

Date: (Filing No. H-)

JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 1383, L.D. 1868, Bill, "An Act To Correct Errors and Inconsistencies in the Laws of Maine"

Amend the bill in Part A by striking out all of sections 7, 24, 34 and 44 to 55.

Amend the bill in Part B by striking out all of sections 20 to 22.

Amend the bill in Part B in section 30 in subsection 2 in paragraph B in the 3rd line (page 41, line 26 in L.D.) by striking out the following: "considered" and inserting the following: 'determined'

Amend the bill by inserting after Part B the following:

'PART C

Sec. C-1. 5 MRSA §3371, sub-§2, ¶J, as enacted by PL 1999, c. 731, Pt. AAAA, §1 and amended by PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

J. The administrator of the Maine Fire Training and Education Program Service Institute within the Maine Community College System, or the administrator's designee; and

Sec. C-2. 5 MRSA §13105, sub-§2, ¶C, as amended by PL 2005, c. 19, §2, is further amended to read:

C. The development of new commercial products and the fabrication of such products in the State through the Maine Technology Institute under section 15302 and the technology centers under section 15321 15322; and

Sec. C-3. 5 MRSA §15321, as amended by PL 2009, c. 90, §2 and repealed by c. 369, Pt. A, §19, is repealed.

Sec. C-4. 5 MRSA c. 407, sub-c. 3 is enacted to read:

SUBCHAPTER 3

COMMITTEE AMENDMENT

1 **TECHNOLOGY CENTERS**

2 **§15322. Technology centers**

3 **1. Establishment; purpose.** The technology centers, referred to in this section as
4 "the centers," are established. The purpose of the centers is to support early-stage
5 development of technology-based businesses. The self-managed, state-coordinated
6 centers, strategically placed throughout the State, are an integral component of the State's
7 efforts to foster new technology-based businesses. The goals of the centers include the
8 following:

9 A. The retention of successful start-up businesses in the State;

10 B. The improvement of opportunities for workers through the creation of
11 technologically advanced jobs; and

12 C. The encouragement of private-sector initiatives.

13 **2. Administration.** The following provisions govern the administration of the
14 centers.

15 A. Each technology center is governed by its own board of directors. Each board of
16 directors shall determine services to be provided pursuant to subsection 3, paragraph
17 C.

18 B. The Department of Economic and Community Development shall determine
19 assistance criteria and desired program outcomes and establish an application process
20 so that technology centers possessing personnel with applicable skills can be chosen
21 to best deliver services to technology-based entrepreneurs within a respective area.

22 **3. Technology centers.** The following provisions govern technology centers.

23 A. A technology center may be incorporated as a nonprofit organization, be part of a
24 nonprofit organization, be incorporated as a for-profit organization or be part of a for-
25 profit organization. The following provisions govern a for-profit technology center.

26 (1) Services made available to a technology center by the center director must be
27 made available to all clients of a for-profit center.

28 (2) A for-profit center in a targeted technology may apply for available funding.
29 A for-profit center selected for funding shall accept the funding as a loan that
30 may be paid back in the form of cash, equity or royalties as agreed upon by the
31 for-profit center and the Department of Economic and Community Development.

32 B. The records and proceedings of the technology centers are public for the purposes
33 of Title 1, chapter 13 except that the following records are designated as confidential
34 for the purposes of Title 1, section 402, subsection 3, paragraph A:

35 (1) A record obtained or developed by a technology center prior to receipt of a
36 written application or proposal in a form acceptable to the technology center for
37 assistance from the technology center. After receipt by the technology center of
38 the application or proposal, a record pertaining to the application or proposal may
39 not be considered confidential unless it is confidential under another provision of
40 this paragraph;

1 (2) A peer review or analysis or other document related to the evaluation of a
2 grant application or proposal;

3 (3) A record that the person, including the technology center, to whom the record
4 belongs or pertains has requested be designated confidential and that the
5 technology center has determined contains proprietary information, trade secrets
6 or commercial or financial information, the release of which could be
7 competitively harmful to the submitter of the information, could impair the
8 technology center's ability in the future to obtain similar necessary information
9 solely through the voluntary provision of such information and could affect other
10 technology center interests, such as program effectiveness and compliance. For
11 purposes of this subparagraph, the following terms have the following meanings.

12 (a) "Commercial or financial information" means information related to
13 businesses, commerce, trade, employment, profits or finances, including
14 personal finances.

15 (b) "Trade secret" means a secret, commercially valuable plan, formula,
16 process or device that is used for the making, preparing, compounding or
17 processing of trade commodities and that can be said to be the end product of
18 either innovation or substantial effort. There must be a direct relationship
19 between the trade secret and the productive process;

20 (4) A financial statement, credit report or tax return of an individual or other
21 record obtained or developed by the technology center, the disclosure of which
22 would constitute an invasion of personal privacy as determined by the technology
23 center;

24 (5) A record, including a financial statement or tax return obtained or developed
25 by the technology center in connection with a monitoring or servicing activity of
26 the technology center, pertaining to financial assistance provided or to be
27 provided by or with the assistance of the technology center;

28 (6) A record obtained or developed by the technology center that contains an
29 assessment by a person who is not employed by the technology center of the
30 creditworthiness or financial condition of a person or project;

31 (7) A financial statement or business and marketing plan in connection with a
32 project receiving or to receive financial or other assistance from the technology
33 center, if the person to whom the statement or plan belongs or pertains has
34 requested that the record be designated confidential; and

35 (8) Those employee personnel records made confidential pursuant to section 957,
36 subsection 5 and section 17057.

37 C. The technology centers shall provide support for early-stage technology-based
38 businesses in the State through at least one of the following mechanisms:

39 (1) One-on-one sessions;

40 (2) Peer networks;

1 (3) Classroom training on subjects unique to technology commercialization and
2 the management of high-growth enterprises;

3 (4) Mentor programs that link senior technology executives with entrepreneurs;
4 and

5 (5) Networking opportunities.

6 **4. Funding.** The following provisions govern funding for technology centers.

7 A. Funding for the technology centers must be commensurate with the level of
8 assistance provided.

9 B. All funding must be provided on a competitive basis.

10 **5. Relationship with academic institution.** A technology center shall establish a
11 relationship with at least one academic institution in this State. The Department of
12 Economic and Community Development shall establish guidelines for such a relationship
13 and determine whether a technology center has met the requirements of this subsection.

14 **6. Rule-making authority.** The Department of Economic and Community
15 Development may adopt rules to carry out the purposes of this section. Rules adopted
16 pursuant to this subsection are routine technical rules as defined in chapter 375,
17 subchapter 2-A.

18 **Sec. C-5. 22 MRSA §679-A, sub-§2,** as enacted by PL 1993, c. 664, §10, is
19 amended to read:

20 **2. Duties of the department.** The department shall:

21 A. Develop rules to fulfill the State's responsibilities and requirements for the
22 compact pursuant to the contract requirements set forth in Article IV, Section 4.05,
23 subsections (1) to (4), (6) and (8) of the compact; and

24 B. Provide for the disbursement of funds from the Radioactive Waste Fund to fulfill
25 the requirements of Article IV, Section 4.05, subsection (6) of the compact; and
26 to compensate the state commission member and to fund the activities of the Advisory
27 Commission on Radioactive Waste as described in Title 38, section 1453-A; and.

28 ~~C. Report annually to the Advisory Commission on Radioactive Waste on its~~
29 ~~activities pertaining to this section.~~

30 **Sec. C-6. 38 MRSA §435, 3rd ¶,** as amended by PL 1989, c. 403, §3, is further
31 amended to read:

32 Zoning ordinances adopted pursuant to this article need not depend upon the
33 existence of a zoning ordinance for all of the land and water areas within a municipality,
34 notwithstanding Title 30-A, section ~~4503~~ 4352, as it is the intention of the Legislature to
35 recognize that it is reasonable for municipalities to treat shoreland areas specially and
36 immediately to zone around water bodies rather than to wait until such time as zoning
37 ordinances may be enacted for all of the land within municipal boundaries.

38 **Sec. C-7. 38 MRSA §1451, sub-§3-A,** as amended by PL 1993, c. 664, §13, is
39 repealed.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

PART D

Sec. D-1. 2 MRSA c. 5, as amended, is repealed.

Sec. D-2. 7 MRSA §1017, sub-§4, ¶A, as amended by PL 2007, c. 499, §1, is further amended to read:

A. The Commissioner of Agriculture, Food and Rural Resources or the commissioner's agent, upon notification by producers of insufficient or no payment, shall immediately investigate the complaint and shall, in a manner consistent with the provisions of the Maine Administrative Procedure Act as to adjudicatory proceedings, hold a hearing, unless such hearing is waived by the processor, dealer, broker, agent or retailer against whom the charge has been made. The processor, dealer, broker, agent or retailer accused of nonpayment shall provide the commissioner with a copy of the contract, if any, and all other materials and information to enable the commissioner to carry out the provisions of this section. Upon finding after investigation that the processor, dealer, broker, agent or retailer has violated the contract, express or implied, the commissioner may recover the proceeds of the bond required by section 1015 and apply those proceeds against the amounts owed producers. In the event the bond proceeds are inadequate to cover the debts owed producers, the commissioner shall require the processor, dealer, broker, agent or retailer to post an additional bond sufficient to cover the remaining debt owed to the producer or producers.

(1) The commissioner, after determination upon a hearing of insufficient payment or nonpayment of debts owed to a producer, may require the licensee to formulate a schedule of payments to the producer that is satisfactory to the commissioner. The schedule of payments may not exceed a 30-day period.

(2) The licensee, who after a hearing is determined to be in default of payment to a producer, shall submit a payment schedule to the commissioner within one week from the commissioner's request for a payment schedule. In the event that the schedule of payment is not satisfactory to the commissioner, the commissioner shall establish the schedule of payment not to exceed a 30-day period.

(3) The commissioner shall file a complaint with the District Court seeking to suspend the license of any licensee who fails to conform to the payment schedule established in this section until the producer is paid the total claim to which the producer is entitled.

(4) Upon the filing of a complaint by the commissioner in the District Court, the licensee shall post a bond sufficient to cover the total claim owed the producer on the date on which the complaint is filed. The bond required for an appeal procedure may be waived by the District Court in the event that the bond required ~~in paragraph A~~ by the commissioner under section 1015 or this paragraph is valid and sufficient to cover the total claim owed the producer.

1 (5) Nothing in this section may be construed to prohibit a producer from seeking
2 redress for insufficient payment or nonpayment from licensees in any court or in
3 accordance with any federal procedure established to obtain redress.

4 **Sec. D-3. 11 MRSA §3-1301**, as enacted by PL 1993, c. 293, Pt. A, §2, is
5 amended to read:

6 **§3-1301. Person entitled to enforce instrument**

7 "Person entitled to enforce" an instrument means:

8 (1). The holder of the instrument;

9 (2). A nonholder in possession of the instrument who has the rights of a holder; or

10 (3). A person not in possession of the instrument who is entitled to enforce the
11 instrument pursuant to section 3-1309 or 3-1418, subsection (4). ~~A person may be a~~
12 ~~person entitled to enforce the instrument even though the person is not the owner of the~~
13 ~~instrument or is in wrongful possession of the instrument.~~

14 A person may be a person entitled to enforce the instrument even though the person is
15 not the owner of the instrument or is in wrongful possession of the instrument.

16 **Sec. D-4. 18 MRSA §1655**, as amended by PL 2003, c. 20, Pt. T, §11, is repealed.

17 **Sec. D-5. 20-A MRSA §1465, sub-§3**, as enacted by PL 2007, c. 240, Pt.
18 XXXX, §13, is amended to read:

19 **3. Referendum for a school administrative unit to join an existing regional**
20 **school unit.** The municipal officers of each municipality ~~in a proposed reorganized that~~
21 is a member of a school administrative unit that is proposing to join a regional school unit
22 shall place a warrant article substantially as follows on the ballot of a municipal
23 referendum in accordance with the referendum procedures applicable to the school
24 administrative unit of which the municipality is a member.

25 "Article: Do you favor approving the school reorganization plan prepared by the
26 (insert name) Reorganization Planning Committee for school administrative unit
27 (insert name of affected school administrative unit) to join the regional school unit
28 (name of regional school unit), with an effective date of (insert date)?"

29 Yes No"

30 The following statement must accompany the article:

31 "Explanation:

32 A "YES" vote means that you approve of the (municipality or school
33 administrative unit) joining the proposed regional school unit. The financial
34 penalties under the Maine Revised Statutes, Title 20-A, section 15696 to the
35 existing school administrative unit will no longer apply to the proposed regional
36 school unit."

37 **Sec. D-6. 20-A MRSA §1465, sub-§3**, as amended by PL 2011, c. 251, §5 and
38 affected by §12, is further amended to read:

1 **Sec. D-9. 22 MRSA §2500-A, sub-§1**, as enacted by PL 2009, c. 395, §7 and
2 affected by §8, is amended to read:

3 **1. Caloric information.** A chain restaurant shall state on a food display tag, menu
4 or menu board the total amount of calories per serving of each food and beverage item
5 listed for sale on the food display tag, menu or menu board. The statement of calories
6 required in this subsection must be:

7 A. Clear and conspicuous;

8 B. Adjacent to or in close proximity and clearly associated with the item to which the
9 statement refers; and

10 C. Printed in a font and format at least as prominent in size and appearance as the
11 name or the price of the item to which the statement refers; ~~and.~~

12 ~~D. As it pertains to beer, wine and spirits must also meet the requirements of~~
13 ~~subsection 6.~~

14 As the statement of calories pertains to beer, wine and spirits, the statement must also
15 meet the requirements of subsection 6.

16 **Sec. D-10. 32 MRSA §6210**, as amended by PL 2009, c. 112, Pt. A, §12, is
17 further amended to read:

18 **§6210. Meetings; chair; quorum**

19 The board shall meet at least once a year to conduct its business and to elect a chair.
20 Additional meetings must be held as necessary to conduct the business of the board and
21 may be convened at the call of the chair or a majority of the board members. ~~Five~~
22 ~~members~~ A majority of the board constitute constitutes a quorum.

23 **Sec. D-11. 32 MRSA §8105, sub-§7-A, ¶B**, as amended by PL 2011, c. 366,
24 §32, is further amended to read:

25 B. Has been employed for a minimum of 3 years as a member of an investigative
26 service of the United States ~~or~~ as a sworn member of a branch of the United States
27 Armed Forces or a federal investigative agency. For purposes of this paragraph, "a
28 member of an investigative service of the United States" means a full-time federal
29 investigator or detective of the United States Armed Forces;

30 **Sec. D-12. Resolve 2007, c. 91, §9** is amended to read:

31 **Sec. 9. Director of Bureau of Parks and Lands authorized, but not**
32 **directed, to convey certain land in Jay, Franklin County. Resolved:** That the
33 Director of the Bureau of Parks and Lands within the Department of Conservation may
34 by quitclaim deed without covenant and on such terms and conditions as the director may
35 direct convey to Taylor Made Homes, Inc., and its successors or assigns, an easement to
36 cross a state-owned recreational trail for the purposes of providing motor vehicle access
37 and aboveground or below ground utilities to benefit the properties described in a survey
38 labeled Plan of Look Brook Estates, made for Polar Enterprises, compiled by M.S.B.
39 Associates, Inc., and recorded in the Franklin County Registry of Deeds on March 15,
40 1984 in Plan Book Page P-436. The trail crossing easement authorized under this section
41 is approximately 50 feet wide and located approximately 360 feet west of the trail

1 crossing described in section 8. The easement must approximate the location and
2 dimensions of the western trail crossing depicted in the recorded plan for Look Brook
3 Estates and with a length of ~~173.97~~ 128.37 feet on the east side and ~~128.37~~ 173.97 feet on
4 the west side. The parties to the conveyance authorized in this section may by mutual
5 agreement alter the exact location and alignment of the easement within the plan area
6 based on engineering and safety considerations; and be it further

7 **PART E**

8 **Sec. E-1. 20-A MRSA §7209, sub-§1, ¶B-1** is enacted to read:

9 B-1. The department, in a manner consistent with the authority of the board of
10 directors of an intermediate educational unit, shall approve the annual entitlement
11 plan and the budget for an intermediate educational unit pursuant to subsection 6 only
12 in accordance with the following.

13 (1) The department shall approve the entitlement plan and the budget if the
14 provisions of the entitlement plan and the budget are in compliance with the
15 statewide standards established by the state intermediate educational unit
16 pursuant to subsection 3 for the purpose of ensuring coordinated service delivery
17 in each region of the State.

18 (2) In the event that the department determines that the provisions of the annual
19 entitlement plan and the budget presented by a board of directors of an
20 intermediate educational unit are not in compliance with the statewide standards
21 established pursuant to subsection 3, the department shall require the board of
22 directors of the intermediate educational unit to revise and resubmit the annual
23 entitlement plan and the budget in a reasonable amount of time as determined by
24 the commissioner.

25 (3) In the event the provisions of the resubmitted annual entitlement plan and the
26 budget are not in compliance with the statewide standards established pursuant to
27 subsection 3, the department is authorized to determine and approve an
28 appropriate, final annual entitlement plan and a budget for the intermediate
29 educational unit that is in compliance with the statewide standards established
30 pursuant to subsection 3.

31 **Sec. E-2. 20-A MRSA §7209, sub-§2-A** is enacted to read:

32 2-A. State-level advisory committee. The state-level advisory committee is
33 established to advise on the provisions of this section. Members of the state-level
34 advisory committee are appointed by the commissioner and must include representatives
35 from each board of directors of a regional site described in subsection 5, the early
36 childhood education consultant and the director of early childhood special education
37 within the department.

38 **Sec. E-3. 20-A MRSA §7209, sub-§6**, as amended by PL 2007, c. 307, §5, is
39 further amended to read:

40 **6. Regional site board of directors; annual entitlement plan; site budget**
41 **approval.** A board of directors of a regional site is entitled to receive annual grant award

1 allocations that are approved by the department in accordance with the approval
2 provisions for the annual entitlement plan and the budget for a regional site pursuant to
3 subsection 1, paragraph ~~B~~ B-1.

4 **Sec. E-4. Retroactivity.** Those sections of this Part that enact the Maine Revised
5 Statutes, Title 20-A, section 7209, subsection 1, paragraph B-1 and Title 20-A, section
6 7209, subsection 2-A and amend Title 20-A, section 7209, subsection 6 apply
7 retroactively to June 30, 2008.'

8 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
9 section number to read consecutively.

10 SUMMARY

11 This amendment deletes sections in the bill addressing provisions of law that have
12 been addressed in other legislation. Part A, section 7 is deleted to allow the appropriate
13 department and committee of jurisdiction to propose corrective legislation. Part B,
14 sections 21 and 22 are deleted because they apply to school construction prior to the
15 reorganization and renaming of the Bureau of Public Improvements. Part B, section 30 is
16 amended by replacing the term "deemed" with "determined."

17 This amendment adds Part C to make technical changes.

18 Section 1 replaces "Maine Fire Training and Education Program" with "Maine Fire
19 Service Institute" in the listing of the membership of the Maine Fire Protection Services
20 Commission.

21 Section 2 corrects a cross-reference related to the corrections in sections 3 and 4
22 concerning technology centers.

23 Sections 3 and 4 correct a conflict created when Public Law 2009, chapter 90
24 amended the Maine Revised Statutes, Title 5, section 15321 and Public Law 2009,
25 chapter 369 repealed Title 5, chapter 407, subchapter 2, which contained Title 5, section
26 15321, by repealing Title 5, section 15321 and enacting a new Title 5, chapter 407,
27 subchapter 3 that contains, as section 15322, the version of section 15321 as it was
28 amended by Public Law 2009, chapter 90.

29 Section 5 removes references to the previously dissolved Advisory Commission on
30 Radioactive Waste and makes technical corrections.

31 Section 6 corrects a cross-reference.

32 Section 7 removes a defined term that refers to the previously dissolved Advisory
33 Commission on Radioactive Waste.

34 This amendment adds Part D to make changes that are or may be considered
35 substantive.

36 Section 1 repeals the Maine Revised Statutes, Title 2, chapter 5. Public Law 2011,
37 chapter 90 repealed Title 2, sections 101, 103 and 104 and Public Law 2011, chapter 213
38 repealed Title 2, section 102, all of which are in Title 2, chapter 5. The only section left
39 in chapter 5 is section 105, which gives the Governor the authority to adopt rules to
40 implement the chapter.

1 Section 2 corrects an internal reference.

2 Section 3 corrects a formatting error in Title 11, section 3-1301.

3 Section 4 repeals a duplicate section of law.

4 Sections 5 and 6 correct the error of requiring a municipality proposing to join an
5 existing regional school unit to vote and not the municipal members of that existing
6 regional school unit.

7 Sections 7 and 8 clarify that a regional school unit must conduct, not call, a
8 referendum vote on an article to allow a new municipality to join an existing regional
9 school unit after the vote has been conducted by the joining municipality and the results
10 are in the affirmative. This allows the referendum election to be called but not conducted
11 before the results from the municipality proposing to join the regional school unit are
12 known.

13 Section 9 corrects an error in the structure of a subsection.

14 Section 10 amends the statute governing the State Board of Alcohol and Drug
15 Counselors within the Department of Professional and Financial Regulation, which now
16 has 5 members, to provide that a majority of members constitutes a quorum.

17 Section 11 corrects a clerical error.

18 Section 12 corrects the description of an easement to cross a state-owned recreational
19 trail in Franklin County.

20 This amendment adds Part E to restore provisions that were repealed by their own
21 terms. The restored provisions provide for the Department of Education to approve the
22 annual entitlement plan and budget of intermediate education units and establish a state-
23 level advisory committee, composed in part of members of each board of directors of a
24 regional site, to provide advice to the Department of Education on implementing the
25 general administration and supervision provisions. These changes are substantive.