

MAINE STATE LEGISLATURE

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Date: 3/20/12

(Filing No. H-803)

LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 256, L.D. 323, Bill, "An Act To Implement a Coordinated Strategy To Attract New Businesses, Expand Existing Businesses and Develop a Consistent and Recognizable Maine Brand"

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 5 MRSA §12004-I, sub-§87, as corrected by RR 1995, c. 2, §10, is repealed.

Sec. 2. 5 MRSA §13056-A, as enacted by PL 2007, c. 434, §1, is amended to read:

§13056-A. Comprehensive evaluation of state investments in economic development

By ~~November 1, 2007~~ February 1, 2013, the commissioner shall develop and submit to the Governor and the Legislature a plan for the comprehensive evaluation of state investments in economic development. Beginning February 1, ~~2009~~ 2014, the commissioner shall submit ~~an annual~~ a biennial comprehensive evaluation of state investments in economic development, not to include programs evaluated pursuant to section 13107 or those independent evaluations required by federal programs, to the Governor and the Legislature. The evaluation must:

1. Outcome measures. Establish and report on outcome measures considered appropriate by public and private practitioners inside and outside of this State in the field of economic development, including measures that assess the overall economic performance of the programs to be evaluated under subsection 1-A, as demonstrated by the number of jobs created and wages paid that are attributable to the program, and any state revenues that are attributable to the activities of the program;

1-A. Programs identified for evaluation. Include, but is not limited to, the review of the following programs: the Maine Employment Tax Increment Financing Program, pursuant to Title 36, chapter 917; the Governor's Training Initiative Program, pursuant to Title 26, section 2031; the Loring Development Authority of Maine, pursuant to Title 5, section 13080; the visual media production certification program, pursuant to Title 5,

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1 section 13090-L; the promotion and marketing of state products through the department,
2 pursuant to Title 5, section 13062; the Maine International Trade Center, pursuant to
3 Title 10, section 945; municipal tax increment financing, pursuant to Title 30-A, section
4 5227; and the pine tree development zone program, pursuant to Title 30-A, section
5 5250-J;

6 **2. Reviewers.** Use independent, nonpartisan reviewers to assess the effect of
7 economic development activities on the competitiveness of industry sectors in this State;
8 and

9 **3. Recommendations.** Include recommendations to the Legislature on existing and
10 proposed state-supported economic development programs and activities to affect
11 economic development in this State.

12 **Sec. 3. 5 MRSA §13056-C, sub-§3,** as amended by PL 2009, c. 337, §2, is
13 further amended to read:

14 **3. Payments to fund.** Notwithstanding section 1585 or any other provision of law,
15 the department shall assess agencies or private entities that receive General Fund
16 appropriations or general obligation bonds for economic development an amount for
17 contribution to the fund that is not to exceed ~~0.08%~~ 0.8% of General Fund appropriations
18 received by or general obligation bonds issued to an agency or entity for economic
19 development efforts. Private entities that receive funds from general obligation bonds for
20 economic development efforts shall pay to the Treasurer of State in the fiscal year in
21 which the general obligation bond was issued an assessment amount determined by the
22 department that is not to exceed ~~0.08%~~ 0.8% of the proceeds from the bond issue in any
23 fiscal year, which payment must be made from available resources other than bond
24 proceeds. Only those programs that receive \$250,000 or more in economic development
25 appropriations in any fiscal year or those entities that receive funds from a general
26 obligation bond issue of \$250,000 or more for economic development efforts in any fiscal
27 year, as identified and certified by the department and the Office of Fiscal and Program
28 Review, may be assessed pursuant to this subsection. The department shall provide to
29 each agency or private entity an annual budget for the fund and a detailed account of each
30 institution's required assessment. Total payments made pursuant to this section may not
31 exceed \$200,000 in any fiscal year.

32 **Sec. 4. 5 MRSA §13090-C, sub-§1,** as amended by PL 2003, c. 198, §6, is
33 further amended to read:

34 **1. Tourism; establishment.** The Office of Tourism shall administer a program to
35 support and expand the tourism industry and promote the State as a tourist destination.
36 The Director of the Office of Tourism shall administer the office in accordance with the
37 policies of the commissioner and the provisions of this article. The office includes the
38 ~~Maine Tourism Commission and the~~ Maine State Film Commission.

39 **Sec. 5. 5 MRSA §13090-E, sub-§§1 and 2,** as amended by PL 2003, c. 198, §9,
40 are further amended to read:

41 **1. Development.** The Office of Tourism with input from the tourism industry shall
42 develop a 5-year marketing and development strategy for state tourism growth that
43 maximizes the effectiveness of state and private sector contributions in attracting visitors
44 to the State and increasing tourism-based revenues. The strategy must incorporate

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1 components of direct marketing in maintenance and primary markets, matching grants
2 programs, trade markets, regional development and research.

3 **2. Administration.** The Office of Tourism shall administer the components of the
4 strategy after development. Administration includes development of new markets,
5 creation of an image of the State to entice visitor inquiries and provision of appropriate
6 technical assistance and response mechanisms. The Office of Tourism shall support
7 staffing of the visitor information centers and fulfill tourism information requests and
8 shall work in partnership with the tourism industry in the State in administering the
9 strategy. The Office of Tourism shall seek direct input and consultation from the tourism
10 industry on the Office of Tourism's marketing and promotional plans and collaborate with
11 tourism regions and industry sectors to accomplish the goals identified in the marketing
12 and promotional plans and the marketing and development strategy required under
13 subsection 1, including, but not limited to, the outdoor recreation industry, the lodging
14 industry, the restaurant industry, representatives of large landowners, campground
15 organizations, the transportation industry, the retail industry, cultural organizations,
16 tourism destination marketing organizations, private businesses, statewide tourism
17 associations and nonprofit organizations. The Office of Tourism shall seek tourism
18 industry input in other areas the commissioner considers appropriate and necessary to
19 ensure the successful implementation of this section. The Office of Tourism shall
20 provide a quarterly presentation of its activities under this section beginning January 1,
21 2013 to tourism industry stakeholders and provide an annual report to the Governor and
22 the Legislature summarizing the goals and achievements of the Office of Tourism.

23 **Sec. 6. 5 MRSA §13090-F**, as amended by PL 2009, c. 211, Pt. B, §2, is repealed.

24 **Sec. 7. 5 MRSA §13090-G, sub-§4**, as amended by PL 2003, c. 198, §12, is
25 further amended to read:

26 **4. Administration.** The Office of Tourism in consultation with the tourism industry
27 shall administer the Travel Promotion Matching Fund Program with such flexibility as to
28 bring about the most effective and economical travel promotion program possible.
29 Applications from all regions of the State must be equally considered. The ~~Maine~~
30 ~~Tourism Commission~~ Office of Tourism shall ~~recommend~~ consult with the tourism
31 industry in the development of rules and procedures necessary and appropriate to the
32 proper operation of the Travel Promotion Matching Fund Program. These rules must
33 establish eligibility requirements, allocation formulas, application procedures and criteria
34 subject to the final approval of the commissioner. The ~~Maine Tourism Commission~~
35 Office of Tourism, in consultation with the tourism industry, shall establish a schedule
36 and process for review and approval of grant applications and ~~make timely~~
37 ~~recommendations of grant awards to the Office of Tourism.~~ Grants ~~recommended by the~~
38 ~~Maine Tourism Commission to the Office of Tourism~~ must be approved by the Director
39 of the Office of Tourism prior to any disbursement of funds.

40 **Sec. 8. 5 MRSA §13107, first ¶**, as amended by PL 2007, c. 420, §4, is further
41 amended to read:

42 The office shall develop and submit to the Governor and the Legislature by July 1,
43 ~~2006~~ 2012 and on July 1st every ~~5~~ 6 years thereafter an evaluation of state investments in
44 research and development, as well as ~~an annual~~ a progress report from the office and the

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1 independent reviewers under subsection 2 beginning on February 1, 2008 2014 and on
2 February 1st every even-numbered year thereafter. The evaluation must:

3 **Sec. 9. 5 MRSA §13107, last ¶**, as enacted by PL 2007, c. 420, §4, is amended to
4 read:

5 By February 1, 2008 2014 and by February 1st every even-numbered year thereafter,
6 the office and the independent reviewers under subsection 2 shall submit to the Governor
7 and the Legislature a progress report related to the ~~5-year~~ 6-year evaluation required
8 under this section. The independent reviewers must incorporate the goals and objectives
9 described in the State's innovation economy action plan, as described in Title 10, chapter
10 107-D, in their analysis of the success of the State's investments in research and
11 development.

12 **Sec. 10. 5 MRSA §13120-A, first ¶**, as amended by PL 2003, c. 281, §1, is
13 further amended to read:

14 The Maine Rural Development Authority, as established by section 12004-F,
15 subsection 18 and referred to in this subchapter as the "authority," is a body both
16 corporate and politic and a public instrumentality of the State established for the purpose
17 of providing loans to communities for the development of commercial facilities on a
18 speculative basis and for serving as lender or investor in the acquisition, development,
19 redevelopment and sale of commercial facilities in areas where economic needs are not
20 supported by private investment. The authority may also provide loans to businesses that
21 currently do not own real estate and that are not supported by private investment.

22 **Sec. 11. 5 MRSA §13120-P, sub-§2**, as amended by PL 2005, c. 425, §18, is
23 further amended to read:

24 **2. Redevelopment of property.** Except as provided in section 13120-Q, the
25 authority may undertake the redevelopment of property as an owner or lender for
26 subsequent use and sale under the following conditions:

- 27 A. The property has been previously and materially used as a commercial facility or
28 the property is suitable for adaptive use as a commercial or industrial facility;
- 29 B. The property is currently not in productive commercial use or is expected to be
30 taken out of productive commercial use within the immediate future;
- 31 C. The property has not been placed under a purchase option or contract;
- 32 D. The authority, using due diligence, has determined that:
 - 33 (1) There is a reasonable expectation that the property will become financially
34 viable following its redevelopment; and
 - 35 (2) The economic benefits, including the restoration of employment
36 opportunities, expected to result from the redevelopment justify the risks
37 associated with the authority's equity, security or other interest in the property;
38 and
- 39 E. The municipality, local development corporation or another entity will provide
40 funding for the project equal to 25% of the funding that the authority provides to the
41 project.

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1 The authority may finance undeveloped land or personal property only if the undeveloped
2 land or personal property is part of the overall redevelopment project. The authority may
3 take custody of any machinery and equipment held as collateral for a loan issued to the
4 commercial facility being redeveloped.

5 **Sec. 12. 5 MRSA §13120-P, sub-§3**, as amended by PL 2005, c. 425, §18, is
6 further amended to read:

7 **3. Development of property.** Except as provided in section 13120-Q, the authority
8 may undertake the development of property as an owner or lender for subsequent use and
9 sale under the following conditions:

10 A. The property consists of real estate that is zoned, sited or otherwise suitable for
11 development as a commercial facility;

12 B. The property is currently not in productive commercial use;

13 C. The property has not been placed under a purchase option or contract;

14 D. The authority, using due diligence, has determined that:

15 (1) There is a reasonable expectation that the property will become financially
16 viable following its development;

17 (2) The development of the property will create employment opportunities and
18 other economic benefits within the region; and

19 (3) The economic benefits expected to result from the development justify the
20 risks associated with the authority's equity, loan or other interest in the property;
21 and

22 E. The municipality, local development corporation or another entity will provide
23 funding for the project equal to 25% of the funding that the authority provides to the
24 project.

25 The authority may finance undeveloped land or personal property only if the undeveloped
26 land or personal property is part of the overall development project. The authority may
27 take custody of any machinery and equipment held as collateral for a loan issued to the
28 commercial facility being redeveloped.

29 **Sec. 13. 36 MRSA §5219-GG, sub-§1, ¶G**, as enacted by PL 2011, c. 380, Pt.
30 Q, §6 and affected by §7, is amended to read:

31 G. "Qualified active low-income community business" has the same meaning as in
32 the Code, Section 45D: and includes any entity making an investment under this
33 section if, for the most recent calendar year ending prior to the date of the investment:

34 (1) At least 50% of the total gross income of the entity was derived from the
35 active conduct of business activity of the entity within any municipality where
36 the average annual unemployment rate for that year was higher than the state
37 average unemployment rate;

38 (2) A substantial portion of the use of the tangible property of the entity was
39 within any location of the State where the average annual unemployment rate for
40 that year was higher than the state average unemployment rate; or

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(3) A substantial portion of the services performed by the entity by its employees was performed in a municipality where the average annual unemployment rate for that year was higher than the state average unemployment rate.

Sec. 14. Commissioner of Economic and Community Development to convene meetings to streamline marketing efforts. Beginning August 1, 2012, the Commissioner of Economic and Community Development shall convene at least 5 meetings by December 15, 2012 with marketing personnel from the following state agencies: the Department of Agriculture, Food and Rural Resources; the Department of Labor; the Department of Environmental Protection; the Department of Education; the Department of Conservation; the Department of Inland Fisheries and Wildlife; the Department of Marine Resources; and the Department of Transportation. The Commissioner of Economic and Community Development shall gather information at the meetings regarding the marketing efforts, budgets and strategies used by these agencies in order to determine if the State can market its products and services more efficiently. The Commissioner of Economic and Community Development shall provide a report with recommendations for streamlining the State's marketing efforts to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters no later than February 1, 2013. The joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters is authorized to report out a bill to implement the recommendations to the First Regular Session of the 126th Legislature.'

SUMMARY

This amendment replaces the bill, which was a concept draft. It amends the provisions governing the Commissioner of Economic and Community Development's comprehensive economic development evaluation by changing the report's outcome measures to include measures that assess the overall economic performance of the program being evaluated, as demonstrated by the number of jobs created and wages paid by the agency or entity and any state revenues that are attributable to the activities of the agency or entity. It specifies that the economic development evaluation must include, but is not limited to, a review of the following programs: the Maine Employment Tax increment Financing Program, pursuant to the Maine Revised Statutes, Title 36, chapter 917; the Governor's Training Initiative Program, pursuant to Title 26, section 2031; the Loring Development Authority of Maine, pursuant to Title 5, section 13080; the visual media production certification program, pursuant to Title 5, section 13090-L; the promotion and marketing of state products through the Department of Economic and Community Development, pursuant to Title 5, section 13062; the Maine International Trade Center, pursuant to Title 10, section 945; municipal tax increment financing, pursuant to Title 30-A, section 5227; and the pine tree development zone program, pursuant to Title 30-A, section 5250-J. It also changes the economic development evaluation from an annual to a biennial report, requires the independent reviewers to also be nonpartisan reviewers, makes a technical correction to the funding mechanism for the evaluation and aligns the reporting dates with the research and development evaluation.

The amendment eliminates the Maine Tourism Commission and requires the Department of Economic and Community Development, Office of Tourism to seek direct

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1 input and consultation from the tourism industry on its marketing and promotional plans
2 and to collaborate with tourism regions and industry sectors to accomplish the goals
3 identified in its marketing and promotional plans and the marketing and development
4 strategy. It also requires the Office of Tourism to seek tourism industry input in other
5 areas the Commissioner of Economic and Community Development considers
6 appropriate and necessary. It also requires the Office of Tourism to provide a quarterly
7 presentation beginning January 1, 2014 to the tourism industry stakeholders and provide
8 an annual report to the Governor and the Legislature summarizing the goals and
9 achievements of the office.

10 The amendment changes the Department of Economic and Community Development,
11 Office of Innovation's comprehensive research and development evaluation from a 5-year
12 to a 6-year evaluation and changes its progress report from an annual to a biennial report.

13 The amendment amends the laws governing the Maine Rural Development Authority
14 to allow the authority to also provide loans to businesses that currently do not own real
15 estate and that are not supported by private investment and allows the authority to collect
16 any machinery and equipment that is being held as collateral for a loan issued to a
17 specific business.

18 The amendment expands the definition of "qualified active low-income community
19 business" within the laws governing the new markets capital investment credit to allow a
20 business to qualify for the credit if it meets specific requirements for activity within
21 municipalities where the average annual unemployment rate is higher than the state
22 average unemployment rate.

23 The amendment requires the Commissioner of Economic and Community
24 Development beginning August 1, 2012 to convene at least 5 meetings with marketing
25 personnel from the following state agencies: the Department of Agriculture, Food and
26 Rural Resources; the Department of Labor; the Department of Environmental Protection;
27 the Department of Education; the Department of Conservation; the Department of Inland
28 Fisheries and Wildlife; the Department of Marine Resources; and the Department of
29 Transportation. It requires the commissioner to gather information at the meetings
30 regarding the marketing efforts, budgets and strategies used by these agencies in order to
31 determine if the State can market its products and services more efficiently. It authorizes
32 the joint standing committee of the Legislature having jurisdiction over labor, commerce,
33 research and economic development matters to report out a bill to the First Regular
34 Session of the 126th Legislature.

35

36

FISCAL NOTE REQUIRED

37

(See attached)

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125th MAINE LEGISLATURE

LD 323

LR 402(02)

An Act To Implement a Coordinated Strategy To Attract New Businesses, Expand Existing Businesses and Develop a Consistent and Recognizable Maine Brand

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-803)
Committee: Labor, Commerce, Research and Economic Development

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Additional costs to the Department of Economic and Community Development associated with conducting the required meetings and to the Office of Tourism, within the department, to seek the required input from the tourism industry and to provide the quarterly presentation can be absorbed within existing budgeted resources.

Additional costs to the Department of Labor, the Department of Education, the Department of Agriculture, Food and Rural Resources, the Department of Conservation, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Environmental Protection and the Department of Transportation to participate in the 5 monthly meetings can be absorbed within each department's existing budgeted resources.