

MAINE STATE LEGISLATURE

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HUMAN RESOURCES

Reported by: **MINORITY**

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**STATE OF MAINE
SENATE
116TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "B" to S.P. 655, L.D. 1824, Bill, "An Act to Strengthen the Coordinated Delivery of Substance Abuse Services in the State"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

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

Whereas, changes in substance abuse contracting procedures will enhance efficiency and save scarce service delivery resources; and

Whereas, in order to enjoy enhanced efficiency immediately, contracting procedures currently underway in the Office of Substance Abuse must be amended; 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. 5 MRSA §20005, sub-§6, as amended by PL 1993, c. 349, §21, is further amended to read:

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6. Contracts and licensing. Through the director:

A. Administer all contracts with community service providers for the delivery of alcohol and drug abuse services;

B. Establish operating and treatment standards and inspect and issue certificates of approval for approved treatment facilities, drug abuse treatment facilities or programs, including residential treatment centers, and community-based service providers pursuant to section 20024 and subchapter V; and

C. Ensure community participation by funding regional alcohol councils to:

- (1) Assist in the development of comprehensive state plans, the review of the effectiveness of existing policies and services, and the identification of unmet needs;
- (2) Review and comment on proposed grants and contracts;
- (3) Increase public awareness and participation;
- (4) Supply general reference information; and
- (5) Advocate for individuals in need of assistance.

The director shall ensure that councils are funded in a manner that recognizes local differences in cost and travel distances and allows equal provision of services in each geographic area to the extent that funds are available within the office for this purpose.

~~The director may delegate contract and licensing duties under this subsection to the Department of Human Services, the Department of Corrections or the Department of Mental Health and Mental Retardation as long as that delegation ensures that contracting for alcohol and other drug abuse services provided in community settings are consolidated within the Department of Human Services, that contracting for alcohol and other drug abuse services delivered within correctional facilities are consolidated within the Department of Corrections and that contracting for alcohol and other drug abuse services delivered within mental health and mental retardation facilities are consolidated within the Department of Mental Health and Mental Retardation.~~

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COMMITTEE AMENDMENT "B" to S.P. 655, L.D. 1824

2 ~~The director may not delegate contract and licensing duties if~~
4 ~~that delegation results in increased administrative costs.~~

6 ~~The director may not issue requests for proposals for existing~~
8 ~~contract services until the director has adopted rules in~~
10 ~~accordance with the Maine Administrative Procedure Act to ensure~~
12 ~~that the reasons for which existing services are placed out for~~
~~bid and the performance standards and manner in which compliance~~
~~is evaluated are specified and that any change in provider is~~
~~accomplished in a manner that fully protects the consumer of~~
~~services.~~

14 ~~Any new contract must be awarded through a request for proposal~~
16 ~~procedure and 1/3 of the contracts of \$100,000 per year or more~~
18 ~~that are renewed must be awarded through a request for proposal~~
~~procedure at least every 2 years.~~

20 ~~The director shall establish a procedure to obtain assistance and~~
22 ~~advice from consumers of alcohol and other drug abuse services~~
~~regarding the selection of contractors when requests for~~
~~proposals are issued;~~

24 D. Require that any new contract be awarded through a
26 request for proposal procedure and any contract of \$250,000
28 per year or more that is renewed be awarded through a
request for proposal procedure at least every 8 years,
except:

30 (1) A renewal contract for a provider is not subject to
32 the request for proposal procedure requirement if the
34 contract executed with that provider under this
subsection is a performance-based contract; and

36 (2) Notwithstanding subparagraph (1), the office shall
38 subject a contract to a request for proposal procedure
when necessary to comply with paragraph E;

40 E. Require that any contract subject to renewal under this
42 subsection be awarded through a request for proposal
procedure if the director determines that:

44 (1) The provider has breached the existing contract;

46 (2) The provider has failed to correct material
deficiencies cited by the office;

48 (3) The provider is inefficient or ineffective in the
50 delivery of services and is unable or unwilling to
improve its performance within a reasonable time;

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2 (4) The provider can not or will not respond within a
3 reasonable period of time to a reconfiguration of
4 service delivery requested by the office; or

6 (5) Changes in services are needed to reflect evolving
7 public policy goals in substance abuse; and

8
9 F. Adopt rules in accordance with chapter 375 for the
10 purpose of implementing the procedures required in
11 paragraphs D and E and to ensure that any change of provider
12 that results from the request-for-proposal system is
13 executed in a manner that protects consumers and ensures the
14 stability of the provider system. The rules must also
15 establish a process to obtain advice and assistance from
16 consumers regarding the selection of contractors when
17 requests for proposals are issued under this subsection;

18 **Sec. 2. 5 MRSA §20065, sub-§4, ¶A,** as enacted by PL 1993, c.
19 410, Pt. LL, §12, is amended to read:

20
21 A. The terms of the ~~8~~ 5 public members appointed under
22 subsection 3, paragraph J are staggered. Of the initial
23 appointees under that paragraph, ~~3~~ 2 are appointed for terms
24 of 3 years, ~~3~~ 2 for terms of 2 years and ~~2~~ one for terms a
25 term of one year. Thereafter, all appointments are for
26 terms of 3 years, except that a member appointed to fill a
27 vacancy in an unexpired term serves only for the remainder
28 of that term. Members hold office until the appointment and
29 confirmation of their successors. A public member may not
30 be appointed for more than 2 consecutive, 3-year terms.

31 **Sec. 3. 5 MRSA §20065, sub-§4, ¶C,** as enacted by PL 1993, c.
32 410, Pt. LL, §12, is repealed.

33 **Sec. 4. PL 1993, c. 410, Pt. LL, §14** is amended to read:

34 **Sec. LL-14. Consolidation of substance abuse services programs.**
35 All substance abuse services and programs currently in existence
36 throughout State Government, including but not limited to
37 programs implemented by the Department of Education, the
38 Department of Corrections and the Department of Mental Health and
39 Mental Retardation are consolidated within the Office of
40 Substance Abuse in accordance with the plan required in section
41 15 unless prohibited by federal law.

42 **Sec. 5. PL 1993, c. 410, Pt. LL, §19** is amended to read:

43 **Sec. LL-19. Policy continuity.** It is the responsibility of the
44 Office of Substance Abuse to ensure the continuity of the

programs and policies transferred to it from the Department of Education by this Act. In order to fulfill that responsibility, the Office of Substance Abuse shall:

1. Establish a separate division for substance abuse prevention and education to oversee the transferred programs and policies;

2. Enter into a memorandum of agreement with the Department of Education establishing a plan, not inconsistent with this Act, that specifies how continuity of services and policy initiatives will be maintained and identifies how program and staff resources will be shared;

3. Utilize the Interdepartmental Council, established in the Maine Revised Statutes, Title 34-B, section 1214, as a mechanism to identify ongoing policy and service issues or problems and to resolve interdepartmental disputes; and

4. Adopt policies to ensure that for fiscal year 1993-94 and for fiscal year 1994-95 the percentage of allocation of expenditures for prevention activities, education activities and treatment activities is maintained at the same level as in fiscal year 1992-93; and

5. Enter into a memorandum of agreement with the Department of Public Safety and the Maine National Guard that describes how the substance abuse activities of those agencies will be coordinated with the Office of Substance Abuse.

The Office of Substance Abuse shall report to the Joint Standing Committee on Human Resources by March 1, 1994 concerning the implementation of this section.

Sec. 6. Transition. Employees of the Division of Instruction within the Department of Education whose positions are transferred to the Office of Substance Abuse under this Act retain their positions within the Office of Substance Abuse and their employee rights, privileges and benefits, including sick leave and vacation. All personnel transferred to the Office of Substance Abuse retain all applicable seniority rights and privileges with regard to employment in the Department of Education subject to agreement by the parties in collective bargaining. The Bureau of Human Resources within the Department of Administrative and Financial Services shall assist with the orderly implementation of this section.

Sec. 7. Phase-in of process. Notwithstanding the Maine Revised Statutes, Title 5, section 20005, subsection 6, paragraph D, the Director of the Office of Substance Abuse shall establish

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2 a schedule to ensure that, of the contracts subject to that
3 paragraph, 1/2 are subject to the request-for-proposal process in
4 calendar year 1994, 1/4 in calendar year 1996 and 1/4 in calendar
5 year 1998.

6 **Sec. 8. Effect on current requests for proposals.** Notwithstanding
7 sections 1 and 7 of this Act, requests for proposals issued by
8 the Office of Substance Abuse under Public Law 1991, chapter 792
9 that are in progress on the effective date of this Act are
10 subject to the following provisions.

12 1. The Office of Substance Abuse shall complete the
13 request-for-proposal process for those contracts that are for
14 \$250,000 or more per year.

16 2. The Office of Substance Abuse shall cancel the
17 request-for-proposal process for those contracts that are for
18 less than \$250,000 per year.

20 **Sec. 9. Appropriation.** The following funds are appropriated
21 from the General Fund to carry out the purposes of this Act.

22 1994-95

24 **CORRECTIONS, DEPARTMENT OF**

26 **Correctional Services**

28 All Other (\$150,000)

30 Provides for the deappropriation of funds
32 through a transfer of substance abuse funds
33 to the Office of Substance Abuse within the
34 Executive Department.

36 **DEPARTMENT OF CORRECTIONS**
37 **TOTAL** (\$150,000)

38 **EXECUTIVE DEPARTMENT**

40 **Office of Substance Abuse**

42 All Other \$150,000

44 Provides for the appropriation of funds
46 through a transfer of substance abuse funds
47 from the Department of Corrections.

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2	EXECUTIVE DEPARTMENT	
	TOTAL	\$150,000
4	TOTAL APPROPRIATIONS	-\$0-

6 **Sec. 10. Allocation.** The following funds are allocated from
 8 the Federal Expenditure Fund to carry out the purposes of this
 Act.

10 **1994-95**

12 **EDUCATION, DEPARTMENT OF**

14 **Division of Instruction**

16	Positions	(-5.0)
	Personal Services	(\$264,984)
18	All Other	(2,482,838)

20 Provides for the deallocation of funds for
 22 the purpose of consolidating substance abuse
 services and programs. From the Drug Free
 24 Schools Account one Education Specialist III
 position, 2 Education Specialist II
 26 positions, one Library Assistant position
 and All Other funds totalling \$2,415,321 are
 transferred to the Office of Substance
 28 Abuse. From the Student Assistance Team
 Account one Clerk Steno II position and All
 30 Other funds totalling \$67,517 are also
 transferred to the Office of Substance
 32 Abuse. In addition, one Clerk Typist III
 position is internally transferred from the
 34 Student Assistance Team Account to the Drug
 Free Schools Account.

36	DEPARTMENT OF EDUCATION	
38	TOTAL	(\$2,747,822)

40 **EXECUTIVE DEPARTMENT**

42 **Office of Substance Abuse**

44	Positions	(5.0)
46	Personal Services	\$264,984
	All Other	2,482,838

48 Provides for the allocation of funds through
 50 the transfer of one Education Specialist III
 position, 2 Education Specialist II
 52 positions, one Clerk Steno II position, one

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Library Assistant position and related All
Other funds from the Department of
Education, Division of Instruction for the
purpose of consolidating all substance abuse
services and programs.

**EXECUTIVE DEPARTMENT
TOTAL**

\$2,747,822

TOTAL ALLOCATIONS

-\$0-

Sec. 11. Retroactivity. Those sections of this Act that amend
Public Law 1993, chapter 410, Part LL, sections 14 and 19 apply
retroactively to June 30, 1993.

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

Further amend the bill by inserting at the end before the
statement of fact the following:

FISCAL NOTE

This bill provides for a General Fund transfer of \$150,000
from the Department of Corrections to the Office of Substance
Abuse and a Federal Expenditure Fund transfer of \$2,747,822 from
the Department of Education to the Office of Substance Abuse in
fiscal year 1994-95 in order to consolidate funding for these
programs within the Office of Substance Abuse.

The Office of Substance Abuse will realize some minor
savings from no longer having to issue requests for proposals for
certain contracts.'

STATEMENT OF FACT

This amendment is the minority report of the Joint Standing
Committee on Human Resources. It differs from the original bill
as follows.

1. The original bill added the Department of Public Safety
and the Maine National Guard to the list of agencies and
departments whose substance abuse programs would be consolidated
within the Office of Substance Abuse. The amendment instead
requires the Office of Substance Abuse to enter into an
interdepartmental memorandum of agreement with those agencies.

2 2. The amendment corrects the fund and employee transfers
3 being made from the Department of Education to the Office of
4 Substance Abuse and adds transitional language regarding the
5 employees who are transferred.

6 3. The amendment corrects the amount of funds transferred
7 from the Department of Corrections to the Office of Substance
8 Abuse.

10 4. The amendment corrects technical errors made when the
11 composition of the Substance Abuse Services Commission was
12 changed in Public Law 1993, chapter 410.

14 5. The amendment changes contracting procedures when
15 contracts are renewed by the Office of Substance Abuse. Current
16 law requires that contracts of \$100,000 or more be subject to a
17 request-for-proposal process every 6 years. The amendment
18 increases the threshold to \$250,000 and reduces the frequency to
19 every 8 years. In addition, the amendment waives the
20 request-for-proposal procedure for any contract that is a
21 performance-based contract, except that the Office of Substance
22 Abuse is still authorized to issue a request for proposal when
23 certain conditions exist, such as a provider's breach of
24 contract, inefficiency or inability to respond to new service
25 needs.

26 6. The amendment adds an emergency preamble and clause to
27 the bill and clarifies that the contracts involved in the Office
28 of Substance Abuse's current round of requests for proposals
29 continue in that process only if they are for \$250,000 or more.

32 7. The amendment adds a fiscal note to the bill.