

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out the title and substituting the following:

'An Act To Clarify the Authority of Boards and Committees'

Amend the bill by striking out everything after the title and before the summary and inserting the following:

'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Sec. 1. 1 MRSA §71, sub-§3 is repealed and the following enacted in its place: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 MRS §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.'

SUMMARY

Like the bill, this amendment overturns the portion of the Law Court decision in Stevenson v. Town of Kennebunk that held that a municipal board was not authorized to take any action because there was a vacancy on the board. The Law Court held that a charter or ordinance must specifically authorize a board to act in the event of a vacancy. This amendment clarifies Maine law generally, and county and municipal laws specifically, to require a statute, charter or ordinance to specifically prohibit a body from acting in the event of a vacancy in order to have that effect. Because the Law Court decision declared the actions of bodies having vacancies "null and void," the amendment also clarifies that no action previously taken is invalid solely because of the existence of a vacancy or vacancies on the body.

The amendment is an emergency and validates all past actions taken by boards during periods of vacancies.