

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 633

6
7 S.P. 239

In Senate, February 20, 1985

8 Referred to the Committee on Judiciary and ordered printed. Sent down
9 for concurrence.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Carpenter of Aroostook.

11 Cosponsored by Representative Kane of So. Portland and Representative
Priest of Brunswick.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Amend the Statutes with Respect to
18 the Judicial Department.
19

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

22 Sec. 1. 4 MRSA §24, 2nd ¶, as amended by PL
23 1979, c. 127, §9, is further amended to read:

24 The State Court Administrator shall prepare the
25 consolidated court budget according to procedures
26 prescribed by the State Budget Officer. Budget re-
27 quests and other additional information as requested
28 shall be transmitted to the State Budget Officer on
29 or before September 1st of the even numbered years.
30 The Governor shall ~~include in the budget submission~~
31 submit to the Legislature the judicial budget request
32 without revision, together with an appropriations re-
33 quest to fund that budget, but with such comments as
34 he may deem proper.

35 Sec. 2. 4 MRSA §115, as amended by PL 1981, c.
36 647, §1, is further amended to read:

1 §115. Place for holding court; suitable quarters

2 In each county, the place for holding court shall
3 be located in a building designated by the Chief Jus-
4 tice of the Supreme Judicial Court or his designee
5 with respect to the Supreme Judicial Court or by the
6 Chief Justice of the Superior Court or his designee
7 with respect to the Superior Court, who, with the ad-
8 vice and approval of the Bureau of Public
9 Improvements assistance of the Administrative Office
10 of the Courts, is empowered to negotiate, on behalf
11 of the State, the leases, contracts and other ar-
12 rangements he considers necessary, within the limits
13 of appropriations and other funds available to the
14 Supreme Judicial and Superior Courts, to provide
15 suitable quarters, adequately furnished and equipped,
16 for the Supreme Judicial or Superior Court in each
17 county. The county commissioners in each county
18 shall continue to provide for the use of the Supreme
19 Judicial and Superior Courts such quarters, facili-
20 ties, furnishings and equipment in existing county
21 buildings as were in use on January 1, 1976, without
22 charge.

23 The facilities of the Superior Court in each
24 county, when that court is not in session, shall be
25 available for other purposes. Arrangements for such
26 use shall be made by the Chief Justice of the Superi-
27 or Court or his designee.

28 If the Chief Justice or his designee is unable to
29 negotiate the leases, contracts and other arrange-
30 ments as provided in the preceding paragraph, he may,
31 with the advice and approval of the Bureau of Public
32 Improvements, negotiate on behalf of the State the
33 leases, contracts and other arrangements he considers
34 necessary, within the limits of the budget and funds
35 available to such court, to provide suitable quar-
36 ters, adequately furnished and equipped for the Su-
37 preme Judicial or Superior Court in privately owned
38 buildings.

39 Sec. 3. 4 MRSA §117, as amended by PL 1975, c.
40 735, §5, is further amended to read:

41 §117. Other expenses of the court

1 Within the limits of the funds and appropriations
2 available to the Superior and Supreme Judicial Courts
3 Judicial Department, the Chief Justice of the Supreme
4 Judicial Court or his designee may authorize the ex-
5 penditure of funds for such other expenses and capi-
6 tal improvements as are reasonably necessary for the
7 efficient operation of the Superior and Supreme Judi-
8 cial Courts Judicial Department.

9 Sec. 4. 4 MRSA §162 is amended to read;

10 §162. Place for holding court; suitable quarters

11 In each division, the place for holding court
12 shall be located in a state, county or municipal
13 building designated by the Chief Judge, who, with the
14 advice and approval of the Bureau of Public
15 Improvements assistance of the Administrative Office
16 of the Courts, is empowered to negotiate on behalf of
17 the State, the leases, contracts and other arrange-
18 ments he considers necessary, within the limits of
19 the budget and the funds available under section 163,
20 subsection 3, to provide suitable quarters, adequate-
21 ly furnished and equipped for the District Court in
22 each division.

23 The facilities of the Superior District Court in
24 each county division when that court is not in ses-
25 sion shall be available for other use by the District
26 Court of that division in which such facilities are
27 located. Arrangements for such use shall be made by
28 the Chief Judge or his designee.

29 If the Chief Judge is unable to negotiate the
30 leases, contracts and other arrangements as provided
31 in the preceding paragraph, he may, with the advice
32 and approval of the Bureau of Public Improvements,
33 negotiate on behalf of the State, the leases, con-
34 tracts and other arrangements he considers necessary,
35 within the limits of the budget and funds available
36 under section 163, subsection 3, to provide suitable
37 quarters, adequately furnished and equipped for the
38 District Court in privately owned buildings-

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STATEMENT OF FACT

2 During 1974, the Maine Trial Court Revision Com-
3 mission, which grew out of the desire of the Legisla-
4 tive Branch to achieve reform of the Judicial Branch,
5 was created and the National Center for State Courts
6 was selected as its consultant. Chaired by
7 then-State Senator Joseph E. Brennan, Esq., the com-
8 mission became know as the "Brennan Commission."

9 The commission concerned itself with many court
10 management issues, not the least of which was state
11 financing and the budgetary process. Its philosophy
12 was articulated as follows:

13 "Executive branch review and supervision of the
14 judicial budget process is a constitutional anom-
15 ally. The executive branch supervises the prepa-
16 ration of the state budget because most of that
17 budget is devoted to state executive departments
18 and agencies. However, if the bureau of the
19 budget were to become active in reviewing and re-
20 vising the judicial budget, as with other state
21 agencies, the separation of powers principle
22 would be in jeopardy."

23 This philosophy was the underpinning of the Re-
24 vised Statutes, Title 4, section 24, which provided
25 that "The Governor shall include in the budgeted sub-
26 mission the judicial budget without revision but with
27 such recommendations as he may deem appropriate."

28 Unfortunately, during the years since the enact-
29 ment of the Revised Statutes, Title 4, section 24, in
30 1975, the Judicial Branch's independence has been in-
31 creasingly eroded by Executive Branch "recommenda-
32 tions" that take the form of budget reductions prior
33 to legislative consideration of the Judicial Branch's
34 financial requirements. This bill seeks to remedy
35 this situation, without disrupting the Executive
36 Branch's budget process.

37 Likewise, sections 2, 3 and 4 seek to avoid a
38 constitutional confrontation by eliminating the au-
39 thority of the Bureau of Public Improvements, an Ex-
40 ecutive Branch agency, to review and approve the de-

1 terminations of judicial officers as to where to hold
2 court.

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