

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2010

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Legislative Document

No. 1613

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H.P. 1141

House of Representatives, December 23, 2009

### **An Act To Modernize the Laws Governing the State's Cultural Agencies**

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

Received by the Clerk of the House on December 21, 2009. Referred to the Committee on Education and Cultural Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative PERCY of Phippsburg.  
Cosponsored by Senator SIMPSON of Androscoggin and  
Representatives: BERRY of Bowdoinham, FOSSEL of Alna, SAVIELLO of Wilton, SMITH  
of Monmouth, WATSON of Bath, Senators: DAMON of Hancock, DAVIS of Cumberland,  
GERZOFSKY of Cumberland.

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

2 **Sec. 1. 27 MRSA §83, sub-§6**, as enacted by PL 2007, c. 560, §4, is amended to  
3 read:

4 **6. Designate a private support organization.** To designate a nonprofit  
5 organization as the private support organization for the Maine State Museum. The  
6 designated organization must be incorporated as a nonprofit corporation under the laws of  
7 the State, and its sole purpose, as reflected in its bylaws, must be to organize and foster  
8 support for the Maine State Museum and the museum's programs.

9 The commission shall delegate authority to the Museum Director to permit, without  
10 charge and within the museum's financial means, the appropriate use of fixed property,  
11 equipment and facilities of the museum by the private support organization. Such use  
12 must be directly in keeping with the approved purposes of the private support  
13 organization and must comply with all appropriate state policies and procedures.

14 The commission's chair, or the chair's designee, and the Museum Director, or the  
15 director's designee, must be made nonvoting ex officio members of the private support  
16 organization's board of directors. Other members of the commission may serve in a  
17 nonvoting capacity on the board of the private support organization if such service is  
18 agreed to by the commission and private support organization's board of directors.

19 Subject to the approval of the commission and review by the joint standing committee of  
20 the Legislature having jurisdiction over education and cultural affairs, the Museum  
21 Director shall negotiate an annual memorandum of understanding between the museum  
22 and the private support organization that outlines a plan of work identifying priority  
23 projects of mutual benefit and cooperation.

24 **Sec. 2. 27 MRSA §83**, as amended by PL 2007, c. 560, §§2 to 4, is further  
25 amended by adding at the end a new paragraph to read:

26 The commission shall meet at least 4 times annually and shall make minutes of its  
27 meetings available to the public.

28 **Sec. 3. 27 MRSA §84-A**, as amended by PL 1991, c. 591, Pt. E, §30, is further  
29 amended to read:

30 **§84-A. Museum director; appointment**

31 The Director of the Maine State Museum Commission must be qualified by training  
32 or by experience in museum work and is appointed by the Maine State Museum  
33 Commission subject to review by the joint standing committee of the Legislature having  
34 jurisdiction over education and cultural affairs and to confirmation by the Legislature.  
35 The director must be chosen without reference to party affiliation and solely on the  
36 ground of professional competence to perform the director's duties. The director serves a  
37 term of 6 years from the date of the appointment and until a successor has been appointed  
38 and qualified. The director shall serve for an indefinite term, subject to removal for  
39 cause. The commission shall fix compensation for the director within salary range 88.

1           **Sec. 4. 27 MRSA §111, sub-§1**, as amended by PL 1993, c. 349, §57, is further  
2 amended to read:

3           **1. Maine Library Commission.** There is created the Maine Library Commission,  
4 as established by Title 5, section 12004-G, subsection 7-E. It consists of 15 members  
5 appointed by the Governor. The library commission must be broadly representative of the  
6 State's libraries and consist of a representative from public, school, academic, special,  
7 institutional and handicapped libraries, a trustee representative, one representative from  
8 each of the library districts as they are formed and 3 representatives from the State at  
9 large of whom one must be a representative of the disadvantaged.

10          The term of each appointed member shall be 5 years or until a successor is appointed and  
11 qualified. Of the members first appointed, 3 shall be for one year, 3 for 2 years, 3 for 3  
12 years, 3 for 4 years and 3 for 5 years. Subsequent appointments shall be for the full term  
13 of 5 years. No members may serve more than 2 successive terms. In the case of a vacancy  
14 other than the expiration of a term, the appointment of a successor shall be made in like  
15 manner for the balance of the term.

16          In addition to the 15 appointed members, the directors of the area reference and resource  
17 centers shall serve as permanent, nonvoting ex officio members of the Maine Library  
18 Commission.

19          The commission shall meet at least 4 times a year. It shall elect a chair and vice-chair for  
20 terms of 2 years and frame and modify bylaws for its internal organization and operation.  
21 The State Librarian shall serve as secretary to the commission. The members of the  
22 commission shall be compensated according to the provisions of Title 5, chapter 379.  
23 The commission shall make minutes of its meetings available to the public.

24           **Sec. 5. 27 MRSA §112, sub-§1**, as amended by PL 1991, c. 528, Pt. E, §31 and  
25 affected by Pt. RRR and amended by c. 591, Pt. E, §31, is further amended to read:

26           **1. Appointment of State Librarian.** Appoint the State Librarian subject to review  
27 by the joint standing committee of the Legislature having jurisdiction over education and  
28 cultural affairs and to confirmation by the Legislature. The State Librarian must be  
29 qualified through training or experience in library work. The State Librarian ~~shall serve~~  
30 ~~for an indefinite term, subject to removal for cause~~ serves a term of 6 years from the date  
31 of appointment and until a successor has been appointed and qualified. The commission  
32 shall fix compensation for the State Librarian within salary range 88;

33           **Sec. 6. 27 MRSA §261**, as repealed and replaced by PL 1999, c. 706, §5, is  
34 amended to read:

35 **§261. Appointment**

36          The Governor shall appoint the State Historian subject to review by the joint standing  
37 committee of the Legislature having jurisdiction over education and cultural affairs and to  
38 confirmation by the Legislature. The State Historian must be a resident of the State, a  
39 member of an historical society in the State and distinguished as a researcher, writer,  
40 lecturer or teacher of Maine history. In making the appointment, the Governor shall  
41 consider any recommendation for the position by the Maine State Cultural Affairs

1 Council. ~~The term of appointment for the State Historian is 4 years or until a successor is~~  
2 ~~appointed and qualified. The State Historian must be chosen without reference to party~~  
3 ~~affiliation and solely on the ground of professional competence to perform the State~~  
4 ~~Historian's duties. The State Historian serves a term of 6 years from the date of the~~  
5 ~~appointment and until a successor has been appointed and qualified. Reappointment is~~  
6 permitted.

7 **Sec. 7. 27 MRSA §403-A**, as amended by PL 1991, c. 591, Pt. E, §32, is further  
8 amended to read:

9 **§403-A. Director of Maine Arts Commission; appointment**

10 The Director of the Maine Arts Commission must be qualified by training or  
11 experience and is appointed by the Maine Arts Commission subject to review by the joint  
12 standing committee of the Legislature having jurisdiction over education and cultural  
13 affairs and to confirmation by the Legislature. The director shall serve for an indefinite  
14 term subject to removal for cause. The director must be chosen without reference to party  
15 affiliation and solely on the ground of professional competence to perform the director's  
16 duties. The director serves a term of 6 years from the date of the appointment and until a  
17 successor has been appointed and qualified. The commission shall fix compensation for  
18 the director within salary range 88.

19 **Sec. 8. 27 MRSA §404**, as amended by PL 1987, c. 816, Pt. EE, §7, is further  
20 amended by adding at the end a new paragraph to read:

21 The commission shall meet at least 4 times a year and shall make minutes of its  
22 meetings available to the public.

23 **Sec. 9. 27 MRSA §504**, as amended by PL 1989, c. 647, §1, is further amended by  
24 adding at the end a new paragraph to read:

25 The commission shall meet at least 4 times a year and shall make minutes of its  
26 meetings available to the public.

27 **Sec. 10. 27 MRSA §505, sub-§1**, as amended by PL 1991, c. 528, Pt. E, §33 and  
28 affected by Pt. RRR and amended by c. 591, Pt. E, §33, is further amended to read:

29 **1. Appointment.** The Maine Historic Preservation Commission may appoint a  
30 director ~~who~~ subject to review by the joint standing committee of the Legislature having  
31 jurisdiction over education and cultural affairs and to confirmation by the Legislature.  
32 The director must be qualified by special training or experience in the field of historic  
33 preservation and who shall must also serve as the State Historic Preservation Officer  
34 upon appointment by the Governor and is subject to removal for cause under the Civil  
35 Service Law. The director serves a term of 6 years from the date of appointment and  
36 until a successor has been appointed and qualified. The commission shall fix  
37 compensation for the director within salary range 88.

38 **Sec. 11. 27 MRSA §552**, as enacted by PL 1989, c. 700, Pt. B, §42, is amended to  
39 read:

1           **§552. Maine State Cultural Affairs Council**

2           The Maine State Cultural Affairs Council, as established in Title 5, section 12004-G,  
3 subsection 7-A, shall ensure a coordinated, integrated system of cultural resources  
4 programs and projects and shall ensure the support of cultural heritage institutions and  
5 activities of the State. The council shall hold public meetings at least 4 times each year  
6 and make minutes of those meetings available to the public.

7           **Sec. 12. 27 MRSA §557, sub-§2-A** is enacted to read:

8           **2-A. Catalog of holdings.** A list that identifies all items held by the cultural  
9 agencies;

10          **Sec. 13. Reviews; legislation.** The following reviews must be conducted relating  
11 to the Maine Arts Commission, the Maine Historic Preservation Commission, the Maine  
12 Library Commission, the Maine State Museum Commission, the Maine Humanities  
13 Council, the Maine Historical Society and the Maine State Archives, referred to in this  
14 section as "the cultural agencies."

15          **1. Modernize statutes.** The cultural agencies shall individually review the statutes  
16 governing their operations and responsibilities to determine all changes that are necessary  
17 to ensure that those statutes are adequate to meet the needs of the State in the 21st  
18 century. Each agency shall submit the results of its review and recommended legislation  
19 to the joint standing committee of the Legislature having jurisdiction over education and  
20 cultural affairs by January 15, 2011. The joint standing committee may submit  
21 legislation related to this review to the First Regular Session of the 125th Legislature.

22          **2. Administrative structure.** The joint standing committee of the Legislature  
23 having jurisdiction over education and cultural affairs, the cultural agencies, the  
24 Department of Education and the Department of Administrative and Financial Services  
25 shall work together to determine whether the cultural agencies should be under the  
26 jurisdiction of the Department of Education and whether a position of deputy  
27 commissioner of cultural affairs should be created within the Department of Education  
28 for the purposes of administering the affairs of the cultural agencies, ensuring operational  
29 efficiency, avoiding duplication of functions and serving as chair of the Maine State  
30 Cultural Affairs Council. The participating agencies shall recommend whether to transfer  
31 the cultural agencies to the Department of Education and establish the position of deputy  
32 commissioner of cultural affairs and shall include a method of funding such a position  
33 within existing resources. The joint standing committee may appoint a subcommittee to  
34 participate in this review. Meetings may be held only on days when legislative members  
35 are eligible for per diems or reimbursement for expenses for other purposes. The joint  
36 standing committee of the Legislature having jurisdiction over education and cultural  
37 affairs may submit legislation related to this review to the First Regular Session of the  
38 125th Legislature.

## SUMMARY

1  
2 This bill provides for further implementation of recommendations contained in the  
3 State Controller's audit of the Maine State Library, the Maine Arts Commission, the  
4 Maine State Museum Commission and the Maine Historic Preservation Commission to  
5 provide greater accountability and transparency in the conduct of the work of those  
6 agencies. The bill directs the cultural agencies to recommend legislation to modernize  
7 the laws related to those agencies. The bill directs the joint standing committee of the  
8 Legislature having jurisdiction over education and cultural affairs to work with the  
9 agencies, the Department of Education and the Department of Administrative and  
10 Financial Services to determine whether to establish a new position of deputy  
11 commissioner for cultural affairs within the Department of Education and place the  
12 cultural agencies under the jurisdiction of that department. The bill also makes changes  
13 to the appointment process for certain members overseeing the agencies, specifies the  
14 terms for members of and permissible reappointments for certain commissions and  
15 strengthens public access to records of the commissions.