

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

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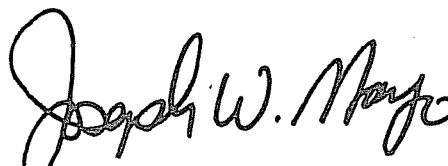
H.P. 1434

House of Representatives, March 2, 1994

An Act to Implement the Recommendations of the Maine Dairy and Nutrition Council and the Maine Dairy Promotion Board.

Reported by Representative TARDY for the Maine Dairy and Nutrition Council and the Maine Dairy Promotion Board pursuant to Public Law 1993, chapter 413, section 5.

Reference to the Joint Standing Committee on Agriculture suggested and printing ordered under Joint Rule 20.


JOSEPH W. MAYO, Clerk

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

Sec. 1. 7 MRSA §2992, as enacted by PL 1991, c. 376, §28, is amended to read:

§2992. Maine Dairy Promotion Board

The Maine Dairy Promotion Board, as established by Title 5, section 12004-H, subsection 3 is within the department. The board consists of the following 5 members: the Commissioner of Agriculture, Food and Rural Resources, or the commissioner's designee, who shall serve ex officio; and 4 producers.

The producer members must be appointed by the commissioner on recommendation of the various producer associations, individuals or unorganized groups of producers in the State. The 4 producer members must include 2 producers selling milk on the Maine market and 2 producers selling milk on the Boston market, Federal Milk Marketing Order No. 1. Producer members selling in the same market may not belong to the same agricultural cooperative or sell their milk to the same dealer.

The first 4 members appointed to the board as reconstituted in this section shall serve one-year, 2-year, 3-year and 4-year terms respectively. The members appointed thereafter shall serve 4-year terms. A person may not be appointed to more than 2 consecutive 4-year terms. In case of a vacancy caused by death, resignation or otherwise, the commissioner shall fill the vacancy for the unexpired period of the term.

The appointed members are entitled to compensation according to Title 5, chapter 379.

~~The members of the board shall elect a chair. The commissioner may employ a director and such clerks and assistants as necessary and may prescribe their duties and fix their compensation, subject to the Civil Service Law.~~

The board shall appoint an executive director who is the board's chief administrative officer and serves at the pleasure of the board. The executive director shall employ, as the board directs, additional staff who serve at the pleasure of the executive director. The staff of the board is not subject to the Civil Service Law. The salary paid to the executive director and other staff of the board must be fixed by the board, subject to the approval of the Governor. The board may delegate to its staff the power to execute the board's policies and programs, subject to the board's oversight.

2 **Sec. 2. 7 MRSA §2993, sub-§§1, 2, 3 and 5,** as enacted by PL 1991,
c. 376, §28, are amended to read:

4 **1. Contracts and agreements.** May make ~~contraets~~ or enter
6 into contracts or agreements with any local, state, federal or
private agency, department, firm, corporation or association for
8 the purposes defined in this chapter. The contracts or
agreements may include, without limitation, those relating to the
10 lease or purchase of office space, facilities, property,
equipment and supplies as the board determines necessary for its
12 purposes. The board may delegate to its executive director the
power to enter into the contracts or agreements, subject to the
14 board's oversight;

16 **2. Cooperation with other agencies.** Shall cooperate with
other state or regional agencies with like purposes, including
18 transferring to those agencies any portion of its receipts that
it deems determines appropriate and in the best interests of the
dairy industry in the State. In determining those amounts, the
20 board shall consider the relative benefits accruing to all Maine
producers from increased fluid milk consumption within the Maine
22 market and the New England market, Federal Milk Marketing Order
No. 1; the relative effectiveness of the various programs
24 intended to increase fluid milk consumption for which funding is
being considered; appropriate research needs; and other
26 considerations pertinent to the distribution of its funds to
other agencies for cooperative efforts;

28 **3. Books and records.** Shall keep books, records and
30 accounts of all its activities, which must be open to inspection
and audit by the State at all times. The State Auditor shall
32 conduct an annual audit of the financial records of the board and
report the results of the audit to the board, the commissioner,
34 the Treasurer of State and the Legislature. All books and
records of the board must be open to public inspection in
36 accordance with Title 1, chapter 13, except that records and
meetings of the board may by vote be closed to the public when
38 public disclosure of the subject matter of the records or
meetings would adversely affect the competitive position of the
40 milk industry of the State or segments of that industry;

42 **5. Outside funding.** May ~~accept grants, donations and gifts~~
44 ~~of,~~ in addition to the money received by the board pursuant to
section 2994, receive and expend funds for purposes defined in
46 this chapter from any source, public or private, that it
determines necessary to carry out its purposes. All money
48 received from any source must be placed in a nonlapsing, separate
account or accounts to be expended for those purposes.

2 Sec. 3. 7 MRSA §2998, 4th ¶, as enacted by PL 1991, c. 376,
§28, is amended to read:

4 The members of the council shall elect a chair. The
5 ~~commissioner--may--employ--such--personnel--for--the--council--as~~
6 ~~necessary--subject-to-the-Civil-Service-Law.~~

8 Sec. 4. 7 MRSA §2998-A is enacted to read:

10 **§2998-A. Staffing**

12 The council shall appoint an executive director who is the
14 council's chief administrative officer and serves at the pleasure
16 of the council. The executive director shall employ, as the
18 council directs, additional staff who serve at the pleasure of
20 the executive director. The staff of the council is not subject
22 to the Civil Service Law. The salary paid to the executive
24 director and other staff of the council must be fixed by the
26 council, subject to the approval of the Governor. The council
28 may delegate to its staff the power to execute the council
30 policies and programs, subject to the council's oversight.

32 Sec. 5. 7 MRSA §2999, as enacted by PL 1991, c. 376, §28, is
34 amended to read:

36 **§2999. Duties**

38 In order that the optimal health of the citizens of the
40 State may be achieved more fully, the Maine Dairy and Nutrition
42 Council shall provide guidance in nutrition and nutrition
44 education based on the concept of a balanced diet, including milk
46 and its products in accordance with scientific recommendations,
48 and protect the interests of all the people of the State by
50 strengthening and preserving the dairy industry. The council has
the following powers and duties. The council:

1 1. Contracts and agreements. May make or enter into
2 contracts or agreements with any local, state, federal or private
3 agency, department, firm, corporation or association for the
4 purposes defined in this chapter. The contracts or agreements
5 may include, without limitation, those relating to the lease or
6 purchase of office space, facilities, property, equipment or
7 supplies the council determines necessary for its purposes. The
8 council may delegate to its executive director the power to enter
9 into the contracts or agreements, subject to the council's
10 oversight;

11 2. Cooperation with other agencies. Shall cooperate with
12 other state or regional agencies with similar purposes, including
13 transferring to those agencies any portion of its receipts that

the council considers appropriate and in the best interests of the dairy industry in the State;

3. Books and records. Shall keep books, records and accounts of all its activities, which must be open to inspection and audit by the State at all times. The State Auditor shall conduct an annual audit of the financial records of the council and report the results of the audit to the council, the commissioner, the Treasurer of State and the Legislature. All books and records of the council must be open to public inspection in accordance with Title 1, chapter 13, except that records and meetings of the council may by vote be closed to the public when public disclosure of the subject matter of the records or meetings would adversely affect the competitive position of the State's milk industry or segments of that industry;

4. Annual report. Shall prepare an annual report that must include a summary of all receipts and expenditures, including expenditures for specific programs; a description of the various programs operated, contracted or sponsored by the council; and a directory of current council members, including their affiliation and term of office; and

5. Outside funding. May receive and expend funds from any source, public or private, that it determines necessary to carry out its purposes. All money received from any source must be placed in a nonlapsing, separate account or accounts, to be expended for those purposes.

STATEMENT OF FACT

This bill requires both the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council to appoint an executive director. Under this bill, staff hired by the board and council are exempt from the Civil Service Law.

The council is given the same power to contract and the same duties to cooperate with other agencies, keep books and records, prepare an annual report and receive outside funding. Both the board and the council may delegate the power to contract to the executive director.

The books and records of the council and board must be open to public inspection. The State Auditor is required to annually audit the books of both the council and board and to report the results to the council or board, respectively, and to the

Commissioner of Agriculture, Food and Rural Resources, the
Treasurer of State and the Legislature.

Both the council and the board are required to keep any
funds received in a nonlapsing, separate account.

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.