

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

No. 1880

S.P. 694

In Senate, February 15, 1994

An Act to Change the Selection Process for the State Auditor and More Closely Align the Work of the Joint Standing Committee on Audit and Program Review with the Work of the State Auditor.

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

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator AMERO of Cumberland. (GOVERNOR'S BILL).
Cosponsored by Senators: AMERO of Cumberland, BEGLEY of Lincoln, BUTLAND of Cumberland, CAHILL of Sagadahoc, CARPENTER of York, GOULD of Waldo, HALL of Piscataquis, HANLEY of Oxford, SUMMERS of Cumberland, Representatives: BENNETT of Norway, FOSS of Yarmouth, LOOK of Jonesboro, ROBICHAUD of Caribou, TAYLOR of Cumberland, ZIRNKILTON of Mount Desert.

2 3. Use of experts. The committee shall make full use of
3 the knowledge and perspective of other committees of the
4 Legislature and, as appropriate, of expertise from outside the
5 Legislature.

6 Sec. 5. 5 MRSA §203, sub-§3, as enacted by PL 1991, c. 9, Pt.
7 G, §1, is amended to read:

8 3. Allocation of work. Notwithstanding any other provision
9 of law, the Attorney General has discretion to allocate legal
10 work among the attorneys in the Department of the Attorney
11 General without reference to position counts contained in any
12 appropriation. If the provisions of this section are used to
13 seek reimbursement for legal services for which there is specific
14 appropriation, the Attorney General shall keep time records
15 demonstrating the amount of legal services performed for which
16 reimbursement is sought. The Attorney General shall submit a
17 quarterly report detailing the manner in which legal work has
18 been allocated among attorneys in that office pursuant to this
19 subsection to the joint standing committee of the Legislature
20 having jurisdiction over appropriations and financial affairs and
21 the joint standing committee of the Legislature having
22 jurisdiction over audit and program management review.

23 Sec. 6. 5 MRSA §241, as amended by PL 1973, c. 792, §1, is
24 further amended to read:

25 **§241. State Auditor; salary**

26 The State Auditor shall ~~be~~ is the head of the Department of
27 Audit, ~~as heretofore established.~~ ~~He shall~~ The State Auditor
28 must be a certified public accountant or a college graduate with
29 not less than 6 years of experience as a professional accountant
30 or auditor, including not less than 5 years of auditing
31 experience, of which not less than 4 years shall must have been
32 in a supervisory capacity. ~~He shall be elected~~ The State Auditor
33 must be nominated by the Governor and confirmed by a 2/3 majority
34 of the Legislature voting in convention by a joint ballot of the
35 Senators and Representatives in convention and shall hold. The
36 term of office for a term of 4 of the State Auditor is 7 years or
37 until his successor is elected and qualified. ~~He~~ The State
38 Auditor shall exercise ~~sueh~~ the powers and perform ~~sueh~~ the
39 duties ~~as are~~ set forth in this chapter. ~~In case~~ If the office
40 of State Auditor shall ~~become~~ becomes vacant during a period when
41 the Legislature is not in session, the appointment of a person to
42 fill ~~sueh~~ the vacancy shall must be made immediately by the
43 ~~President of the Senate or if that office be vacant, by the~~
44 ~~Speaker of the House, said person to hold office~~ Governor until
45 such time as the Legislature shall ~~meet~~ meets in regular or

2 special session, and ~~either confirm the appointment of said~~
3 ~~person or choose another person to fill the office during the~~
4 ~~unexpired term~~ at which time the Legislature shall vote upon the
5 individual appointed as provided in this section. If the
6 Legislature fails to confirm the nomination, the office becomes
7 vacant until a gubernatorial nominee is confirmed by the
8 Legislature to fill the office during the unexpired term. During
9 any vacancy, the duties of the office must be performed by the
10 deputy auditor as provided in section 242.

11 **Sec. 7. 5 MRSA §241-A**, as amended by PL 1989, c. 857, §15, is
12 further amended to read:

13 **§241-A. Transition period**

14 In order to provide for an orderly transition following the
15 ~~quadrennial~~ septennial election of the State Auditor, the State
16 Auditor-elect may not take the oath of office or otherwise
17 qualify for the office for a period of no less than 30 days
18 following that election.
19

20 **Sec. 8. 5 MRSA §243, sub-§8**, as enacted by PL 1977, c. 380,
21 Pt. B, §2, is amended to read:

22 **8. Postaudit.** To perform postaudits of all accounts and
23 financial records of any organization, institution or other
24 entity receiving or requesting an appropriation or grant from the
25 State Government and to issue reports on such audits at such
26 times as the Legislature or the State Auditor may require; and

27 **Sec. 9. 5 MRSA §243, sub-§9** is enacted to read:

28 **9. Management performance audits.** To conduct management
29 performance audits. The Department of Audit may contract with
30 outside agencies to perform such audits. The department shall
31 report its findings to the Governor, the Legislative Council, the
32 joint standing committee of the Legislature having jurisdiction
33 over audit and management review matters, the joint standing
34 committee of the Legislature having jurisdiction over
35 appropriations and financial affairs and, as appropriate, to the
36 joint standing committees of the Legislature having jurisdiction
37 over the subject matter involved in the audit.

38 **Sec. 10. 20-A MRSA §11435**, as enacted by PL 1987, c. 807, §3,
39 is repealed.

40 **Sec. 11. 38 MRSA §570-E**, as enacted by PL 1985, c. 496, Pt.
41 A, §14, is amended to read:

42 **§570-E. Legislative review**

2 Rules adopted by the board under this subchapter shall must
4 be submitted for review by the joint standing committee of the
Legislature having jurisdiction over energy and natural resources
6 ~~and, until December 1, 1987, to the joint standing committee of~~
~~the Legislature having jurisdiction over audit and program review~~
8 matters. In reviewing the rules promulgated adopted by the board
under this subchapter, these this legislative ~~committees shall~~
10 committee must be guided by the provisions of Title 5, chapter
377-A.

12 **Sec. 12. 38 MRSA §1002**, as enacted by PL 1987, c. 470, §2, is
amended to read:

14 **§1002. Legislative review**

16 The joint standing committee of the Legislature having
18 jurisdiction ~~on audit and program review~~ over energy and natural
resource matters shall review the commission on or before January
20 ~~1, 1996~~ December 31, 1999, and present its recommendations for
amendment or repeal of this chapter to the Legislature.

22 **Sec. 13. 38 MRSA §1516**, as corrected by RR 1993, c. 1, §132,
24 is repealed and the following enacted in its place:

26 **§1516. Sunset**

28 The joint standing committee of the Legislature having
jurisdiction over energy and natural resource matters shall
30 undertake a review of the authority by December 31, 1999 to
examine its operations and continued justification.

32 **Sec. 14. 38 MRSA §2109**, as enacted by PL 1989, c. 585, Pt. A,
34 §7, is repealed and the following enacted in its place:

36 **§2109. Sunset**

38 The joint standing committee of the Legislature having
jurisdiction over energy and natural resource matters shall
40 undertake a review of the agency by December 31, 1999 to examine
its operations and continued justification.

42 **Sec. 15. Effective date.** This Act takes effect December 1, 1998.

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STATEMENT OF FACT

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4 This bill is the recommendation of the Special Commission on
6 Governmental Restructuring. This bill changes the selection
8 process so that the State Auditor is nominated by the Governor
10 and confirmed by the Legislature and directs the Department of
12 Audit to conduct management performance audits in addition to
14 financial audits. This bill also changes the name of the Joint
16 Standing Committee on Audit and Program Review to the Joint
18 Standing Committee on Audit and Management Review and focuses its
20 work on management reviews based upon the State Auditor's work
and program and management review assignments from the
Legislative Council.

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20 This document has not yet been reviewed to determine the
need for cross-reference, stylistic and other technical
amendments to conform existing law to current drafting standards.