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Public Law
123rd Legislature
First Regular Session

Chapter 462
S.P. 213 - L.D. 676

**An Act To Implement the Recommendations of the
Task Force To Study Maine's Homeland Security Needs**

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 State's emergency preparedness efforts need to be supported to ensure that the State has the tools necessary to protect our citizens from terrorism and natural disasters; 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Sec. 1. 22 MRSA §451, as amended by PL 1989, c. 487, §3, is repealed and the following enacted in its place:

§ 451. Appointment

The following provisions govern the appointment and employment of local health officers.

1. Role of municipality. Every municipality in the State shall employ a local health officer who is appointed by the municipal officers of that municipality. A person may be appointed and employed as a local health officer by more than one municipality.

2. Qualifications. The local health officer must be qualified by education, training or experience in the field of public health or a combination as determined by standards adopted by department rule no later than June 1, 2008. A person who is employed as a local health officer who is not qualified by education, training or experience must meet qualification standards adopted by department rule no later than June 1, 2009. On or after June 1, 2009, a person may not be appointed and employed as a local health officer unless that person is first qualified pursuant to the standards set by department rule. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Duration of appointment; notification. A local health officer is appointed for a term of 3 years and until that officer's successor is appointed. The municipal officers shall appoint a successor within 30 days of any resignation or expiration of term. The municipal officers or clerk of each municipality shall within 10 days notify the department in writing of the appointment of a local health officer. Notification to the department must include the local health officer's name, age and address and the dates of the appointment and the beginning of the 3-year term. A local health officer in a town or plantation contiguous to unorganized territory shall perform the duties of a local health officer in that territory.

4. Incapacity or absence. In the event of incapacity or absence of the local health officer, the municipal officers shall appoint a person to act as local health officer during that incapacity or absence. The chair of the municipal officers shall perform the duties of a local health officer until the regular local health officer is returned to duty or another person has been appointed and employed. In a municipality with a manager form of government, when the charter so provides, the appointments provided for in this subsection may be made by the manager and the duties prescribed for the chair of the municipal officers during incapacity or absence of the local health officer are performed by the manager.

5. Conflict of interest. A person may not be appointed to hold office as a local health officer or to serve as a member of the local board of health under section 453 if that person has a pecuniary interest, directly or indirectly, in any corporation or other entity over which that officer or board has general supervision.

6. Duties. Local health officers may be employed on a part-time or full-time basis. The offices of local health officer and town or school physician may be combined when, in the opinion of the municipal officers, the health needs of the public would be better served.

Sec. 2. 37-B MRSA §708, sub-§2, ¶F, as enacted by PL 2005, c. 634, §12, is amended to read:

F. Advise the Governor with regard to the appropriate response to any terrorist threat; and

Sec. 3. 37-B MRSA §708, sub-§2, ¶G, as enacted by PL 2005, c. 634, §12, is amended to read:

G. Periodically advise an emergency response team with pertinent information that could assist in the team's response to an event; and

Sec. 4. 37-B MRSA §708, sub-§2, ¶H is enacted to read:

H. Beginning January 15, 2008 and annually thereafter, report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters regarding homeland security training and communications exercises and other homeland security initiatives and issues.

Sec. 5. 37-B MRSA §745, sub-§6 is enacted to read:

6. Rules. The agency shall adopt rules governing the process for the expenditure of funds from the fund. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. PL 2005, c. 634, §21 is repealed and the following enacted in its place:

Sec. 21. Identification of use of school as a community shelter. A school must indicate whether the school will be used as a community shelter as provided in this section.

1. Funding provided through the School Revolving Renovation Fund. The Department of Education shall require projects applying for funding from the School Revolving Renovation Fund, as established in the Maine Revised Statutes, Title 30-A, section 6006-F, to provide a written answer to the question: "Do you plan to use this school as a public community shelter?"

2. Major capital construction projects. Before granting concept approval to a major capital construction project, the State Board of Education shall require a written answer to the question: "Do you plan to use this school as a public community shelter?"

Sec. 7. Interim progress report on local health officers. The Director of the Maine Center for Disease Control and Prevention within the Department of Health and Human Services, in conjunction with the Public Health Work Group and other stakeholders and interested parties, shall further study local health officer qualifications and adopt rules pursuant to the Maine Revised Statutes, Title 22, section 451, including redefining the role of the local health officer and updating related statutes to clarify that role. The director shall make an interim progress report to the Joint Standing Committee on Criminal Justice and Public Safety by January 1, 2008. The director shall report final recommendations, including any necessary legislation, to the Homeland Security Advisory Council created in Title 37-B, section 708 and the Joint Standing Committee on Health and Human Services and the Joint Standing Committee on Criminal Justice and Public Safety by January 1, 2008. The joint standing committees are authorized to submit legislation based on the report to the Second Regular Session of the 123rd Legislature. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 8. Report of Public Health Work Group. Upon completion of its work, but no later than September 1, 2007, the Public Health Work Group shall report to the Homeland Security Advisory Council and to the Joint Standing Committee on Health and Human Services and the Joint Standing Committee on Criminal Justice and Public Safety any recommendations regarding the following initiatives:

1. Development of a strong local health officer system that is able to function independently of the Department of Health and Human Services, Maine Center for Disease Control and Prevention, if necessary, during an emergency and that supports the county-based emergency management agency and homeland security counterparts;

2. Development of training of, support of and links between local health officers to ensure that each of the 16 county emergency management agencies has a competent local health liaison, including clarification of the role of local health officers in emergency preparedness and response and recovery;

3. Implementation of pilot projects at the county or multicounty level to establish official health agencies to serve as the official public health liaisons during emergencies and to provide an official boundary of local government jurisdiction in the public health arena;

4. Certification of all local law enforcement officers to act as deputy county sheriffs during emergencies and authorization to counties to assume jurisdiction and permit official delegation of public health functions from municipal to county levels; and

5. Adoption and implementation of the National Public Health Performance Standards established by the United States Department of Health and Human Services, Centers for Disease Control and Prevention and the standards of the National Association of County and City Health Officials for ensuring the competency of individuals and agencies.

The Homeland Security Advisory Council and the joint standing committees are authorized to submit legislation based on the report to the Second Regular Session of the 123rd Legislature.

Sec. 9. Report from Maine Emergency Management Agency regarding pet-friendly shelters. The Director of the Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management shall work with communities to identify levels of need and where and how to allocate pet-friendly shelters. The director shall report findings and recommendations, including any necessary legislation, to the Joint Standing Committee on Criminal Justice and Public Safety by January 1, 2008. The joint standing committee is authorized to submit legislation based on the report to the Second Regular Session of the 123rd Legislature.

Sec. 10. Report from Maine Emergency Management Agency regarding plans for ongoing medical care for persons transferred during emergencies. The Director of the Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management shall work with communities to develop plans to ensure that persons who require medical care and are transferred from hospitals, nursing homes or their own personal residences during emergencies receive continued medical care. The director shall report findings and recommendations, including any necessary legislation, to the Joint Standing Committee on Health and Human Services and the Joint Standing Committee on Criminal Justice and Public Safety by January 1, 2008. The joint standing committees are authorized to submit legislation based on the report to the Second Regular Session of the 123rd Legislature.

Sec. 11. Report from Maine Emergency Management Agency regarding plans for identification of persons needing transportation and how to evacuate those persons. The Director of the Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management shall work with communities to identify persons who require transportation in the event of an emergency and to develop plans to ensure that those persons are transported. The director shall report findings and recommendations, including any necessary legislation, to the Joint Standing Committee on Criminal Justice and Public Safety by January 1, 2008. The joint standing committee is authorized to submit legislation based on the report to the Second Regular Session of the 123rd Legislature.

Sec. 12. Implementation of disability indicator. The Director of the Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management, in cooperation with the Maine Developmental Disabilities Council and the Public Utilities Commission, shall develop and implement a plan, including a funding mechanism, to provide a statewide disability indicator system to allow individuals with disabilities and special health needs to provide a means of identifying special assistance needed in an emergency. The director shall report regarding the implementation of the plan and identify any policy or legislative changes that may be required to the Joint Standing Committee on Criminal Justice and Public Safety by January 1, 2008. The joint standing committee is authorized to submit legislation based on the report to the Second Regular Session of the 123rd Legislature.

Sec. 13. Report from Maine Emergency Management Agency regarding building communications system needs. The Director of the Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management, in cooperation with the Chief Information Officer and the Statewide Radio Network Board, shall seek and coordinate from each of the fire chiefs across the State a list of those facilities in each chief's community that pose radio communications challenges and, after application of a recognized standardized risk assessment, are identified as having a high potential of high vulnerability in an emergency event. The director shall report findings and recommendations, including any necessary legislation, to the Joint Standing Committee on Criminal Justice and Public Safety by January 1, 2008. The joint standing committee is authorized to submit legislation based on the report to the Second Regular Session of the 123rd Legislature.

Sec. 14. Report from Maine Emergency Management Agency regarding regulation of fuel tanks. The Director of the Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management, in cooperation with the Department of Professional and Financial Regulation and the Department of Environmental Protection, shall research the public safety factors involved in determining whether fuel tanks should be attached to buildings in order to withstand high winds and flooding and whether all fuel tanks should have emergency shut-off valves. The director shall report findings and recommendations, including any necessary legislation, to the Homeland Security Advisory Council by January 1, 2008. The Homeland Security Advisory Council is authorized to submit legislation based on the report to the Second Regular Session of the 123rd Legislature.

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

Effective June 29, 2007.