

MAINE STATE LEGISLATURE

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R.S.

L.D. 2558

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DATE: 3/27/2000

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BUSINESS AND ECONOMIC DEVELOPMENT

Reported by:

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**STATE OF MAINE
SENATE
119TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 996, L.D. 2558, Bill, "An Act to Improve the Regulation of Occupations and Professions"

Amend the bill in Part B in section 1 in that part designated "**§12004-A.**" in subsection 8 in the 2nd and 3rd lines (page 4, lines 29 and 30 in L.D.) by striking out the following: "Examination and Registration" and inserting in its place the following: '~~Examination-and-Registration~~ Licensure'

Further amend the bill in Part B in section 1 in that part designated "**§12004-A.**" in subsection 24 in the 2nd line (page 5, line 42 in L.D.) by striking out the following: "Registration" and inserting in its place the following: '~~Registration~~ Licensure'

Further amend the bill in Part B in section 1 in that part designated "**§12004-A.**" in subsection 29 in the 2nd and 3rd lines (page 6, lines 12 and 13 in L.D.) by striking out the following: "Examination and Registration" and inserting in its place the following: '~~Examination-and-Registration~~ Licensure'

Further amend the bill in Part B in section 1 in that part designated "**§12004-A.**" in subsection 33 in the 2nd line (page 6, line 26 in L.D.) by striking out the following: "Examiners of Podiatrists" and inserting in its place the following: '~~Examiners of-Podiatrists~~ Licensure of Podiatric Medicine'

Further amend the bill in Part B in section 2 in subsection 1 in the 2nd line (page 7, line 31 in L.D.) by striking out the

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2 following: "regulating" and inserting in its place the following:
'established after September 1, 2000 to regulate'

4 Further amend the bill in Part C in section 1 in the first
6 paragraph in the 6th line (page 7, line 50 in L.D.) by striking
out the following: "protect consumers and"

8 Further amend the bill in Part C in section 1 in the first
10 paragraph in the 9th line (page 8, line 3 in L.D.) by inserting
after the following: "occupations" the following: 'for the
12 purpose of protecting consumers'

14 Further amend the bill in Part C in section 6 in subsection
2-A by striking out all of paragraph B (page 9, lines 15 to 17 in
L.D.) and inserting in its place the following:

16 'B. To prepare and administer, with the advice of the
18 boards and commissions, budgets necessary to carry out the
regulatory purposes of the boards and commissions. The
20 Director of the Office of Licensing and Registration shall
maintain one office budget that includes a separate account
22 for each board or commission. The Director of the Office of
Licensing and Registration has the authority to disapprove
24 expenditures by boards and commissions that are not
necessary to protect the public health and welfare or that
26 would seriously jeopardize a board's or commission's fiscal
well-being;'

28 Further amend the bill in Part C in section 6 in subsection
30 2-A by striking out all of paragraphs D and E (page 9, lines 27
to 50 and page 10, lines 1 and 2 in L.D.) and inserting in their
32 place the following:

34 'D. To establish by rule all fees necessary and appropriate
for all boards, commissions and regulatory functions within
36 the office, subject to any fee cap established by statute
and applicable to that board, commission or regulatory
38 function. The Director of the Office of Licensing and
Registration shall set the criteria for all fees. The
40 criteria must include, but are not limited to, the costs,
statutory requirements, enforcement requirements and fees
42 and expenses of each board, commission or regulatory
function. Rules adopted pursuant to this paragraph are
44 routine technical rules pursuant to Title 5, chapter 375,
subchapter II-A;'

46 Further amend the bill in Part C in section 6 in subsection
48 2-A in paragraph F in the 5th line (page 10, line 8 in L.D.) by
inserting after the following: "checks" the following: ', a
50 uniform policy regarding the treatment of late renewals'

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2 Further amend the bill in Part C in section 6 in subsection
2-A in paragraph K in the 2nd line (page 10, line 46 in L.D.) by
4 inserting after the following: "renewal" the following: 'in
accordance with criteria established in statute or in rules
6 adopted by a board or commission' and in the last line (page 10,
line 47 in L.D.) by striking out the following: "and"

8
10 Further amend the bill in Part C in section 6 in subsection
2-A in paragraph L in the 2nd line (page 10, line 50 in L.D.) by
12 striking out the following: "goals." and inserting in its place
the following: 'goals; and'

14 Further amend the bill in Part C in section 6 in subsection
2-A by inserting after paragraph L the following:

16
18 'M. To study jurisdictional overlap between the
department's boards and commissions and other state agencies
20 for purposes of streamlining and consolidating related legal
authorities and administrative processes.'

22 Further amend the bill in Part C in section 6 in subsection
2-A by relettering the paragraphs to read consecutively.

24
26 Further amend the bill in Part C in section 8 in subsection
6 in the 2nd line (page 11, line 18 in L.D.) by striking out the
28 following: "bureau, and office,--board--or--commission" and
inserting in its place the following: 'bureau, office, board or
30 commission'

32 Further amend the bill in Part C in section 12 in the first
line (page 11, line 48 in L.D.) by striking out the following:
34 "8003-E" and inserting in its place the following: '8003-F'

36 Further amend the bill in Part C in section 12 by inserting
after that part designated "§8003-E" the following:

38 '§8003-F. Disposition of fees

40 All money received by the Office of Licensing and
42 Registration on behalf of a board or commission listed in section
44 8001, subsection 38 or by the Office of Licensing and
46 Registration to perform the regulatory functions listed in
48 section 8001, subsection 38 must be paid to the Treasurer of
State and credited to the account for that board, commission or
regulatory function within the budget of the Office of Licensing
and Registration.

50 Money received by the Office of Licensing and Registration
on behalf of a board or commission listed in section 8001,

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2 subsection 38 or by the Office of Licensing and Registration to
3 perform the regulatory functions listed in section 8001,
4 subsection 38 must be used for the expenses of administering its
5 statutory responsibilities, including, but not limited to, the
6 costs of conducting investigations, taking testimony, procuring
7 the attendance of witnesses, all legal proceedings initiated for
8 enforcement and administering the office.

9
10 Any balance of these fees may not lapse but must be carried
11 forward as a continuing account to be expended for the same
12 purposes in the following fiscal years.'

13
14 Further amend the bill in Part C in section 14 in the 3rd
15 line (page 14, line 11 in L.D.) by striking out the following:
16 "in effect on June 1, 2000" and inserting in its place the
17 following: 'that establish fees and are in effect on August 1,
18 2000'

19
20 Further amend the bill in Part C in section 14 in the last
21 line (page 14, line 14 in L.D.) by striking out the following:
22 "subsection 2" and inserting in its place the following:
23 'subsection 2-A'

24 Further amend the bill in Part E in section 16 in the 17th
25 line (page 19, line 41 in L.D.) by inserting after the following:
26 "date" the following: 'in the case of boilers and 38 months from
27 its date in the case of pressure vessels'

28
29 Further amend the bill in Part E in section 16 in the 23rd
30 line (page 19, line 47 in L.D.) by inserting after the following:
31 "months" the following: 'in the case of boilers and beyond 38
32 months in the case of pressure vessels'

33
34 Further amend the bill by striking out all of Parts F and G
35 and inserting in their place the following:

36 **·PART F**

37
38 **Sec. F-1. 10 MRSA §9003, sub-§10,** as repealed and replaced by
39 PL 1995, c. 502, Pt. H, §12, is amended to read:

40
41 **10. Manufactured housing account.** All funds received by
42 the board must be paid to the Treasurer of State and must be
43 credited to the books to the board's manufactured housing account
44 in accordance with ~~Title-32,~~ section 60-C 8003-F.
45

46
47 **Sec. F-2. 10 MRSA §9004, sub-§2,** as repealed and replaced by
48 PL 1995, c. 502, Pt. H, §13, is repealed.

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2 **Sec. F-3. 32 MRSA §289, sub-§2**, as enacted by PL 1999, c. 146,
§5, is amended to read:

4 **2. Investigations.** The board may adopt rules governing
investigations ~~and filing and processing of complaints pursuant~~
6 ~~to section 60-G.~~ Rules adopted pursuant to this subsection are
routine technical rules pursuant to Title 5, chapter 375,
8 subchapter II-A.

10 **Sec. F-4. 32 MRSA §290, sub-§1**, as enacted by PL 1999, c. 146,
§5, is amended to read:

12 **1. Investigations.** The board shall investigate or cause to
14 be investigated all complaints made to it and all cases of
noncompliance with or violation of this chapter. ~~The complaints~~
16 ~~must be filed pursuant to section 60-G.~~

18 **Sec. F-5. 32 MRSA §5018, 2nd ¶**, as amended by PL 1987, c. 395,
Pt. A, §190, is further amended to read:

20 Any person may register a complaint of fraud, deceit, gross
22 negligence, incompetency or misconduct against any licensee.
~~These complaints shall be in writing, shall be sworn to by the~~
24 ~~person making them and shall be filed with the board.~~

26 **Sec. F-6. 32 MRSA §5018, 3rd ¶**, as amended by PL 1995, c. 397,
§75, is repealed.

28 **Sec. F-7. 32 MRSA §5018, 4th ¶**, as repealed and replaced by PL
30 1977, c. 694, §654, is amended to read:

32 Any person aggrieved by final board action ~~shall be~~ is
entitled to judicial review thereof ~~in the Superior Court~~ in the
34 manner provided in Title 5, chapter 375, subchapter VII.

36 **Sec. F-8. 32 MRSA §13069, sub-§3**, as repealed and replaced by
PL 1995, c. 502, Pt. H, §43, is repealed.

38 **Sec. F-9. 32 MRSA §13069, sub-§4-A**, as enacted by PL 1995, c.
40 502, Pt. H, §45, is amended to read:

42 **4-A. Real estate account.** All funds received by the
commission must be paid to the Treasurer of State and must be
44 credited to the commission's account in accordance with Title 10,
section 60-G 8003-F.

46 **Sec. F-10. 32 MRSA §14013, sub-§3**, as enacted by PL 1999, c.
48 185, §5, is amended to read:

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2 3. **Complaints.** Any person may file a complaint with the
board seeking disciplinary action against the holder of a license
4 issued by the board. In addition, the board upon its own motion
may file a complaint. ~~Complaints-received-by-the-board-must-be~~
~~processed-in-a-manner-consistent-with-section-60-G.~~

6
8 **Sec. F-11. 32 MRSA §15207**, as enacted by PL 1995, c. 560, Pt.
H, §14 and affected by §17, is repealed.

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PART G

Sec. G-1. Allocation. The following funds are allocated from
Other Special Revenue funds to carry out the purposes of this Act.

2000-01

**PROFESSIONAL AND FINANCIAL REGULATION,
DEPARTMENT OF**

Licensing and Enforcement

Positions - Legislative Count	(2,000)
Personal Services	\$88,785
All Other	9,500
TOTAL	\$98,285

Provides for the allocation of funds for one
Health Board Investigator position and one
Manufactured Housing Board Inspector
position, related operational costs and
funds to standardize the per diem
compensation rate for certain boards.

Board of Optometry

Personal Services	\$600
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Provides for the allocation of funds to
standardize the per diem compensation rate
for the State Board of Optometry.

**Board of Registration
for Professional Engineers**

Personal Services	\$1,470
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Provides for the allocation of funds to

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standardize the per diem compensation rate
for the State Board of Registration for
Professional Engineers.

**DEPARTMENT OF PROFESSIONAL AND
FINANCIAL REGULATION
TOTAL**

\$100,355'

Further amend the bill by relettering or renumbering any
nonconsecutive Part letter or section number to read
consecutively.

Further amend the bill by inserting at the end before the
summary the following:

FISCAL NOTE

2000-01

APPROPRIATIONS/ALLOCATIONS

Other Funds \$100,355

This bill includes Other Special Revenue funds allocations
totaling \$100,355 in fiscal year 2000-01 for the Department of
Professional and Financial Regulation. Of this amount, \$88,890
is provided for one Health Board Investigator position and one
Manufactured Housing Board Inspector position and related
operational costs. Funds in the amount of \$11,465 are provided
to standardize the per diem compensation rate at \$35 for the
State Board of Optometry, the State Board of Registration for
Professional Engineers and other boards within the Department of
Professional and Financial Regulation, Office of Licensing and
Registration. The estimated future costs in fiscal years 2001-02
and 2002-03 will be approximately \$100,736 and \$103,189,
respectively.'

SUMMARY

This amendment amends the bill to maintain the provisions of
current law that require separate dedicated revenue accounts for
each board, commission and regulatory program, as well as the
requirement that these boards, commissions and programs be
self-supporting. The amendment also authorizes the Director of
the Office of Licensing and Registration to establish fees for
each program through rulemaking, subject to the individual fee
caps established by the Legislature, and to establish a uniform
policy with respect to late renewals.

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2 The amendment also clarifies that application review
4 performed by staff of the Office of Licensing and Registration
will be done in accordance with criteria established by statute
or through rules adopted by a board or commission.

6
8 The amendment moves the provisions of the Maine Revised
Statutes, Title 32, section 60-C, regarding disposition of fees,
to Title 10, section 8003-F.

10
12 The amendment also amends certain provisions of Title 32
governing when inspections of boilers and pressure vessels must
be performed.

14
16 Finally, the amendment adds an allocation section for one
Health Board Investigator position and one Manufactured Housing
Board Field Inspector position. The amendment also adds an
18 allocation section and a fiscal note to the bill.

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