

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND SPECIAL SESSION-2004

Legislative Document

No. 1926

H.P. 1426

House of Representatives, March 16, 2004

**An Act To Implement the Recommendations of the Joint Standing
Committee on State and Local Government Pursuant to the State
Government Evaluation Act**

Reported by Representative McLAUGHLIN of Cape Elizabeth for the Joint Standing Committee on State and Local Government pursuant to the Maine Revised Statutes, Title 3, chapter 35 and Resolve 2003, chapter 101, section 1.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

4 **Sec. 1. 3 MRSA §959**, as amended by PL 2003, c. 451, Pt. T,
§§1 and 2, is further amended to read:

6 **§959. Scheduling guideline for review of agencies or independent**
8 **agencies**

10 **1. Scheduling guidelines.** Except as provided in subsection
12 2, reviews of agencies or independent agencies must be scheduled
in accordance with the following. Subsequent reviews must be
scheduled on an ongoing basis every 8 years after the dates
specified in this subsection.

14 A. The joint standing committee of the Legislature having
16 jurisdiction over agriculture, conservation and forestry
18 matters shall use the following list as a guideline for
scheduling reviews:

- 20 (1) Baxter State Park Authority in 2003 2009;
- 22 (2) Department of Conservation in 2005;
- 24 (3) Blueberry Advisory Committee in 2005;
- 26 (4) Board of Pesticides Control in 2005;
- 28 (5) Wild Blueberry Commission of Maine in 2005;
- 30 (6) Seed Potato Board in 2005;
- 32 (7) Maine Dairy and Nutrition Council in 2007;
- 34 (8) Maine Dairy Promotions Board in 2007;
- 36 (9) Maine Milk Commission in 2007;
- 38 (10) State Harness Racing Commission in 2007;
- 40 (11) Maine Agricultural Bargaining Board in 2003;
- 42 (12) Department of Agriculture, Food and Rural
Resources in 2003 2009; and
- 44 ~~(13) -- State Soil and Water Conservation Commission in~~
46 ~~2003; --and~~
- 48 (14) Land for Maine's Future Board in 2007.

2 B. The joint standing committee of the Legislature having
jurisdiction over ~~banking~~--and insurance and financial
4 services matters shall use the following list as a guideline
for scheduling reviews:

- 6 (1) State Employee Health Commission in ~~1999~~ 2009; and
- 8 (2) Department of Professional and Financial
10 Regulation, in conjunction with the joint standing
committee of the Legislature having jurisdiction over
12 business and economic development matters, in 2007.

14 C. The joint standing committee of the Legislature having
jurisdiction over business, research and economic
16 development matters shall use the following list as a
guideline for scheduling reviews:

- 18 (1) Maine Development Foundation in ~~1997~~ 2005;
- 20 (5) Department of Professional and Financial
22 Regulation, in conjunction with the joint standing
committee of the Legislature having jurisdiction over
24 banking and insurance matters, in 2007;
- 26 (19) Department of Economic and Community Development
in ~~1997~~ 2005;
- 28 (23) Maine State Housing Authority in ~~1999~~ 2007;
- 30 (32) Finance Authority of Maine in ~~2001~~ 2009;
- 32 (33) Petroleum Advisory Committee in ~~2001~~ 2009;
- 34 (36) Board of Dental Examiners in ~~2003~~ 2011;
- 36 (37) Board of Osteopathic Licensure in ~~2003~~ 2011;
- 38 (38) Board of Licensure in Medicine in ~~2003~~ 2011;
- 40 (41) State Board of Nursing in ~~2003~~ 2011;
- 42 (42) State Board of Optometry in ~~2003~~ 2011;
- 44 (45) State Board of Registration for Professional
46 Engineers in ~~2003~~ 2011; and
- 48 (50) Maine Science and Technology Foundation in 2007.

50 D. The joint standing committee of the Legislature having
jurisdiction over criminal justice and public safety matters

shall use the following list as a guideline for scheduling reviews:

(1) Department of Public Safety, except for the division designated by the Commissioner of Public Safety to enforce the law relating to the manufacture, importation, storage, transportation and sale of all liquor and to administer those laws relating to licensing and the collection of taxes on malt liquor and wine and the Emergency Services Communication Bureau, in 2001; and

(2) Department of Corrections in ~~2003~~ 2011.

E. The joint standing committee of the Legislature having jurisdiction over education and cultural affairs shall use the following list as a guideline for scheduling reviews:

(1) Telecommunications Relay Services Advisory Council in ~~1997~~ 2005;

(2) Department of Education in ~~1997~~ 2005;

(2-A) State Board of Education in ~~1997~~ 2005;

(3) Maine Arts Commission in ~~1999~~ 2007;

(5) Maine Historic Preservation Commission in ~~1999~~ 2007;

(5-A) Notwithstanding section 952, Maine Historical Society in ~~1999~~ 2007;

(6) Maine Library Commission in ~~1999~~ 2007;

(6-A) Maine State Cultural Affairs Council in ~~1999~~ 2007;

(6-B) Maine State Library in ~~1999~~ 2007;

(6-C) Maine State Museum in ~~1999~~ 2007;

(7) Maine State Museum Commission in ~~1999~~ 2007;

(8) Office of State Historian in ~~1999~~ 2007;

(9) Board of Trustees of the Maine Maritime Academy in ~~2001~~ 2009;

2 (10) Board of Trustees of the University of Maine
System in ~~2001~~ 2009;

4 (12) Maine Community College System in ~~2001~~ 2009;

6 (13) Maine Health and Higher Educational Facilities
Authority in ~~2003~~ 2011; and

8 (14) Maine Educational Loan Authority in ~~2003~~ 2011.

10 F. The joint standing committee of the Legislature having
12 jurisdiction over ~~human-resource~~ health and human services
14 matters shall use the following list as a guideline for
scheduling reviews:

16 (2) Office of Substance Abuse in ~~1997~~ 2005;

18 (3) Maine Advisory Committee on Mental Retardation in
~~1999~~ 2007;

20 (6) Department of Human Services in ~~2001~~ 2009;

22 (7) Board of the Maine Children's Trust Incorporated
24 in ~~2003~~ 2011;

26 ~~(8) -- Governor's Committee on Employment of People with
Disabilities in 2003;~~

28 (9) Maine Developmental Disabilities Council in ~~2003~~
30 2011; and

32 (10) Department of Behavioral and Developmental
34 Services in 2005.

36 G. The joint standing committee of the Legislature having
jurisdiction over inland fisheries and wildlife matters
38 shall use the following list as a guideline for scheduling
reviews:

40 (1) Department of Inland Fisheries and Wildlife in
42 ~~1997~~ 2005;

44 (2) Advisory Board for the Licensing of Taxidermists
in ~~2005~~ 2007; and

46 (3) Atlantic Salmon Commission in ~~2003~~ 2011.

48 H. The joint standing committee of the Legislature having
jurisdiction over judiciary matters shall use the following
50 list as a guideline for scheduling reviews:

- 2 (2) Maine Human Rights Commission in ~~2001~~ 2009;
- 4 (3) Maine Indian Tribal-State Commission in 2003 2011;
- 6 and
- 8 (4) Department of the Attorney General in 2003 2011.

10 I. The joint standing committee of the Legislature having jurisdiction over labor matters shall use the following list as a guideline for scheduling reviews:

- 12 (1) Maine State Retirement System in ~~1997~~ 2005;
- 14 (2) Department of Labor in ~~1999~~ 2007;
- 16 (3) Maine Labor Relations Board in ~~2001~~ 2009; and
- 18 (4) Workers' Compensation Board in ~~2001~~ 2009.

20 J. The joint standing committee of the Legislature having jurisdiction over legal and veterans' affairs shall use the following schedule as a guideline for scheduling reviews:

- 24 (2) State Liquor and Lottery Commission in ~~1999~~ 2007;
- 26 (3) The division within the Department of Public Safety designated by the Commissioner of Public Safety to enforce the law relating to the manufacture, importation, storage, transportation and sale of all liquor and to administer those laws relating to licensing and the collection of taxes on malt liquor and wine in ~~1999~~ 2007; and
- 34 (4) Department of Defense, Veterans and Emergency Management in ~~2001~~ 2011.

38 K. The joint standing committee of the Legislature having jurisdiction over marine resource matters shall use the following list as a guideline for scheduling reviews:

- 42 (1) Atlantic States Marine Fisheries Commission in ~~1997~~ 2005;
- 44 (2) Department of Marine Resources in ~~1997~~ 2005;
- 46 (4) Lobster Advisory Council in ~~1999~~ 2007; and
- 48 (5) Maine Sardine Council in ~~1999~~ 2007.
- 50

2 L. The joint standing committee of the Legislature having
jurisdiction over natural resource matters shall use the
following list as a guideline for scheduling reviews:

4 (1) Department of Environmental Protection in 1997
6 2007;

8 (2) Board of Environmental Protection in 1997 2007;

10 (3) Advisory Commission on Radioactive Waste and
Decommissioning in 2005;

12 (4) Saco River Corridor Commission in 2005; and

14 (5) Board of Underground Oil Tank Installers in 2003
16 2011.

18 M. The joint standing committee of the Legislature having
jurisdiction over state and local government matters shall
20 use the following list as a guideline for scheduling reviews:

22 (1) Capitol Planning Commission in 2003 2011;

24 (1-A) Maine Governmental Facilities Authority in 2005;

26 (2) State Civil Service Appeals Board in 2005;

28 (3) State Claims Commission in 2005;

30 (4) Maine Municipal Bond Bank in 2007;

32 (5) Office of Treasurer of State in 2007;

34 (6) Department of Administrative and Financial
Services, except for the Bureau of Revenue Services, in
36 2003 2011;

38 (7) Department of the Secretary of State, except for
the Bureau of Motor Vehicles, in 2003 2011; and

40 (9) State Planning Office, except for the Land for
42 Maine's Future Board, in 2007.

44 N. The joint standing committee of the Legislature having
jurisdiction over taxation matters shall use the following
46 schedule as a guideline for scheduling reviews:

48 (1) State Board of Property Tax Review in 2001 2011;
and

50

2 (2) Department of Administrative and Financial
Services, Bureau of Revenue Services in 2003 2011.

4 O. The joint standing committee of the Legislature having
6 jurisdiction over transportation matters shall use the
following schedule as a guideline for scheduling reviews:

8 (1) Maine Turnpike Authority in 1997 2005;

10 (2) The Bureau of Motor Vehicles within the Department
of the Secretary of State in 1999 2007;

12 (3) The Department of Transportation in 1999 2007; and

14 (4) Maine State Pilotage Commission in 2001 2009.

16 P. The joint standing committee of the Legislature having
18 jurisdiction over utilities and energy matters shall use the
following list as a guideline for scheduling reviews:

20 (1) Public Advocate in 1997 2005;

22 (2) Board of Directors, Maine Municipal and Rural
24 Electrification Cooperative Agency in 1999 2007;

26 (3) Public Utilities Commission in 1999 2007; and

28 (4) The Emergency Services Communication Bureau within
the Department of Public Safety in 2001 2009.

30
32 **2. Waiver.** Notwithstanding this list of agencies arranged
by year, an agency or independent agency may be reviewed at any
time by the committee pursuant to section 954.

34 **Sec. 2. 5 MRSA §1541, first ¶,** as amended by PL 1991, c. 780,
36 Pt. Y, §42, is further amended to read:

38 The Department of Administrative and Financial Services,
40 through the ~~Bureau of Accounts and Control~~ Office of the State
Controller, has authority:

42 **Sec. 3. 5 MRSA §1541, sub-§10-A, ¶F,** as enacted by PL 2003, c.
44 451, Pt. F, §1, is amended to read:

46 F. Access to resources and records must be limited to
authorized individuals as determined by the state agency or
48 department head, except that the powers and duties of the
State Auditor may not be limited by this subsection.
50 Restrictions on access to resources depend upon the
vulnerability of the resource and the perceived risk of

2 loss, both of which must be periodically assessed. The state
3 agency or department head is responsible for maintaining
4 accountability for the custody and use of resources and
5 shall assign qualified individuals for that purpose.
6 Periodic comparison must be made between the resources and
7 the recorded accountability of the resources to reduce the
8 risk of unauthorized use or loss and protect against waste
9 and wrongful acts. The vulnerability and value of the state
10 agency or department resources determine the frequency of
11 this comparison.

12 Within each state agency or department there must be a
13 qualified employee whose responsibility, in addition to the
14 employee's regularly assigned duties, is to ensure that the
15 state agency or department has written documentation of its
16 internal accounting and administrative control system on
17 file. The employee shall, annually, or more often as
18 conditions warrant, evaluate the effectiveness of the state
19 agency's or department's internal control system and
20 establish and implement changes necessary to ensure the
21 continued integrity of the system. The employee shall:

22 (1) Ensure that the documentation of all internal
23 control systems is readily available for examination by
24 the State Controller, Commissioner of Administrative
25 and Financial Services and State Auditor;

26 (2) Certify to the State Controller that the
27 appropriate updates have been made and implemented by
28 the state agency or department;

29 (3) Ensure that the results of audits and
30 recommendations to improve state agency or department
31 internal controls are promptly evaluated by the state
32 agency or department management;

33 (4) Ensure that timely and appropriate corrective
34 actions are effected by the state agency or department
35 management in response to an audit; and

36 (5) Ensure that all actions determined by the state
37 agency or department management as necessary to correct
38 or otherwise resolve matters are addressed by the state
39 agency or department in its budgetary request to the
40 Legislature; and

41 (6) Immediately notify the State Controller when an
42 auditor, inspector general or other representative from
43 the Federal Government or another nonstate organization
44

2 requests access to state agency resources and records
3 related to internal controls.

4 All unaccounted for variances, losses, shortages or thefts
5 of funds or property must be immediately reported to the
6 State Controller, who shall review the matter to determine
7 the amount involved that must be reported to the appropriate
8 state agency or department management, law enforcement
9 officials and the State Auditor. The State Controller shall
10 also determine the internal control weakness that
11 contributed to or caused the condition. The State Controller
12 shall then make recommendations to the state agency or
13 department official overseeing the internal control system
14 and other appropriate management officials. The
15 recommendations of the State Controller must address the
16 correction of the conditions found and the necessary
17 internal control policies and procedures that must be
18 modified. The state agency or department oversight official
19 and the appropriate management officials shall immediately
20 implement policies and procedures necessary to prevent a
21 recurrence of the problems identified and report the steps
22 taken to the State Controller. From time to time the State
23 Controller shall examine the policies and procedures
24 implemented to ensure that the relevant policies and
25 procedures are functioning appropriately.

26
27 **Sec. 4. Revision clause.** Wherever in the Maine Revised
28 Statutes the words "Bureau of Accounts and Control" appear or
29 reference is made to that bureau within the Department of
30 Administrative and Financial Services, those words are amended to
31 read or mean, as the case may be, "Office of the State
32 Controller," and the Revisor of Statutes shall implement this
33 revision when updating, publishing or republishing the statutes.

34
35 **SUMMARY**

36
37 **38** This bill implements the recommendations of the committee
39 regarding the State Government Evaluation Act. It amends the
40 State Government Evaluation Act by setting new dates for agency
41 reviews. The bill also requires a designated agency employee to
42 notify the State Controller immediately when a nonstate entity
43 requests access to agency accounting records. It also changes
44 the name of the Department of Administration and Financial
45 Services, Bureau of Accounts and Control to Office of the State
46 Controller.