

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION

HOUSE AMENDMENT "^A" to COMMITTEE AMENDMENT "A" to H.P. 1210, L.D. 1768, Bill, "An Act to Reduce the Administrative Cost of State Government by Abolishing the Division of Community Services and the Department of Economic and Community Development and Transferring Their Essential Functions"

Amend the amendment in Part A in section A-9 in that part designated "~~§20155.~~" by striking out all of paragraph A.

Further amend the amendment in Part A in section A-9 in that part designated "~~§20155.~~" by relettering the paragraph.

Further amend the amendment in Part A in section A-9 in that part designated "~~§20165.~~" in subsection 1 in paragraph A in the next to the last line (page 25, line 28 in amendment) by striking out the following: "commissioner" and inserting in its place the following: 'director'

Further amend the amendment in Part A in section A-9 by inserting at the end the following:

'§20223. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

1. Community action agency. "Community action agency" means a private nonprofit agency that has previously been designated by and authorized to accept funds from the Federal Community Services Administration under the United States Economic Opportunity Act of 1964.

2. Poverty level. "Poverty level" means the official poverty level issued by the Director of the United States Office of Management and Budget.

3. Service area. "Service area" means the geographical area within the jurisdiction of a community action agency.

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2 §20224. Powers and duties

4 1. Federal, state and other funds. Through plans and
6 contracts, the office shall obtain, distribute and administer
8 federal and state funds, including block grants, and other funds
10 as may become available in accordance with this article.

12 2. Monitoring of poverty level. The office shall monitor
14 the poverty level of citizens of the State and carry out the
16 following activities:

18 A. Conduct an annual survey of poverty in the State and
20 report the results of this survey to the Governor, the
22 Legislature and the public:

24 B. Make recommendations annually to the Governor and the
26 Legislature on ways and means to combat and reduce poverty
28 in the State:

30 C. Seek federal, state and private funds to combat poverty
32 in the State; and

34 D. Advise the Governor, the Legislature and local officials
36 on the impact of state and local policies on poverty in the
38 State.

40 Any funds received under paragraph C are subject to allocation or
42 appropriation by the Legislature.

44 3. Overseeing community action agencies. The office shall
46 oversee community action agencies as follows.

48 A. The office shall designate community action agencies
 every 7 years pursuant to the requirements of this
 subchapter.

B. The office shall establish audit requirements in
 accordance with the Maine Uniform Accounting and Auditing
 Practices Act for Community Agencies.

C. The office shall evaluate community action agencies
 every 3 years.

D. Any community agency designated as a community action
 agency under the former Maine Community Services Act prior
 to the effective date of this section retains that
 designation until rescinded.

2 4. Planning and coordination for state services. The
3 office shall provide planning and coordination for state services
4 to low-income people.

6 5. Technical assistance. The office shall provide
7 technical assistance to community action agencies and other
8 groups serving the interests of low-income people in this State.

10 6. Research and assistance to Governor. The office shall
11 provide research and assistance to the Governor as the Governor
12 may request.

14 7. Monitoring local program operators. The office shall be
15 responsible for monitoring subgrantees to ensure conformance with
16 appropriate rules.

18 §20225. Designation of community action agencies

20 1. Designation. The office shall designate community
21 action agencies to carry out the purposes of this article. These
22 designations are for 7 years.

24 2. Designation withdrawn. The office may withdraw its
25 designation of a community action agency after an evaluation in
26 which the agency has demonstrated substantial incompetency and a
27 clear inability to carry out the purposes of this article, unless
28 there is or has been financial malfeasance, which may be cause
29 for immediate withdrawal of designation.

30 The office shall notify an agency of a pending withdrawal of
31 designation. Upon notification, the agency has up to 6 months to
32 take corrective action, at which time a designation withdrawal
33 evaluation must be performed by the office. Failure to pass this
34 evaluation means immediate loss of designation.

35 Upon the final order from the office that rescinds a community
36 action agency's designation, the community action agency may file
37 a petition for review of this final decision in the appropriate
38 Superior Court within 30 days under the Maine Rules of Civil
39 Procedure, Rule 80B.

41 §20226. Community action agencies

43 1. Duties. Community action agencies shall:

45 A. Develop information as to the causes and conditions of
46 poverty in the service area:

48 B. Determine how much and how effectively assistance is
49 being provided to deal with those causes and conditions:

- 2 C. Establish priorities among projects, activities and
4 areas as needed for the best and most efficient use of
 available resources;
- 6 D. Develop, administer and operate programs to reduce
8 poverty with particular emphasis on self-help approaches and
 programs to promote economic opportunities through
10 affirmative action;
- 12 E. Initiate, sponsor and provide programs and services
 responsible to the needs of the poor that are not otherwise
14 being met;
- 16 F. Promote interagency cooperation and coordination of all
 services and activities in the service area that are related
18 to the purposes of this article;
- 20 G. Establish effective procedures by which the poor and
22 other concerned area residents are able to influence the
 character of programs affecting their interests, provide for
24 their regular participation in the implementation of those
 programs and provide technical and other support needed to
26 enable low-income and neighborhood groups to secure on their
 own behalf available assistance from public and private
 sources;
- 28 H. Join with and encourage business, labor and other
30 private groups and organizations to undertake, together with
 private officials and agencies, activities in support of the
32 purposes of this article that will result in the increased
 use of private resources and capabilities in providing
34 social and economic opportunities to low-income citizens;
- 36 I. Enter into contracts with federal, state and local
 public agencies and private agencies and organizations,
38 businesses and individuals as necessary to carry out the
 purposes of this article; and
- 40 J. Be eligible to receive funds from such federal, state,
42 local and private sources as appropriate to carry out the
 purposes of this article.
- 44 2. Governing board for community action agency. A community
46 action agency shall establish a governing board of directors to
 consist of not less than 15 nor more than 30 members. One third
48 of the members must be representatives of low-income residents of
 the service area who are selected through a democratic process in
 accordance with guidelines established by the department. One
50 third of the members must be elected public officials, or their

2 designees, or officials of public agencies operating in the
3 service area. One third of the members must be representatives
4 of private sector organizations, including business and industry,
5 as well as educational, civic, labor and religious organizations.

6 The board of directors of a community action agency is
7 responsible for the following:

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10 A. Overall direction, oversight and development of policies
11 of the agency:

12 B. Selection, evaluation and dismissal of the executive
13 director of the community action agency:

14 C. Approval of all contracts:

15 D. Approval of all agency budgets:

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17 E. Performance of an annual audit by an independent,
18 qualified outside auditor. The audit must be submitted upon
19 completion to the office:

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21 F. Convening public meetings to provide low-income and other
22 citizens of the service area the opportunity to comment upon
23 policies and programs of the community action agencies; and

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25 G. Evaluating agency programs and assessing community and
26 agency needs.

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29 All meetings of the board of directors must be in accordance with
30 the freedom-of-access laws.

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33 3. Programs. All programs administered by community action
34 agencies must be in conformance with federal and state laws,
35 rules and regulations. Applicants for programs and assistance
36 must be promptly notified of their rights and responsibilities
37 when they qualify for or are denied services.

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39 §20227. Confidentiality of records

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42 1. Confidentiality. Records containing the following
43 information are confidential and may not be considered public
44 records for the purpose of Title 1, section 402, subsection 3:

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46 A. Any information acquired by a state agency,
47 municipality, district, private corporation, copartnership,
48 association, fuel vendor, private contractor, or individual,
49 or an employee or agent of any of those persons or entities,
50 providing services relating to the Low-income Home Energy
51 Assistance Program or programs administered by community

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2 action agencies, when that information was provided by the
applicant for those services or by any 3rd person; and

4 B. Any statements of financial condition or information
pertaining to financial condition submitted to any of the
6 persons or entities set forth in paragraph A in connection
with an application for services relating to the Low-income
8 Home Energy Assistance Program or programs administered by
community action agencies.

10 2. Exceptions. Notwithstanding subsection 1, any person or
12 agency directly involved in the administration or auditing of
those programs and any agency of the State with a legitimate
14 reason to know must be given access to those records.

16 3. Waiver of protection. Nothing in this section may be
construed to limit in any way the right of any person whose
18 interest is protected by this section to waive in writing the
benefits of protection.

20 4. Reports to State Government or Federal Government.
22 Notwithstanding subsection 1, the office shall make such full and
complete reports concerning its administration of authorized
24 programs as may be required by the Legislature, the Federal
Government or any agency or department of the Federal Government.

26 §20228. Penalty

28 Whoever knowingly uses, transfers, acquires or possesses
30 fuel, provided through fuel assistance, in any manner not
authorized by this article or the rules issued under this
32 subchapter is guilty of a Class E crime.'

34 Further amend the amendment in Part A in section A-13 in
subsection 3 in the 5th line (page 40, line 12 in amendment) by
36 inserting after the following: "Economic" the following:
'Development'

38 Further amend the amendment in Part A in section A-13 in
40 subsection 3 by striking out the last blocked paragraph (page 40,
lines 31 to 34 in amendment) and inserting in its place the
42 following:

44 ~~'The Office of Information Services shall report its findings,~~
~~together with any legislative recommendations, to the joint~~
46 ~~standing committee of the Legislature having jurisdiction over~~
~~energy and natural resource matters by February 1, 1990.'~~

48 Further amend the amendment in Part B in section B-4 by
50 striking out those parts designated "~~§4991.~~" and "~~§4992.~~"

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2 Further amend the amendment in Part B in section B-4 in that
4 part designated "\$4993." by inserting before subsection 1 the
following:

6 'Through plans and contracts, the authority shall obtain,
8 distribute and administer federal and state low-income home
10 energy assistance funds, including block grants, and other funds
12 as may become available in accordance with this subchapter and 45
14 Code of Federal Regulations, Subtitle A, Part 96, Subpart H,
16 Sections 96.80 et seq. Any balances of funds appropriated to the
18 authority for the Low-income Home Energy Assistance Program, as
established in this subchapter, that are remaining at the end of
a fiscal year may not lapse but must be carried forward from year
to year to be expended for the same purpose. In carrying out
this subchapter, the authority shall work in consultation with
the Office of Community and Economic Development.'

20 Further amend the amendment in Part B in section B-4 by
22 striking out those parts designated "\$4995.", "\$4996." and
"\$4997."

24 Further amend the amendment in Part B in section B-4 by
renumbering the sections to read consecutively.

26 Further amend the amendment in Part E in section E-1 in
28 subsection 1 by striking out all of paragraphs K and L (page 92,
lines 27 to 34 in amendment) and inserting in its place the
following:

30 'K. One Development Project Officer assigned to
32 affordable housing programs within the Office of
Community Development, Department of Economic and
34 Community Development;

36 L. One Deputy Commissioner of the former Office of
38 Business Development, Department of Economic and
Community Development; and

40 M. One Program Operations Manager, Division of
42 Community Services.'

44 Further amend the amendment in Part E in section E-2 by
46 striking out all of subsection 13 (page 95, lines 46 to 48 and
page 96, lines 1 and 2 in amendment) and inserting in its place
the following:

48 '13. Any position identified for transfer to another agency
50 in this subsection that, on the effective date of this Act, is
vacant or is held by a person who was not incumbent in that
position on June 21, 1991 is abolished. The following positions

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at the Division of Community Services are transferred to other agencies on the effective date of this Act according to the provisions of this section only if the person incumbent in the position on June 21, 1991 is also incumbent in the position on the effective date of this Act. Positions and incumbent personnel at the Division of Community Services are transferred as follows:

A. To the Department of Human Services:

- (1) One Federal Head Start Director;
- (2) One Clerk Typist III; and
- (3) One Field Examiner III;

B. To the newly created Office of Community and Economic Development:

- (1) One Community Services Auditor;
- (2) One Accountant II; and
- (3) One Secretary; and

C. To the Maine State Housing Authority:

- (1) One Business Manager II;
- (2) One Field Examiner II;
- (3) One Accountant I;
- (4) One Evaluation Team Facilitator (Acting);
- (5) One Clerk Typist III; and
- (6) One Account Clerk II.

14. Incumbent personnel transferred to the Maine State Housing Authority under subsection 13 are subject to the following provisions.

A. Transferred employees may, at their option, remain state employees for 2 years after the effective date of the Act, if they remain continuously in their current positions or in other positions that were transferred from the Division of Community Services on the effective date of this Act. Employees who do not remain state employees become employees of the Maine State Housing Authority with the rights and obligations of other authority employees.

B. Transferred employees who remain state employees retain their accrued fringe benefits associated with state employment, including vacation and sick leave and health and life insurance, as long as they continue as state employees.

C. Transferred employees who remain state employees and who are members of collective bargaining units on the effective date of this Act remain members in their respective bargaining units and retain all rights, privileges and

benefits provided by their collective bargaining agreements with respect to state service as long as they remain state employees.

D. Transferred employees who elect to remain state employees remain members of the Maine State Retirement System as long as they remain state employees.

E. The Maine State Housing Authority shall reimburse the State for all costs related to the transferred employees who elect to remain state employees. The reimbursement includes the employer's share of contributions to the Maine State Retirement System for those employees.

F. The designation of the positions of transferred employees who remain state employees as positions that may be held by state employees is terminated when those positions are vacated by those employees transferred by this Act, unless filled by other employees transferred by this Act who elected to remain state employees. Positions similar to those terminated may be established within the Maine State Housing Authority.

G. The Department of Administration, Bureau of Human Resources shall assist with the orderly implementation of these provisions.'

Further amend the amendment in Part E in section E-2 by renumbering the subsections to read consecutively.

Further amend the amendment by striking out all of the fiscal note and inserting at the end before the statement of fact the following:

'Sec. E-7. Allocation. The following funds are allocated from Federal Block Grant funds to carry out the purposes of this Act.

	1991-92	1992-93
EXECUTIVE DEPARTMENT		
Low-Income Home Energy Assistance		
Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(\$35,862)	(\$56,917)

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2 Provides for the deallocation
of funds from the elimination
4 of one Program Operations
Manager position within the
6 Division of Community
Services.

10	EXECUTIVE DEPARTMENT		
	TOTAL	<u>(\$35,862)</u>	<u>(\$56,917)</u>
12			
14	TOTAL ALLOCATIONS	<u>(\$35,862)</u>	<u>(\$56,917)</u>

16 **FISCAL NOTE**

18		1991-92	1992-93
20	APPROPRIATIONS/ALLOCATIONS		
22	General Fund	(\$930,918)	(\$1,286,469)
24	Other Funds	(\$35,862)	(\$56,917)

26 This bill abolishes the Division of Community Services
within the Executive Department and reassigns its
responsibilities to the Department of Human Services and the
28 Maine State Housing Authority. The abolishment of 4
administrative positions will result in savings to the General
30 Fund in the amount of \$130,053 in fiscal year 1991-92 and
\$203,857 in fiscal year 1992-93 and in Federal Block Grant Fund
32 savings in the amount of \$35,862 in fiscal year 1991-92 and
\$56,917 in fiscal year 1992-93. The bill also abolishes the
34 Department of Economic and Community Development and reassigns
its responsibilities to the State Planning Office, Maine State
36 Housing Authority, and a new Office of Community and Economic
Development within the Executive Department. A Director of the
38 Office of Community and Economic position is established within
the Executive Department, which requires General Fund
40 appropriations of \$53,804 in fiscal year 1991-92 and \$74,399 in
fiscal year 1992-93. The abolishment of 10 administrative
42 positions and the Job Opportunity Zones program will result in
savings to the General Fund of \$854,669 in fiscal year 1991-92
44 and \$1,157,011 in fiscal year 1992-93. Additional General Fund
savings may result from the abolishment of other vacant
46 confidential positions on the effective date of the Act, as
provided in this bill.

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50 These estimates may require adjustment, depending on the
current services budget enacted by the Legislature. The

2 Governor's proposed adjusted current services budget affects
these programs and these estimates.'

4

STATEMENT OF FACT

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8 This amendment clarifies the intent of the Joint Standing
Committee on State and Local Government with respect to several
10 provisions in the bill. The amendment abolishes an additional
position at the Division of Community Services that was intended
to be abolished in the bill. The amendment also corrects a
12 drafting error that inadvertently placed the oversight authority
for Community Action Agencies within the Maine State Housing
14 Authority by moving the language authorizing such oversight to
the Office of Community and Economic Development, as was intended
16 by the committee. The amendment also clarifies the transition
provisions relating to incumbent personnel at the Division of
18 Community Services transferred to the Maine State Housing
Authority.

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Filed by Rep. Farnsworth of Hallowell
Reproduced and distributed under the direction of the Clerk of the
House
(6/26/91) (Filing No. H-711)

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