

MAINE STATE LEGISLATURE

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L.D. 1246

(Filing No. S-198)

STATE OF MAINE
SENATE
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 461, L.D. 1246, Bill, "An Act to Amend the Law Governing the State Capitol Commission"

Amend the bill by striking out all of the title and inserting in its place the following:

'An Act to Change the Name of the State Capitol Commission to the State House and Capitol Park Commission and to Amend the Law Governing the Commission'

Further amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting in its place the following:

'Sec. 1. 3 MRSA §162, sub-§12, as amended by PL 1983, c. 824, Pt. V, is further amended to read:

12. Physical facilities for Legislature. To insure that adequate physical facilities are provided for the efficient operation of the Legislature and to provide for and determine the utilization of legislatively controlled facilities both within and without the Statehouse State House and, notwithstanding Title 5, section 1742, subsection 18, to control and assign the use of all rooms in the Statehouse State House, except the immediate offices occupied by the Governor and ~~his~~ the Governor's staff on January 1, 1982. This space shall be assigned for use by the Legislature as offices for ~~ehairmen~~ chairs of joint standing committees and legislative staff and for public hearing rooms.

The Legislative Council shall have the authority to authorize the Executive Director to enter into contracts for the purpose of maintaining or improving the physical facilities assigned to the Legislature, provided that the work to be performed is consistent with the official plan for the preservation and development of the aesthetic and historical integrity of the State House as described in section 902, subsection 1;

COMMITTEE AMENDMENT "A" to S.P. 461, L.D. 1246

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Sec. 2. 3 MRSA §162, sub-§15, as repealed and replaced by PL 1973, c. 590, §4, is amended to read:

15. Other duties and responsibilities. To perform such other duties and responsibilities as may be assigned to the council from time to time by the 2 houses, Houses:

Sec. 3. 3 MRSA §162, sub-§16, as enacted by PL 1975, c. 657, is amended to read:

16. Funds from State, Federal Government and private sources. To accept, use, expend and dispose on behalf of the State funds, equipment, supplies and materials from any agency of the United States, from any private foundation and from any other private source, ; and

Sec. 4. 3 MRSA §162, sub-§17 is enacted to read:

17. Approve plans to preserve and develop the State House and the immediate grounds. To approve architectural, aesthetic and decorative alterations to the State House. The Legislative Council shall also have authority to preserve and develop the aesthetic and historical integrity of the State House and the immediate grounds. The Legislative Council shall have the power to enter into contracts and other powers necessary to implement this subsection and chapter 31.

Sec. 5. 3 MRSA §163, sub-§1, as repealed and replaced by PL 1973, c. 590, §5, is amended to read:

1. Executive officers. To act as executive officer of the Legislature when it is not in session and unless the Legislature shall otherwise order, he the Executive Director shall, with the cooperation of the Secretary of the Senate and the Clerk of the House of Representatives have custody of all legislative property and material, arrange for necessary supplies and equipment through the State Bureau of Purchases, arrange for necessary services, make all arrangements for incoming sessions of the Legislature, have general oversight of chambers and rooms occupied by the Legislature and permit state departments to use legislative property. He The Executive Director shall, with the approval of the President of the Senate and the Speaker of the House of Representatives, dispose of surplus or obsolete material through the continuing property records section of the Bureau of Public Improvements. He The Executive Director shall have the authority to enter into contracts authorized by the Legislative Council and shall approve accounts and vouchers for payment. A perpetual inventory of all legislative property shall be maintained under the supervision of the Legislative Council and an accounting thereof shall be made to the Legislature upon its request.

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Sec. 6. 3 MRSA §342, 2nd ¶, as amended by PL 1979, c. 541, Pt. A, §10, is further amended to read:

If reasonably consistent with other essential uses of statehouse State House office space, these facilities shall continue to be assigned for press use while the Legislature is not in session, but in any case, reasonably adequate facilities shall also be made available to the press at all other times.

Sec. 7. 3 MRSA c. 31, first 2 lines are repealed and the following enacted in their place:

CHAPTER 31

STATE HOUSE AND CAPITOL PARK COMMISSION

Sec. 8. 3 MRSA §901, as enacted by PL 1987, c. 816, Pt. EE, §1, is repealed.

Sec. 9. 3 MRSA §§901-A and 901-B are enacted to read:

§901-A. State House and Capitol Park Commission

The State House and Capitol Park Commission, as established in Title 5, section 12004-I, in this chapter called the "commission," shall consist of 11 voting members and 5 ex officio, nonvoting members who shall be appointed and shall serve as described in this section.

1. Voting members; appointment. Voting members of the commission shall be appointed as follows:

A. The Director of the Maine Historic Preservation Commission who shall be the permanent chair of the commission;

B. Six members of the public, 4 of whom shall be appointed jointly by the President of the Senate and the Speaker of the House of Representatives and 2 by the Governor;

C. The Governor, President of the Senate and the Speaker of the House of Representatives or their representatives; and

D. The Director of the State House and Capitol Park Commission.

2. Ex officio nonvoting members. The ex officio nonvoting members of the commission shall be as follows:

A. The Director of the Maine State Museum;

COMMITTEE AMENDMENT "A" to S.P. 461, L.D. 1246

- 1 B. The Director of the Maine Arts Commission;
- 3 C. The Director of the Bureau of Public Improvements;
- 5 D. The Chair of the Capitol Planning Commission; and
- 7 E. The Executive Director of the Legislative Council.

9 3. Terms. Each public member shall be appointed to serve a
11 term of 2 years. A member shall serve until a successor is
13 appointed. A vacancy shall be filled as soon as practicable by
appointment for the unexpired term in the manner of the original
appointment.

15 4. Reimbursements. Members shall serve on the commission
17 without pay, but shall be reimbursed for their expenses and
19 travel upon application to the Legislative Council and in
accordance with Title 5, chapter 379.

21 5. Meetings; decisions; quorum. The commission shall meet
23 at least quarterly on the call of the chair. Decisions shall be
made by a majority of those present and voting. A quorum shall
be a majority of the voting members of the commission.

25 §901-B. Director, State House and Capitol Park Commission

27 The Legislative Council shall appoint the Director of the
29 State House and Capitol Park Commission who shall serve at the
pleasure of the Legislative Council.

31 Sec. 10. 3 MRSA §902, as enacted by PL 1987, c. 816, Pt. EE,
33 §1, is repealed and the following enacted in its place:

35 §902. Duties of the commission

37 1. Plan. The commission, with the assistance of the
39 Executive Director of the Legislative Council, shall develop and
41 recommend a plan for the preservation and development of the
43 aesthetic and historical integrity of the State House and the
45 grounds specified in subsection 2. By April 1, 1990, the
47 commission shall submit an interim report indicating its progress
49 on the plan to the Legislative Council and the Governor. Upon
receipt of the commission's completed plan, the Legislative
Council may submit the plan to the Legislature for adoption and
enactment as the official state plan for the preservation and
development of the aesthetic and historical integrity of the
State House. From time to time the commission may submit
additional amendments for inclusion in the plan which may be
submitted to the Legislative Council for adoption and enactment
by the Legislature.

51 2. Research; publication. The commission shall conduct

COMMITTEE AMENDMENT "A" to S.P. 461, L.D. 1246

1 research into the history of the State House, the results of
2 which will guide the commission and the Legislative Council in
3 the preservation and development of the building's aesthetic and
4 historical integrity. The commission shall publish and
5 distribute this research to enhance public understanding and
6 appreciation of the State House.

7
8 3. Contracts. The commission may make recommendations to
9 the Legislative Council to enter into contracts with individuals
10 or organizations and institutions for services to further the
11 objectives of this chapter, including architectural, aesthetic
12 and decorative additions or changes, in conformance with the plan
13 adopted by the Legislative Council.

14 Sec. 11. 3 MRSA §902-A is enacted to read:

15 §902-A. Jurisdiction

16 The Legislative Council shall have jurisdiction over:

17
18 1. State House. The entire exterior and interior of the
19 State House; and

20
21 2. Immediate grounds. The immediate grounds, including
22 Capitol Park, the area bounded on the east by the Kennebec River,
23 on the north by Capitol Street, on the south by Union Street and
24 on the west by State Street, except that the private office of
25 the Governor, at the Governor's discretion, shall be exempt from
26 this chapter.

27
28 A. To ensure that the portion of Capitol Park that is
29 controlled by the City of Augusta remains integrated with
30 the portion of Capitol Park that is controlled by the State,
31 the commission may, in consultation with the City of
32 Augusta, plan for the preservation and development of a
33 unified park area.

34
35 The Bureau of Public Improvements shall make no architectural,
36 aesthetic or decorative addition, deletion or change to any
37 external or internal part of the State House or its immediate
38 grounds under the jurisdiction of the Legislative Council unless
39 the council has approved the change in writing in conformance
40 with the plan adopted by the council. The Governor shall be
41 notified before the council votes on any change. The commission
42 may make recommendations to the council in regard to any proposed
43 architectural, aesthetic or decorative addition, deletion or
44 change to the internal or external part of the State House.

45
46 Sec. 12. 3 MRSA §§906 and 907 are enacted to read:

47
48 §906. Interest in contracts prohibited

COMMITTEE AMENDMENT "A" to S.P. 461, L.D. 1246

1 No member of the commission may be interested directly or
 3 indirectly in any contract or contracts calling for the
 5 construction or improvements of facilities, buildings and grounds
 7 in the Capitol Area in the City of Augusta as described in Title
 9 1, section 814.

7 §907. Cooperation and information exchange

9 The State House and Capitol Park Commission, the Capitol
 11 Planning Commission and the Office of the Governor shall exchange
 13 information on a regular basis, at least 2 times each year,
 15 concerning the plans, proposals and activities of each
 17 organization with respect to the facilities and grounds at the
 19 seat of government. Each organization shall cooperate with the
 21 others and coordinate their efforts.

17 Sec. 13. 5 MRSA §191, first ¶, as amended by PL 1971, c. 711,
 19 §§1 and 2, is further amended to read:

21 The Attorney General, a deputy, assistant, or staff attorney
 23 shall appear for the State, the head of any state department, the
 25 head of any state institution and agencies of the State in all
 27 civil actions and proceedings in which the State is a party or
 29 interested, or in which the official acts and doings of said the
 31 officers are called in question, in all the courts of the State;
 33 and in such actions and proceedings before any other tribunal
 35 when requested by the Governor or by the Legislature or either
 37 branch thereof. All such actions and proceedings shall be
 39 prosecuted or defended by him the Attorney General or under his
 41 the Attorney General's direction. Writs, summonses or other
 43 processes served upon such officers shall forthwith be
 45 transmitted by them to him the Attorney General. All legal
 47 services required by such officers, boards and commissions in
 49 matters relating to their official duties shall be rendered by
 51 the Attorney General or under his the Attorney General's
 direction. Said The officers or agencies of the State shall not
 act at the expense of the State as counsel, nor employ private
 counsel except upon prior written approval of the Attorney
 General. In all instances where the Legislature has authorized an
 office, or an agency of the State to employ private counsel, the
 Attorney General's written approval is required as a condition
 precedent to such employment. The Attorney General shall have
 keep an office in-the-State-Capitol at the seat of government and
 shall receive an annual salary in full for all services. The
 Attorney General shall devote full time to his the duties of the
 office and shall not engage in the private practice of law during
 his the Attorney General's term of office, nor shall he the
 Attorney General during such term be a partner or associate of
 any person in the practice of law. He The Attorney General shall
 receive his actual expenses incurred in the performance of his
 official duties. During his the term of service, he the Attorney
 General shall not be an officer or director of any corporation

COMMITTEE AMENDMENT "A" to S.P. 461, L.D. 1246

1 engaged in business for profit within the State of Maine. The
2 Attorney General shall be the executive head of the Department of
3 the Attorney General, as heretofore established.

5 Sec. 14. 5 MRSA §196, first ¶, as amended by PL 1983, c. 824,
6 Pt. T, is further amended to read:

7
8 The Attorney General may appoint one or more deputy
9 attorneys general, assistant attorneys general and staff
10 attorneys who shall serve during the pleasure of the Attorney
11 General or until their successors are duly appointed and
12 qualified. ~~Their offices shall be at the Capitol and they~~ They
13 may perform all the duties required of the Attorney General and
14 such other duties as the Attorney General may delegate to them.
15 The Attorney General may appoint such research assistants with
16 such powers and duties as he the Attorney General may delegate.
17 Research assistants may perform such duties as may be delegated
18 to them by the Attorney General, including such activities as are
19 authorized by Title 4, section 807. Notwithstanding any other
20 provisions of law, the compensation of research assistants, law
21 office manager and deputy attorneys general shall be fixed by the
22 Attorney General. The compensations of the staff attorneys,
23 assistant attorneys general and secretary to the Attorney General
24 shall be fixed by the Attorney General with the approval of the
25 Governor, but such compensations shall not in the aggregate
26 exceed the amount appropriated therefor and shall not result in
27 an increased request to future Legislatures.

29 Sec. 15. 5 MRSA §299, first ¶, as amended by PL 1987, c. 816,
30 Pt. EE, §4, is further amended to read:

31
32 The commission shall establish and maintain a master plan
33 for the orderly development of future state buildings and grounds
34 in the Capitol Area of the City of Augusta, with the exception of
35 the State Capitol Building House and its immediate the grounds
36 specified in Title 3, section 902, subsection 2. In maintaining
37 the master plan, the commission shall take the following factors
38 into consideration:

39 Sec. 16. 5 MRSA §299, sub-§4 is enacted to read:

41
42 4. Cooperation and information exchange. The Capitol
43 Planning Commission, the State House and Capitol Park Commission
44 and the Office of the Governor shall exchange information on a
45 regular basis, at least 2 times each year, concerning the plans,
46 proposals and activities of each organization with respect to the
47 facilities and grounds at the seat of government. Each
48 organization shall cooperate with the others and coordinate their
49 efforts.

51 Sec. 17. 5 MRSA §321, as amended by PL 1979, c. 663, §11, is
further amended to read:

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§321. Declaration of policy

The Legislature, in view of the continuing importance which the Statehouse State House and the Blaine House have for the people of Maine, declares that it is the policy of the State to preserve and develop the aesthetic and historical integrity of the Statehouse State House and the Blaine House.

Sec. 18. 5 MRSA §1742, sub-§§15 and 16 are amended to read:

15. Supervision of State House and grounds. To have general supervision of the State House and ~~the public grounds, buildings and property connected with the State House~~ the grounds specified in Title 3, section 902-A, subsection 2, and to make repairs and alterations in and about such grounds and buildings at the direction of the Legislative Council or the Executive Director of the Legislative Council, as provided in Title 3, section 902, subsection 3;

16. Maintain public park in Augusta. To ~~control and maintain all that portion of the State state lands situated in the City of Augusta and lying between State Street on the west and the location of the Maine Central Railroad Company on the east which is now or hereafter may be designated as a public park~~ specified in Title 3, section 902, subsection 2, in accordance with the official plans proposed by the State House and Capitol Park Commission to the Legislative Council and adopted by the Legislature pursuant to Title 3, section 902, subsection 1;

Sec. 19. 5 MRSA §12004, sub-§10, ¶A, sub-§(74-A), as enacted by PL 1987, c. 816, Pt. EE, §5, is repealed.

Sec. 20. 5 MRSA §12004-I, sub-§75-A is enacted to read:

<u>75-A. State</u>	<u>State House and</u>	<u>Expenses</u>	<u>3 MRSA §901-A</u>
<u>Government</u>	<u>Capitol Park</u>	<u>Only</u>	
	<u>Commission</u>		

Sec. 21. 7 MRSA §2952, 4th ¶, as amended by PL 1983, c. 812, §53, is further amended to read:

Any vacancy in the membership of the commission shall be filled by appointment by the Governor. Members of the commission shall be compensated as provided in Title 5, chapter 379, that compensation to be determined by the Governor. The cost of administration of the commission, including expenses and compensation of members, shall not exceed the amount of fees collected under this chapter. The commission shall be furnished a suitable office ~~in~~ at the State--Capitol seat of government, together with all necessary equipment and supplies therefor.

Sec. 22. 12 MRSA §7032, sub-§1, as enacted by PL 1979, c. 420, §1, is amended to read:

COMMITTEE AMENDMENT "A" to S.P. 461, L.D. 1246

1 1. Facilities. The commissioner shall have an office at
the ~~State-Capitol~~ seat of government and adequate facilities for
3 the transaction of the business of the department.

5 Sec. 23. 22 MRSA §5001, sub-§9, as enacted by PL 1987, c. 511,
Pt. A, §4, is amended to read:

7 9. Location. Office space shall be made available for the
9 ombudsman ~~within-the-Capitol-Complex~~ at the seat of government.

11 Sec. 24. 26 MRSA §41, first ¶, as amended by PL 1985, c. 785,
Pt. B, §115, is further amended to read:

13 A Bureau of Labor Standards within the Department of Labor,
15 as heretofore established and hereinafter in this Title called
the "bureau," shall be maintained under the direction of an
17 officer whose title shall be Director of Labor Standards and
state factory inspector, hereinafter in this Title, except in
19 chapter 13, called the "director." ~~He~~ The director shall be
appointed by the Commissioner of Labor and shall hold office at
21 the pleasure of the commissioner. ~~He~~ The director shall have an
office ~~in-the-State-Capitol~~ at the seat of government. ~~He~~ The
23 director shall appoint, subject to the Civil Service Law, such
employees as may be necessary and a deputy who shall be clerk of
25 the bureau and deputy state factory inspector.

27 Sec. 25. 26 MRSA §171, as amended by PL 1983, c. 812, §155,
is further amended to read:

29 §171. Board of Boiler Rules

31 The board of appeals, heretofore created, shall be known as
33 the "Board of Boiler Rules," as established by Title 5, section
~~12004~~ 12004-A, subsection 1 7, and shall consist of 7 members, 6
35 of whom shall be appointed by the director, with the approval of
the Governor. At the expiration of their respective terms of
37 office their successors shall be appointed for terms of 4 years
each. In the event of a vacancy by reason of the death or
39 resignation of any of the appointed members, or otherwise, the
director shall fill such vacancy for the remainder of the term
41 with a representative of the same class. Of these 6 appointed
members, 2 shall be representatives of labor within this State
43 who are boilermakers or have boiler licenses, one shall be a
representative of the owners and users of steam boilers within
45 this State, one a representative of the boiler manufacturers
within this State, one a representative of the operating steam
47 engineers in this State and one a representative of a boiler
inspection and insurance company licensed to do business within
49 the State. The 7th member shall be the director, who shall be
~~chairman~~ chair of the board. The board shall meet at least twice
51 yearly at the ~~State-Capitol~~ seat of government or other place
designated by the board.

COMMITTEE AMENDMENT "A" to S.P. 461, L.D. 1246

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Sec. 26. 26 MRSA §475, 4th ¶, as enacted by PL 1977, c. 543, §4, is amended to read:

The board shall meet at least twice yearly at the State Capitol seat of government or any other place designated by the chairman chair.

Sec. 27. 26 MRSA §564, 4th ¶, as enacted by PL 1969, c. 454, is amended to read:

The board shall meet at least twice yearly at the State Capitol seat of government or any other place designated by the chairman chair.

Sec. 28. 36 MRSA §4523, 5th ¶, as amended by PL 1983, c. 812, §276, is further amended to read:

Members of the council shall be compensated according to the provisions of Title 5, chapter 379. The cost of administration of the council, including expenses and compensation of members, shall not exceed the moneys collected under this chapter. The council shall be furnished a suitable office ~~in the State Capitol~~ at the seat of government together with all necessary equipment and supplies therefor.

Sec. 29. Intent and transition provisions.

1. Intent. Nothing in this Act shall be construed to abolish the current appointments to the State Capitol Commission or the policies, plans or contracts adopted or executed under the Maine Revised Statutes, Title 3, chapter 31, before or at the time of the effective date of this Act.

2. Commission members. Current members of the State Capitol Commission shall serve as members of the State House and Capitol Park Commission and their terms of office shall be subject to the provisions of Title 3, chapter 31, creating the State Capitol Commission.

3. Funds transferred. Notwithstanding the Maine Revised Statutes, Title 5, sections 1585 and 1586, all accrued expenditures, assets, liabilities, balances or allocations, transfers, revenues or other available funds in any account or subdivision of an account of the State Capitol Commission and authorized for use by or for the State Capitol Commission shall be reallocated to the State House and Capitol Park Commission.

4. Policies; plans; contracts. All policies, plans and contracts adopted or executed during the existence of the State Capitol Commission remain in effect and are authorized and ratified unless rescinded, changed or terminated by the Legislative Council.

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5. Equipment and property transferred. All equipment and property of the State Capitol Commission shall be transferred to the State House and Capitol Park Commission unless the Legislative Council authorizes a different policy.

6. Personnel. All employees employed by the Legislative Council to work with the State Capitol Commission shall continue to be treated as state employees for purposes of rights and benefits under the Maine State Retirement System. These employees shall work with the State House and Capitol Park Commission unless the Legislative Council terminates or changes this policy.

The accrued fringe benefits of these expenditures, including vacation and sick leave, health and life insurance and retirement, shall remain with these employees.

FISCAL NOTE

It is anticipated that any costs associated with expanding the jurisdiction of the State House and Capitol Park Commission will be absorbed within existing resources.'

STATEMENT OF FACT

This amendment addresses a constitutional problem in the original bill and current law with respect to the Separation of Powers Principle. Since the State Capitol Commission, renamed in this amendment to the State House and Capitol Park Commission, is composed of people from different branches in government, this commission may only serve in an advisory capacity. This amendment provides that the commission will advise the Legislative Council with respect to any plan for the alteration of or any other changes to the State House and the immediate grounds.

This amendment is also designed to address the confusion between the Capitol Planning Commission and the State Capitol Commission. Many people are unaware that 2 different commissions exist which have different functions in regard to the seat of government. This amendment changes the name of the State Capitol Commission to the State House and Capitol Park Commission which more accurately reflects the jurisdiction of this commission.

This amendment also provides for cooperation between the Capitol Planning Commission, the State House and Capitol Park Commission and the Office of the Governor with respect to plans, proposals and efforts of these organizations with respect to the facilities and grounds at the seat of government.

COMMITTEE AMENDMENT "A " to S.P. 461, L.D. 1246

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This amendment makes a number of technical changes to include changes in the phrase "State Capitol Building" to "State House" to be consistent with other laws. In addition, several laws requiring persons in certain positions to have a room in the State Capitol Building have been changed to provide people in these positions with office space at the seat of government.

Reported by Senator Carpenter for the Committee on
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