

# MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 1424, L.D. 2013)  
2 SECOND REGULAR SESSION  
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE  
5

6 Legislative Document

No. 2269

7  
8 H.P. 1614 House of Representatives, March 27, 1986  
9 Reported by Representative Hichborn from the Committee on State  
10 Government and printed under Joint Rule 2. Original bill sponsored by  
11 Representative Gwadosky of Fairfield.

EDWIN H. PERT, Clerk

12  
13 STATE OF MAINE  
14

15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-SIX  
17

18 AN ACT Relating to Boards and Commissions.  
19

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

22 Sec. 1. 5 MRSA §12002-D is enacted to read:

23 §12002-D. Expenses of boards excluded by definition

24 Sections 12002-A, 12002-B and 12002-C governing  
25 the payment of compensation and reimbursement of ex-  
26 penses to boards subject to this chapter do not apply  
27 to boards that are excluded from this chapter, as de-  
28 defined in section 12002, subsection 1, paragraphs A to  
29 F. Reimbursement of expenses of boards excluded by  
30 the definition in section 12002, subsection 1, shall  
31 be governed by this section.

32 Any boards excluded from the definition of a  
33 board subject to this chapter may be reimbursed for  
34 expenses, including meals and refreshments provided

1 during the meeting of the board to the extent that  
2 the department or agency of State Government with  
3 which the board is associated has sufficient money in  
4 the budget of the department or agency to reimburse  
5 the expenses.

6 Sec. 2. 5 MRSA §12003-A, sub-§§7, 8 and 9 are  
7 enacted to read:

8 7. Prohibition of retirement benefits. No mem-  
9 ber of a board, as defined in this chapter, may be  
10 deemed eligible for state retirement and retirement  
11 benefits provided to classified and unclassified  
12 state employees pursuant to chapter 101. Any state  
13 employee member of a board shall be eligible for  
14 state retirement and retirement benefits by virtue of  
15 employment by the State and not as the result of mem-  
16 bership of any board.

17 No person may accumulate time or credit for any state  
18 retirement or retirement benefits for time served on  
19 a board or commission.

20 8. Accounting procedure. Every board defined in  
21 section 12004 shall have separate accounting activi-  
22 ties as required and in the form prescribed by the  
23 Commissioner of Finance and Administration. These  
24 accounting procedures shall show the income, expenses  
25 and expenditures of the board as separate from the  
26 income and expenditures of the department with which  
27 the board is associated or a part and separate from  
28 the expenditures of the staff associated with or em-  
29 ployed by the board. The expenses of the board to be  
30 shown in the activity accounts, at a minimum, shall  
31 include any per diem or rate of compensation paid to  
32 the board members, travel expenses in state and out  
33 of state of board members and any other expenses  
34 deemed necessary or reasonable by the commissioner.

35 9. Compensation limited to one board meeting a  
36 day. No member of a board eligible for compensation  
37 for attendance at meetings, hearings or official  
38 business of the board may be compensated or reim-  
39 bursed for expenses for more than one meeting, hear-  
40 ing or official board business per day. No person  
41 who is a member of more than one board may be compen-  
42 sated or reimbursed for expenses for attendance at

1 more than one meeting, hearing or conduct of official  
 2 business of one board per day. In the event that 2  
 3 boards meet, hold hearings or conduct official busi-  
 4 ness on the same day, a person who is a member of  
 5 both boards may only be compensated or reimbursed for  
 6 expenses for the activity or business of one of the  
 7 boards.

8           Sec. 3. 5 MRSA §12004, sub-§8, ¶A, sub-¶¶(3),  
 9 (4) and (4-A) are repealed and the following enacted  
 10 in their place:

|    |       |                  |                         |                    |                      |
|----|-------|------------------|-------------------------|--------------------|----------------------|
| 11 | (3)   | <u>Education</u> | <u>State Board</u>      | <u>Legislative</u> | <u>20-A MRSA</u>     |
| 12 |       |                  | <u>of Education</u>     | <u>Per Diem</u>    | <u>§401</u>          |
| 13 | (4)   | <u>Education</u> | <u>Board of Trus-</u>   | <u>Legislative</u> | <u>P&amp;SL 1865</u> |
| 14 |       |                  | <u>tees-University</u>  | <u>Per Diem</u>    | <u>c. 532</u>        |
| 15 |       |                  | <u>of Maine</u>         |                    |                      |
| 16 | (4-A) | <u>Education</u> | <u>Board of Trus-</u>   | <u>Legislative</u> | <u>20-A MRSA</u>     |
| 17 |       |                  | <u>tees-Maine Voca-</u> | <u>Per Diem</u>    | <u>§12553</u>        |
| 18 |       |                  | <u>tional-Techni-</u>   |                    |                      |
| 19 |       |                  | <u>cal Institutes</u>   |                    |                      |

20           Sec. 4. 5 MRSA §12004, sub-§13, ¶A, as enacted  
 21 by PL 1985, c. 295, §21, is amended to read:

22           A. This classification includes the following  
 23 boards:

|    |     |                     |              |               |
|----|-----|---------------------|--------------|---------------|
| 24 |     | NAME OF             | RATE OF      | STATUTORY     |
| 25 |     | ORGANIZATION        | COMPENSATION | REFERENCE     |
| 26 | (1) | Alcohol and Drug    | Not          | 22 MRSA §7131 |
| 27 |     | Abuse               | Authorized   |               |
| 28 |     | Planning Committee  |              |               |
| 29 | (2) | Employee Suggestion | Not          | 5 MRSA §642   |
| 30 |     | System Board        | Authorized   |               |
| 31 | (3) | Maine Occupational  | Not          | 26 MRSA §1452 |
| 32 |     | Information Coord-  | Authorized   |               |
| 33 |     | inating Committee   |              |               |
| 34 | (4) | Maine Vocational    | Expenses     | 26 MRSA §1263 |
| 35 |     | Development         | Only         |               |
| 36 |     | Commission          |              |               |

1           Sec. 5. 5 MRSA §12005, first ¶, as enacted by PL  
2 1983, c. 812, §39, is amended to read:

3           Every board established by this chapter, ~~except~~  
4 ~~these classified as occupational and professional li-~~  
5 ~~icensing boards in section 12004, subsection 1, and~~  
6 ~~which are within or affiliated with the Department of~~  
7 ~~Business, Occupational and Professional Regulation,~~  
8 shall be required to submit an annual report to the  
9 Secretary of State, on forms provided by the Secre-  
10 tary of State. This report shall be submitted no la-  
11 ter than December 15th of each calendar year and  
12 shall include the information required by this sec-  
13 tion and any other information deemed necessary by  
14 the Secretary of State to fulfill the purposes of  
15 this chapter:

16           Sec. 6. 5 MRSA §12006, sub-§1 is enacted to  
17 read:

18           1. Notice of failure to report. The Commission-  
19 er of Finance and Administration shall send notice by  
20 certified mail to any board that has failed to report  
21 pursuant to section 12005. If the board fails to  
22 file the report within 30 days from the date the no-  
23 tice is sent, the board shall be deemed to be unwill-  
24 ing to disclose information vital to the public in-  
25 terest and necessary to determine whether the board  
26 serves the public health, safety or welfare.

27           A. Any board which fails to respond as provided  
28 in this subsection shall be declared as failing  
29 to serve a public purpose and any actions taken  
30 by the board shall be null and void following the  
31 30-day period defined in this subsection.

32           B. In the event that the board files a report as  
33 required in section 12005 anytime within the  
34 5-month period following the date that the  
35 board's actions become null and void, as defined  
36 in paragraph A, the Commissioner of Finance and  
37 Administration shall review the report to deter-  
38 mine whether the board is in compliance with the  
39 reporting requirement. If the board is in com-  
40 pliance, its subsequent actions shall be deemed  
41 effective. Any board which reports that the  
42 board held no meetings shall be considered in  
43 compliance with section 12005.

1           C. If the board fails to report within 6 months  
2 from the reporting date specified in section  
3 12005, the board shall be deemed unwilling to  
4 fulfill a public purpose and shall be abolished.  
5 The Commissioner of Finance and Administration  
6 shall notify the board in writing that its au-  
7 thority is repealed and the board is abolished.  
8 The commissioner shall notify the legislative  
9 committee having jurisdiction over State Govern-  
10 ment that the board is abolished.

11           Sec. 7. Board of Commissions established There  
12 is established the Board of Commissions to consist of  
13 6 persons, 2 of whom shall be appointed by the Govern-  
14 nor. The board shall consist of the Commissioner of  
15 Finance and Administration; one person from the Of-  
16 fice of the Governor, who is knowledgeable about and  
17 experienced with appointments to boards; the Deputy  
18 Secretary of State in charge of Public Administra-  
19 tion; 2 members of the Joint standing Committee on  
20 State Government, one of whom shall be appointed by  
21 the Speaker of the House of Representatives and one  
22 of whom shall be appointed by the President of the  
23 Senate; and one member of the Joint Standing Commit-  
24 tee on Audit and Program Review appointed by the  
25 Speaker of the House of Representatives. The Govern-  
26 nor shall appoint the chairman.

27           1. Compensation. Legislative members of the  
28 board shall be the only board members to receive com-  
29 pensation which shall be the legislative per diem  
30 rate, as defined in the Maine Revised Statutes, Title  
31 5, section 12002. Legislators shall not be paid a  
32 per diem when they attend meetings of the board while  
33 the Legislature is in session or in conjunction with  
34 serving on another board for which they receive com-  
35 pensation.

36           A. Other members of the board shall be reim-  
37 bursed for expenses as provided in Title 5, chap-  
38 ter 379.

39           2. Duties and responsibilities. The board  
40 shall:

41           A. Review the boards listed in the Maine Revised  
42 Statutes, Title 5, section 12004, to determine

1 proper classifications and rates of compensation  
2 for each board;

3 B. Review the boards listed in Title 5, section  
4 12004, to determine whether the board should be  
5 terminated or allowed to continue to operate;

6 C. Determine whether boards should be consoli-  
7 dated and the means by which boards can serve the  
8 public interest in a productive and efficient  
9 manner; and

10 D. Review and consider the efficacy of reim-  
11 bursement of public members of boards for which  
12 no rate of compensation is authorized by Title 5,  
13 chapter 379.

14 3. Staff. The Legislative Council shall provide  
15 staff for the Board of Commissions.

16 4. First meeting. The Speaker of the House of  
17 Representatives shall call the first meeting of the  
18 commission as soon as possible following the effec-  
19 tive date of this Act.

20 5. Report. The Board of Commissions shall re-  
21 port its findings and recommendations, including any  
22 implementing legislation, to the committee having ju-  
23 risdiction over State Government, First Regular Ses-  
24 sion of the 113th Legislature no later than January  
25 7, 1987.

26 Sec. 8. Appropriation. The following funds are  
27 appropriated from the General Fund to carry out the  
28 purposes of this Act.

29 1986-87

30 LEGISLATURE

|                           |              |
|---------------------------|--------------|
| 31 Board of Commissions   |              |
| 32 Personal Services      | \$ 900       |
| 33 All Other              | <u>3,600</u> |
| 34 Provides funds for per |              |
| 35 diem and related ex-   |              |
| 36 penses of the Legisla- |              |
| 37 tors on the board as   |              |

|    |                                     |                 |
|----|-------------------------------------|-----------------|
| 1  | well as printing and                |                 |
| 2  | meeting expenses.                   |                 |
| 3  | Total                               | \$4,500         |
| 4  | <u>EDUCATIONAL AND CULTURAL</u>     |                 |
| 5  | <u>SERVICES, DEPARTMENT OF</u>      |                 |
| 6  | Administration-Education            |                 |
| 7  | Personal Services                   | \$21,500        |
| 8  | Provides funds for per              |                 |
| 9  | diem of State Board of              |                 |
| 10 | Education members.                  |                 |
| 11 | Board of Trustees of the Maine      |                 |
| 12 | Vocational-Technical Institutes     |                 |
| 13 | Personal Services                   | <u>5,800</u>    |
| 14 | Provides funds for per              |                 |
| 15 | diem of the board of                |                 |
| 16 | trustees.                           |                 |
| 17 | Total                               | \$27,300        |
| 18 | <u>BOARD OF TRUSTEES,</u>           |                 |
| 19 | <u>UNIVERSITY OF MAINE</u>          |                 |
| 20 | Educational and General Activities- |                 |
| 21 | University of Maine                 |                 |
| 22 | All Other                           | <u>\$31,000</u> |
| 23 | Provides funds for per              |                 |
| 24 | diem of the board of                |                 |
| 25 | trustees.                           |                 |
| 26 | Total Appropriations                | \$62,800        |

27 STATEMENT OF FACT

28 The purpose of this new draft is to make boards  
29 and commissions more accountable to the Legislature  
30 and general public for the acts or lack of action of  
31 these boards. In addition, this new draft provides  
32 payment of per diem to boards with prodigious work  
33 loads which are currently not authorized to receive  
34 per diem.

35 This new draft requires that every board have  
36 separate activity accounts to clearly distinguish the



1 income and expenses of boards from the income and ex-  
2 penses of departments with which they are associated  
3 and from the expenses and expenditures employed by or  
4 made available to the boards. This accounting re-  
5 quirement will provide the income and expenditures  
6 for roughly 125 boards for which there are currently  
7 no account activities. As a result, the State will  
8 have a much clearer picture of the costs of boards  
9 and commissions to State Government.

10 This new draft limits compensation and reimburse-  
11 ment of expenses of any board member to compensation  
12 and expense reimbursement for the activities of one  
13 board meeting or hearing per day. There are current-  
14 ly cases in which persons who are members of more  
15 than one board collect compensation and expenses for  
16 2 or more meetings or hearings a day when the boards  
17 on which they serve meet on the same day.

18 In addition to these provisions, the new draft  
19 establishes the legislative per diem rate as the rate  
20 of compensation for the State Board of Education, the  
21 Board of Trustees of the Maine Vocational-Technical  
22 Institutes and the Board of Trustees of the Universi-  
23 ty of Maine. These boards have very substantial work  
24 loads and the members currently serve faithfully in a  
25 very conscientious manner for no compensation whatso-  
26 ever.

27 This new draft also makes boards and commissions  
28 more accountable by:

29 1. Requiring professional and occupational li-  
30 censing boards to file the annual report with the  
31 Secretary of State that is required of other boards;  
32 and

33 2. Establishing disclosure of board activities  
34 as essential to the public health, safety and welfare  
35 for which failure to comply renders the board's pro-  
36 spective acts null and void.

37 This new draft also authorizes informal advisory  
38 boards and other boards excluded by definition in the  
39 Maine Revised Statutes, Title 5, chapter 379, to be  
40 reimbursed for expenses, including meals, to the ex-  
41 tent that the budgets of state agencies with which

1 they are associated have sufficient funds to pay  
2 these expenses. Members of some of these boards  
3 travel long distances for no compensation and con-  
4 tribute their talents to State Government. Current-  
5 ly, they are required to pay their own expenses in-  
6 cluding lunch, coffee etc.

7

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