

MAINE STATE LEGISLATURE

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L.D. 1709

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DATE: 2.24.04

(Filing No. S-401)

HEALTH AND HUMAN SERVICES

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**STATE OF MAINE
SENATE
121ST LEGISLATURE
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to S.P. 641, L.D. 1709, Bill, "An Act To Clarify Financial Management Procedures at the Maine Developmental Disabilities Council"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting in its place the following:

Sec. 1. 34-B MRSA §17001, sub-§§2 and 3, as enacted by PL 2003, c. 417, §3 and affected by §4, are amended to read:

2. Council as public instrumentality. The council is a public body corporate and politic and public instrumentality of the State, and the exercise of the power conferred by this section is held to be the performance of essential governmental functions. The council may exercise the powers and authorities conferred by and necessary to carry out the purposes of this section. The council may not be considered a state agency for any purposes, including, but not limited to, budgeting, accounts and control, auditing and purchasing.

3. Appointments; officers. The Governor shall appoint appropriate representatives to the council, as required under the Developmental Disabilities Assistance and Bill of Rights Act of 2000, upon consideration of recommendations made by current members of the council. The council shall select its own officers, including an executive director, chair, vice-chair and treasurer.

Sec. 2. 34-B MRSA §17001, sub-§§7 and 8 are enacted to read:

7. Borrowing authority. The council may borrow according to this subsection.

COMMITTEE AMENDMENT

2 A. The council may borrow funds in anticipation of receipt
4 of its operating revenues and may issue notes and other
 evidences of temporary indebtedness only when borrowing is
 for:

- 6 (1) Current operating expenses;
8 (2) A term not to exceed 13 months; and
10 (3) An amount not to exceed 25% of the annual budget of
12 the council for the council's preceding fiscal year.

14 Indebtedness authorized under this subsection is incurred
16 for a public purpose, and all income derived from that
 indebtedness is exempt from taxation by the State.

18 B. Notes and other evidences of temporary indebtedness
20 issued by the council are legal obligations of the council
22 payable solely from the council's revenues and other sources
24 of funds. Notes and other evidences of temporary
26 indebtedness issued by the council under this subsection are
 not a liability, debt or pledge of the credit of the State
 or of any municipality or political subdivision of the State
 and are not includable in any debt limitation of the State
 or of any municipality or political subdivision of the State.

28 C. The council may fix the date, maturities, denominations,
30 interest rates, places of payment, form and other details of
32 notes and other evidences of temporary indebtedness of the
34 council. Unless otherwise provided by a majority vote of
36 the council authorizing their issuance, notes or other
38 evidences of temporary indebtedness of the council must be
40 signed by the executive director, treasurer and chair of the
 council and countersigned by the vice-chair. The council
 may pledge or assign the council's revenues, the proceeds of
 those revenues and the council's other property as security
 for notes and other evidences of temporary indebtedness of
 the council. The proceeds of notes or other evidences of
 temporary indebtedness may be invested in accordance with
 Title 30-A, sections 5706 and 5712.

42 D. The net earnings of the council may not inure to the
44 benefit of any private person. If the council is dissolved,
46 the distribution of all property owned by the council must
48 be determined by the Legislature in accordance with
 applicable law and may not inure to the benefit of any
 private person.

2 8. Liability of members. Members of the council may not be
held personally liable for the official acts of the council.'

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SUMMARY

This amendment replaces the bill. The amendment retains the provisions of the bill that clarify that the Maine Developmental Disabilities Council is established as a body corporate and politic and direct the council to select officers including an executive director, chair, vice-chair and treasurer. The amendment authorizes the council to borrow funds in anticipation of receipt of operating revenue and clarifies that such borrowing is authorized only under the following conditions: the borrowing must be for current operating expenses; it must be for a term not to exceed 13 months; and it must be for an amount not to exceed 25% of the council's annual budget in the preceding fiscal year. The amendment retains the provisions of the bill that specify that any debt of the council is the legal obligation solely of the council and is not a liability, debt or pledge of the credit of the State or of any municipality or subdivision of the State and that clarify that members of the council may not be held personally liable for acts of the council.

FISCAL NOTE REQUIRED
(See attached)

**121st Maine Legislature
Office of Fiscal and Program Review**

LD 1709

**An Act To Clarify Financial Management Procedures at the Maine
Developmental Disabilities Council**

LR 2444(02)

**Fiscal Note for Bill as Amended by Committee Amendment "A"
Committee: Health and Human Services**

Fiscal Note Required: Yes



Fiscal Note

Borrowing authority granted.

Fiscal Detail and Notes

This bill establishes borrowing authority for the Maine Developmental Disabilities Council. Proceeds will be used to pay operating expenses in anticipation of receipt of federal funds when such funds are not received in a timely fashion. The Council will incur interest costs for any borrowings.