

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Revised

L.D. 1851

DATE: 3/7/94

(Filing No. H-801)

AUDIT & PROGRAM REVIEW

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1368, L.D. 1851, Bill, "An Act Related to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Act"

Amend the bill in Part A in section 2 in subsection 5 in paragraph A by striking out all of subparagraph (1) (page 1, line 5 in L.D.) and inserting in its place the following:

~~'(1)---Department---of---Mental---Health---and---Mental Retardation;'~~

Further amend the bill in Part A in section 2 in subsection 5 in paragraph B by striking out all of subparagraph (6) and inserting in its place the following:

~~'(6)--State-Board-of-Optometry;'~~

Further amend the bill in Part A in section 2 in subsection 5 in paragraph B by striking out all of subparagraph (8) and inserting in its place the following:

~~'(8) Board---of---the Maine Children's Trust Fund Incorporated;'~~

Further amend the bill in Part A by inserting after section 2 the following:

'Sec. A-3. 3 MRSA §927, sub-§6, ¶A, as enacted by PL 1989, c. 483, Pt. A, §§4 and 62, is amended to read:

A. Agencies:

(1) Department of Conservation;

COMMITTEE AMENDMENT

R. & S.

COMMITTEE AMENDMENT "A" to H.P. 1368, L.D. 1851

- 2 (2) Department of Inland Fisheries and Wildlife; and
- 4 (3) Baxter State Park Authority; and
- 6 (4) Department of Mental Health and Mental
- 8 Retardation.'

Further amend the bill in Part A in section 3 by striking out all of subparagraphs (6) and (7) and inserting in their place the following:

- 12 '(6) Advisory Board for the Licensing of Taxidermists;
- 14 (7) Maine Turnpike Authority; and
- 16 (8) State Board of Optometry.'

Further amend the bill in Part A in section 5 by striking out the first 3 lines (page 3, lines 28 to 31 in L.D.) and inserting in their place the following:

'Sec. A-5. 10 MRSA §8001, sub-§22-A is enacted to read:'

Further amend the bill in Part A by striking out all of section 8.

Further amend the bill in Part A in section 12 by striking out all of the first line and inserting in its place the following:

'Sec. A-12. 10 MRSA §§8007 and 8008 are enacted to read:'

Further amend the bill in Part A in section 12 in that part designated "§8007." in the first paragraph in the 2nd line (page 4, line 24 in L.D.) by striking out the following: "executive officer" and inserting in its place the following: 'staff administrator'

Further amend the bill in Part A in section 12 by striking out all of that part designated "§8008."

Further amend the bill in Part A in section 12 in that part designated "§8009." in the first line (page 5, line 19 in L.D.) by striking out the following: "§8009." and inserting in its place the following: "§8008."

Further amend the bill in Part A in section 13 in subsection 2 by striking out all of paragraph B and inserting in its place the following:

R 0 5
COMMITTEE AMENDMENT "A" to H.P. 1368, L.D. 1851

2 'B. Two representatives who are manufactured housing
owners, and the manufactured housing units in which the
4 owners live are located on lots within mobile home parks or
similar rental communities which the manufactured housing
6 owners do not own;'

8 Further amend the bill in Part A in section 13 in subsection
2 in the last 2 lines (page 6, lines 21 and 22 in L.D.) by
striking out all of the last sentence and inserting in its place
10 the following: '~~Ne--board--member--may--serve--more--than--2
consecutive-terms.~~'

12 Further amend the bill in Part A in section 16 in the 3rd
14 line (page 6, line 33 in L.D.) by striking out the following:
"FUND" and inserting in its place the following: 'INCORPORATED'

16 Further amend the bill in Part A in section 16 in that part
18 designated "§3881." in subsection 1 in the last line (page 6,
line 41 in L.D.) by striking out the following: "Fund" and
20 inserting in its place the following: 'Incorporated'

22 Further amend the bill in Part A in section 16 in that part
designated "§3881." in subsection 3 in the first line (page 6,
24 line 46 in L.D.) by striking out the following: "Fund" and
inserting in its place the following: 'Incorporated'

26 Further amend the bill in Part A in section 16 in that part
28 designated "§3881." in subsection 4 in the last 2 lines (page 6,
lines 49 and 50 in L.D.) by striking out the following: ", plus
30 interest earned by the fund"

32 Further amend the bill in Part A in section 16 in that part
designated "§3882." in the first paragraph in the first line
34 (page 7, line 13 in L.D.) by striking out the following: "Fund"
and inserting in its place the following: 'Incorporated'

36 Further amend the bill in Part A in section 16 in that part
38 designated "§3883." in subsection 1 in the last line (page 7,
line 30 in L.D.) by striking out the following: "Fund" and
40 inserting in its place the following: 'Incorporated'

42 Further amend the bill in Part A in section 16 in that part
designated "§3884." in subsection 9 in the 2nd line (page 10,
44 line 34 in L.D.) by striking out the following: "Title 13-A,
section 202" and inserting in its place the following: 'Title
46 13, chapter 81'

48 Further amend the bill in Part A by inserting after section
16 the following:

R. of S.
COMMITTEE AMENDMENT "A" to H.P. 1368, L.D. 1851

2 'Sec. A-17. 24 MRSA §2511, first ¶, as repealed and replaced by
PL 1987, c. 646, §5, is amended to read:

4 Any person acting without malice, physician, podiatrist,
6 health care provider, professional society or member of a
professional competence committee, professional review committee
8 or any board or appropriate authority is immune from civil
liability.'

10 Further amend the bill in Part A by inserting after section
12 21 the following:

14 'Sec. A-22. Effective date; certification. That section of this Act
16 that amends the Maine Revised Statutes, Title 30, section 6212,
is not effective unless, within 60 days of the adjournment of the
18 Legislature, the Secretary of State receives written
certification by the governor and council of the Penobscot Nation
20 and the Joint Tribal Council of the Passamaquoddy Tribe that the
nation and tribe have agreed to the provisions of that section of
22 this Act pursuant to 25 United States Code, Section 1725(e),
copies of which must be submitted by the Secretary of State to
24 the Secretary of the Senate and the Clerk of the House of
Representatives; except that in no event may that section of this
26 Act become effective until 90 days after the adjournment of the
Legislature.'

28 Further amend the bill in Part A in section 22 in that part
designated "§59-A." in the 2nd paragraph in the last line (page
18, line 23 in L.D.) by striking out the following: "by each
30 regulated professional as well as by the board"

32 Further amend the bill in Part A in section 22 in that part
designated "§60." in the last paragraph by striking out all of
34 the last sentence (page 18, line 50 and page 19, lines 1 and 2 in
L.D.)

36 Further amend the bill in Part A in section 22 in that part
designated "§60-A." by striking out all of the first paragraph
38 and inserting in its place the following:

40 'Complaints received by an occupational and professional
42 regulatory board regarding that board's administrative procedure
44 must be filed by the board with the Department of the Attorney
General.'

46 Further amend the bill in Part A by inserting after section
48 31 the following:

R. 018
COMMITTEE AMENDMENT "A" to H.P. 1368, L.D. 1851

2 'Sec. A-32. 32 MRSA §90-A, sub-§5, ¶B, as amended by PL 1991,
c. 588, §19, is further amended to read:

4 B. ~~Habitual intemperance in the use of alcohol or narcotic,~~
5 ~~hypnotic or other substances~~ substance abuse that has
6 ~~impaired~~ resulted or is foreseeably likely to ~~impair~~
7 ~~the licensee's performance and endanger~~ result in the licensee
8 performing services in a manner that endangers the health or
safety of the licensee's patients;

10 Further amend the bill in Part A in section 51 in that part
12 designated "§1071." in subsection 3 in the 4th line (page 36,
line 2 in L.D.) by striking out the following: "3" and inserting
14 in its place the following: '3 6'

16 Further amend the bill in Part A in section 123 in that part
designated "§2204." in the first paragraph by striking out all of
18 the last sentence and inserting in its place the following:
'~~Notice thereof shall be given by publication at least one month~~
20 ~~previous to date of examination in such newspapers and nursing~~
~~journals as the board may determine.~~'

22 Further amend the bill in Part A in section 148 in that part
designated "§2422." in the first paragraph in the 6th line from
24 the end (page 92, line 9 in L.D.) by striking out the following:
26 "may" and inserting in its place the following: 'must'

28 Further amend the bill in Part A in section 176 in that part
designated "§2591-A." in the first blocked paragraph in the 2nd
30 line (page 108, line 37 in L.D.) by inserting after the
following: "~~in no event~~" the following: ', absent unusual
32 circumstances justifying delay,' and in the 4th line by striking
out the following: "unless a criminal investigation is pending
34 or in process"

36 Further amend the bill in Part A in section 223 in that part
designated "§3551." in subsection 4 in the 4th line from the end
38 (page 143, line 11 in L.D.) by inserting after the following:
"administered" the following: 'or supervised'

40 Further amend the bill in Part A by inserting after section
42 243 the following:

44 'Sec. A-244. 32 MRSA §3837, sub-§4, as enacted by PL 1983, c.
413, §157, is repealed and the following enacted in its place:

46 4. Substance abuse. Habitual substance abuse that has
48 resulted or is foreseeable likely to result in the licensee
performing services in a manner that endangers the health or
50 safety of patients;

COMMITTEE AMENDMENT "A" to H.P. 1368, L.D. 1851

2 Further amend the bill in Part A by inserting after section
254 the following:

4 'Sec. A-255. 32 MRSA §9860, sub-§2, as enacted by PL 1983, c.
6 524, is amended to read:

8 2. Substance abuse. Habitual intemperance--in--the--use--of
10 alcohol--or--the--habitual--use--of--narcotic--or--hypnotic substance
12 abuse or abuse of other drugs listed as controlled substances by
14 the drug enforcement administration,--which--use that has resulted
or is foreseeable likely to result in the licensee being-unable-to
perform-his-duties-or-perform-these-duties performing services in
a manner which-would-endanger that endangers the health or safety
of the patients to-be-served;

16 Further amend the bill in Part A by inserting after section
18 263 the following:

20 'Sec. A-264. 32 MRSA §13742, sub-§2, ¶B, as enacted by PL
22 1987, c.710, §5, is amended to read:

24 B. Habitual intemperance--in--the--use--of--alcohol--or--the
habitual--use--of--narcotic,--hypnotic--or--other--substances,--the
26 use--of--which substance abuse that has resulted or may is
28 foreseeably likely to result in the licensee performing
duties in a manner which that endangers the health or safety
of the patients;'

30 Further amend the bill in Part A by inserting after section
32 264 the following:

34 'Sec. A-265. 32 MRSA §13861, sub-§1, ¶B, as enacted by PL
1989, c. 465, §3, is amended to read:

36 B. Habitual intemperance--in--the--use--of--alcohol--or--the
38 habitual--use--of--narcotic,--hypnotic substance abuse or abuse
of other drugs listed as controlled substances by the drug
40 enforcement administration,--which--use that has resulted or
is foreseeable likely to result in the licensee being-unable
42 to--perform--duties--or--perform--those--duties performing
services in a manner which-would-endanger that endangers the
health or safety of the patients to-be-served;

44 Further amend the bill in Part A by inserting after section
46 267 the following:

48 'Sec. A-268. 32 MRSA §14308, sub-§1, ¶B, as enacted by PL
50 1991, c. 403, §1, is amended to read:

R.S.

COMMITTEE AMENDMENT "A" to H.P. 1368, L.D. 1851

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

B. ~~Habitual intemperance--in-the-use-of-alcohol-or-the habitual-use-of-narcotic-or-other-drugs~~ substance abuse that has resulted or is foreseeablely likely to result in the regulated person ~~being-unable-to-perform-necessary-duties-or performing-these-duties~~ performing services in a manner that would-endanger endangers the health or safety of clients;'

Further amend the bill in Part A in section 269 in that part designated "**§5285.**" in the first line (page 163, line 44 in L.D) by striking out the following: "Fund" and inserting in its place the following: '**Incorporated**'

Further amend the bill in Part A in section 269 in that part designated "**§5285.**" in subsection 1 in the first line (page 163, line 46 in L.D.) by striking out the following: "Fund" and inserting in its place the following: '**Incorporated**'

Further amend the bill in Part A in section 269 in that part designated "**§5285.**" in subsection 1 in the 4th line (page 163, line 49 in L.D.) by striking out the following: "Fund" and inserting in its place the following: 'Fund Incorporated'

Further amend the bill in Part A in section 269 in that part designated "**§5285.**" in subsection 1 in the next to the last line (page 164, line 2 in L.D.) by striking out the following: "Fund" and inserting in its place the following: 'Fund Incorporated'

Further amend the bill in Part A in section 269 in that part designated "**§5285.**" in subsection 2 in the 2nd line (page 164, line 6 in L.D.) by striking out the following: "Fund" and inserting in its place the following: '**Incorporated**'

Further amend the bill in Part A in section 269 in that part designated "**§5285.**" in subsection 2 in the 5th line (page 164, line 9 in L.D.) by striking out the following "Fund" and inserting in its place the following: 'Fund Incorporated'

Further amend the bill in Part A in section 269 in that part designated "**§5285.**" in subsection 2 in the 4th line from the end (page 164, line 12 in L.D.) by striking out the following: "Fund" and inserting in its place the following: "Fund Incorporated" and in the last 3 lines (page 164, lines 13 to 15 in L.D.) by striking out the following: "Interest earned by contributions in to the fund prior to transfer to the fund shall must be credited to the fund." and inserting in its place the following: '~~Interest-earned-by-contributions-in-the-fund-shall be-credited-to-the-fund.~~'

Further amend the bill in Part A by inserting at the end the following:

COMMITTEE AMENDMENT

2 **Sec. A-272. Allocation.** The following funds are allocated
4 from Other Special Revenue to carry out the purposes of this Part.

6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48

1994-95

HUMAN SERVICES, DEPARTMENT OF

**Maine Children's Trust Fund -
Child and Family Services**

All Other (\$200,000)

Provides for the transfer of funds due to the establishment of a separate program, Maine Children's Trust Incorporated.

Maine Children's Trust Incorporated

All Other \$200,000

Provides for the allocation of funds through a transfer from the Department of Human Services.

**SECTION A-272
TOTAL ALLOCATIONS**

\$-0-

Further amend the bill in Part B by inserting after section 19 and before the emergency clause the following:

Sec. B-20. Maine Revised Statutes amended; revision clause; Board of Chiropractic Examination and Registration. Wherever in the Maine Revised Statutes the words Board of Chiropractic Examination and Registration appear or reference is made to those words, they are amended to read and mean Board of Chiropractic Licensure, and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. B-21. Maine Revised Statutes amended; revision clause; Board of Registration in Medicine. Wherever in the Maine Revised Statutes the words Board of Registration in Medicine appear or reference is made to those words, they are amended to read and mean Board of Licensure in Medicine, and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

A.S.

2 **Sec. B-22. Maine Revised Statutes amended; revision clause; Board**
3 **of Osteopathic Examination and Registration.** Wherever in the Maine
4 Revised Statutes the words Board of Osteopathic Examination and
5 Registration appear or reference is made to those words, they are
6 amended to read and mean Board of Osteopathic Licensure, and the
7 Revisor of Statutes shall implement this revision when updating,
8 publishing or republishing the statutes.

10 **Sec. B-23. Maine Revised Statutes amended; revision clause; Board**
11 **of Examiners of Podiatrists.** Wherever in the Maine Revised Statutes
12 the words Board of Examiners of Podiatrists appear or reference
13 is made to those words, they are amended to read and mean Board
14 of Licensure of Podiatric Medicine, and the Revisor of Statutes
15 shall implement this revision when updating, publishing or
16 republishing the statutes.

18 **Sec. B-24. Transition provision.**

20 1. The Board of Chiropractic Licensure, Board of Licensure
21 in Medicine, Board of Osteopathic Licensure, Board of Licensure
22 of Podiatric Medicine and the Maine Developmental Disabilities
23 Council are the successors in every way to the powers, duties and
24 functions of the former Board of Chiropractic Examination and
25 Registration, Board of Registration in Medicine, Board of
26 Osteopathic Examination and Registration, Board of Examiners of
27 Podiatrists and the State Planning and Advisory Council on
28 Developmental Disabilities, respectively.

30 2. All existing rules, regulations and procedures in
31 effect, in operation or promulgated in or by the Board of
32 Chiropractic Examination and Registration, Board of Registration
33 in Medicine, Board of Osteopathic Examination and Registration,
34 Board of Examiners of Podiatrists and the State Planning and
35 Advisory Council on Developmental Disabilities or any of their
36 administrative units or officers are hereby declared in effect
37 and continue in effect until rescinded, revised or amended by the
38 proper authority.

40 3. All existing contracts, agreements and compacts
41 currently in effect in the Board of Chiropractic Examination and
42 Registration, Board of Registration in Medicine, Board of
43 Osteopathic Examination and Registration, Board of Examiners of
44 Podiatrists and the State Planning and Advisory Council on
45 Developmental Disabilities continue in effect.

46 4. Any positions authorized and allocated subject to the
47 personnel laws to the former Board of Chiropractic Examination
48 and Registration, Board of Registration in Medicine, Board of
49 Osteopathic Examination and Registration, Board of Examiners of

COMMITTEE AMENDMENT "A" to H.P. 1368, L.D. 1851

2 Podiatrists and the State Planning and Advisory Council on
Developmental Disabilities are transferred respectively to the
4 Board of Chiropractic Licensure, Board of Licensure in Medicine,
Board of Osteopathic Licensure, Board of Licensure of Podiatric
6 Medicine and the Maine Developmental Disabilities Council and may
continue to be authorized.

8 5. All records, property and equipment previously belonging
to or allocated for the use of the former Board of Chiropractic
10 Examination and Registration, Board of Registration in Medicine,
Board of Osteopathic Examination and Registration, Board of
12 Examiners of Podiatrists and the State Planning and Advisory
Council on Developmental Disabilities must become, on the
14 effective date of this Act, part of the property, respectively,
of the Board of Chiropractic Licensure, Board of Licensure in
16 Medicine, Board of Osteopathic Licensure, Board of Licensure of
Podiatric Medicine and the Maine Developmental Disabilities
18 Council.

20 6. All existing forms, licenses, letterheads and similar
items bearing the name of or referring to the Board of
22 Chiropractic Examination and Registration, Board of Registration
in Medicine, Board of Osteopathic Examination and Registration,
24 Board of Examiners of Podiatrists and the State Planning and
Advisory Council on Developmental Disabilities may be used,
26 respectively, by the Board of Chiropractic Licensure, Board of
Licensure in Medicine, Board of Osteopathic Licensure, Board of
28 Licensure of Podiatric Medicine and the Maine Developmental
Disabilities Council until existing supplies of those items are
30 exhausted.'

32 Further amend the bill by renumbering the sections to read
consecutively.

34 Further amend the bill by inserting at the end before the
36 statement of fact the following:

38 **FISCAL NOTE**

40 This bill establishes new Class E crimes. Sentences imposed
42 for Class E offenses must be served in a county jail. The
average cost per sentence for a Class E crime is \$4,685 based
44 upon an average length of stay of 67 days. The additional costs
to the counties for the housing of each offender sentenced under
46 this new crime are not reimbursed by the State.

48 The additional workload and administrative costs associated
with the minimal number of new cases filed in the court system

COMMITTEE AMENDMENT "A" to H.P. 1368, L.D. 1851

2 can be absorbed within the budgeted resources of the Judicial
Department. The collection of additional fines may increase
4 General Fund revenue by a minor amount.

6 The establishment of the Maine Children's Trust Fund as an
independent entity will require that the current allocation of
8 \$200,000 to the Department of Human Services be deallocated and
reallocated to authorize the payment to the Maine Children's
Trust Incorporated.

10 The establishment of new ceilings for the various fees
12 charged by several boards will allow these boards to receive more
revenues. Since the actual increase of these fees is subject to
14 the particular board's discretion, the amounts of any revenue
increase can not be determined at this time. Any significant
16 increase of revenues accompanied by an increase in expenditures
will require an increase in the board's allocation.

18 The Bureau of Health will realize some minor savings from
20 the repeal of the Maine Medical Laboratory Commission.

22 Authorizing the Governor's Committee on Employment of People
with Disabilities to accept contributions from any source may
24 result in insignificant increases of dedicated revenue to the
Department of Human Services.

26 Appropriating all funds in a lump sum to the Maine Indian
28 Tribal-State Commission may result in insignificant reductions of
General Fund revenue from the loss of accrued interest.

30 The requirement that all professional licensing boards must
32 join or subscribe to a national disciplinary record system,
subject to available revenues, may increase the expenditures of a
34 number of boards. The amounts can not be determined at this time.

36 The requirement that boards develop and distribute a
consumer rights brochure will result in increased costs to each
38 professional regulatory board. The amounts can not be determined
at this time.

40 In addition to the effects mentioned above, this bill
42 includes several provisions that have minor fiscal impacts.
Those provisions and their effects are described below.

44 The Department of Professional and Financial Regulation will
46 incur some minor additional costs for the preparation of certain
information for prospective board members. These costs can be
48 absorbed within the department's existing budgeted resources.

COMMITTEE AMENDMENT "A" to H.P. 1368, L.D. 1851

2 The Nursing Home Administrators Licensing Board will realize
some minor savings from the elimination of one board member.

4 Four professional regulatory boards will incur some minor
6 additional costs to effect the name changes of the various
boards. These costs can be absorbed within the boards' existing
8 budgeted resources.

10 The Board of Dental Examiners may realize some minor savings
12 from eliminating the requirement that a list of licensees must be
submitted to the office of the Secretary of State and from no
longer being required to prescribe certain forms.

14 The Commissioner of Professional and Financial Regulation
16 may realize some minor savings from no longer being required to
provide certain technical assistance to the Board of Dental
18 Examiners.

20 Several professional regulatory boards will incur some minor
22 additional costs to amend certain rules. These costs can be
absorbed within the boards' existing budgeted resources.

24 The State Board of Optometry will realize some minor savings
26 from not being required to pay a certain stipend and from the
repeal of the authority to expend renewal fees to contract with
28 institutions of higher learning to provide optometric educational
programs.

30 The Board of Osteopathic Licensure will realize some minor
savings from various statutory changes.

32 Internalizing the podiatrist board within the Department of
34 Professional and Financial Regulation may result in a slight
increase in expenditures made by the board.

36 The State Board of Nursing will realize some minor savings
38 from the removal of certain advertising requirements.'

40 **STATEMENT OF FACT**

42 This amendment retains the affiliated status of the State
44 Board of Optometry; updates the name of the reorganized Maine
Children's Trust Fund; removes a provision dealing with
46 appointment of members of professional and occupational
regulatory boards; clarifies language and intent regarding the
48 governing laws for podiatrists and osteopaths; recognizes federal
law regarding amendments to state law governing the Maine Indian
Tribal-State Commission; clarifies legislative intent regarding
50 consumer information, standardized terms and consumer complaints

RES

COMMITTEE AMENDMENT "A" to H.P. 1368, L.D. 1851

2 of board procedure; standardizes language in accordance with
legislative intent; increases the number of years of practice by
4 a dental hygienist prior to eligibility for appointment on the
dental board from 3 years to 6 years; updates the nursing board
6 laws; no longer requires the State Tax Assessor to compute
interest for the Maine Children's Trust Fund with the intent that
8 the Bureau of Taxation will administratively transfer the
principal to the Maine Children's Trust Incorporated on at least
a quarterly basis; adds a transition provision; and adds a fiscal
10 note to the bill.

COMMITTEE AMENDMENT