

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

H. 618

L.D. 1518

DATE: 5/31/15

(Filing No. H-620)

JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 1065, L.D. 1518, Bill, "An Act To Increase Access to Justice in Maine's Court System"

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

PART A

Sec. A-1. 4 MRSA c. 8-B is enacted to read:

CHAPTER 8-B

BUSINESS AND CONSUMER DOCKETS

§441. Business and Consumer Specialized Civil Docket: pilot project

1. Establishment of specialized civil docket: purposes. Beginning January 1, 2006, the Supreme Judicial Court may establish a statewide Business and Consumer Specialized Civil Docket pilot project, referred to in this section as "the specialized civil docket," to improve the Judicial Branch's ability to provide prompt and predictable access to justice in business and consumer civil cases, to improve the Judicial Branch's ability to reach small claims, disclosures and intermediate business and consumer matters in a timely fashion and to provide a more expeditious judicial means to resolve cases on the specialized civil docket as well as cases throughout the court system.

COMMITTEE AMENDMENT

H. of S.

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48

2. Goals. The goals of the specialized civil docket are:

A. To administer complex business and consumer disputes in a coordinated, efficient and responsive manner;

B. To afford convenient access to justice for consumers, entrepreneurs, attorneys, litigants and any person involved in business activities;

C. To provide greater certainty of trial date and resolution; and

D. To make available judicial resources for nonbusiness and nonconsumer case types.

3. Administration of specialized civil docket. The Supreme Judicial Court may adopt administrative orders or court rules governing the practice, procedure and administration of the specialized civil docket. These practices and procedures may include, but are not limited to, education for the parties, case management and referral services to mediation and other alternative dispute resolution techniques.

4. Administration of related dockets. The Supreme Judicial Court may seek recommendations from the Business and Consumer Specialized Civil Docket Advisory Committee or its successor concerning the prompt and predictable processing of small claims, disclosure and intermediate business and consumer cases.

5. Reporting. In March 2007 and March 2008, the Judicial Branch shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters on the progress of the specialized civil docket and its measurable outcomes.

6. Repeal. This chapter is repealed July 1, 2008.

PART B

Sec. B-1. Business and Consumer Specialized Civil Docket Advisory Committee established. The Business and Consumer Specialized Civil Docket Advisory Committee, referred to in this Part as "the advisory committee," is established to make recommendations to the Supreme Judicial Court concerning the development and implementation of the Business and Consumer Specialized Civil Docket pilot project established in the Maine Revised Statutes, Title 4, chapter 8-B.

ROS

2 **1. Membership; vacancies; chair.** Members of the advisory
committee, appointed to reflect the spectrum of stakeholders and
4 to represent the full range of interests in the development of
and success of the Business and Consumer Specialized Civil Docket
6 pilot project, remain members of the advisory committee for the
duration of the pilot project unless they become unable to serve.
8 In the event of a vacancy, the original appointing authority
shall appoint a replacement. Unless otherwise indicated, the
10 Chief Justice of the Supreme Judicial Court shall appoint all
members. The advisory committee consists of the following
members:

- 12 A. The State Court Administrator, or a designee, who serves
14 as the chair;
- 16 B. The Chief Justice of the Superior Court, or a designee;
- 18 C. The Chief Judge of the District Court, or a designee;
- 20 D. The Attorney General, or a designee, and one additional
22 designee from the Office of the Attorney General, appointed
by the Attorney General, with expertise in consumer matters;
- 24 E. One member of the Senate, appointed by the President of
the Senate;
- 26 F. One member of the House of Representatives, appointed by
28 the Speaker of the House of Representatives;
- 30 G. Six attorneys licensed to practice in the State. The
32 selection of the 6 must reflect consideration of both
diversity of geography and scope of practice follows:
- 34 (1) One attorney with experience in business
development matters;
- 36 (2) One attorney with experience representing small
38 businesses;
- 40 (3) One attorney with experience in antitrust matters;
- 42 (4) One attorney with experience in representing
consumers;
- 44 (5) One attorney with experience in representing
46 environmental organizations; and
- 48 (6) One attorney serving as a delegate from the Maine
State Bar Association;

H.018

2 H. Two members of the public who have expertise in and
3 represent the interests of Maine businesses, one of whom is
4 appointed by the President of the Senate and one of whom is
5 appointed by the Speaker of the House of Representatives; and

6
7 I. Two members of the public who represent the interests of
8 consumers, including, but not limited to, environmental
9 regulation, consumer advocacy and access to justice for
10 low-income and indigent citizens, one of whom is appointed
11 by the President of the Senate and one of whom is appointed
12 by the Speaker of the House of Representatives.

13
14 The Governor may, at the Governor's discretion, appoint one
15 member of the Executive Branch to serve as a member of the
16 advisory committee.

17
18 The Chief Justice of the Supreme Judicial Court may appoint
19 a liaison to the advisory committee.

20
21 **2. Appointments; convening of advisory committee.** All
22 appointments must be made no later than 30 days following the
23 effective date of this Part. The appointing authorities shall
24 notify the Chief Justice of the Supreme Judicial Court once all
25 appointments have been completed. Within 30 days after
26 appointment of all members, the chair shall call and convene the
27 first meeting of the advisory committee.

28
29 **3. Duties; reporting.** The advisory committee shall:

30
31 A. Recommend to the Supreme Judicial Court an
32 implementation plan for the Business and Consumer
33 Specialized Civil Docket pilot project to begin operations
34 January 1, 2006 in accordance with the Maine Revised
35 Statutes, Title 4, chapter 8-B;

36
37 B. Consider and make recommendations to the Supreme
38 Judicial Court concerning the case type assignments to the
39 specialized civil docket pursuant to paragraph A. The case
40 types assigned to the specialized civil docket may include,
41 but are not limited to, the following:

42
43 (1) The rights, duties and liabilities of equity
44 owners, managers, officers, trustees and partners of a
45 business entity;

46
47 (2) The formation, sale, purchase, merger or
48 conversion of a business entity;

49
50 (3) Conduct invoking antitrust laws or laws governing
unfair competition or interference with business or

H. 018

COMMITTEE AMENDMENT "A" to H.P. 1065, L.D. 1518

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

contractual relations or agreements or arrangements among businesses or between businesses and their agents or employees restraining competition;

(4) Complex commercial transactions, including those between businesses and consumers;

(5) Environmental claims that involve a business entity;

(6) Matters concerning state regulatory issues of business and industry brought by any party, including consumers;

(7) Claims involving mergers, consolidations, sales of assets, issuance of debt, equity and other like interests of business enterprise and not-for-profit institutions;

(8) Claims under the Uniform Commercial Code if the claims involve complex factual or legal issues or are likely to require complex case management;

(9) Claims arising from transactions with financial institutions, investment bankers, financial advisors, brokerage firms and mutual and money funds of all kinds if the claims involve complex factual or legal issues or are likely to require complex case management; and

(10) Commercial, technological or consumer issues of a complex or novel nature;

C. Recommend for consideration by the Civil Rules Advisory Committee rules governing the practice, procedure and administration of the specialized civil docket and submit all proposals to the Supreme Judicial Court for its consideration; and

D. After January 1, 2006, study available methods of increasing efficiency through implementation and use of technology by the courts and by litigants throughout the state court system. The advisory committee shall submit its report on this issue to the joint standing committee of the Legislature having jurisdiction over judiciary matters by March 1, 2007.

Sec. B-2. Appropriations and allocations. The following appropriations and allocations are made.

JUDICIAL DEPARTMENT

COMMITTEE AMENDMENT

H.06

COMMITTEE AMENDMENT "A" to H.P. 1065, L.D. 1518

2 **Courts - Supreme, Superior, District and Administrative 0063**

4 Initiative: Provides funds for 4 Trial Court Judge positions, 2
6 Law Clerk positions, 4 Court Security Officer positions, 4
8 Assistant Clerk positions, one Official Court Reporter position
and other related costs required to administer the proposed pilot
project within the Maine court system.

| | | | |
|----|-------------------------------|----------------|----------------|
| 10 | GENERAL FUND | 2005-06 | 2006-07 |
| | POSITIONS - LEGISLATIVE COUNT | 15.000 | 15.000 |
| 12 | Personal Services | \$568,295 | \$1,213,377 |
| | All Other | \$150,900 | \$54,800 |
| 14 | | <hr/> | <hr/> |
| | GENERAL FUND TOTAL | \$719,195 | \$1,268,177 |

| | | | |
|----|-------------------------------------|------------------|--------------------|
| 16 | JUDICIAL DEPARTMENT | | |
| 18 | DEPARTMENT TOTALS | 2005-06 | 2006-07 |
| 20 | GENERAL FUND | \$719,195 | \$1,268,177 |
| 22 | | <hr/> | <hr/> |
| 24 | DEPARTMENT TOTAL - ALL FUNDS | \$719,195 | \$1,268,177 |

26 **LEGISLATURE**

28 **Miscellaneous Studies 0444**

30 Initiative: Provides funds for the per diem and expenses of the
legislative members of the advisory committee.

| | | | |
|----|---------------------|----------------|----------------|
| 32 | GENERAL FUND | 2005-06 | 2006-07 |
| 34 | Personal Services | \$440 | \$440 |
| | All Other | \$400 | \$400 |
| 36 | | <hr/> | <hr/> |
| | GENERAL FUND TOTAL | \$840 | \$840 |

| | | | |
|----|-------------------------------------|----------------|----------------|
| 38 | LEGISLATURE | | |
| 40 | DEPARTMENT TOTALS | 2005-06 | 2006-07 |
| 42 | GENERAL FUND | \$840 | \$840 |
| 44 | | <hr/> | <hr/> |
| | DEPARTMENT TOTAL - ALL FUNDS | \$840 | \$840 |

| | | | |
|----|----------------------------------|------------------|---------------------|
| 46 | SECTION TOTALS | 2005-06 | 2006-07 |
| 48 | GENERAL FUND | \$720,035 | \$1,269,017 |
| 50 | | <hr/> | <hr/> |
| | SECTION TOTAL - ALL FUNDS | \$720,035 | \$1,269,017' |

COMMITTEE AMENDMENT

2

SUMMARY

4

6 This amendment replaces the bill. Part A of this amendment
establishes the Business and Consumer Specialized Civil Docket
8 pilot project within the Maine court system beginning January 1,
2006.

10

12 This pilot project is intended to assist all litigants,
regardless of area of law, in finding prompt resolution of
14 matters before the Court. Nothing in this initiative should be
construed to favor or cater to one type of litigant over
16 another. In addition, the purpose of this pilot project is to
provide resources for improved administration and resolution of
18 disputes concerning issues related to business activity in a
coordinated, responsive and speedy manner and to afford
20 convenient and timely access to justice for consumers,
entrepreneurs, attorneys and any other parties involved with
22 business activity while maintaining appropriate access to justice
for litigants in cases of all types. This amendment also
24 provides resources to enhance the courts' response to
intermediate business and consumer matters and small claims
cases.

26

28 Part B of the amendment establishes the Business and
Consumer Specialized Civil Docket Advisory Committee. The
advisory committee is designed to function as a partnership
30 between the legislative and judicial branches of government. The
advisory committee's purpose is to make recommendations to the
Supreme Judicial Court. The advisory committee, with membership
32 reflecting a spectrum of interests, will work to develop
proposals to implement the new pilot project, determine relevant
34 measurable outcomes and determine other areas of technology or
infrastructure that could add additional efficiencies throughout
36 Maine courts.

38

40

FISCAL NOTE REQUIRED
(See attached)



122nd MAINE LEGISLATURE

LD 1518

LR 0142(02)

An Act to Increase Access to Justice in Maine's Court System

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

| | 2005-06 | 2006-07 | Projections 2007-08 | Projections 2008-09 |
|-----------------------------------|-----------|-------------|------------------------|------------------------|
| Net Cost (Savings) | | | | |
| General Fund | \$720,035 | \$1,269,017 | \$1,300,721 | \$1,333,239 |
| Appropriations/Allocations | | | | |
| General Fund | \$720,035 | \$1,269,017 | \$1,300,721 | \$1,333,239 |

Fiscal Detail and Notes

This legislation establishes a Business and Consumer Specialized Civil Docket pilot project as well as a Business and Consumer Specialized Civil Docket Advisory Committee within the Maine court system. Additional General Fund appropriations of \$719,195 in fiscal year 2005-06 and \$1,268,177 in fiscal year 2006-07 to the Judicial Department are included to administer the proposed pilot project. This appropriation will provide funds for an additional 15 positions and related costs. The costs of participation in the Business and Consumer Specialized Civil Docket Advisory Committee can be absorbed within the department's current resources.

This legislation also includes a General Fund appropriation to the Legislature in the amount of \$840 in fiscal year 2005-06, fiscal year 2006-07 and fiscal year 2007-08. This appropriation will provide funds for the costs of paying the per diem and expenses of the legislative members of the Business and Consumer Specialized Civil Docket Advisory Committee.