authorized to meet 6 times and
shall:

1. Review data on housing shortages in the State for low-income and middle-income
households;

2. Review state laws that affect the local regulation of housing;

3. Review efforts in other states and municipalities to address housing shortages
through changes to zoning and land use restrictions; and

4. Consider measures that would encourage increased housing options in the State,
including but not limited to municipal incentives, state mandates, eliminating or limiting
single-family-only zones and allowing greater housing density near transit, jobs, schools
or neighborhood centers.

Sec. 6. Staff assistance. Resolved: That the Legislative Council shall provide
necessary staffing services to the commission, except that Legislative Council staff
support is not authorized when the Legislature is in regular or special session.

Sec. 7. Report. Resolved: That, no later than November 4, 2020, the
commission shall submit a report that includes its findings and recommendations,
including suggested legislation, for presentation to the First Regular Session of the 130th
Legislature.

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

SUMMARY

This resolve establishes the Commission To Increase Housing Opportunities in
Maine by Studying Zoning and Land Use Restrictions, which is a 10-member
commission directed to review data on housing shortages in the State for low-income and
middle-income households, state laws that affect the local regulation of housing and
efforts in other states and municipalities to address housing shortages and to consider
measures that would encourage increased housing options in the State. The commission
must, no later than November 4, 2020, submit a report, including suggested legislation,
for presentation to the First Regular Session of the 130th Legislature.
An Act To Include within the Definition of "Public Employee"
Those Who Have Been Employed Less than 6 Months

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.
Reference to the Committee on Labor and Housing suggested and ordered printed.

ROBERT B. HUNT
Clerk

Presented by Representative SYLVESTER of Portland.
Cosponsored by Representatives: CARNEY of Cape Elizabeth, DODGE of Belfast, DOORE of Augusta, EVANGELOS of Friendship, FECTEAU of Biddeford, McDONALD of Stonington, TALBOT ROSS of Portland, TEPLER of Topsham.
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 must take effect before the expiration of the 90-day period in order to provide as soon as possible protections under the law to employees of public employers who have been employed less than 6 months; 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. 26 MRSA §962, sub-$6, ¶F, as repealed and replaced by PL 1969, c. 578, §1, is repealed.

Sec. 2. 26 MRSA §979-A, sub-$6, ¶E, as enacted by PL 1973, c. 774, is repealed.

Sec. 3. 26 MRSA §979-D, sub-$1, ¶E, as amended by PL 1997, c. 741, §6 and affected by §12, is further amended by amending subparagraph (3) to read:

(3) Cost items shall must be submitted for inclusion in the Governor's next operating budget within 10 days after the date on which the agreement is ratified by the parties. If the Legislature rejects any of the cost items submitted to it, all cost items submitted shall must be returned to the parties for further bargaining. Cost items related to a collective bargaining agreement reached under this chapter and submitted to the Legislature for its approval under this subparagraph shall may not be submitted in the same legislation that contains cost items for employees exempted from the definition of "state employee" under section 979-A, subsection 6, and employees of the legislative branch, except that cost items for those employees exempted under section 979-A, subsection 6, paragraphs E and paragraph F, need not be excluded.

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

SUMMARY

This bill allows a person who has been an employee of the State or another public employer for less than 6 months to be considered a public employee for the purposes of the public employees labor relations laws.
An Act To Extend to Other Public Sector Employees the Same Protections Provided to State Employees upon the Expiration of Contracts

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.
Reference to the Committee on Labor and Housing suggested and ordered printed.

Presented by Senator CLAXTON of Androscoggin.
Cosponsored by Representative CARNEY of Cape Elizabeth and Senators: BELLOWS of Kennebec, CHENETTE of York, MILLETT of Cumberland.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 26 MRSA §976 is enacted to read:

§976. Obligations during interim between contracts

During the interim after the expiration of a collective bargaining agreement and before the effective date of any subsequent collective bargaining agreement, public employees covered by the expired collective bargaining agreement remain eligible for and must receive merit increases in accordance with the terms and conditions set forth in the expired collective bargaining agreement.

Sec. 2. 26 MRSA §1038 is enacted to read:

§1038. Obligations during interim between contracts

During the interim after the expiration of a collective bargaining agreement and before the effective date of any subsequent collective bargaining agreement, regular employees covered by the expired collective bargaining agreement remain eligible for and must receive merit increases in accordance with the terms and conditions set forth in the expired collective bargaining agreement.

Sec. 3. 26 MRSA §1296 is enacted to read:

§1296. Obligations during interim between contracts

During the interim after the expiration of a collective bargaining agreement and before the effective date of any subsequent collective bargaining agreement, judicial employees covered by the expired collective bargaining agreement remain eligible for and must receive merit increases in accordance with the terms and conditions set forth in the expired collective bargaining agreement.

SUMMARY

This bill provides the same protections to municipal, judicial and public higher education employees that are provided to state employees upon the expiration of labor contracts by requiring that, during an interim between the expiration of a public employee collective bargaining agreement and before the effective date of any subsequent collective bargaining agreement, those employees covered by the expired collective bargaining agreement remain eligible for and must receive merit increases in accordance with the terms and conditions set forth in the expired collective bargaining agreement.
An Act Regarding Property Taxes on Certain Energy Generation Projects

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 20, 2019. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator SANBORN, H. of Cumberland.
Cosponsored by Representative DOUDERA of Camden and Senators: CARSON of Cumberland, LIBBY of Androscoggin, Representative: CARNEY of Cape Elizabeth.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §271, sub-§2, ¶A, as amended by PL 2019, c. 401, Pt. A, §4, is further amended to read:

A. Hear and determine appeals according to the following provisions of law:

(1) The tree growth tax law, chapter 105, subchapter 2-A;

(2) The farm and open space law, chapter 105, subchapter 10;

(3) As provided in section 843;

(4) As provided in section 844;

(5) Section 272;

(6) Section 2865;

(7) The current use valuation of certain working waterfront land law, chapter 105, subchapter 10-A; and

(8) Section 209; and

(9) Section 307;

Sec. 2. 36 MRSA §307 is enacted to read:

§307. Valuation of certain energy generation projects

Notwithstanding any provision of this Title to the contrary, this section governs the determination of the just value of certain energy generation property.

1. State Tax Assessor; valuation. The State Tax Assessor shall determine the just value of generation assets that are part of an energy generation project with property located partially in the unorganized territory and partially in primary assessing areas or municipal assessing units. For the purposes of this section, "generation assets" has the same meaning as defined in Title 35-A, section 3201, subsection 10, and "energy generation project" includes generation assets used by a project up to the point of connection with the independent system operator of the New England bulk power system, or a successor organization, or with the customer of the energy generated by the project.

2. Powers of State Tax Assessor. The State Tax Assessor may exercise the same powers with regard to determinations of just value of property located in primary assessing areas or municipal assessing units under this section as apply to the determination of the just value of property located in the unorganized territory.

3. Apportionment of value. The State Tax Assessor shall determine the portion of the just value of generation assets of an energy generation project attributable to the unorganized territory and each primary assessing area and municipal assessing unit and shall notify each primary assessing area and municipal assessing unit of its portion of the just value annually.
4. Use of just value determination. For the purposes of assessing property taxes under this Part, each primary assessing area and municipal assessing unit with a portion of the just value of an energy generation project determined by the State Tax Assessor under this section shall use the State Tax Assessor's just value adjusted by the primary assessing area's or municipal assessing unit's assessment ratio.

5. Captured assessed value. The value of a generation asset determined by the State Tax Assessor under subsection 1 may not be considered captured assessed value for a development district approved by a municipality or plantation under Title 30-A, chapter 206 after the effective date of this section.

6. Appeal. An owner of property subject to valuation under this section and a primary assessing area or a municipal assessing unit in which property subject to valuation under this section is located may appeal the determination of just value by the State Tax Assessor to the State Board of Property Tax Review as provided under chapter 101, subchapter 2-A.

SUMMARY

This bill provides that, for property tax purposes, the State Tax Assessor determines the valuation of the property of an energy generation project that is located partially in the unorganized territory and partially in organized areas and apportions to the organized areas the portion of the project valuation located in each organized area. The valuation of an energy generation asset determined by the State Tax Assessor may not be considered captured assessed value for tax increment financing purposes, and an appeal of a valuation may be made to the State Board of Property Tax Review.
Resolve, Establishing the Commission To Study Fair, Equitable and Competitive Tax Policy for Maine's Working Families and Small Businesses

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.
Reference to the Committee on Taxation suggested and ordered printed.

Presented by Representative FECTEAU of Biddeford.
Cosponsored by President JACKSON of Aroostook and Representatives: CARNEY of Cape Elizabeth, CLOUTIER of Lewiston, CROCKETT of Portland, DOORE of Augusta, JORGENSEN of Portland, MEYER of Eliot, TEPLER of Topsham, TIPPING of Orono.
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 resolve establishes the Commission To Study Fair, Equitable and Competitive Tax Policy for Maine's Working Families and Small Businesses; and

Whereas, the study must be initiated before the 90-day period expires in order that the study may be completed and a report submitted in time for submission to the next legislative session; 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. 2. Commission membership. Resolved: That the commission consists of 11 members appointed as follows:

1. Three members of the Senate appointed by the President of the Senate, including a member from each of the 2 parties holding the largest number of seats in the Legislature;

2. Three members of the House of Representatives appointed by the Speaker of the House, including a member from each of the 2 parties holding the largest number of seats in the Legislature;

3. One member representing the Office of the Governor, appointed by the Governor;

4. One public member representing the interests of small businesses and one public member representing the interests of working families, appointed by the President of the Senate; and

5. One public member representing the interests of small businesses and one public member representing the interests of working families, appointed by the Speaker of the House.

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the commission.

Sec. 4. Appointments; convening of commission. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the commission. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been
made, the chairs may request authority and the Legislative Council may grant authority
for the commission to meet and conduct its business.

Sec. 5. Duties. Resolved: That the commission shall study issues associated with
the impacts of tax policy on the State's working families and small businesses and shall
develop recommendations designed to ensure that the tax policy of the State is fair and
equitable, while ensuring the State remains competitive. In examining the issues, the
commission shall consider measures designed to level the playing field for small
businesses and to aid entrepreneurs and the importance to working families and
businesses of adequately funding important government services, such as aid to local
services, education, infrastructure and affordable health care and propose measures that
ensure these services are adequately funded. The commission shall also evaluate the
direct impact of any proposed tax changes on after-tax income by income decile.

Sec. 6. Staff assistance. Resolved: That the Legislative Council shall provide
necessary staffing services to the commission, except that Legislative Council staff
support is not authorized when the Legislature is in regular or special session.

Sec. 7. Provision of information to commission. The Department of
Administrative and Financial Services, Maine Revenue Services, shall provide to the
commission data consistent with the restrictions set forth in the Maine Revised Statutes,
Title 36, section 191 that is requested by the commission.

Sec. 8. Report. Resolved: That, no later than November 4, 2020, the
commission shall submit a report that includes its findings and recommendations,
including suggested legislation, for presentation to the First Regular Session of the 130th
Legislature.

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

SUMMARY

This resolve establishes the Commission To Study Fair, Equitable and Competitive
Tax Policy for Maine's Working Families and Small Businesses and directs the
commission, no later than November 4, 2020, to submit a report, including suggested
legislation, for presentation to the First Regular Session of the 130th Legislature.
An Act To Expand Tax Increment Financing To Include Adult Care Facilities and Services and Certain Child Care Facilities

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.
Reference to the Committee on Taxation suggested and ordered printed.

Presented by Representative MEYER of Eliot.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 30-A MRSA §5222, sub-§1-B is enacted to read:

1-B. Adult care facilities. "Adult care facilities" means entities that offer programs for persons who are 60 years of age or older who need assistance or supervision and that are operated out of nonresidential commercial buildings. The programs offered at adult care facilities include the provision of:

A. Services that allow family members or caregivers to be active in the workforce;
B. Professional and compassionate services for adults in a community and program-based setting; and
C. Social and health services to adults who need supervised care in a safe place outside the home.

Sec. 2. 30-A MRSA §5222, sub-§2-A is enacted to read:

2-A. Child care facilities. "Child care facilities" means entities that provide care for at least 10 children who are less than 18 years of age by persons who are not family members, legal guardians or other custodians of the children and that are operated out of nonresidential commercial buildings. To meet this definition, a child care facility must have a full-time director and a sufficient number of staff members whose sole function is to provide necessary child care services. The services offered at child care facilities include the provision of services that allow the children's family members, legal guardians or other custodians the ability to be active in the workforce.

Sec. 3. 30-A MRSA §5225, sub-§1, ¶C, as amended by PL 2019, c. 148, §3 and c. 260, §1, is further amended to read:

C. Costs related to economic development, environmental improvements, fisheries and wildlife or marine resources projects, recreational trails, broadband service development, expansion or improvement, including connecting to broadband service outside the tax increment financing district, or employment training or the promotion of workforce development and retention within the municipality or plantation, including, but not limited to:

1. Costs of funding economic development programs or events developed by the municipality or plantation or funding the marketing of the municipality or plantation as a business or arts location;
2. Costs of funding environmental improvement projects developed by the municipality or plantation for commercial or arts district use or related to such activities;
3. Funding to establish permanent economic development revolving loan funds, investment funds and grants;
4. Costs of services and equipment to provide skills development and training, including scholarships to in-state educational institutions or to online learning entities when in-state options are not available, for jobs created or retained in the
municipality or plantation. These costs must be designated as training funds in the development program;

(5) Quality child care costs Costs associated with child care facilities and adult care facilities and the services provided at those facilities, including finance costs and construction, staffing, training, certification and accreditation costs related to child care and adult care;

(6) Costs associated with new or existing recreational trails determined by the department to have significant potential to promote economic development, including, but not limited to, costs for multiple projects and project phases that may include planning, design, construction, maintenance, grooming and improvements with respect to new or existing recreational trails, which may include bridges that are part of the trail corridor, used all or in part for all-terrain vehicles, snowmobiles, hiking, bicycling, cross-country skiing or other related multiple uses;

(7) Costs associated with a new or expanded transit service, limited to:

(a) Transit service capital costs, including but not limited to: transit vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; and benches, signs and other transit-related infrastructure; and

(b) In the case of transit-oriented development districts, ongoing costs of adding to an existing transit system or creating a new transit service and limited strictly to transit operator salaries, transit vehicle fuel and transit vehicle parts replacements;

(8) Costs associated with the development of fisheries and wildlife or marine resources projects; and

(9) Costs related to the construction or operation of municipal or plantation public safety facilities, the need for which is related to general economic development within the municipality or plantation, not to exceed 15% of the captured assessed value of the development district; and

SUMMARY

This bill expands the permitted use of tax increment financing to include costs associated with certain adult care facilities and child care facilities; current law permits such use only for quality child care costs.
An Act To Update Certain Provisions in the Income Tax and Service Provider Tax Laws

Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 203.
Reference to the Committee on Taxation suggested and ordered printed.

ROBERT B. HUNT
Clerk

Presented by Representative TIPPING of Orono.
Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 30-A MRSA §§5681, sub-§5, as amended by PL 2019, c. 343, Pt. H, §1, is further amended to read:

5. Transfers to funds. No later than the 10th day of each month, the State Controller shall transfer to the Local Government Fund 5% of the receipts during the preceding month from the taxes imposed under Title 36, Parts 3 and 8, and Title 36, section 2552, subsection 1, paragraphs A to F and G, L and N, and credited to the General Fund without any reduction, except that for fiscal years 2015-16, 2016-17, 2017-18 and 2018-19 the amount transferred is 2%, for fiscal year 2019-20 the amount transferred is 3% and for fiscal year 2020-21 the amount transferred is 3.75% of the receipts during the preceding month from the taxes imposed under Title 36, Parts 3 and 8, and Title 36, section 2552, subsection 1, paragraphs A to F and G, L and N, and credited to the General Fund without any reduction, and except that the postage, state cost allocation program and programming costs of administering state-municipal revenue sharing may be paid by the Local Government Fund. A percentage share of the amounts transferred to the Local Government Fund each month must be transferred to the Disproportionate Tax Burden Fund and distributed pursuant to subsection 4-B as follows:

C. For months beginning on or after July 1, 2009 but before July 1, 2010, 15%;
D. For months beginning on or after July 1, 2010 but before July 1, 2011, 16%;
E. For months beginning on or after July 1, 2011 but before July 1, 2012, 17%;
F. For months beginning on or after July 1, 2012 but before July 1, 2013, 18%;
G. For months beginning on or after July 1, 2013 but before July 1, 2014, 19%; and
H. For months beginning on or after July 1, 2014, 20%.

Sec. A-2. 36 MRSA §2551, sub-§2-B is enacted to read:

2-B. Digital audio-visual and digital audio services. "Digital audio-visual and digital audio services" means the electronic transfer of digital audio-visual works and digital audio works with the right of less than permanent use granted by the seller, including when conditioned upon continued payment from the purchaser or a subscription. For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time and "subscription" means an agreement with a seller that grants a purchaser the right to obtain products transferred electronically, in a fixed quantity or for a fixed period of time, or both.

Sec. A-3. 36 MRSA §2551, sub-§2-C is enacted to read:

2-C. Digital audio-visual works. "Digital audio-visual works" means a series of related images that, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

Sec. A-4. 36 MRSA §2551, sub-§2-D is enacted to read:
2-D. Digital audio works. "Digital audio works" means works that result from the
fixation of a series of musical, spoken or other sounds, including ringtones. For purposes
of this subsection, "ringtones" means digitized sound files that are downloaded onto a
device and that may be used to alert the purchaser with respect to a communication.

Sec. A-5. 36 MRSA §2552, sub-§1, ¶L, as amended by PL 2013, c. 368, Pt.
OO000, §3, is further amended to read:

L. Ancillary services; and

Sec. A-6. 36 MRSA §2552, sub-§1, ¶M, as enacted by PL 2013, c. 368, Pt.
OO000, §4, is amended to read:

M. Group residential services for persons with brain injuries; and

Sec. A-7. 36 MRSA §2552, sub-§1, ¶N is enacted to read:

N. Digital audio-visual and digital audio services.

Sec. A-8. 36 MRSA §2556-A is enacted to read:

§2556-A. Sourcing for sales of digital audio-visual and digital audio services

The sale of digital audio-visual and digital audio services is sourced in this State
pursuant to this section.

1. First use by purchaser at business location of seller. When the first use of the
service is made by the purchaser at a business location of the seller, the sale is sourced to
that business location.

2. First use by purchaser at location other than business location of seller.
When the first use of the service is not made by the purchaser at a business location of the
seller, the sale is sourced to the location where the first use by the purchaser or the
purchaser’s donee is made, including the location indicated by instructions for delivery to
the purchaser or donee known to the seller.

3. Sourced to address of purchaser in seller’s business records. For a sale when
subsections 1 and 2 do not apply, the sale is sourced to the location indicated by an
address for the purchaser that is available from the business records of the seller that are
maintained in the ordinary course of the seller’s business when use of this address does
not constitute bad faith.

4. Sourced to address of purchaser not in seller’s business records. For a sale
when subsections 1 to 3 do not apply, the sale is sourced to the location indicated by an
address for the purchaser obtained during the consummation of the sale, including the
address of a purchaser’s payment instrument, if no other address is available, when use of
this address does not constitute bad faith.

5. Sourced to address from which service provided. When subsections 1 to 4 do
not apply, including the circumstance in which the seller is without sufficient information
to apply subsections 1 to 4, the location is determined by the address from which the
service was provided, disregarding for these purposes any location that merely provided
the digital transfer of the product sold.

Sec. A-9. 36 MRSA §2559, as amended by PL 2015, c. 300, Pt. A, §35, is further
amended to read:

§2559. Application of revenues

Revenues derived by the tax imposed by this chapter must be credited to a General
Fund suspense account. On or before the last day of each month, the State Controller
shall transfer a percentage of the revenues received by the State Tax Assessor during the
preceding month pursuant to the tax imposed by section 2552, subsection 1, paragraphs A
to F and L and N to the Local Government Fund as provided by Title 30-A, section 5681,
subsection 5. The balance remaining in the General Fund suspense account must be
transferred to service provider tax General Fund revenue. On or before the 15th day of
each month, the State Controller shall transfer all revenues received by the assessor
during the preceding month pursuant to the tax imposed by section 2552, subsection 1,
paragraphs G to J and M to the Medical Care Services Other Special Revenue Funds
account, the Other Special Revenue Funds Mental Health Services - Community
Medicaid program, the Medicaid Services - Adult Developmental Services program and
the Office of Substance Abuse - Medicaid Seed program within the Department of Health
and Human Services.

Sec. A-10. Application date. This Part applies to sales occurring on or after
October 1, 2020.

PART B

Sec. B-1. 36 MRSA §5102, sub-§10, as amended by PL 2011, c. 655, Pt. QQ, §4
and affected by §8, is further amended to read:

10. Taxable corporation. "Taxable corporation" means, for any taxable year, a
corporation that has substantial nexus with this State pursuant to section 5200-B,
including any corporation with income subject to federal tax under the Code, Section
1374 or 1375, and that has, at any time during that taxable year, realized Maine net
income and includes any S corporation with realized Maine net income that is subject to
federal tax under the Code, Section 1374 and 1375.

Sec. B-2. 36 MRSA §5200-B is enacted to read:

§5200-B. Corporate income tax nexus

1. Nexus established. A corporation has substantial nexus with this State, for the
purposes of the tax imposed under section 5200, if that corporation:

A. Is organized or commercially domiciled in this State; or

B. Is organized or commercially domiciled outside this State, if the corporation's
property, payroll or sales in this State, as defined in subsection 2, exceed any of the
following thresholds for the taxable year:
(1) For property, $250,000;
(2) For payroll, $250,000;
(3) For sales, $500,000; or
(4) Twenty-five percent of the corporation’s property, payroll or sales.

2. Property, payroll and sales defined; calculation. For purposes of this section, property, payroll and sales are calculated as provided under chapter 821 and associated rules adopted by the assessor, except that the sales calculation does not exclude sales of tangible personal property under section 5211, subsection 14, paragraph B. For a taxpayer permitted or required to use a special apportionment method under section 5211, subsection 17, the property, payroll and sales used to determine nexus under this section must be consistent with the property, payroll and sales used for the special apportionment method.

3. Corporate partners. A corporation that holds an interest directly or indirectly in a partnership has substantial nexus with this State if the partnership is organized or commercially domiciled in this State or if the partnership’s property, payroll or sales in this State, as defined in subsection 2, exceed any of the thresholds in subsection 1, paragraph B.

Sec. B-3. 36 MRSA §5211, sub-§14, as amended by PL 2009, c. 571, Pt. GG, §1 and affected by §2, is further amended to read:

14. Sales factor formula. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this State during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. For purposes of calculating the sales factor, “total sales of the taxpayer” includes sales of the taxpayer and of any member of an affiliated group with which the taxpayer conducts a unitary business. The formula must exclude from both the numerator and the denominator sales of tangible personal property delivered or shipped by the taxpayer, regardless of F.O.B. point or other conditions of the sale, to a purchaser within a state in which the taxpayer is not taxable within the meaning of subsection 2, unless any member of an affiliated group with which the taxpayer conducts a unitary business is taxable in that state in the same manner as a taxpayer is taxable under subsection 2.

A. For purposes of calculating the sales factor, “total sales of the taxpayer” includes sales of the taxpayer and of any member of an affiliated group with which the taxpayer conducts a unitary business.

B. The sales factor formula must exclude from both the numerator and the denominator sales of tangible personal property delivered or shipped by the taxpayer, regardless of F.O.B. point or other conditions of the sale, to a purchaser within a state in which the taxpayer is not taxable within the meaning of subsection 2, unless any member of an affiliated group with which the taxpayer conducts a unitary business is taxable in that state in the same manner as a taxpayer is taxable under subsection 2.

Sec. B-4. Application. This Part applies to tax years beginning on or after January 1, 2021.
PART C

Sec. C-1. 36 MRSA §5403, sub-§1, as enacted by PL 2015, c. 267, Pt. DD, §33, is amended to read:

1. Individual income tax rate tables. For the tax rate tables in section 5111, beginning in 2020 and each year thereafter, by the dollar amounts of the tax rate tables specified in section 5111, subsections 1-F, 2-F and 3-F, except that for the purposes of this subsection, notwithstanding section 5402, subsection 1-B, the "cost-of-living adjustment" is the Chained Consumer Price Index for the 12-month period ending June 30th of the preceding calendar year divided by the Chained Consumer Price Index for the 12-month period ending June 30, 2015;

A. Beginning in 2016 and each year thereafter, by the lowest dollar amounts of the tax rate tables specified in section 5111, subsections 1-F, 2-F and 3-F, except that for the purposes of this paragraph, notwithstanding section 5402, subsection 1-B, the "cost of living adjustment" is the Chained Consumer Price Index for the 12-month period ending June 30th of the preceding calendar year divided by the Chained Consumer Price Index for the 12-month period ending June 30, 2015; and

B. Beginning in 2017 and each year thereafter, by the highest taxable income dollar amount of each tax rate table, except that for the purposes of this paragraph, notwithstanding section 5402, subsection 1-B, the "cost of living adjustment" is the Chained Consumer Price Index for the 12-month period ending June 30th of the preceding calendar year divided by the Chained Consumer Price Index for the 12-month period ending June 30, 2016;

Sec. C-2. 36 MRSA §5403, sub-§7, as enacted by PL 2017, c. 474, Pt. B, §24, is amended to read:

7. Personal exemptions. Beginning in 2018 and each year thereafter, by the dollar amounts contained in section 5126-A, subsection 1, except that for the purposes of this subsection, notwithstanding section 5402, subsection 1-B, the "cost of living adjustment" is the Chained Consumer Price Index for the 12-month period ending June 30th of the preceding calendar year divided by the Chained Consumer Price Index for the 12-month period ending June 30, 2017; and

Sec. C-3. 36 MRSA §5403, sub-§8, as enacted by PL 2017, c. 474, Pt. B, §24, is amended to read:

8. Personal exemption phase-out. Beginning in 2018 and each year thereafter, by the dollar amount of the applicable amounts specified in section 5126-A, subsection 2, paragraphs A, B and C, except that for the purposes of this subsection, notwithstanding section 5402, subsection 1-B, the "cost of living adjustment" is the Chained Consumer Price Index for the 12-month period ending June 30th of the preceding calendar year divided by the Chained Consumer Price Index for the 12-month period ending June 30, 2017;

Sec. C-4. 36 MRSA §5403, sub-§9 is enacted to read:
9. **Dependent exemption tax credit.** Beginning in 2020 and each year thereafter, by the dollar amounts contained in section 5219-SS, subsections 1, 2 and 3, except that for the purposes of this subsection, notwithstanding section 5402, subsection 1-B, the "cost-of-living adjustment" is the Chained Consumer Price Index for the 12-month period ending June 30th of the preceding calendar year divided by the Chained Consumer Price Index for the 12-month period ending June 30, 2019. If the amount, adjusted by application of the cost-of-living adjustment, is not a multiple of $5, any increase must be rounded to the next lowest multiple of $5; and

Sec. C-5. 36 MRSA §5403, sub-§10 is enacted to read:

10. **Dependent exemption tax credit phase-out.** Beginning in 2020 and each year thereafter, by the dollar amount of the Maine adjusted gross income thresholds specified in section 5219-SS, subsection 4, except that for the purposes of this subsection, notwithstanding section 5402, subsection 1-B, the "cost-of-living adjustment" is the Chained Consumer Price Index for the 12-month period ending June 30th of the preceding calendar year divided by the Chained Consumer Price Index for the 12-month period ending June 30, 2019.

Sec. C-6. 36 MRSA §5403, 2nd ¶, as amended by PL 2017, c. 474, Pt. B, §25, is further amended to read:

Except for subsection 5, paragraph A and subsection 9, if the dollar amount of each item, adjusted by the application of the cost-of-living adjustment, is not a multiple of $50, any increase must be rounded to the next lowest multiple of $50.

**PART D**

Sec. D-1. 36 MRSA §5122, sub-§1, ¶LL, as enacted by PL 2017, c. 474, Pt. C, §2, is repealed.

Sec. D-2. 36 MRSA §5122, sub-§2, ¶TT, as reallocated by RR 2019, c. 1, Pt. A, §69, is repealed.

Sec. D-3. 36 MRSA §5200-A, sub-§1, ¶DD, as enacted by PL 2017, c. 474, Pt. C, §6, is repealed.

Sec. D-4. 36 MRSA §5200-A, sub-§2, ¶GG, as reallocated by RR 2019, c. 1, Pt. A, §73, is repealed.

Sec. D-5. Application; retroactivity. This Part applies retroactively to tax years beginning on or after January 1, 2018.

**SUMMARY**

This bill makes the following changes to the income tax and service provider tax laws.
Part A updates, clarifies and simplifies the service provider tax law regarding consumer purchases of digital media by equalizing the tax treatment between the various modes of purchase for sales occurring on or after October 1, 2020.

Part B clarifies and simplifies the corporate income tax law by establishing clearly defined, objective nexus thresholds as a practical structure for the current general "economic nexus" standard. These so-called factor presence thresholds clarify the minimum thresholds that, when exceeded by a corporation, subject that corporation to the Maine corporate income tax. In addition, the new thresholds create a safe harbor for corporations with little activity within the State that nonetheless have nexus under current law due to a small, but greater than de minimis, physical presence in the State. The new thresholds are $250,000 of property, $250,000 in payroll or $500,000 in sales in Maine, or 25% of total property, payroll or sales in Maine, as determined under the Maine Revised Statutes, Title 36, chapter 821. The thresholds apply to tax years beginning on or after January 1, 2021.

Part C updates the individual income tax law by extending and aligning inflation indexing provisions in 2 respects. First, the bill indexes the recently enacted dependent exemption tax credit for inflation. Second, the bill aligns inflation indexing for the lowest income tax brackets and the highest income tax brackets by allowing an additional one-year inflation adjustment for the highest income tax bracket, indexing the dollar amounts to the same inflation benchmark, the Chained Consumer Price Index for the 12-month period ending June 30, 2015. These changes apply to tax years beginning on or after January 1, 2021.

Part D updates and simplifies Maine income tax law by conforming the Maine income tax with the federal net operating loss limitation. This Part applies retroactively to tax years beginning on or after January 1, 2018.
129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

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An Act Relating to the Valuation of Certain Retail Property

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.
Reference to the Committee on Taxation suggested and ordered printed.

ROBERT B. HUNT
Clerk

Presented by Representative TIPPING of Orono.
Cosponsored by President JACKSON of Aroostook and
Representatives: CARDONE of Bangor, DAUGTHRY of Brunswick, GROHOSKI of
Ellsworth, HEPLER of Woolwich, MASTRACCIO of Sanford, TEPLER of Topsham, Senator:
LIBBY of Androscoggin.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §701-A, as amended by PL 2007, c. 389, §1, is further amended to read:

§701-A. Just value defined

In the assessment of property, assessors in determining just value are to define this term in a manner that recognizes only that value arising from presently possible land use alternatives to which the particular parcel of land being valued may be put. In determining just value, assessors must consider all relevant factors, including without limitation the effect upon value of any enforceable restrictions to which the use of the land may be subjected including the effect on value of designation of land as significant wildlife habitat under Title 38, section 480-BB, current use, physical depreciation, sales in the secondary market, functional obsolescence and economic obsolescence. Restrictions include but are not limited to zoning restrictions limiting the use of land, subdivision restrictions and any recorded contractual provisions limiting the use of lands. The just value of land is determined to arise from and is attributable to legally permissible use or uses only.

For the purpose of establishing the valuation of unimproved acreage in excess of an improved house lot, contiguous parcels and parcels divided by road, powerline or right-of-way may be valued as one parcel when: each parcel is 5 or more acres; the owner gives written consent to the assessor to value the parcels as one parcel; and the owner certifies that the parcels are not held for sale and are not subdivision lots.

For the purpose of establishing the valuation of a retail sales facility, as defined in section 6651, subsection 5, in excess of 20,000 square feet, the property must be valued based on its current use or, if the property is vacant, at its highest and best use. In establishing the valuation, assessors shall consider:

1. Highest and best use. Sales and rentals of properties exhibiting the same or a similar highest and best use, taking into consideration the pool of potential buyers and sellers that typically buy or sell properties similar to the property being valued, including potential buyers who are investors or owner-occupants; and

2. Similar properties. Sales and rentals of properties that are similar to the property being valued with regard to age, condition, use, type of construction, location, design, physical features and economic characteristics.

SUMMARY

This bill provides that, for property tax purposes, retail sales facilities in excess of 20,000 square feet must be valued based on their current use compared to similar properties in their retail market segment or, if vacant, according to their highest and best use.
129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document No. 1903
S.P. 655
In Senate, December 24, 2019

An Act To Amend the Laws Governing Activities at or near the Polls on Election Day

Submitted by the Secretary of State pursuant to Joint Rule 203.
Received by the Secretary of the Senate on December 20, 2019. Referred to the Committee on Veterans and Legal Affairs pursuant to Joint Rule 308.2 and ordered printed.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CHIPMAN of Cumberland.
Cosponsored by Representative McCREIGHT of Harpswell and Senators: LAWRENCE of York, LIBBY of Androscoggin, LUCHINI of Hancock, MIRAMANT of Knox, Representatives: CRAVEN of Lewiston, HUBBELL of Bar Harbor, SCHNECK of Bangor, STROM of Pittsfield.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 21-A MRSA §662, sub-§4, as amended by PL 1995, c. 459, §57, is repealed.

Sec. 2. 21-A MRSA §672, as amended by PL 2007, c. 455, §30, is further amended to read:

§672. Assistance

A voter who is unable to read or mark the ballot because of physical disability, illiteracy or religious faith may request another person, other than the voter's employer or agent of that employer or officer or agent of the voter's union, to assist the voter in reading the ballot or marking the ballot according to the voter's wishes. When assisting a voter, the aide may not tell the voter how to make the voter's choices or otherwise influence the voter in violation of section 682.

1. Assistance by election officials. The voter may request one or more election officials to assist.

2. Assistance by persons not voters. The assistant need not be a voter or of voting age.

Sec. 3. 21-A MRSA §681, sub-§4, as amended by PL 2015, c. 422, §1, is further amended to read:

4. Outside the guardrail enclosure. If sufficient space exists, party workers and others, in addition to the pollwatchers allowed pursuant to section 627, may remain in the voting place outside the guardrail enclosure as long as they do not attempt to influence voters violate section 683 or interfere with their voters' free passage. If a person attempts to influence voters violates section 683 or interfere interferes with their voters' free passage, the warden shall have the person removed from the voting place. A person video recording in the voting place must remain outside the guardrail and may not conduct video recording closer than 15 feet from a voter being recorded, including when a voter is where a person is collecting voters' signatures. A person who video records a voter in violation of this subsection may be removed from the voting place by the municipal clerk at the recommendation of the warden as provided in section 662, subsection 2.

Sec. 4. 21-A MRSA §682, as amended by PL 2019, c. 371, §§21 and 22, is repealed.

Sec. 5. 21-A MRSA §683 is enacted to read:

§683. Restricted activities on election day

1. Access corridor. On election day, an access corridor at least 6 feet wide extending from the entrance of the voting place to the guardrail enclosure must be kept open at all times while the polls are open to allow for the free passage of voters and no
other activity. A person may not interfere with the free passage of voters in the access corridor.

2. Campaign-free zone. The area within the voting place and on public property within a radius of 150 feet outside the entrance to the voting place is designated as a campaign-free zone. Within the zone, a person may not influence or attempt to influence another person's decision regarding any candidate or question on the ballot in that election year.

A. Within the zone described in this subsection a person may not engage in any of the following activities relating to a party or to a candidate or question on the ballot in that election year:

(1) The instruction of a voter in the method of marking the ballot, except as provided in section 672;

(2) The display or distribution of any advertising material or operation of any advertising medium, including a sound amplification device or an audio feature on any mobile telephone or other handheld electronic device. For purposes of this subparagraph, "sound amplification device" includes, but is not limited to, sound trucks, loudspeakers and blowhorns;

(3) The display or distribution of campaign literature, posters, palm cards, buttons, badges or stickers;

(4) The solicitation or acceptance of contributions for a campaign as defined in section 1052, subsection 1 or for the purpose of qualifying a Maine Clean Election Act candidate pursuant to section 1125;

(5) The collection of signatures on nominating petitions; or

(6) Communication orally or in written form with voters in a manner that expresses support for or opposition to a party, a candidate or a question.

B. Notwithstanding paragraph A, the following activities are permitted within the zone described in this subsection:

(1) The display of advertising material on an automobile transporting a voter to or from the voting place for the purpose of voting;

(2) The wearing of clothing, a campaign button or a hat that displays the name of a candidate or an advertising or campaign message by a voter who is at the polls solely for the purpose of voting, as long as the message does not expressly advocate for the passage or defeat of any question or election or defeat of any candidate for an office that is on the ballot for the election that day;

(3) Exit polling, except that a person conducting a poll may not approach or communicate orally with any voter until after the voter has voted; and

(4) The greeting of voters by a candidate, or no more than one representative of a candidate, as long as the candidate or candidate's representative remains outside the access corridor described in subsection 1 and does not state the name of the office the candidate is seeking in that election year or wear any button, name tag
or apparel displaying the candidate's name or the name of the office sought or
otherwise express support for or opposition to a party, a candidate or a question.

3. Petitioning activity. To the extent space is available inside the voting place and
outside the boundaries of the access corridor described in subsection 1 but within the
campaign-free zone described in subsection 2, the warden may assign spaces to persons
or organizations for activities related to the collection of signatures of registered voters
only on a petition to qualify a measure for the ballot at a future election. For purposes of
this section, "petition" means a petition for the direct initiative of legislation or a people's
veto referendum on a form issued by the Secretary of State pursuant to section 901 or a
petition to qualify a municipal referendum question for the ballot in accordance with Title
30-A, section 2522 or Title 30-A, section 2528, subsection 5 or a municipal charter or
ordinance. The warden may limit the number of persons who may occupy each assigned
space. Persons wishing to engage in activities at the voting place under this subsection
must make arrangements with the clerk before election day. Persons permitted to collect
signatures under this subsection may not solicit a voter's signature until after the voter has
completed voting.

4. Free passage of voters. A person may not interfere with the free passage of
voters to or from the voting place.

5. Enforcement. The warden may direct the removal from the voting place of any
person who does not comply with the requirements of this section.

6. Public property limited. For purposes of this section, "public property" does not
include a public right-of-way across privately owned property if it is an easement right-
of-way.

7. Secretary of State guidelines. The Secretary of State shall issue interpretive
guidelines under this section for use by local election officials, candidates, campaigns and
the public in state and federal elections.

Sec. 6. 21-A MRSA §753-B, sub-§5, as repealed and replaced by PL 2019, c.
371, §35, is amended to read:

5. Alternate method of balloting by residents of certain licensed facilities. The
municipal clerk shall designate one time during the 30-day period prior to an election
during which the municipal clerk shall be present in each licensed nursing home subject
to the provisions of Title 22, chapter 405; licensed level IV residential care facility
subject to the provisions of Title 22, chapter 1664; and licensed assisted living program
with more than 6 beds subject to the provisions of Title 22, chapter 1664, in the
municipality for the purpose of conducting absentee voting by residents of these facilities.
The clerk shall designate which areas in these facilities constitute the voting place, the
voting booth and the guardrail enclosure. The clerk shall post a notice in the municipal
office that absentee voting will be conducted as prescribed in this subsection. The clerk
shall provide a notice to each licensed facility of the date and time when absentee voting
will be conducted. The notice must state that the licensed facility is required to notify the
contact person or persons, if any, for each resident that absentee voting will be conducted.
Each licensed facility must provide notice, which may be in the form of an e-mail or an
electronic newsletter, to the contact person or persons, if any, for each resident of the date
and time when absentee voting will be conducted at the facility. Sections 681 and 682
683 apply to voting in these facilities within the areas designated by the clerk. As used in
this subsection, "level IV residential care facility" means a residential care facility as
defined by Title 22, section 7852, subsection 14 that has a licensed capacity of more than
6 residents.

SUMMARY

This bill repeals provisions of law governing signature gathering and other activities
at polling places on election day and enacts provisions in their place. It requires a 6-foot-
wide access corridor from the entrance to the polling place to the guardrail enclosure
where voting takes place that must be kept open at all times for the sole purpose of
allowing voters to pass through. It designates a wider campaign-free zone of up to 150
feet outside the entrance to the voting place where activities on public property relating to
any campaign for a candidate or ballot question in that election year are restricted. The
bill clarifies those restrictions. Collecting signatures on petitions for direct initiatives,
people's veto referenda and municipal referenda may be permitted by the election warden
inside the voting place and within the 150-foot zone but outside the 6-foot-wide access
corridor, to the extent space allows. The bill removes the provision making any violation
of the laws governing political activities at the polling place a Class E crime. It directs
the Secretary of State to issue guidelines to assist local election officials, candidates,
campaigns and the public in interpreting and applying these restrictions.
129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

S.P. 656

No. 1904

In Senate, December 24, 2019

An Act To Amend Certain Laws Governing Elections

Submitted by the Secretary of State pursuant to Joint Rule 203.
Received by the Secretary of the Senate on December 20, 2019. Referred to the Committee on Veterans and Legal Affairs pursuant to Joint Rule 308.2 and ordered printed.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator LUCHINI of Hancock.
Cosponsored by Representative BRYANT of Windham and
Senators: CHIPMAN of Cumberland, CLAXTON of Androscoggin, SANBORN, L. of
Cumberland, Representatives: CRAVEN of Lewiston, HUBBELL of Bar Harbor,
McCREIGHT of Harpswell, SCHNECK of Bangor, TEPLER of Topsham.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 21-A MRSA §128, sub-§1, as amended by PL 2005, c. 453, §20, is further amended to read:

1. Registrar shall review records. The registrar shall review the records of marriage, death, change of name and change of address in the office of the clerk or the assessors or as provided by the Department of Health and Human Services, Office of Vital Records or the Department of the Secretary of State, Bureau of Motor Vehicles and shall revise the central voter registration system accordingly.

A. In addition to official records authorized by this subsection, the registrar or the Secretary of State may use the following notices of death as a basis to cancel a voter’s record in the central voter registration system as long as the registrar or Secretary of State determines that the record matches the record of that registered voter.

1. A published obituary may be used if it contains the name of the registered voter along with the date and place of death of that voter.

2. A notice from an immediate family member of the registered voter may be used if it contains the name of the voter along with the date and place of death of that voter and is signed by the immediate family member. The Secretary of State shall design a form to be used for this purpose.

Sec. 2. 21-A MRSA §363, first ¶, as amended by PL 1993, c. 447, §3, is further amended to read:

The meeting of a political committee as required by sections 371, 373, 374-A, 381, 382 and 393 is governed by the following provisions.

Sec. 3. 21-A MRSA §365, first ¶, as amended by PL 2003, c. 510, Pt. A, §13, is further amended to read:

The political committee that has jurisdiction over the choice of a candidate for nomination or a nominee to fill a vacancy under sections 371, 373, 374-A, 381 and 382 is as follows.

Sec. 4. 21-A MRSA §372, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 5. 21-A MRSA §373, as amended by PL 2001, c. 310, §23, is repealed.

Sec. 6. 21-A MRSA §374-A, sub-§1, as amended by PL 2015, c. 447, §12, is further amended to read:

1. Withdrawal and replacement of nominees. The Secretary of State shall declare the vacancy as provided in section 362-A and a political committee may make a replacement nomination following a candidate's withdrawal only if a person nominated for an office, other than United States Senator, Representative to Congress or Governor, at a primary election or by a political committee:
A. Withdraws on or before 5 p.m. of the 2nd Monday in July preceding the general
election in accordance with section 367;
B. Withdraws because of a catastrophic illness, condition or injury that has
permanently and continuously incapacitated the candidate and would prevent
performance of the duties of the office sought, as long as the candidate or a member
of the candidate's immediate family files with the Secretary of State a certificate
accompanying the withdrawal request that describes the illness, condition or injury
and is signed by a licensed physician; or
C. Dies prior to the general election.

Sec. 7. 21-A MRSA §503-A, sub-§1, as enacted by PL 2019, c. 64, §2, is
amended to read:

1. Qualifications; compensation. Election clerks must be at least 18 years of age,
must be registered to vote and must be residents of the municipality or the county in
which they serve, except that residents of a municipality or county who are 16 or 17 years
of age and who are conditionally registered to vote pursuant to section 155 also qualify to
serve as election clerks. Election clerks are entitled to reasonable compensation as
determined by the municipal officers.

Sec. 8. 21-A MRSA §711, sub-§3, as amended by PL 2007, c. 455, §39, is
further amended to read:

3. Clerk to record file election return. The clerk shall record the attested copies
file an attested copy of the election return with the Secretary of State within 32 business
days after election day. If an attested copy of an election return is not delivered to the
Secretary of State by 5 p.m. on the 2nd business day after an election, the Secretary of
State may send a courier to the municipality concerned, and the clerk shall give that
courier an attested copy of the return. The municipality shall reimburse the Secretary of
State for the costs of the courier service.

Sec. 9. 21-A MRSA §712, as amended by PL 2019, c. 371, §25, is repealed.

Sec. 10. 21-A MRSA §760-B, sub-§2, as amended by PL 2019, c. 371, §38, is
further amended to read:

2. Notice of early processing. The clerk must give notice of the municipality's
intention to process absentee ballots prior to election day using a notice of early processing
form provided by the Secretary of State, stating the days and times that the clerk intends
to begin processing absentee ballots and the inspection period provided in subsection 3.
At least 60 days before election day, the clerk shall provide a copy of the notice of early
processing to the Secretary of State and the chairs of each political party of the
municipality indicating that early processing of absentee ballots will occur. The notice to
the political parties must be considered sufficient as long as it is mailed to the last address
of each municipal chair that is known to the clerk. The notice to the Secretary of State
may be delivered by mail or facsimile or as a scanned attachment to an e-mail address
established by the Secretary of State. If the notice is not received by the Secretary of
State by 5:00 p.m. on the 60th day before election day, the municipality may not process
absentee ballots prior to election day. The clerk shall post a copy of the notice of early
processing with the notice of election as provided in section 621-A.

Sec. 11. 21-A MRSA §901, first ¶, as amended by PL 2009, c. 253, §57, is
further amended to read:

To initiate proceedings for a people's veto referendum or the direct initiative of
legislation, provided in the Constitution of Maine, Article IV, Part Third, Sections 17 and
18, a voter shall submit a written application to the Department of the Secretary of State
on a form designed by the Secretary of State. The application must contain the names,
residence addresses, e-mail addresses, telephone numbers and signatures of 5 voters, in
addition to the applicant, who are designated to receive any notices in proceedings under
this chapter. The Secretary of State shall provide such notices by e-mail only. For a
direct initiative, the application must contain the full text of the proposed law and a
summary that explains the purpose and intent of the direct initiative in both electronic and
printed formats. The voter submitting the application shall sign the application in the
presence of the Secretary of State, the Secretary of State's designee or a notary public.

SUMMARY

The bill makes the following changes to the election laws.

1. It provides 2 additional methods of notice of deceased voters that election officials
can use to maintain their voter files.

2. It lowers the age of qualification to be an election official from 17 years of age to
16 years of age to correspond to a recent change in law that allows for the conditional
registration of 16-year-olds.

3. It shortens the time that municipalities have to submit their official election returns
to the Secretary of State from 3 business days to 2 business days after the election, and it
moves the provision for sending a courier to retrieve delinquent returns to the same
section of law as the filing requirement.

4. It adds a requirement that a clerk must post a copy of the notice of early
processing of absentee ballots along with the notice of election.

5. It specifies additional information that must be provided on an application for a
citizen's initiative or people's veto referendum and provides that notices must be provided
to the applicants and other voters who are designated to receive notices by e-mail only.

6. It changes the withdrawal provisions for United States Senator, Representative to
Congress and Governor to match those of other offices.
An Act To Authorize the Automatic Continuation of Absentee Voter Status until the Termination of That Status

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.
Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

Presented by Senator SANBORN, L. of Cumberland.
Cosponsored by Representative FECTEAU of Biddeford and
Senators: CHENETTE of York, President JACKSON of Aroostook, LIBBY of Androscoggin,
Representatives: HUBBELL of Bar Harbor, MOONEN of Portland.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 21-A MRSA §753-A, sub-§7 is enacted to read:

7. Application for ongoing absentee voter status. A voter may apply for status as an ongoing absentee voter. Each qualified applicant must automatically receive an absentee ballot for each ensuing statewide election, municipal election and any other election for which the voter is entitled to vote and need not submit a separate request for each election.

A. An application must be made by a voter using procedures designed by the Secretary of State. These procedures must include a process for notifying the voter that if the voter moves out of the municipality, that voter’s status as an ongoing absentee voter in that municipality terminates. A voter may obtain assistance in completing an application for ongoing absentee voter status pursuant to subsection 5.

B. The clerk or Secretary of State shall terminate a voter’s ongoing absentee voter status only upon:

(1) The written request of the voter;
(2) The death or disqualification of the voter;
(3) The cancellation of the voter’s registration record in the central voter registration system;
(4) The return of an absentee ballot as undeliverable; or
(5) The designation of the voter’s status as inactive in the central voter registration system.

This subsection does not apply to uniformed service voters or overseas voters who are covered by the federal Uniformed and Overseas Citizens Absentee Voting Act, 52 United States Code, Section 20302 (2019).

Sec. 2. 21-A MRSA §753-A, sub-§8 is enacted to read:

8. Telephone and e-mail contact information. In addition to any other information required, a voter applying for an absentee ballot or an ongoing absentee ballot must be asked to provide that voter’s telephone number and e-mail address, if available.

Sec. 3. 21-A MRSA §753-B, sub-§1-A is enacted to read:

1-A. Ballot issued to ongoing absentee voter. Upon receipt of absentee ballots, the clerk shall immediately issue an absentee ballot and return envelope by mail to any voter who has qualified for ongoing absentee voter status under section 753-A, subsection 7.

Sec. 4. 21-A MRSA §756, sub-§2, as amended by PL 2009, c. 538, §9, is further amended to read:

2. Clerk to examine signatures and affidavit. The clerk shall compare the signature of the voter on the application, where required, with that on the corresponding return envelope. The clerk shall examine the affidavit on the return envelope. If the clerk
notes a discrepancy in signature on the return envelope, the return envelope is missing a signature or the affidavit on the return envelope is not properly completed, the clerk shall make a good faith effort to notify the voter within 24 hours by mail, telephone or e-mail of the procedure by which the voter may cure the discrepancy, correct the missing signature or properly complete the affidavit on the return envelope. If the signatures appear to have been made by the same person and if the affidavit is properly completed, the clerk shall write "OK" and the clerk's initials on the return envelope. Otherwise, the clerk shall note any discrepancy on the return envelope.

A. If the signatures do not appear to have been made by the same person, but this discrepancy is apparently the result of the voter's having properly obtained assistance under either section 753-A, subsection 5, or section 754-A, subsection 3, or both, then the clerk shall note the discrepancy on the return envelope, but shall also write "OK" and the clerk's initials on the return envelope.

Sec. 5. Effective date. This Act takes effect January 1, 2022.

SUMMARY

This bill provides a process for a voter to request ongoing absentee voter status, which allows the voter to automatically receive an absentee ballot for each statewide election, municipal election and any other election until the status is terminated. It provides that if the clerk notes a discrepancy in signature on the return envelope of an absentee ballot, the return envelope is missing a signature or the affidavit on the return envelope is not properly completed, the clerk shall make a good faith effort to notify the voter within 24 hours by mail, telephone or e-mail of the procedure by which the voter may cure the discrepancy, correct the missing signature or properly complete the affidavit on the return envelope. It provides an effective date of January 1, 2022.