

MAINE STATE LEGISLATURE

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(New Draft of H.P. 1471, L.D. 1929)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 2375

H.P. 1798

House of Representatives, March 27, 1984

Reported by Representative Clark from the Committee on Audit and Program Review and printed under Joint Rule 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

AN ACT to Create the Maine Uniform
Accounting and Auditing Practices Act for
Community Agencies.

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

Sec. 1. 5 MRSA c. 148, as enacted by PL 1977, c. 541, is repealed.

Sec. 2. 5 MRSA c. 148-B is enacted to read:

CHAPTER 148-B

MAINE UNIFORM ACCOUNTING AND AUDITING

PRACTICES ACT FOR COMMUNITY AGENCIES

§1651. Short title

1 This chapter shall be cited as the "Maine Uniform
2 Accounting and Auditing Practices Act for Community
3 Agencies."

4 §1652. Declaration of problem

5 A community agency which provides services funded
6 by several state departments is often subjected to:

7 1. Records and reports. Maintaining various ac-
8 counting records and filing multiple grant contract
9 fiscal reports for several state departments. These
10 accounting records and reports are often required in
11 an uncoordinated, overlapping and inefficient manner;
12 and

13 2. Audits. Receiving within one fiscal year,
14 numerous routine audits by the same or different
15 state departments.

16 Many community agencies propose that the State
17 adopt standard accounting and auditing practices, to
18 include under normal circumstances, only one state
19 financial audit for each fiscal year covering all
20 funds disbursed by the State and received by a commu-
21 nity agency.

22 The Legislature also finds that current required
23 community agency accounting practices are both costly
24 to Maine taxpayers and inefficient and, therefore,
25 may be improved to more fully protect state funds and
26 justify this Act.

27 §1653. Definitions

28 For the purposes of this chapter, unless the con-
29 text indicates otherwise, the following terms have
30 the following meanings.

31 1. Agreement. "Agreement" means a legally bind-
32 ing written document between 2 or more parties, in-
33 cluding such documents as are commonly referred to as
34 accepted application, proposal, prospectus, contract,
35 grant, joint or cooperative agreement, purchase of
36 service or state aid.

1 2. Commissioner. "Commissioner" means the Com-
2 missioner of the Department of Finance and Adminis-
3 tration.

4 3. Community agency. "Community agency" means
5 any public or private nonprofit organization; or any
6 firm, partnership or business corporation operated
7 for profit, which:

8 A. Operates a service program at the community
9 level;

10 B. Receives public funds from one or more state
11 departments or agencies;

12 C. Is not an administrative unit of the Federal
13 Government or State Government; and

14 D. Is not a health care facility within the
15 meaning of Title 22, section 382, subsection 6.

16 4. Department. "Department" means the Depart-
17 ment of Educational and Cultural Services, the De-
18 partment of Human Services, the Department of Mental
19 Health and Mental Retardation and the Department of
20 Corrections; the Division of Community Services of
21 the Executive Department; the Criminal Justice Plan-
22 ning and Assistance Agency of the Executive Depart-
23 ment; or the Department of Transportation; and may
24 mean such other administrative units of State Govern-
25 ment as are defined from time to time by the commis-
26 sioner, except that the Maine Health Care Finance
27 Commission shall not be defined as "department" for
28 the purposes of this chapter.

29 5. Lead agency. "Lead agency" means that state
30 agency, as designated by the commissioner, which is
31 responsible for coordinating, directing or conducting
32 a single audit.

33 6. Nonprofit organization. "Nonprofit organiza-
34 tion" means any agency, institution or organization
35 which is, or is owned and operated by, one or more
36 corporations or associations no part of the net earn-
37 ings of which inures, or may lawfully inure, to the
38 benefits of any private shareholder or individual.

1 7. Public. "Public" means municipal, county or
2 other governmental body which is a political subdivi-
3 sion within the State.

4 8. Service. "Service" means any alcoholism,
5 children's community action, corrections, criminal
6 justice, developmental disability, education, elderly,
7 health, income supplementation, juvenile, law en-
8 forcement, legal, medical care, mental health, mental
9 retardation, poverty, rehabilitation, services to
10 older people, substance abuse, transportation or
11 youth service or other social service operated by a
12 community agency under an agreement financially sup-
13 porting the service wholly or in part by funds autho-
14 riized for expenditure by the department, except man-
15 power programs and educational services operated di-
16 rectly by public schools or school administrative
17 districts on behalf of a political subdivision of
18 this State.

19 9. Single audit. "Single audit" means one state
20 financial audit of all funds contracted for between
21 the State and community agency, excluding Medicaid
22 done on a grant by grant basis, that will be con-
23 ducted usually on an annual basis but no less fre-
24 quently than every 2 years, and may encompass more
25 than one community agency fiscal year. The 2-year
26 period shall be calculated from the date of the pre-
27 vious single state audit or the effective date of Ju-
28 ly 1, 1987.

29 §1654. Maine Accounting and Auditing Practices Act

30 1. Intent. It is the intent of the Legislature
31 that an agreement entered into by the department with
32 a community agency, the purpose of which is to finan-
33 cially support the provision of a service, shall be
34 governed by the following state accounting and audit-
35 ing practices effective with the dates indicated in
36 this chapter and unless future enactments of law re-
37 scind the provisions of this chapter.

38 2. Standard accounting practices. Effective Ju-
39 ly 1, 1984, the commissioner will begin the process
40 of:

41 A. Developing written guidelines on uniform com-
42 munity agency accounting practices;

1 B. Developing uniform and standard state admin-
2 istrative practices at least in the following ar-
3 eas:

4 (1) Uniform contract grant fiscal year
5 wherever possible;

6 (2) Standard and uniform contracts or
7 grants;

8 (3) Standard and uniform billing forms;

9 (4) Standard and uniform financial reports;

10 (5) Standard and uniform line items; and

11 (6) Standard and uniform state grant, con-
12 tract administrative policies and proce-
13 dures; and

14 C. Developing definitions of all items covered
15 in this section.

16 These standard accounting practices will be finalized
17 by July 1, 1987, as promulgated by the commissioner
18 through rules under the Maine Administrative Proce-
19 dure Act, chapter 375.

20 3. Standard audit practices. Effective July 1,
21 1984, to July 1, 1987, community agencies may elect
22 to have a single state audit, provided that they meet
23 the conditions of election in subsection 4, paragraph
24 C.

25 Effective July 1, 1987, the State shall conduct a
26 single audit of community agencies, provided that the
27 community agency meets the minimum requirements for
28 receiving a single state audit as outlined in subsec-
29 tion 4, paragraph C. Such a single state audit shall
30 be intended to:

31 A. Meet the reasonable financial, administrative
32 and compliance requirements of each department
33 financially supporting the community agency, but
34 shall not involve program monitoring;

1 B. Meet generally accepted auditing standards as
2 established by the Comptroller General of the
3 United States and by the American Institute of
4 Certified Public Accountants; and

5 C. Meet the intent of this chapter.

6 The department shall accept such an audit as satisfy-
7 ing the department requirements, unless significant
8 omissions, errors or other conditions exist as deter-
9 mined by the commissioner or unless there is reason-
10 able justification to conduct an additional audit
11 based upon irregularities. Irregularities include
12 such matters as conflicts of interest, falsification
13 of records or reports and misappropriation of funds
14 or other assets. If the commissioner determines that
15 an additional audit is warranted, he shall determine
16 how this audit shall be performed.

17 4. Responsibilities of parties. The responsibil-
18 ities of commissioner, lead agency and community
19 agency shall be as follows.

20 A. The commissioner shall:

21 (1) Establish final written community stan-
22 dard accounting practices;

23 (2) Promulgate final rules governing per-
24 formance guidelines and criteria for stan-
25 dard audit practices incorporating those
26 outlined in subsection 3. These rules shall
27 also include:

28 (a) Criteria to be used by the lead
29 agency responsible for directing and
30 completing the single state audit;

31 (b) Clarification of the responsibili-
32 ties of the lead agency in carrying out
33 a single state audit;

34 (c) Identification of the responsibil-
35 ities and role of state departments
36 other than the lead agency; and

- 1 (d) Specification of the conditions
2 under which a community agency can ob-
3 tain a waiver from the single audit;
- 4 (3) Maintain the register of all agencies
5 qualifying as a community agency;
- 6 (4) Maintain a register of all grants or
7 contracts administered by the State to com-
8 munity agencies. The register will include
9 at a minimum the name of the community agen-
10 cy, a listing of all grant or contract fis-
11 cal years, the contracting state agency name
12 and the approximate amount of the grant or
13 contract;
- 14 (5) Ensure that at a minimum, annual train-
15 ing be available for community agencies on
16 standard accounting practices;
- 17 (6) Serve as the individual ultimately re-
18 sponsible for the interim and final adminis-
19 tration and implementation of this chapter;
20 and
- 21 (7) At the request of a community agency,
22 the commissioner may waive certain require-
23 ments in the Maine Uniform Accounting and
24 Audit Practices Act when the requirements
25 are determined by the commissioner to be an
26 unreasonable economical hardship.

27 B. The lead agency shall:

- 28 (1) Direct or conduct the single state au-
29 dit;
- 30 (2) Maintain all audit workpapers on the
31 single audit. These workpapers and reports
32 shall be retained for a minimum of 3 years
33 from the date of the audit report, unless
34 the lead agency is notified in writing by
35 the commissioner of the need to extend the
36 retention period;
- 37 (3) Conduct a formal exit interview with
38 representatives of the community agency pri-
39 or to the issuance of the audit report;

1 (4) Issue the single audit report;

2 (5) Ensure that written response from the
3 community agency shall become a part of the
4 audit report;

5 (6) Maintain a follow-up system on audit
6 reports to assure that audit findings and
7 recommendations are resolved in writing
8 within a reasonable period of time;

9 (7) Provide technical advice and act as a
10 liaison between all interested parties;

11 (8) Conduct the audit in accordance with
12 generally accepted auditing standards as
13 prescribed by the American Institute of Cer-
14 tified Public Accountants and the United
15 States General Accounting Office; and

16 (9) Whenever possible rely upon any fiscal
17 audit already conducted on the community
18 agency.

19 C. The community agency shall:

20 (1) Maintain accounting records in accord-
21 ance with standards of accounting practices
22 and generally accepted accounting principles
23 as promulgated by the commissioner. Until
24 the standards of accounting practices have
25 been finally issued, the accounting records
26 shall be maintained in accordance with gen-
27 erally accepted principles;

28 (2) Meet by July 1, 1987, the minimum re-
29 quirements necessary for obtaining a single
30 state audit or obtain from the commissioner
31 a waiver to the single state audit. The
32 minimum requirements include:

33 (a) A fiscal year filed with the Sec-
34 retary of State;

35 (b) At a minimum, annual financial re-
36 view statements prepared by an indepen-
37 dent auditor registered with the Maine
38 Board of Accounting which includes:

- 1 (i) A balance sheet; and
- 2 (ii) A statement of revenue, ex-
3 penditures and balance;
- 4 (c) Individual final grant statements
5 of revenue, expense and balance pre-
6 pared for each contract or grant.
7 These individual grant statements must:
- 8 (i) Be prepared in accordance
9 with the uniform state policies
10 and in accordance with generally
11 accepted accounting principles as
12 promulgated by the American Insti-
13 tute of Certified Public Account-
14 ants. Any deviations from these
15 American Institute of Certified
16 Public Accountants' standards
17 shall include the necessary dis-
18 losures;
- 19 (ii) Be prepared on uniform state
20 forms;
- 21 (iii) Be reconciled with the fi-
22 ancial statements prepared by the
23 outside public accounting firm;
- 24 (iv) Be filed with the depart-
25 ment's grantor and be accompanied
26 by the auditor's comments and rec-
27 ommendations on internal control
28 and management practices, if any,
29 be accompanied by an adjusted tri-
30 al balance; and
- 31 (v) Be dated and signed by the
32 community agency's internal ac-
33 countant.

34 5. Single audit report. At a minimum, the state
35 audit report shall include:

36 A. A final audited statement on a grant by grant
37 basis of revenue, expense and balance of the com-
38 munity agency;

1 B. The lead agency's comments on the audit
2 statement and which shall:

3 (1) Identify the initial statements exam-
4 ined and the period covered;

5 (2) Identify the various programs under
6 which the organization received funds con-
7 tracted by the State and the amount of the
8 awards received;

9 (3) State that the audit was done in ac-
10 cordance with standards specified in this
11 Act; and

12 (4) Express an opinion as to whether the
13 financial statements are fairly presented in
14 accordance with generally accepted account-
15 ing principles. If an unqualified opinion
16 cannot be expressed, state the nature of the
17 qualification;

18 C. The lead agency's comments on compliance and
19 internal control and shall:

20 (1) Include comments on weaknesses in, and
21 noncompliance with, the systems of internal
22 control, separately identifying material
23 weaknesses;

24 (2) Identify the nature and impact of any
25 noted instances of noncompliance with the
26 terms of agreements and those provisions of
27 state or federal law or regulations that may
28 have a material effect on the financial
29 statements and reports; and

30 (3) Contain a positive assurance with re-
31 spect to compliance with requirements for
32 tested items and negative assurance for
33 untested items;

34 D. Comments on the accuracy and completeness of
35 the community agency financial reports submitted
36 to the department;

1 E. Comments on corrective action taken or
2 planned by a community agency on current and pri-
3 or audit findings;

4 F. The community agency's written response and
5 shall become a part of the compliance and inter-
6 nal controls report; and

7 G. Settlement of all disputed items shall be
8 confirmed in writing by the lead agency within a
9 reasonable time frame and made a part of the au-
10 dit report.

11 §1655. Transition for implementation

12 1. Election for single audit. Prior to the ef-
13 fective date of July 1, 1987, a community agency may
14 elect to request the performance of a single audit.
15 These agencies shall serve as models for the purpose
16 of determining an eventual final process for imple-
17 mentation of the mandatory single audit.

18 2. Conditions of elections. To elect the single
19 audit option during the transition period, the commu-
20 nity agency shall submit a written request to the
21 commissioner at least 6 months prior to the expected
22 date of audit but no sooner than 6 months after the
23 effective date of this chapter, and shall meet the
24 minimum requirements as stated in section 1654, sub-
25 section 4, paragraph C. The 6-month period may be
26 waived as determined by the commissioner.

27 3. Transition committee. The commissioner shall
28 convene a committee by July 1, 1984, to include at
29 least one representative from each department af-
30 ected by this chapter and at least 4 representatives
31 from community agencies of which one may be a repre-
32 sentative of the Maine Society of Certified Public
33 Accountants to develop the standards and process for
34 implementation of the mandatory single audit and uni-
35 form accounting practices requirement by July 1,
36 1987. Provisions shall be made to ensure maximum in-
37 put from other community agency personnel prior to
38 any final decisions. The transition committee shall
39 include in its area of responsibility the development
40 of criteria for determining the designation of a lead
41 agency.

1 4. Report. The commissioner shall report by Ju-
2 ly 1, 1985, July 1, 1986, and July 1, 1987, to the
3 joint standing committee of the Legislature having
4 jurisdiction over audit and program review on the
5 process of implementation of this chapter. At these
6 times any problems shall be identified and any sav-
7 ings or cost associated with the implementation shall
8 also be identified.

9 5. Public notice. The final decisions of the
10 transition committee and substantive changes made
11 thereafter by the commissioner shall be subject to
12 notifying the public through the Maine Administrative
13 Procedure Act, chapter 375.

14 §1656. Appeals procedure

15 Any person aggrieved under this chapter shall be
16 entitled to judicial review, as provided in the Maine
17 Administrative Procedure Act, chapter 375. The com-
18 missioner shall develop with the transition committee
19 additional appeals procedures as he deems appropriate
20 provided that aggrieved persons shall be entitled to
21 judicial review as provided in the Maine Administra-
22 tive Procedure Act, chapter 375.

23 §1657. Application of chapter

24 1. Department of Audit. Nothing in this chapter
25 may be construed to affect or limit any previously
26 existing power or duty of the Department of Audit or
27 the Department of Finance and Administration.

28 2. Federal Government. Nothing in this chapter
29 may be construed to affect or limit any power or duty
30 reserved by the Federal Government.

31 Sec. 3. Appropriation. The following funds are
32 appropriated from the General Fund to carry out the
33 purposes of this Act.

34 FINANCE AND ADMINISTRATION,
35 DEPARTMENT OF

36
37 Accounts and Control
38 Positions

1984-85

(-1)

1	Personal Services	(\$17,700)
2	Accounts and Control	
3	Positions	(1)
4	Personal Services	\$17,700
5	The above deappropriation	
6	and reappropriation re-	
7	duces one vacant funded	
8	Accountant II position in	
9	the Bureau of Accounts	
10	and Control and estab-	
11	lishes a Field Examiner	
12	II position to carry out	
13	the purposes of this Act.	
14	No additional appropria-	
15	tion is required for the	
16	implementation of this	
17	Act.	
18	TOTAL	0

19 STATEMENT OF FACT

20 The intent of this new draft is to ensure that
21 the State implement uniform accounting and adminis-
22 trative practices for contracts and perform a single
23 annual audit of funds contracted with community agen-
24 cies to reduce the administrative demands now made on
25 community agencies. As a result the cost of imple-
26 menting this Act should be offset in the future by
27 savings in staff time both at the state and community
28 level.

29 6401032284