

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2286

H. P. 2143

House of Representative, March 3, 1976

Referred to Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Hinds of South Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

**AN ACT to Reorganize or Repeal Certain Activities and Agencies in Maine
State Government.**

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

Whereas, the reorganization of certain activities and agencies is found to be essential for the effective operation of Maine State Government; and

Whereas, it is found necessary and appropriate for the Welfare Fraud Investigation function to be transferred to the Department of Human Services; 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 § 242-A, sub-§ 2, as enacted by P&SL 1971, c. 179, § J, § 1, is amended by adding at the end the following new sentence:

The division shall not have primary responsibility for the investigation of any act of fraud or attempted fraud or incident of commingling or misapplication of funds, which is the responsibility of the Department of Human Services, pursuant to Title 22, section 13, subsection 2.

Sec. 2. 5 MRSA § 242-A, sub-§ 3, as enacted by P&SL 1971, c. 179, § J, § 1, is repealed and the following enacted in place thereof:

3. Cooperation; information. All agencies of the state and municipal governments shall cooperate fully with the division, rendering any assistance requested by this division. Every head of a department, bureau, division, commission or any other unit of State Government shall report in writing to the division any suspected act of fraud or attempted fraud or violation of any law in connection with funds of the State. Any act or violation involving funds administered by the Department of Human Services shall be reported pursuant to Title 22, section 13, subsection 3.

All information in the files of any department, commission or agency of the State Government, regardless of any statute relating to confidentiality, shall be available to the division for use in connection with its official purpose.

Sec. 3. 5 MRSA §§ 3306-3307, as enacted by PL 1967, c. 533, § 1, are repealed.

Sec. 4. 10 MRSA §§ 901-902, as amended by PL 1971, c. 584, § 1, are repealed.

Sec. 5. 22 MRSA § 1, 3rd ¶, as repealed and replaced by PL 1973, c. 793, § 1, is amended to read:

The commissioner may employ such bureau and division heads, deputies, assistants and employees as may be necessary to carry out the work of the department. All personnel of the department shall be under the immediate supervision, direction and control of the commissioner. Such personnel shall be employed subject to the Personnel Law, except the deputy commissioners, the director, Bureau of Resource Development and the director, Bureau of Maine's Elderly and as otherwise designated by statute. Deputy commissioners shall be appointed by the commissioner, with the advice and consent of the Governor and Executive Council, and shall serve at the pleasure of the commissioner.

Sec. 6. 22 MRSA § 1, as last amended by PL 1975, c. 293, §§ 1 and 2, is further amended by adding at the end the following new paragraph:

In the event of a vacancy in the office of the commissioner because of death, resignation, removal or other cause, the Governor may designate a deputy commissioner to perform the duties of the commissioner for a period not to exceed 90 days. The deputy commissioner so designated shall have the same powers as the commissioner and be subject to all the obligations and liabilities of the commissioner.

Sec. 7. 22 MRSA § 13 is enacted to read:

§ 13. Welfare Fraud Investigation Unit

1. Establishment; composition. The commissioner is authorized to create a Welfare Fraud Investigation Unit within the Department of Human Services. The commissioner is authorized to employ and assign to the Welfare Investigation Unit such investigators and employees as he deems appropriate.

2. Purpose. The purpose of the Welfare Fraud Investigation Unit shall be to investigate reported incidents or acts of fraud, attempted fraud, commingling or misapplication in connection with, but not limited to, the requesting, obtaining, receiving, withholding, recording, reporting, expending or handling of funds administered by the Department of Human Services.

3. Cooperation; information. All agencies of the state and municipal government shall cooperate fully with the Welfare Fraud Investigation Unit, rendering any assistance requested by that unit. Every head of a department, bureau, division, commission or any other unit of State Government shall report in writing to the Welfare Fraud Investigation Unit all information concerning any suspected incident of fraud or attempted fraud or violation of any law in connection with funds administered by the Department of Human Services. All information in the files of any department, commission or agency of State Government, regardless of any statute, relating to confidentiality, shall be available to the Welfare Fraud Investigation Unit for use in connection with its official function.

4. Violation of law; action. Whenever the Welfare Fraud Investigation Unit determines there is a probability that a fraud, an attempted fraud or a violation of law in connection with funds administered by the Department of Human Services may have occurred, it shall report in writing all information concerning it to the Attorney General or his delegate for such action as he may deem appropriate, including civil action for recovery of funds and criminal prosecution by the Department of the Attorney General.

Sec. 8. 30 MRSA § 2411, sub-§ 2, ¶ A, first sentence, as enacted by PL 1971, c. 455, § 1, is amended to read:

The board shall consist of 5 or 7 members, serving staggered terms of at least 3 and not more than 5 years, except that municipalities with a population of less than 400 residents may form a board consisting of 3 members.

Sec. 9. P&SL 1953, c. 105, Creating the Washington County Recreation Authority, is repealed.

Sec. 10. P&SL 1959, c. 131, Creating the Washington County Development Authority, is repealed.

Sec. 11. Appropriations. There shall be a decrease in the appropriation to the Department of Audit from the General Fund of \$5,705 for the fiscal year 1975-76 and \$22,801 for the fiscal year 1976-77, and an increase in the appropriation to the Department of Human Services from the General Fund of \$5,705 for the fiscal year 1975-76 and \$22,801 for the fiscal year 1976-77. The breakdown shall be as follows:

	1975-76	1976-77
AUDIT, DEPARTMENT OF		
Fraud Investigation Division		
Personal Services	(\$4,802)	(\$18,876)
All Other	(903)	(3,925)

	1975-76	1976-77
HUMAN SERVICES, DEPARTMENT OF		
Welfare Fraud Investigation Unit		
Personal Services	(1) 4,802	(1) 18,876
All Other	903	3,925

The purpose of the decrease in the appropriation to the Department of Audit and the concomitant increase in the appropriation to the Department of Human Services is to effect the transfer of one investigator from the Fraud Investigation Division to the Welfare Fraud Investigation Unit.

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

STATEMENT OF FACT

If enacted this Bill would:

1. Transfer the welfare fraud investigation function from the Department of Audit to the Department of Human Services.
2. Provide for the administration of the Department of Human Services in the absence of a commissioner.
3. Reduce the minimum number of municipal zoning board of appeals members from 5 to 3 for municipalities under 400.
4. Repeal statutory authority for the State Planning Council.
5. Repeal statutory authority for the Washington County Development Authority, the Washington County Economic Advisory Committee and the Washington County Recreation Board.