

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## SECOND REGULAR SESSION-2004

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Legislative Document

No. 1709

S.P. 641

In Senate, December 17, 2003

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

(EMERGENCY)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 16, 2003. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink, reading "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator BROMLEY of Cumberland.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, unless this legislation is enacted as an emergency measure, the Maine Developmental Disabilities Council may be unable to meet its operating budget and may be unable to perform its duties; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 34-B MRSA §17001, sub-§§7 to 9 are enacted to read:**

7. Officers. The council shall select its own officers, which must be, at a minimum, a chair, executive director, treasurer and vice-chair.

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

A. The council may borrow funds in anticipation of receipt of its operating revenues and may issue notes and other evidences of temporary indebtedness for current operating expenses for a term not to exceed 13 months only if that borrowing does not exceed 25% of the annual budget of the council for the preceding fiscal year. Indebtedness authorized under this chapter is incurred for a public purpose, and all income derived from that indebtedness is exempt from taxation by the State. Notes and other evidences of temporary indebtedness issued by the council are legal obligations of the council payable solely from the council's revenues and other sources of funds. Notes and other evidences of temporary indebtedness issued by the council under this subsection are not a liability, debt or a pledge of the credit of the State, or of any municipality or political subdivision of the State, but are payable solely from the revenues of the council. Funds borrowed by the council are not includable in any debt limitation of the State or any municipality or political subdivision of the State.

B. The council may fix the date, maturities, denominations, interest rates, places of payment, form and other details of notes and other evidences of temporary indebtedness of the

council. Unless otherwise provided in the vote authorizing their issuance, notes or other evidences of temporary indebtedness of the council must be signed by the executive director, treasurer and chair of the council and countersigned by the vice-chair. The council may pledge or assign its revenues, the proceeds of those revenues and its 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.

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

**9. Body corporate and politic; liability of members.** The council is established as a body corporate and politic and may exercise all the powers and authorities necessary to carry out the purposes of this chapter and the powers and authorities granted in this chapter. Members of the council may not be held personally liable for the official acts of the council.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

## SUMMARY

This bill authorizes the Maine Developmental Disabilities Council to select its chair, executive director, treasurer and vice-chair. The bill clarifies the financial management procedures of the council by authorizing the council to borrow funds in anticipation of revenues if the borrowed funds are used to pay current operating expenses and if the term of the borrowing does not exceed 13 months. This borrowing is intended to permit the council to meet its operating expenses in the event federal appropriations are not received in a timely fashion. The bill also establishes the council as a body corporate and politic and clarifies that members are not personally liable for acts of the council.