

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1120

H.P. 803

House of Representatives, March 30, 1995

An Act to Restore State Funding for State Expenses at County Jails.

(EMERGENCY)

Reference to the Committee on Criminal Justice suggested and ordered printed.

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

JOSEPH W. MAYO, Clerk

Presented by Representative WHITCOMB of Waldo.

Cosponsored by Representatives: BAILEY of Township 27, BUNKER of Kossuth Township, CLUKEY of Houlton, GOOLEY of Farmington, HEINO of Boothbay, JOY of Crystal, McALEVEY of Waterboro, MURPHY of Berwick, PLOWMAN of Hampden, STEDMAN of Hartland, WHEELER of Bridgewater, Senators: BENOIT of Franklin, HALL of Piscataquis.

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

4
6 **Whereas,** courts are now required to sentence short-sentence
prisoners directly to county jails; and

8 **Whereas,** the Department of Corrections is required to
reimburse the jails for the expenses of these prisoners; and

10
12 **Whereas,** the law currently provides an exception to this
reimbursement requirement for fiscal year 1991-92, fiscal year
1992-93, fiscal year 1993-94 and fiscal year 1994-95; and

14
16 **Whereas,** absence of these funds for the current fiscal year
will create a major hardship for the counties; and

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

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

26 **Sec. 1. 17-A MRSA §1252, sub-§1, ¶D** is enacted to read:

28 D. The court may not specify a county jail as the place of
30 imprisonment unless, in response to the court's inquiry, the
32 county in which the jail is located indicates that it
34 received reimbursement for all costs agreed to with the
36 Commissioner of Corrections under Title 34-A, section 1210,
38 subsection 2. This paragraph requires that costs be
 reimbursed regardless of whether the money is appropriated.
 The Department of Corrections may present evidence regarding
 the accuracy of the county's claim and, if the court finds
 that reimbursement has been made, the person must be
 assigned to the jail.

40 **Sec. 2. 34-A MRSA §1210, sub-§2,** as amended by PL 1993, c.
42 410, Pt. P, §1, is repealed and the following enacted in its
place:

44 2. Reimbursement. The following provisions apply to
46 reimbursement by the department for community corrections.

48 A. Except as provided in subsection 6-A, the department,
50 under this section, shall reimburse each county quarterly
 for each actual day served at that county correctional
 facility by:

2 (1) Persons convicted of a Class A, Class B or Class C
3 crime and sentenced after March 31, 1987 to serve a
4 term of imprisonment pursuant to Title 17-A, section
5 1203, subsection 1 or section 1252, subsection 1; and

6 (2) Persons convicted of a Class A, Class B or Class C
7 crime and sentenced after December 31, 1988 to serve a
8 term of imprisonment pursuant to Title 17-A, section
9 1203, subsection 1 or section 1252, subsection 1.

10 B. Reimbursement for periods after June 30, 1987 may not be
11 authorized until the reimbursable costs for the operations
12 of the jail are agreed upon by the commissioner and the
13 county commissioners for that county. Reimbursable costs
14 for the operations of the jail must be, to the extent
15 practicable, mutually agreed upon prior to the actual
16 expenditures of funds for those costs. Prior approval of
17 all capital expenditures is required for reimbursement of
18 that expense item. If the commissioner and the county
19 commissioners are unable to agree upon reimbursable costs,
20 they shall select jointly an arbitrator to determine those
21 costs. The arbitrator's decision is final and both the
22 commissioner and the county commissioners are bound by that
23 decision.

24 C. On a percentage basis, the funds appropriated for the
25 purposes of this section may not decrease from those
26 appropriated in fiscal year 1990-91 any more than the total
27 appropriations for the department decrease from that year.

28 D. Regardless of whether funds are appropriated for that
29 purpose, reimbursement required under this subsection must
30 be made before any funds appropriated to the department may
31 be spent for other purposes.

32 E. Regardless of whether funds are appropriated,
33 reimbursement required under this subsection is a state
34 mandate under the Constitution of Maine, Article IX, Section
35 21.

36 F. If funds are not appropriated for reimbursement, a
37 county's reimbursement for costs as agreed to with the
38 commissioner may not lapse but must be carried forward into
39 subsequent years.

40 **Sec. 3. 34-A MRSA §1210, sub-§6-A,** as amended by PL 1993, c.
41 517, §1, is further amended to read:

6-A. Funds to be used for community corrections programs.

2 Thirty percent of all funds elaimed--by due each county for
reimbursement under this section must be retained by the
4 department until the county demonstrates that the retained funds
will be used for community corrections programs, as described in
6 subsection 1, paragraph B, that are developed as part of a
comprehensive local plan approved by the commissioner. One half
8 of the retained funds must be retained until the county
demonstrates that the funds will be used for adult programs, and
10 1/2 of the retained funds must be retained until the county
demonstrates that the funds will be used for juvenile programs.
12 All funds retained by the department under this subsection not
released by the end of the year may not lapse, but must be
14 carried forward into subsequent years, with each county's funds
carried over for that county. A county may shift funds from the
16 funds retained and available for adult programs pursuant to this
subsection to juvenile diversion programs. All funds not
18 committed by any county after 3 years from the date the county's
claim is approved by the department must be placed by the
20 department in a pool from which supplementary funds periodically
must be made available to all counties on a competitive basis.
22 Annually, by September 1st, the commissioner shall submit to the
joint standing committee of the Legislature having jurisdiction
24 over corrections matters a report of the activity in the prior
fiscal year of the funds retained under this subsection,
26 including the following:

28 A. The amount retained from each county;

30 B. The amount of any funds that have been carried over from
previous fiscal years for each county;

32 C. The amount released to each county; and

34 D. The specific programs for which funds were released for
36 each county, including an indication of whether each program
serves juveniles or adults.

38 If the department has not reimbursed the county for all costs
40 agreed to for the current or preceding years, the department may
42 not withhold funds from the county under this subsection for the
current or any preceding years.

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

STATEMENT OF FACT

2

4 Currently, the courts are required to specify the county
6 jail for persons convicted of Class D and E crimes and for other
8 classes of crime for which the sentence is 12 months or less.
10 The Department of Corrections is required to reimburse the jails
12 for those prisoners except that in fiscal years 1991-92, 1992-93,
14 1993-94 and 1994-95 the obligation for this reimbursement may not
16 exceed the amount appropriated for that purpose. It is required
18 that 30% of the reimbursed funds claimed be used by the county
20 for community corrections programs.

12

14 This bill does the following.

14

16 1. It prohibits the courts from specifying a jail if the
18 county indicates that the Department of Corrections has not
20 reimbursed it for past costs.

18

20 2. It repeals the provision that prohibits reimbursement in
22 excess of appropriations.

22

24 3. It provides that the percentage decrease of
26 appropriations to county jail reimbursement from fiscal year
1990-91 to the current year may not be any greater than the
decrease in the total appropriations to the Department of
Corrections for that time period.

26

28 4. It forbids the Department of Corrections from making
30 expenditures from any appropriations until the counties have been
reimbursed for jail expenses.

30

32 5. It makes the requirement to reimburse the county for
34 jailed prisoners a state mandate under the Constitution of Maine
that requires that the State reimburse municipal and county
governments for costs incurred to implement a state law.

36

38 6. It requires that the obligation to reimburse the county
40 for jail expenses for which funds are not appropriated is to
carry forward to subsequent years.

40

42 7. It changes the provision that requires that 30% of the
44 funds claimed by the county be used for community corrections to
a provision that 30% of the funds due the county be used for that
purpose.

44

46 8. For years in which the Department of Corrections fails
48 to completely reimburse the county for jailed prisoners it
rescinds the requirement that the department is to withhold 30%
of reimbursement pending demonstration that the funds will be
50 used for community corrections.