

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1542

H.P. 1142

House of Representatives, May 26, 1993

**An Act to Encourage Implementation of Total Quality Management
Procedures in the Executive Branch of State Government.**

(EMERGENCY)

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative GWADOSKY of Fairfield. (GOVERNOR'S BILL)
Cosponsored by Senator BUTLAND of Cumberland and
Representatives: AULT of Wayne, CHASE of China, CLEMENT of Clinton, DAGGETT of
Augusta, FARNSWORTH of Hallowell, HALE of Sanford, HATCH of Skowhegan, KONTOS
of Windham, PARADIS of Augusta, ZIRNKILTON of Mount Desert, Senators: BUSTIN of
Kennebec, CARPENTER of York, DUTREMBLE of York, ESTY of Cumberland.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4 Whereas, State Government exists to provide services to
6 citizens, and it is incumbent on state employees to provide the
best service to "customers" of State Government in the most
8 efficient and effective manner possible; and

10 Whereas, while providing quality service it is important
that every state worker have a stake in the success and
12 improvement of State Government to make the most of accrued
talent and experience; and

14 Whereas, both private and public sector organizations have
16 found success in the total quality management approach to
customer service and management, resulting in a more motivated
18 and productive work force, as well as efficiencies and cost
savings; and

20 Whereas, pursuant to Resolve 1991, chapter 73, total quality
22 management procedures in State Government must be in place by the
beginning of the 1994-95 biennium and need coordination,
24 oversight and direction to accomplish the above goals; and

26 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
28 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
30 safety; now, therefore,

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

34 **Sec. 1. 5 MRSA §§49 and 50** are enacted to read:

36 **§49. Maine Quality Management Council**

38 The Maine Quality Management Council, as established by
40 section 12004-I, subsection 77-A and referred to in this section
as the "council," is created to guide total quality management in
42 the executive branch of State Government, to promote the delivery
of quality services to customers of State Government and to
44 empower state workers in addressing the challenges and
responsibilities of State Government.

46 **1. Membership.** The Governor is a member of the council and
48 serves as the chair of the council. The Governor shall appoint
the following members to the council:

50 **A. Representatives of each executive branch department;**

2 B. Representatives of other departments and agencies of
4 State Government that choose to participate;

6 C. Representatives of each of the employee unions
 representing state employees as designated by each union; and

8 D. Other members the Governor determines appropriate,
10 including representatives of the Legislature and
12 representatives of up to 3 private sector businesses
 engaging in total quality management.

14 2. Terms of members. Members serve terms coincident with
16 the terms of the appointments to the positions qualifying them
 for the council, except that private sector members serve at the
 pleasure of the Governor.

18 3. Associate members. Each member of the council shall
20 name one associate member, except that council members
22 representing state employee unions may appoint one associate
 member to represent each union bargaining unit. Associate
 members serve at the pleasure of the appointing council member.

24 4. Meetings. The council shall meet on a monthly basis at
26 the call of the chair. A majority of members constitutes a
 quorum and decisions of the council must be achieved through
28 consensus.

30 5. Duties. The council shall:

32 A. Develop a joint vision, values and tenets for State
 Government;

34 B. Provide policy guidance and direction to the Governor on
 the quality management process;

36 C. Coordinate and oversee implementation of quality
38 management in State Government, including the work of
40 individual quality councils in departments and agencies;

42 D. Determine guidelines for submission of quality
44 management proposals by state departments and agencies to
 the council and criteria and procedures for approval of
 those proposals;

46 E. Coordinate and oversee process planning teams and
48 process action teams, which may be formed to address
 specific problems and challenges in State Government;

2 F. Raise state employee awareness of total quality
3 management in State Government;

4 G. Assist the Governor in developing goals, objectives,
5 milestones and resource requirements to promote and improve
6 quality and productivity in State Government;

7 H. Identify processes of State Government that are common
8 to departments and need priority attention, and provide
9 direction for achieving improvement in these processes; and

10 I. Undertake other responsibilities determined appropriate
11 by the council to implement total quality management in
12 State Government.

13 **§50. Employment protection with implementation of total quality**
14 **management**

15
16 The Maine Quality Management Council shall develop
17 procedures that ensure that any employee who has achieved
18 permanent status and whose position is eliminated as a direct
19 result of improvements sanctioned by the council is provided an
20 employment opportunity elsewhere in State Government. The
21 procedures must be consistent with applicable civil service laws
22 and collective bargaining agreements and must take into account
23 such factors as qualifications, comparability of positions,
24 geographic locations of employees whose positions may be
25 eliminated, retraining requirements and other transition
26 factors. The procedures, when submitted to the Bureau of Human
27 Resources, must be adopted by the bureau as its own rule.
28 Nothing in this section prevents an employee from seeking and
29 accepting employment outside of State Government. If such
30 employment is secured by an employee, the obligation created in
31 this section is dissolved.
32

33 **Sec. 2. 5 MRSA §1589 is enacted to read:**

34
35 **§1589. Appropriations and allocation balances**

36
37 At the end of each fiscal year, unencumbered appropriation
38 and allocation balances lapse into the appropriate fund or
39 account balance and are not available unless authorized by law,
40 or as provided for in subsections 1 to 5. Encumbered balances
41 may not be carried forward more than once at the end of a fiscal
42 year.

43 **1. Carry-forward and transfer authorized.** At the end of
44 each fiscal year, 30% of the available balances remaining in each
45 General Fund and Highway Fund account after the deduction of all
46 expenditures, encumbrances, commitments or outstanding payment

2 obligations that would otherwise lapse to each fund by law must
3 be carried forward each fiscal year to be transferred and used as
4 provided for in subsections 2 to 5.

6 2. General Fund statewide account; Highway Fund statewide
7 account. The State Controller is authorized to transfer 5% of
8 the available balances carried forward in accordance with
9 subsection 1 in each General Fund account into a General Fund
10 statewide account established by the State Controller and 5% of
11 the available balances carried forward in accordance with
12 subsection 1 in each Highway Fund account into a Highway Fund
13 statewide account established by the State Controller.

14 3. Total quality management initiatives. Available
15 balances carried forward in each department or agency General
16 Fund and Highway Fund account in accordance with subsection 1 and
17 transferred into the General Fund statewide account and Highway
18 Fund statewide account in accordance with subsection 2 must be
19 used for the payment of nonrecurring expenditures representing
20 total quality management initiatives in the same department or
21 agency and statewide, respectively.

22 4. Copies of proposals to Bureau of the Budget and Office
23 of Fiscal and Program Review. Copies of each proposal approved
24 by the Maine Quality Management Council for the expenditure of
25 funds carried forward in each General Fund and Highway Fund
26 account in accordance with subsection 1 and transferred into the
27 General Fund statewide account and the Highway Fund statewide
28 account in accordance with subsection 2 must be submitted from
29 each department or agency's quality management council and the
30 Maine Quality Management Council, respectively, to the Bureau of
31 the Budget and the Legislative Office of Fiscal and Program
32 Review.

33 5. Payments in accordance with allotments. Payments from
34 each department and agency General Fund and Highway Fund account
35 and the General Fund statewide account and the Highway Fund
36 statewide account representing expenditures in support of
37 approved proposals submitted to the Bureau of the Budget in
38 accordance with subsection 4 must be authorized by the State
39 Controller on the basis of allotments approved by the Governor in
40 accordance with established law.

41 **Sec. 4. 5 MRSA §12004-I, sub-§77-A is enacted to read:**

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43				
44				
45				
46	<u>77-A.</u>	<u>Maine</u>	<u>Not Author-</u>	<u>5 MRSA</u>
47	<u>State</u>	<u>Quality</u>	<u>ized</u>	<u>§49</u>
48	<u>Government</u>	<u>Management</u>		
49		<u>Council</u>		
50				

2 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.

4
6 **STATEMENT OF FACT**

8 This bill encourages implementation of total quality
management, or TQM, in State Government. The 115th Legislature
10 mandated a TQM approach for both management and labor in State
Government and this bill recognizes the need for closer
12 collaboration between the executive branch and state employee
unions.

14 The bill creates and empowers the Maine Quality Management
Council, made up of the Governor, representatives of executive
16 branch departments and agencies, state employee representatives
and others. The council is established to guide TQM efforts in
18 State Government and develop shared vision, values and tenets for
the TQM process in government.

20 This bill makes clear the intent of the Legislature that
22 total quality management is designed primarily to make State
Government more efficient and cost-effective and not to achieve
24 direct reductions in the size in the work force. The bill
directs the council to develop procedures to locate displaced
26 employees elsewhere in State Government and to provide retraining
options if necessary.