

# MAINE STATE LEGISLATURE

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New Draft of: H. P. 835, L. D. 1028  
FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 1667**

H. P. 1557

House of Representatives, May 27, 1981

Reported by the Minority from the Committee on Business Legislation.  
Printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

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**AN ACT to Establish a Program of Funded Self-insurance for Public Schools and Municipalities.**

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

Sec. 1. 5 MRSA § 1727, as enacted by PL 1971, c. 239, § 2, is amended by adding at the end 2 new paragraphs to read:

**The board shall employ clerical assistants as necessary.**

**All employees must be employees of the State and are subject to the Personnel Law.**

Sec. 2. 5 MRSA § 1728, as last amended by PL 1979, c. 14, is repealed.

Sec. 3. 5 MRSA § 1728-A is enacted to read:

§ 1728-A. **Powers and duties of the board**

**The board shall provide insurance advice and services for the State Government and any department or agency thereof for all forms on insurance, except for those departments or agencies and those types of insurance otherwise provided for by law. The board may extend their services and facilities, on an optional basis, to any public school or municipality for the lines of insurance provided which are compatible with required services. In this regard, the board shall have the following duties.**

1. Annual reports. The board shall review annually the entire subject of insurance as it applies to all state property and activities, and report to the Governor and the Commissioner of Finance and Administration a statement of its activities during the year ended the preceding June 30th. This report shall include:

- A. An evaluation of the state insurance program;
- B. A complete statement of all types and costs of insurance in effect;
- C. Names of agents and companies of record; and
- D. Such other matters as the board determines to be appropriate and necessary or as the Governor may request.

2. Underwriting information. The board shall require all public schools and municipalities insured under this chapter to furnish all information it reasonably requires to perform its duties under this chapter, including information about amounts, limits, premiums and deductibles, by lines of insurance.

3. Recommendations. The board shall recommend to the Governor such insurance protection as the board deems to be necessary or desirable for the protection of the State, public schools and municipalities insured under this chapter.

4. Purchase of insurance. Pursuant to programs approved by the Governor, the board shall provide necessary insurance and bonding protection and services of all types, including insurance services contracts, by funded self-insurance programs or by the purchase of insurance from companies or agents licensed to do business in the State, or by a combination of both, in order to give the State, public schools and municipalities insured under this chapter, the best possible service, coverage and cost. The purchase of insurance under this section normally shall be made upon competitive bidding, except that the board may, in appropriate circumstances, purchase insurance by negotiation. Insurance coverages provided for public schools and municipalities shall be provided through existing state carriers until current contracts terminate; thereafter, such coverage shall be written in conformity with this section. In the event of the purchase of insurance upon competitive bidding, the chairman of the board shall announce the low bid at a meeting advertised for the opening of bids which, when approved by the Governor, shall constitute an award of a contract of insurance.

5. Schedules of state, school and municipal property. The board shall determine and review the values of property in which the State has an insurable or legal interest and recommend limits and types of insurance protection.

For the purposes of this chapter, the State shall have an insurable interest in all public school and municipal property, notwithstanding any other interest held by the State or any other governmental entities.

For the first year of participation by public schools and municipalities, the value presently insured by a school administrative unit or a municipality may serve as

the insurable value until appraised by the board and approved by the school administrative unit or municipality.

6. Loss prevention practices. The board shall recommend sound safety engineering and loss prevention practices.

7. Appraisal. In case an agreement as to the amount of loss sustained to any building or property insured under this chapter cannot be arrived at between the state agency, public school or municipal claimant and the board, the loss shall be referred to appraisal as provided for in Title 24-A, section 3002.

8. Rejection of state risk. In the event that the board, by unanimous vote, determines that a risk may be prejudicial to the state's insurance program, it may refuse to include the risk in the program until such time as hazards of the risk have been removed or ameliorated to a satisfactory degree.

When coverage is declined by the board, the department or agency in charge of the risk may request that the board procure separate insurance for that risk from any authorized insurance company, and the premium for the insurance shall be a proper charge against the department or agency responsible for the property.

9. Rules. The board shall, in accordance with the spirit and intent of the law, make such rules as may be desirable or necessary for the performance of its duties and for carrying out the purpose of this chapter.

Sec. 4. 5 MRSA § 1731, as enacted by PL 1971, c. 239, § 2, is amended to read:

**§ 1731. Reserve fund for self-insured retention losses**

A reserve fund, hereinafter in this chapter called "the fund," is created to indemnify the State and any public schools and municipalities insured under the chapter for self-insured retention losses and related loss adjustment expenses from those perils insured against under a deductible or self-insured retention program, as recommended by the board and approved by the Governor. The fund shall be a continuing fund and shall not lapse.

Sec. 5. 5 MRSA § 1733, first and 3rd ¶¶, as enacted by PL 1971, c. 239, § 2, are amended to read:

The fund shall be capitalized by legislative appropriations, payments from state departments and agencies, and any public schools and municipalities insured under this chapter, and by such other means as the Legislature may approve.

All other state departments and agencies, and any public schools and municipalities insured under this chapter, except those specifically excluded by statute, shall pay to the fund premiums as determined by the board, not to exceed in each case an amount equal to the difference between the premium for insurance proposed to be purchased and the premium for mandatory deductible or full insurance coverage plus a ~~pro-rata~~ pro rata share of the cost of the stop-loss insurance. In any instance in which the State has a 100% self-insured retention, the premium shall be that for full insurance coverage adjusted for any mandatory deductible.

**FISCAL NOTE**

The Department of Educational and Cultural Services indicates there could be substantial savings in local school budgets, thus savings to the State 2 years after.

As indicated in the statement of fact in the bill the expenses to the Maine Insurance Advisory Board would be from the Reserve Fund and not the General Fund.

**STATEMENT OF FACT**

The purpose of this new draft is to give both public schools and municipalities the option of participating in the state property insurance fund operated by the Maine Insurance Advisory Board.