

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 469

H.P. 353

House of Representatives, January 14, 1999

**An Act Concerning the Requirement for Surety Bonds for County
Treasurers, Sheriffs and Chief Deputies.**

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

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

JOSEPH W. MAYO, Clerk

Presented by Representative JABAR of Waterville.
Cosponsored by Senator LIBBY of York and
Representatives: LaVERDIERE of Wilton, MADORE of Augusta, Senators: KILKELLY of
Lincoln, MacKINNON of York.

2
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 30-A MRSA §153**, as amended by PL 1989, c. 6; c. 9,
5 §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

6 **§153. Bond required**

7 The person elected under section 152 and accepting the
8 office of county treasurer shall give bond to the county for the
9 faithful discharge of duties in the sum ordered by the
10 commissioners and with such sureties as they approve in writing
11 on the bond. Surety and fidelity insurance coverage provided by
12 a public sector self-funded risk pool organized pursuant to
13 section 2253 in the sum ordered by the commissioners is deemed to
14 comply with the requirements of this section.

15 **Sec. 2. 30-A MRSA §161**, as amended by PL 1989, c. 6; c. 9,
16 §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

17 **§161. Deputy treasurers; duties**

18 Each county treasurer may appoint a deputy treasurer for
19 ~~their~~ that treasurer's county, subject to the requirements of
20 section 501. The deputy treasurer shall assist the treasurer in
21 performing the duties of the treasurer's office. The deputy
22 treasurer shall give bond to the county for the faithful
23 discharge of duties in the sum ordered by the county
24 commissioners and with such sureties as they approve in writing
25 on the bond, the premium of the bond to be met by the county.
26 The deputy treasurer shall act as treasurer in the event of a
27 vacancy until a treasurer is chosen and qualified under section
28 151. Surety and fidelity insurance coverage provided by a public
29 sector self-funded risk pool organized pursuant to section 2253
30 in the sum ordered by the commissioners is deemed to comply with
31 the requirements of this section.

32 **Sec. 3. 30-A MRSA §372, sub-§§1 to 5**, as amended by PL 1989, c.
33 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, are further amended
34 to read:

35 **§372. Sheriff's bond**

36 **1. Bond required.** Every person elected or appointed
37 sheriff for the Counties of York, Cumberland, Kennebec or
38 Penobscot, before receiving that commission, must give bond to
39 the Treasurer of State with at least 3 sufficient sureties or
40 with the bond of a surety company authorized to do business in
41 this State as surety in the sum of \$40,000 and for any of the
42 other counties in the sum of \$25,000, conditioned for the

2 faithful performance of the duties of the office and to answer
3 for all neglect and misdoings of the chief deputy. Surety and
4 fidelity insurance coverage provided by a public sector
5 self-funded risk pool organized pursuant to section 2253 in the
6 sum ordered by the commissioners is deemed to comply with the
7 requirements of this section.

8 **2. Approval of bond.** After executing the required bond,
9 every sheriff shall file it in the office of the county clerk, to
10 be presented to the county commissioners at their next meeting
11 for approval. After the bond has been approved by the
12 commissioners, the clerk shall record it and certify the fact of
13 approval on the bond. ~~The clerk shall retain a copy of the bond~~
14 ~~and deliver the original to the sheriff who shall deliver it to~~
15 ~~the State Auditor within 20 days after its approval to be filed~~
16 ~~in the State Auditor's office.~~

17 **3. Annual examination of bonds.** The county commissioners
18 of each county, at their first meeting after the 3rd Tuesday of
19 June, on motion of the district attorney, shall annually examine
20 the sufficiency of the bond of the sheriff of their county and
21 have their clerk make a record of their determination. ~~The clerk~~
22 ~~shall report the commissioner's findings to the State Auditor~~
23 ~~within 30 days.~~

24 **4. New bond when insufficient.** If the bond of any sheriff
25 is found to be insufficient, the clerk shall certify that fact to
26 the sheriff within 10 days. Within 20 days after that notice is
27 given, the sheriff must give a new bond with sufficient sureties,
28 to be filed in the office of the county clerk and approved by the
29 county commissioners, ~~and then filed in the State Auditor's~~
30 ~~office.~~

31 **5. Forfeiture for neglect to give bond.** A sheriff forfeits
32 \$150 to the State for each month's neglect to give the security
33 required in this section. ~~The State Auditor shall report that~~
34 ~~neglect to the Treasurer of State.~~ The Attorney General shall
35 prosecute a civil action for the Treasurer of State to recover
36 the forfeiture. The clerk of courts of the sheriff's county
37 shall certify the sheriff's name to the Governor and the Attorney
38 General. Unless reasonable cause for this neglect is shown or,
39 within 20 days after the clerk certifies the sheriff's name, the
40 sheriff gives or renews the security to the satisfaction of the
41 Governor, the sheriff thereby vacates the office.

42 **Sec. 4. 30-A MRSA §384,** as amended by PL 1991, c. 748, is
43 further amended to read:

44 **§384. Chief deputy, deputies, bond; approval and filing**

2 Before receiving a commission, every person appointed chief
3 deputy under section 383, or appointed a deputy under section
4 381, shall give bond to the Treasurer of State with at least 3
5 sufficient sureties, or with the bond of a surety company
6 authorized to do business in this State as surety, in the sum
7 required by the county commissioners of that county, conditioned
8 for the faithful performance of the duties of that office. The
9 bond of the chief deputy must be filed and approved in the same
10 manner as is required for the bond of a sheriff under section
11 372, subsection 2, and all of that subsection applies to these
12 bonds. The county may furnish a bond for all full-time and
13 part-time deputies that complies with this section. That bond
14 must be recorded in the county records ~~and delivered to the State~~
15 ~~Auditor to be filed.~~ Surety and fidelity insurance coverage
16 provided by a public sector self-funded risk pool organized
17 pursuant to section 2253 in a sum equal to or exceeding the sum
18 required by this section is deemed to comply with the
19 requirements of this section.

20

21 SUMMARY

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23 This bill allows for surety and fidelity insurance coverage
24 provided by a public sector self-funded risk pool organized
25 pursuant to the Maine Revised Statutes, Title 30-A, section 2253,
26 in sums equal to exceeding those required by law to be
27 substituted for a bond in meeting the statutory bond requirements
28 for county treasurers, sheriffs and chief deputies. It also
29 removes the requirement that the bond be filed with the State
30 Auditor.