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Public Law
123rd Legislature
First Regular Session

Chapter 396
H.P. 1340 - L.D. 1906

An Act To Clarify the Authority of Boards and Committees

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

Whereas, the Law Court issued an opinion known as Stevenson v. Town of Kennebunk on April 26, 2007; and

Whereas, the Stevenson decision raises substantial questions about the ability of any governmental body to take any action when there is a vacancy on that body; and

Whereas, the Stevenson decision disrupts the ability of governmental bodies to continue operating as they have for years; and

Whereas, it is immediately necessary to clarify the law and eliminate any uncertainty before government bodies incur substantial delays and inconvenience, effort and expense to change local charters and ordinances; 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Sec. 1. 1 MRSA §71, sub-§3 is repealed and the following enacted in its place:

3. Authority to 3 or more. Words in any statute, charter or ordinance giving authority to 3 or more persons authorize a majority to act when the statute, charter or ordinance does not otherwise specify. Notwithstanding any law to the contrary, a vacancy on an elected or appointed body does not in itself impair the authority of the remaining members to act unless a statute, charter or ordinance expressly prohibits the body from acting during the period of any vacancy and does not in itself affect the validity of any action no matter when taken.

Sec. 2. 30-A MRSA §504 is enacted to read:

§ 504. Authority to act

Words in any statute, charter or ordinance giving authority to 3 or more persons authorize a majority to act when the statute, charter or ordinance does not otherwise specify. Notwithstanding any law to the contrary, a vacancy on an elected or appointed body does not in itself impair the authority of the remaining members to act unless a statute, charter or ordinance expressly prohibits the body from acting during the period of any vacancy and does not in itself affect the validity of any action no matter when taken.

Sec. 3. 30-A MRSA §2602, sub-§7 is enacted to read:

7. Authority to act. Words in any statute, charter or ordinance giving authority to 3 or more persons authorize a majority to act when the statute, charter or ordinance does not otherwise specify. Notwithstanding any law to the contrary, a vacancy on an elected or appointed municipal or quasi-municipal body does not in itself impair the authority of the remaining members to act unless a statute, charter or ordinance expressly prohibits the municipal or quasi-municipal body from acting during the period of any vacancy and does not in itself affect the validity of any action no matter when taken.

Sec. 4. Retroactivity. An action, vote or adjudication of an elected or appointed body that occurred prior to the effective date of this Act, including actions, votes or adjudications that occurred prior to April 26, 2007, is not void for the sole reason that a vacancy existed on the elected or appointed body at the time the action, vote or adjudication occurred.

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

Effective June 21, 2007.