

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)



117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1570

H.P. 1125

House of Representatives, June 12, 1995

An Act to Establish a User Fee System for Towns Requiring Sheriff's Services.

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

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative OTT of York.

Cosponsored by Representatives: CARLETON of Wells, FARNUM of South Berwick, JOYCE of Biddeford, KERR of Old Orchard Beach, LaFOUNTAIN of Biddeford, LEMONT of Kittery, MARSHALL of Eliot, MURPHY of Berwick, NADEAU of Saco, Senator: LAWRENCE of York.

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

2
3 **Sec. 1. 17-A MRSA §1341, sub-§1**, as amended by PL 1989, c.
4 375, is further amended to read:

6 **1. Assessment.** When a person is sentenced to incarceration
7 in a county jail, the sentencing court shall ~~consider and may~~
8 assess as part of the sentence a reimbursement fee to help defray
9 the expenses of the offender's room and board and to reimburse a
10 municipality for costs incurred under Title 30-A, section 1565
11 unless the court determines that the offender does not have the
12 ability to pay. The fee may not exceed the cost of incarcerating
13 the offender or \$20 per day, whichever is less, plus the cost
14 incurred by a municipality under Title 30-A, section 1565. Any
15 reimbursement fee assessed ~~shall~~ to pay for post-conviction room
16 and board must be collected by the county treasurer of the county
17 in which the offender is incarcerated, paid into the treasury of
18 that county and credited to the county responsible for paying for
19 the incarceration of the offender. Any reimbursement fee
20 assessed to reimburse a municipality must be returned to that
21 municipality.

22
23 **Sec. 2. 17-A MRSA §1341, sub-§3**, as enacted by PL 1985, c.
24 752, §1, is amended to read:

26 **3. Amount of fee.** After considering all relevant evidence
27 on the issue of the offender's ability to pay under subsection 2,
28 the court may enter, as part of its sentence a reimbursement fee
29 as set out in subsection 1 that ~~shall~~ must be paid by the
30 offender ~~for his incarceration in the county jail.~~ The fee shall
31 must bear a reasonable relationship to the offender's ability to
32 pay. Upon petition by the offender, the amount may be modified
33 to reflect any changes in the financial status of the offender.

34
35 **Sec. 3. 29-A MRSA §2605, sub-§§1 and 4**, as enacted by PL 1993,
36 c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

38 **1. Suspension by clerk.** If a person fails to appear in
39 court on the date and time specified in response to a Uniform
40 Summons and Complaint, a summons, a condition of bail or order of
41 court for any criminal violation of Title 23, section 1980; a
42 civil violation under Title 28-A, section 2052; or any criminal
43 provision of this Title, or for any further appearance ordered by
44 the court, including one for the payment of a fine, either in
45 person or by counsel, ~~or~~ or fails to pay a fine imposed for a
46 criminal traffic offense or fails to pay an assessment levied
47 pursuant to Title 17-A, section 1341 to reimburse a municipality
48 for costs incurred under Title 30-A, section 1565, the clerk
shall suspend the person's license or permit, the right to

operate a motor vehicle in this State and the right to apply for
2 or obtain a license or permit.

4 If a person who is not an individual fails to appear or pay a
fine in a criminal traffic offense, the clerk shall suspend the
6 registration of the motor vehicle involved in the offense or that
person's right to operate that vehicle in the State.

8
4. **Rescission of suspension.** On appearances or payment of
10 the fine or assessment, whichever was the basis for the
suspension, and on the condition of payment of a \$25
12 reinstatement fee to the Secretary of State, the clerk of the
court in which the suspension was ordered shall rescind the
14 suspension and notify the Secretary of State who, upon receipt of
the \$25 reinstatement fee, shall delete any record of the
16 suspension from that person's driving record.

18 **Sec. 4. 30-A MRS §452**, as amended by PL 1991, c. 478, is
repealed and the following is enacted in its place:

20 **§452. Law enforcement functions**

22
24 **1. Duty of sberiff to patrol.** The sheriff in each county,
in person or by the sheriff's deputies, to the extent the sheriff
undertakes to patrol, shall patrol those areas in the county that
have no local law enforcement but may not be required by law to
patrol the entire county.

28
30 **2. User fees for law enforcement functions.** The county
commissioners of each county may annually assess a fee against
each municipality in the county for the costs of providing law
enforcement functions to that municipality. The county
commissioners shall establish a formula for calculating the costs
attributable to each municipality. The county commissioners may
establish categories of law enforcement functions for which a
user fee is charged. If a user fee is charged, it must be
charged for each municipality in the county that uses the
function. For the purposes of this section, the unorganized
territory of a county must be treated as one municipality.

40
42 If the county commissioners of York County assess a fee pursuant
to this subsection, the municipalities that use law enforcement
functions must pay 60% of the cost to the county of providing
these functions, apportioned among these municipalities on a per
capita basis, based on the latest Federal Decennial Census. The
balance must be funded by the general county tax on all
municipalities in the county.

48
50 **3. County commissioners may enter into contract.** The
county commissioners, with the sheriff's agreement, may enter

2 into a contract with a municipality under section 107 to provide
3 specific patrol services by the sheriff's department in return
4 for payment for these services. A municipality with a full-time
5 police department or a municipality that contracts with the
6 county commissioners pursuant to section 107 for patrol services
7 may not be assessed a fee under subsection 2.

8 **Sec. 5. 30-A MRSA §453, last ¶**, as amended by PL 1989, c. 104,
9 Pt. C. §§8 and 10, is further amended to read:

10
11 The county commissioners, after consulting with the director
12 or chief dispatcher, may enter into an agreement with a
13 municipality under section 107 to provide specific communications
14 for municipal law enforcement functions, including dispatching of
15 municipal units, and to provide communications services related
16 to dispatching county police services in that municipality in
17 return for payment for these services. The county commissioners
18 may assess a municipality a fee for the capital costs of
19 communications equipment.

20 **Sec. 6. 30-A MRSA §1565** is enacted to read:

21 **§1565. Reimbursement of county expenses for booking and**
22 **pretrial detention at the York County jail; right**
23 **of municipality to recover expenses from arrested person**

24
25 **1. Fee for booking expenses.** Except as provided in this
26 section, the county commissioners of York County may impose a fee
27 upon a municipality for reimbursement of county expenses incurred
28 with respect to the booking or other processing of a person
29 arrested by that municipality's law enforcement agency or, in the
30 case of a person arrested by the sheriff's department or State
31 Police, for a crime committed in that municipality if the
32 arrested person is brought to the county jail for booking or
33 detention. The fee imposed by the county pursuant to this
34 section may not exceed the actual administrative costs incurred
35 in booking or otherwise processing an arrested person. As used
36 in this section, the term "actual administrative costs" includes
37 only those costs for functions that are performed in order to
38 receive an arrestee into a county detention facility. Operating
39 expenses of the county jail facility including capital costs and
40 those costs involved in the housing, feeding and care of inmates
41 may not be included in calculating "actual administrative
42 costs." "Actual administrative costs" may include any one or
43 more of the following as related to receiving an arrestee into
44 the county jail:

45
46 **A. The searching, wristbanding, bathing, clothing,**
47 **fingerprinting, photographing and medical and mental**
48 **screening of an arrestee;**

- 2 B. Document preparation, retrieval, updating, filing and
4 court scheduling related to receiving an arrestee into the
6 county jail;
- 6 C. Warrant service, processing and detainer;
- 8 D. Inventory of an arrestee's money and creation of cash
10 account;
- 12 E. Inventory and storage of an arrestee's property;
- 14 F. Inventory, laundry and storage of an arrestee's clothing;
- 16 G. The classification of an arrestee;
- 18 H. The direct costs of automated services utilized in
20 paragraphs A to G; and
- 22 I. Unit management and supervision of the detention
24 function as related to paragraphs A to H.

24 **2. Fee for pretrial detention costs.** Except as provided in
26 this section, the county commissioners of York County may impose
28 a fee upon a municipality for reimbursement of county expenses
30 incurred with respect to the pretrial detention costs, for a
32 maximum of 10 days, of a person arrested by that municipality's
34 law enforcement agency or, in the case of a person arrested by
36 the sheriff's department or State Police, for a crime committed
38 in that municipality if the arrested person is brought to the
40 county jail for detention. The pretrial detention cost per diem
42 rate must be set pursuant to Title 34-A, section 1210.

34 **3. Exceptions.** A fee may not be assessed under subsection
36 1 or 2 in the following instances:

- 38 A. An arrest on a bench warrant for failure to appear in
40 court;
- 42 B. When a person is ordered by a court to be remanded to
44 the county jail;
- 46 C. An arrest made pursuant to an arrest warrant originating
48 outside of the jurisdiction of a municipal law enforcement
50 agency;
- 52 D. An arrest on a parole violation or a probation-ordered
54 return to custody, unless a new charge has been filed for a
56 crime committed in the jurisdiction of the municipality
58 against which the fee is sought to be assessed;

2 E. An arrest of a prisoner who has escaped from a county,
3 state or federal detention or corrections facility; and

4
5 F. When an arrestee is held in temporary detention at a
6 court facility for purposes of arraignment and the arrestee
7 has been previously booked at the jail.

8
9 A municipal law enforcement agency that makes a mutual aid
10 request must pay fees that result from arrests made in response
11 to the mutual aid request except that in the event the Governor
12 declares a state of emergency, a municipality may not be charged
13 a fee for an arrest made during a riot, disturbance or event that
14 is subject to the declaration.

15 **4. Recovery of fees from arrested person.** A municipality
16 that is charged a fee under this section may recover that fee
17 from the arrested person if that person is convicted of any
18 criminal offense related to the arrest. The sentencing court
19 shall assess, pursuant to Title 17-A, section 1341, a
20 reimbursement fee to reimburse a municipality that is charged a
21 fee under this section. If a person does not pay this fee that
22 person's license or permit to operate a motor vehicle in this
23 State and the right to apply for or obtain a license or permit
24 must be suspended pursuant to Title 29-A, section 2605.

25

26

STATEMENT OF FACT

27
28
29 **30** This bill makes the following changes to laws regarding the
30 cost of county government.

31

32 1. It permits county commissioners to charge user fees to
33 municipalities for the cost of law enforcement functions.

34

35 2. It provides that if the county commissioners of York
36 County assess such user fees, then the municipalities that use
37 law enforcement functions must pay 60% of the cost to the county
38 for providing these functions, apportioned among these
39 municipalities on a per-capita basis and the balance must be
40 funded by the general county tax on all municipalities.

41

42 3. It clarifies that existing law permits county
43 commissioners to assess a municipality for communications
44 services related to dispatching county police services in that
45 municipality.

46

47 4. It gives county commissioners authority to assess a
48 municipality a fee for the capital costs of communications
49 equipment.

50

2 5. It gives the county commissioners of York County
3 authority to collect from a municipality fees for booking and
4 pretrial detention costs at the county jail for arrestees from
5 that municipality.

6
7 6. It allows a municipality to recover these booking and
8 pretrial detention costs from the arrested person if that person
9 is convicted of any criminal offense related to the arrest. The
10 bill provides that the sentencing court shall assess as part of
11 the sentence a reimbursement fee to cover a municipality's costs
12 under this bill unless the court determines that the person does
13 not have the ability to pay. It also provides that if a person
14 is assessed this fee and does not pay, that person's license or
15 permit to operate a motor vehicle in this State must be suspended.
16