

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 455

H. P. 354

House of Representatives, January 29, 1975

Referred to the Committee on Performance Audit. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Kelleher of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT Relating to Revenue Sharing and Financial Relief to Counties for Expenses of the Superior and Supreme Judicial Courts.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 4 MRSA, § 4, last 2 sentences, are amended to read:

~~The counties wherein such justices reside, have their offices or are holding court shall receive from the State the expenses necessarily incurred by such justices for postage, stationery, express and telephone tolls~~ Each justice of ~~said~~ this court shall be reimbursed by the State for expenses actually and reasonably incurred by him for clerical assistance, postage, stationery, express and telephone tolls, and any other reasonably necessary expenses, upon presentation to the State Controller of an itemized statement of such expenses. The Chief Justice of the Supreme Judicial Court may, by order, prescribe regulations for the submission of such itemized statements through his office and for the advance approval by him of such other reasonably necessary expenses.

Sec. 2. 4 MRSA, § 102, last sentence, as last amended by PL 1973, c. 599, § 2, is further amended to read:

Section 4, relating to reimbursement of Justices of the Supreme Judicial Court for expenses incurred by them, shall apply to Justices of the Superior Court, including reimbursement for expenses incurred in employing clerical assistance but ~~which in the aggregate shall not exceed a total sum of \$14,000 per year for all~~ the Chief Justice of the Supreme Judicial Court may specify by order a maximum amount to be expended by any justice for such clerical assistance.

Sec. 3. 4 MRSA, § 113, as last amended by PL 1973, c. 540, § 1, is repealed.

Sec. 4. 4 MRSA, §§ 115-117, are enacted to read:

§ 115. Place for holding court; suitable quarters

In each county, the place for holding court shall be located in a state, county or municipal building designated by the Chief Justice of the Supreme Judicial Court, who, with the advice and approval of the Bureau of Public Improvements, is empowered to negotiate, on behalf of the State, the leases, contracts and other arrangements he considers necessary, within the limits of appropriations and other funds available to the Supreme Judicial and Superior Courts, to provide suitable quarters, adequately furnished and equipped, for the Supreme Judicial or Superior Court in each county.

The facilities of the Superior Court in each county, when that court is not in session, shall be available for other judicial purposes. Arrangements for such use shall be made by the Chief Justice.

If the Chief Justice is unable to negotiate the leases, contracts and other arrangements as provided in the preceding paragraph, he may, with the advice and approval of the Bureau of Public Improvements, negotiate on behalf of the State the leases, contracts and other arrangements he considers necessary, within the limits of the budget and funds available to such court, to provide suitable quarters, adequately furnished and equipped, for the Supreme Judicial or Superior Court in privately-owned buildings.

§ 116. Funds of court

All revenue received by the Supreme Judicial or Superior Court from fines, forfeitures, penalties, fees and costs shall accrue to the State, except as otherwise provided under Title 12, sections 3055 and 4508; Title 23, section 1653 and Title 29, section 2302.

§ 117. Other expenses of the court

Within the limits of the budget and the funds available to the Superior and Supreme Judicial Courts, the Chief Justice of the Supreme Judicial Court may authorize the expenditure of funds for such other expenses and capital improvements as are reasonably necessary for the efficient operation of these courts.

Sec. 5. 4 MRSA, § 501, first sentence, is amended to read:

In all cases in the Supreme Judicial or in the Superior Court in which the court appoints one or more persons, not exceeding 3, as referees, masters or auditors, to hear the same, their fees and necessary expenses, including stenographic services upon a per diem basis, shall be paid by the ~~county~~ State on presentation of the proper certificate of the clerk of courts for ~~that~~ the county in which such case is pending, or by such of the parties, or out of any fund or subject matter of the action, which is in the custody and control of the court, or by apportionment among such sources of payment, as the court shall direct.

Sec. 6. 4 MRSA, § 554, last sentence, is amended to read:

They shall account quarterly under oath to the ~~county treasurer~~ **State Auditor** for all fees received by them or payable to them by virtue of the office, except fees collected by them in naturalization proceedings, specifying the items, and shall pay the whole amount of the same to the ~~treasurers of their respective counties~~ **Treasurer of State** quarterly on the 15th days of January, April, July and October of each year.

Sec. 7. 4 MRSA, § 556, first and last paragraphs, are amended to read:

The clerk shall keep a true and exact account of all moneys which he receives or is entitled to receive for services by virtue of his office ~~as clerk of the Superior or Supreme Judicial Courts~~ and shall pay the same to the ~~county treasurer~~ **Treasurer of State** for use of the county in the manner required by law. All other moneys belonging to the county or State respectively shall be paid in 30 days after they are received by him. If in either case he neglects to do so, he shall pay 25% interest thereon until paid. ~~The county treasurer shall notify the Treasurer of State~~ **Upon the county treasurer's or Treasurer of State's notice of any such known delinquency and**, the clerk's bond shall then be sued.

Whenever any of ~~said these~~ funds are ordered by the court to be paid to a person entitled to ~~same them~~, $\frac{1}{2}$ of the accrued interest, if any, shall be paid to the ~~county treasurer~~ **Treasurer of State** for use of the county, and the other $\frac{1}{2}$ paid to the claimant unless otherwise ordered by the court. Whenever any of ~~said these~~ funds remain unclaimed for 20 years from the date when payable under ~~said the~~ court judgment or decree, the clerk shall obtain an order from the court, under whose judgment or decree ~~said these~~ funds were placed in his custody, that a comprehensive abstract of the facts be advertised for 3 weeks successively in a newspaper of general circulation published in the county, and if no one appears to claim ~~said these~~ funds within 60 days after date of the last publication, ~~the same~~ they shall become forfeited to the ~~county~~ **State** and be paid by ~~said the~~ clerk to the ~~county treasurer~~ **Treasurer of State** for the use of the county. That portion of this section providing for the forfeiture of unclaimed funds shall apply to funds held by the clerk of courts for 20 years or more prior to September 16, 1961.

Sec. 8. 4 MRSA, § 562, 3rd sentence, is amended to read:

Before entering upon his official duties, each deputy shall be sworn and shall give a bond to the clerk, approved by ~~the county commissioners~~ **the Chief Justice** and lodged in the office of the ~~county treasurer~~ **State Auditor**, in the sum of \$8,000, conditioned that he will faithfully perform all the duties required of his office.

Sec. 9. 4 MRSA, § 562, 4th sentence of 2nd ¶, is amended to read:

Before entering upon his official duties, each special deputy shall be sworn and if the clerk deems it advisable, he shall give bond to the clerk, approved by ~~the county commissioners~~ **the Chief Justice** and lodged in the office of the ~~county treasurer~~ **State Auditor**, in the sum of \$8,000, conditioned that he will faithfully perform the duties of his office.

Sec. 10. 4 MRSA, § 567, is amended to read:

§ 567. No recording officer to be attorney or sue in own court nor draft or aid in drafting paper to be recorded

No clerk, register or recording officer of any court of the State shall be attorney or counselor in any civil action or matter pending in such court; neither shall he commence actions to be entered therein, nor draft nor aid in drafting any document or paper which he is by law required to record, in full or in part, under a penalty of not more than \$100, to be recovered by indictment for the benefit of the ~~county~~ **State**.

Sec. 11. 4 MRSA, § 651, 2nd ¶, first sentence, is amended to read:

Official Court Reporters appointed by the Chief Justice of the Supreme Judicial Court shall receive from the ~~county in which the court or proceeding is held~~ **State, when the court or proceeding is held**, their expenses when in attendance upon such court or proceeding away from their place of residence, but not otherwise.

Sec. 12. 4 MRSA, § 652, is repealed and the following enacted in place thereof:

§ 652. Approval and payment of reporter's expenses

All expense statements of Court Reporters pursuant to the 2nd paragraph of section 651 shall, after being approved by the presiding justice, be submitted to the office of the Chief Justice of the Supreme Judicial Court, and shall be further approved by him before payment by the Treasurer of State.

Sec. 13. 14 MRSA, § 1252, last ¶, is amended to read:

Said salaries shall be paid by the ~~respective counties~~ **State in quarterly** ~~monthly~~ payments on the last day of each ~~quarter~~ **month**, and their expenses shall be paid from time to time by the ~~respective counties~~ **State** on bills approved by a ~~Justice of the Superior Court~~ **the Chief Justice of the Supreme Judicial Court**.

Sec. 14. 14 MRSA, § 1255, last ¶, as enacted by PL 1967, c. 510, § 2, is amended to read:

~~The~~ **With the approval of the Chief Justice of the Supreme Judicial Court,** the jury commissioners may employ or engage an executive secretary such as the clerk of courts or other qualified person to assist the commissioners in carrying out ~~its~~ **their** functions. Any such person shall receive such compensation as may be established ~~and paid for~~ **and paid for** by the ~~county commissioners~~ **Chief Justice from county funds** and actual and necessary expenses incurred in the performance of his duties, ~~to be paid by the State~~.

Sec. 15. 15 MRSA, § 1941, is amended to read:

§ 1941. Duties of clerks as to bills of costs and certificates of fines

Clerks of court shall attest duplicate copies of all bills of costs allowed therein and certificates of all fines and forfeitures imposed and accruing to the ~~county before the rising of the court or immediately after~~ **State at such**

intervals as the Chief Justice of the Supreme Judicial Court may direct, and deliver one of ~~said these~~ copies and certificates to the ~~county treasurer~~ Chief Justice and retain one ~~for the use of the county commissioners~~ in his office. After approval by the Chief Justice, one of these copies and certificates shall be forwarded to the Treasurer of State and the treasurer shall pay the witness fees and other proper expenses noted on it.

Sec. 16. 15 MRSA, § 1943, is amended to read:

§ 1943. Fines, costs and forfeitures in Superior Court

Every clerk of a Superior Court shall render under oath a detailed account of all fines, costs and forfeitures upon convictions and sentences before him, on forms prescribed by the State Department of Audit, and shall pay them into the ~~treasury of the county where the offense is prosecuted~~ State Treasury on or before the 15th day of the month following the collection of such fines, costs and forfeitures. ~~The county treasurer, upon approval of the county commissioners, shall pay to the State, town, city or persons any portion of the fines, costs and forfeitures that may be due.~~ Any person who fails to make such payments into the ~~county treasury~~ State Treasury shall forfeit, in each instance, double the amount so neglected to be paid over, to be recovered by indictment for the persons entitled to such fines, costs and forfeitures, and in default of payment, according to the sentence of the court, such persons shall be punished by imprisonment for not more than 6 months.

Sec. 17. 15 MRSA, § 1981, first ¶, is amended to read:

Sheriffs, jailers and constables who by virtue of their office receive any fines, forfeitures or bills of costs ~~except debts and costs received upon executions in favor of the State~~ shall forthwith pay them to the Treasurer of the ~~county in which they accrued~~ State.

Sec. 18. 15 MRSA, § 1981, 2nd ¶, as amended by PL 1973, c. 567, § 20, is further amended to read:

If any such officer neglects to pay over such fine, forfeiture or costs for 30 days after the receipt thereof; or if he permits any person, sentenced to pay such fine, forfeiture or bill of costs and committed to his custody, to go at large without payment, unless by order of court, and does not within 30 days after such escape pay the amount thereof to the ~~county treasurer~~ Treasurer of State, he forfeits to the ~~county~~ State double the amount. The ~~county~~ Treasurer of State shall give notice of such neglect to the ~~district attorney~~ Attorney General, who shall sue therefor in a civil action in the name of such treasurer.

Sec. 19. 15 MRSA, 1983, first ¶, is amended to read:

Each sheriff, as often as every 3 months, shall deliver to the Treasurer of ~~his county~~ State all securities by him taken for fines and costs, on the liberation of poor convicts from prison pursuant to law.

Sec. 20. 15 MRSA, § 2031, is amended to read:

§ 2031. Fees claimed within 3 years

Sums allowed to any person as fees or for expenses in any criminal prosecution and payable from the ~~county treasury~~ State Treasury may be claimed

by such person of the ~~county treasurer~~ **Treasurer of State** at any time within 3 years after the allowance, and not afterwards.

Sec. 21. 15 MRSA, § 2032, is amended to read:

§ 2032. Schedule of securities

A schedule of all securities with the amount due on each, received by the ~~county treasurer~~ **Treasurer of State** from the sheriff pursuant to section 1083, shall be by him laid before the county commissioners at their next session, to be filed by the sheriff with the clerk. The ~~county commissioners~~ clerk, from time to time, shall examine such securities, and, where he deems appropriate, shall request that the court order the ~~county attorney~~ **Attorney General** to take such measures for their collection as they judge are deemed expedient or authorize the treasurer to compound and cancel them on such terms as they ~~direct~~ may be ordered.

Sec. 22. 15 MRSA, § 2033, is amended to read:

§ 2033. Treasurer's annual report to Attorney General

The treasurer of State shall, on or before the 20th day of November, annually, make a report to the **Attorney General** showing the amount paid out of his office during the year ending on the first day of said November for costs of prosecutions in the Superior Court; to grand jurors and traverse jurors in terms of court held for criminal business; and the amount received from fines, costs and forfeitures in these courts from judges, jailers and other officers.

The county treasurer shall, on or before the 20th day of November, annually, make a report to the **Attorney General** showing the amount paid out of his office during the year ending on the first day of said November for costs of prosecutions in the Superior Court; upon bills of costs allowed by county commissioners for support of prisoners in jail; and to grand jurors and to traverse jurors at terms of court held for criminal business; and the amount received from fines, costs and forfeitures in said courts from judges, jailers and other officers.

Neglect to make and forward such a report is a breach of his official bond, and for every day of such neglect he forfeits \$5 to the State, and the **Attorney General** shall bring an action on such treasurer's official bond to recover such forfeiture.

The obligation of county treasurers under this section shall continue, after the effective date of this Act, with respect to moneys received by them during that portion of the year prior to the effective date of this Act; and thereafter, only with respect to such moneys as continue to be paid out or received for the benefit of the county.

Sec. 23. 16 MRSA, § 252, 2nd sentence, is amended to read:

Whenever any fines or penalties are imposed by any court in any proceeding in which such a police officer or constable is a complainant or a witness, ~~said~~ the court may tax costs for such complainant or witness in the usual manner

to be paid by the ~~county treasurer~~ **Treasurer of State** upon approval of the ~~county commissioners~~ to the municipality employing such police officer or constable; such costs shall not exceed his actual expenses, paid by the municipality, for his travel to and attendance at the court.

Sec. 24. 27 MRSA, § 222, first sentence, is amended to read:

The treasurer of each library association, under the direction of the trustees, shall apply all moneys received of the county treasurer, **of the Treasurer of State** and all bequests and gifts, to form a law library under the appointed regulations.

Sec. 25. 27 MRSA, § 224, first and last ¶¶, as last repealed and replaced by PL 1971, c. 255, are repealed and the following enacted in place thereof:

The Treasurer of State shall pay annually to the treasurer of the Law Library Associations of the several counties for the uses and benefits of the county law libraries as follows:

The treasurer of each Law Library Association shall account to the State Auditor for all receipts and disbursements made under this section. All such receipts and disbursements shall be subject to audit.

Sec. 26. 30 MRSA, § 2, first ¶, as last amended by PL 1973, c. 724, § 2, is further amended to read:

The county commissioners, ~~clerks of the judicial courts and their deputies~~ county treasurers and their deputies, sheriffs, registers of deeds, judges of probate and registers of probate in the several counties shall receive annual salaries from the county treasury in weekly or monthly payments as follows, except that **clerks of the judicial courts and their deputies, bailiffs and other court and jury officers required,** the district attorneys and their assistants shall receive annual salaries from the State Treasury in monthly payments on the last day of each month in a sum which will, in the year's aggregate, most nearly equal the annual salary, as follows, and no other fees, costs or emoluments shall be allowed them, except as hereinafter provided:

Sec. 27. 30 MRSA, § 2, next to last ¶, as amended by PL 1973, c. 567, § 6, is further amended to read:

The salaries mentioned in this section shall be in full compensation for the performance of all official duties by said officers and judges. County commissioners shall allow to said officers, including the district attorney serving the county, **but excepting clerks of court,** all office expense, clerk hire and travel, which are necessary, just and proper to the performance of their official duties. **Without limiting the generality of the foregoing, they shall allow to sheriffs the costs of boarding, guarding and transporting prisoners, whether awaiting trial, during trial or after conviction, and whether acting within or outside the county. The Chief Justice of the Supreme Judicial Court shall allow to clerks of courts, for payment by the State, their office expense, clerk hire and travel which, in his opinion, are necessary, just and proper to the performance of their official duties. Clerks shall secure approval of such expenses at such time and in such manner as the Chief Justice shall direct.**

Sec. 27-A. 30 MRSA, § 2, last ¶, as repealed and replaced by PL 1973, c. 724, § 4, is amended by adding at the end a new sentence to read:

Fees payable to clerks of courts shall be payable by them as elsewhere provided by law; or in the absence of express provision, to the State.

Sec. 28. 30 MRSA, § 53, is repealed.

Sec. 29. 30 MRSA, § 301, first sentence, is amended to read:

The county commissioners shall, in the shire town of their county, provide and keep in repair courthouses pursuant to Title 4, section 115 with a suitable room in each for the county law library; fireproof buildings of brick or stone for the safekeeping of records and papers belonging to the offices of registers of deeds, and of probate and insolvency, and of the clerk of courts, with separate fireproof rooms, and suitable alcoves, cases or boxes for each office, and any other necessary buildings.

Sec. 30. 30 MRSA, § 751, as amended by PL 1967, c. 326, is further amended to read:

§ 751. Accounts; enforcing payment of taxes

The treasurer shall keep his books and accounts on such form and in such manner as shall be approved by the State Department of Audit and shall apply all moneys received by him for the use of the county toward defraying its expenses, as the county commissioners and the Supreme Judicial or Superior Court by their written order direct. Each treasurer shall account with the commissioners of his county for all receipts and payments. He may enforce payment of taxes in the manner prescribed for the Treasurer of State. ~~No term of Superior Court shall adjourn until the presiding justice shall certify to the county treasurer that all expenses incurred during such term have been submitted for payment~~

Sec. 31. 30 MRSA, § 752, is repealed.

Sec. 32. Effective date.

1. Except as provided in subsection 2, this Act shall become effective July 1, 1976.

2. The authority of the Chief Justice, under Title 4, section 115 as added by this Act, to negotiate leases shall be effective July 1, 1976, but the term of such leases may not commence prior to July 1, 1977.

STATEMENT OF FACT

The purpose of this bill is to provide revenue sharing and financial relief to counties for expenses of the Superior and Supreme Judicial Courts.