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## Legislative committee hears resolve to create code of ethics



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AUGUSTA — An effort to create a unified ethics code of conduct for state workers following a scandal in which workers at the Maine Centers for Disease Control destroyed public documents in 2013 took its first tentative steps toward a law change Wednesday.

The document destruction in question came in advance of an anticipated Freedom of Access Act request for information by the Sun Journal regarding the award of Healthy Community Coalition grants by the state CDC.

The incident also resulted in a federal whistle-blower lawsuit, filed by one of the employees who was ordered to destroy documents. That suit recently was settled following a nearly year-long legal battle.

But, on Wednesday, members of the State and Local Government Committee had few questions for the sponsors of a legislative resolve requiring the Department of Administration and Financial Affairs to research and then make recommendations on a new, unified ethics code for all departments under the state's executive branch.

Following those final recommendations, due in October, lawmakers would then work to craft a new law to create the unified code of ethics.

According state Sen. Roger Katz, R-Augusta, and state Rep. Chuck Kruger, D-Thomaston, the co-chairs of the Government Oversight Committee and the authors of the resolve, Maine is one of only a handful of states that does not have a comprehensive and singular code of ethical conduct for all state workers.

"If you are like me, I bet when you first got elected to the Legislature, you assumed there was a state code of ethics for state employees," Katz told the committee.

Katz said not having that code was not only a disadvantage for Maine's citizens, but a disadvantage for state workers who have no place to seek guidance on questions of ethics, including whether they face a conflict of interest.

The bill affects executive branch officers and employees, including those who run the biggest departments in state government. The bill calls for the development of, among other things, a consolidated code of ethics and conduct for state workers, ways for state workers to seek guidance on ethical issues and to report ethics violations, and ways to increase awareness of and accountability for ethics and conduct among employees.

Katz and Kruger said the bipartisan oversight committee that is made up of six Republicans and six Democrats unanimously voted to support the resolve.

It was the final action for the committee in a saga of hearings, including taking evidence from subpoenaed witnesses from the CDC and elsewhere in state government.

In November 2014, the GOC voted to submit the legislation, a decision that came nearly a year after a state investigation found CDC supervisors ordered or ignored the destruction of public documents.

The bill is one of a number of responses to the document-shredding probe of the Maine CDC.

In March, the GOC is also expected to hear from a working group established by the Maine Attorney General's office and the Maine State Archives to look at ways to strengthen the state's records retention policies.

The committee also might submit a bill to ensure grant distribution rules are made clearer. That decision comes, in part, because the CDC documents in question were part of a public health grant funding program that went wrong.

One document, which is still missing, proved that final scores for Healthy Maine Partnerships organizations were changed, resulting in taxpayer money being sent to an organization that had come in second place in the original evaluation but which was favored by CDC officials.

Such funding went against the formal grant process normally used by state departments. CDC leaders said they went with the atypical grant process because they were short of time.

Last year, Maine Attorney General Janet Mills asked Kennebec County Deputy District Attorney Fernand LaRochelle to look into whether civil or criminal charges should be filed against people involved in the case.

In a letter to Mills in December of 2013, LaRochelle said he could not prove that the official who "directed" the destruction knew she was doing something wrong.

And since the competitive grant process set up by CDC officials was atypical, he said it was unclear whether the normal rules applied. There was not enough state or department guidance to clarify that such documents should have been kept, he said.

Kruger said the bill was also aimed at creating a consistent approach to ethical issues for all departments.

"One of the things we found is different departments have very different standards," Kruger said. "And since some state employees move from one state agency to another, it is very difficult for them."

Katz called the current arrangement "a real patchwork of policies."

He said the initial work required of DAFS would not be a large expense as the GOC and its investigative arm, the Office of Program Evaluation and Government Accountability, had already researched much of what is done in other states and what is currently on the books in Maine.

Katz later said any subsequent bill that could result from DAFS recommendations may carry a price tag, but it wouldn't be substantial.

Kruger said he sees creating an ethics code that protects government transparency and guards against corruption is a sound investment to make.

"If the question is, 'How can we afford to be ethical?'" Kruger said. "My question back would be, 'How can we afford not to do it?'"

The State and Local Government Committee will next take up the legislation in a work session, that has not yet been scheduled, to further review and possibly vote on a recommendation to the full Legislature.

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