

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 732

S.P. 273

Received by the Secretary, February 20, 1991

Submitted by the Department of Education pursuant to Joint Rule 24.
Reference to the Committee on Education suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BRAWN of Knox

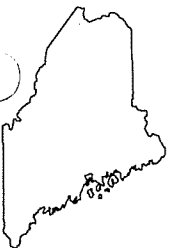
Cosponsored by Senator ESTES of York and Representative CROWLEY of Stockton Springs.

STATE OF MAINE

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

**An Act Providing a Procedure for the Termination of the
Degree-granting Authority of Educational Institutions.**

Printed on recycled paper



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

2
4 **Sec. 1. 4 MRSA §1151, sub-§2**, as repealed and replaced by PL 1989, c. 502, Pt. A, §9, is amended to read:

6 **2. Licensing jurisdiction.** Except as provided in Title 5,
8 section 10004; Title 10, section 8003, subsection 5; Title 20-A,
10 sections 10712 and 10713; Title 29; Title 32, chapter 113; and
12 Title 35-A, section 3132, the Administrative Court ~~shall have~~ has
14 exclusive jurisdiction upon complaint of an agency or, if the
16 licensing agency fails or refuses to act within a reasonable
18 time, upon complaint of the Attorney General, to revoke or
20 suspend licenses issued by the agency, and ~~shall have~~ has
 original jurisdiction upon complaint of a licensing agency to
 determine whether renewal or reissuance of a license of that
 agency may be refused. The Administrative Court ~~shall have~~ has
 original concurrent jurisdiction to grant equitable relief in
 proceedings initiated by an agency or the Department of the
 Attorney General alleging any violation of a license or licensing
 laws or rules.

22 Notwithstanding any other provisions of law, ~~ne~~ a licensing
24 agency may not reinstate or otherwise affect a license suspended,
26 revoked or modified by the Administrative Court pursuant to a
 complaint filed by the Attorney General, without the approval of
 the Attorney General.

28 **Sec. 2. 5 MRSA §10051, sub-§1**, as amended by PL 1989, c. 203,
30 §1, is further amended to read:

32 **1. Jurisdiction.** Except as provided in section 10004;
34 Title 8, section 279-B; Title 10, section 8003; Title 20-A,
36 sections 10712 and 10713; Title 29; and Title 35-A, section 3132,
38 the Administrative Court ~~shall have~~ has exclusive jurisdiction
40 upon complaint of any agency or, if the licensing agency fails or
 refuses to act within a reasonable time, upon complaint of the
 Attorney General, to revoke or suspend licenses issued by the
 agency and ~~shall have~~ has original jurisdiction upon complaint of
 an agency to determine whether renewal or reissuance of a license
 of that agency may be refused.

42 **Sec. 3. 20-A MRSA §10701, sub-§3**, as enacted by PL 1981, c.
44 693, §§5 and 8, is amended to read:

46 **3. Educational institution.** "Educational institution"
48 means any person, partnership, board, association, institution or
 corporation which other than the University of Maine System and
 the Maine Technical College System that offers academic,
 educational, literary or professional courses or programs.

2 **Sec. 4. 20-A MRSA §§10711 to 10714** are enacted to read:

4 **§10711. Prohibition**

6 The authority of an educational institution to confer
8 degrees may not be sold, transferred, assigned or given as
 collateral. Any purported sale, transfer, assignment or
 encumbrance of this authority is void.

10 **§10712. Termination of degree-granting authority**

12 The authority of an educational institution to confer
14 degrees terminates upon determination by the state board that any
 of the following has occurred:

16 1. Discontinuance of instruction. The substantial
18 discontinuance of instruction by the educational institution;

20 2. Sale of stock. The sale, exchange or other transfer of
 all or a substantial part of the voting stock of an educational
22 institution;

24 3. Sale or lease of assets. The sale, exchange, lease or
 other transfer of all or a substantial part of the assets of an
26 educational institution; or

28 4. Merger; consolidation; reorganization. The merger or
 consolidation of the educational institution with any other
30 entity, or the reorganization of the educational institution,
 including, but not limited to, reorganization in bankruptcy.

32 Upon termination of its degree-granting authority pursuant
34 to this section, an educational institution may apply to the
 state board pursuant to section 10703 for a certificate of
36 temporary approval to use the term "junior college," "college" or
 "university" in its name.

38 **§10713. Investigations; hearings**

40 1. Investigations. Whenever the state board believes that
42 an event, transaction or condition within the scope of section
 10712 may have occurred or may exist, it may conduct an
44 investigation which may include, but is not limited to, an
 examination of the educational institution by a visiting
46 committee convened by the state board for that purpose. As part
 of an investigation conducted under this subsection, the state
48 board has the power to subpoena and examine under oath
 educational institutions, their trustees, directors, officers and
50 employees, lenders, creditors and investors, together with their
 records, books and accounts. Any member of the state board may
52 sign investigative subpoenas and administer oaths to witnesses.
 The state board may also require the educational institution to

2 provide other written information relevant to the subject matter
3 of the investigation in the format prescribed by the state
4 board. The Superior Court has jurisdiction upon complaint filed
5 by the state board to enforce any subpoena or request for other
6 written information issued under this subsection.

7 2. Hearings. Before making any of the determinations
8 authorized by section 10712, the state board shall give the
9 educational institution an opportunity for a hearing pursuant to
10 Title 5, chapter 375, subchapter IV.

11 **§10714. Application; retroactivity**

12 1. Application. Sections 10711 to 10713 apply to all
13 educational institutions having degree-granting authority on or
14 after the effective date of those sections, except that sections
15 10711 to 10713 do not apply to any educational institution if the
16 action taken under those sections constitutes an impairment of
17 contract that violates the United States Constitution, Article 1,
18 Section 10, Clause 1.

19 2. Retroactivity. Any transaction described in section
20 10711 or 10712 occurring on or after December 4, 1990, is subject
21 to sections 10711 to 10713.

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28 **STATEMENT OF FACT**

29 Under current law, initial degree-granting authority is
30 conferred upon educational institutions by special act of the
31 Legislature. This bill describes the circumstances and
32 establishes a procedure under which the State Board of Education
33 may revoke that degree-granting authorization. The bill also
34 excludes the University of Maine System and the Maine Technical
35 College System from the operation of the Maine Revised Statutes,
36 Title 20-A, chapter 409.
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