

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1099

S.P. 371

In Senate, March 4, 2003

An Act To Amend the Laws Governing the Maine Developmental Disabilities Council

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BROMLEY of Cumberland.
Cosponsored by Representative DUDLEY of Portland and
Senators: President DAGGETT of Kennebec, EDMONDS of Cumberland, Representatives:
Speaker COLWELL of Gardiner, LAVERRIERE-BOUCHER of Biddeford, MARLEY of
Portland, WALCOTT of Lewiston.

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

4 **Sec. 1. 5 MRSA §12004-I, sub-§66**, as amended by PL 1993, c. 600, Pt. A, §5, is further amended to read:

6	66.	Maine	Expenses	34-B MRSA
	Mental Health	Developmental	Only	§1211
8	and Mental	Disabilities		<u>§17001</u>
	Retardation	Council		

10 **Sec. 2. 34-B MRSA §1211**, as amended by PL 2001, c. 25, §1, is
12 repealed.

14 **Sec. 3. 34-B MRSA c. 17** is enacted to read:

16 **CHAPTER 17**

18 **DEVELOPMENTAL DISABILITIES**

20 **§17001. Maine Developmental Disabilities Council**

22 **1. Establishment.** The Maine Developmental Disabilities
24 Council, referred to in this section as "the council," is
established as authorized by Title 5, section 12004-I, subsection
26 66 and in accordance with the Developmental Disabilities
Assistance and Bill of Rights Act of 2000, Public Law 106-402.

28 **2. Status.** The council is a public instrumentality of the
30 State, and the exercise of the power conferred by this section is
the performance of essential governmental functions. The council
32 may not be considered a state agency for any purposes, including,
but not limited to, budgeting, accounts and control, auditing and
34 purchasing.

36 **3. Appointments.** Appointments to the council are governed
as follows.

38 A. The Governor shall appoint appropriate representatives
40 to the council, as required under the Developmental
Disabilities Assistance and Bill of Rights Act of 2000, upon
42 consideration of recommendations made by current members of
the council.

44 B. The Governor shall appoint a current Legislator to serve
46 as a member of the council upon consideration of the
recommendations made by current members of the council.

48 **4. Duties.** The council shall perform its duties in
50 compliance with the requirements of the Developmental
Disabilities Assistance and Bill of Rights Act of 2000.

2 5. Designated state agency. In accordance with the
3 Developmental Disabilities Assistance and Bill of Rights Act of
4 2000, the State shall identify an agency to act as the designated
5 state agency to provide support for the council. The designated
6 state agency must meet all requirements specified in 42 United
7 States Code, Section 15025.

8
9 6. Council personnel and members. As of the effective date
10 of this section:

11 A. All employees assigned to the council who state that
12 they wish to continue as employees of the council must be
13 transferred from state employment to employment of the
14 council in its capacity as an independent advisory agency;

15 B. Accrued fringe benefits from state employment of
16 transferred personnel, including, but not limited to,
17 vacation and sick leave, health and life insurance and
18 retirement credits, remain available to the transferred
19 personnel;

20 C. Members and employees of the council are not considered
21 state employees for the purpose of the state civil service
22 provisions of Title 5, Part 2 and chapter 372 or for any
23 other purpose except as follows.

24 (1) Employees of the council, including employees
25 hired after the effective date of this section, are
26 deemed state employees for the purposes of the state
27 retirement provisions of Title 5, Part 20 and the state
28 employee health insurance program under Title 5,
29 chapter 13, subchapter 2.

30 (2) For purposes of the Maine Tort Claims Act, the
31 council is deemed a governmental entity and its
32 employees and members are deemed employees as those
33 terms are defined in Title 14, section 8102; and

34 D. An employee of the council may return to state
35 employment at any time up to 2 years from the effective date
36 of this section. Employees expressing such a preference
37 must be placed on the appropriate registers maintained by
38 the Department of Administrative and Financial Services,
39 Bureau of Human Resources and must be treated as though on
40 recall in accordance with current collective bargaining
41 provisions.

SUMMARY

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4 This bill establishes the Maine Developmental Disabilities
6 Council as a public instrumentality of the State and clarifies
 the relationship between State Government and the council and
 State Government and council staff.