

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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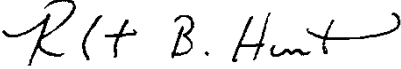
H.P. 334

House of Representatives, February 24, 2015

**An Act To Make Minor Nonsubstantive Changes to the Laws  
Affecting the Office of the State Auditor**

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Submitted by the Office of the State Auditor pursuant to Joint Rule 204.  
Reference to the Committee on State and Local Government suggested and ordered printed.

  
ROBERT B. HUNT  
Clerk

Presented by Representative MARTIN of Sinclair.  
Cosponsored by Senator WILLETTE of Aroostook and  
Representative: BRYANT of Windham, Senator: LIBBY of Androscoggin.

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

2 **Sec. 1. 4 MRSA §163, sub-§1**, as amended by PL 2007, c. 377, §2 and affected  
3 by §17, is further amended to read:

4 **1. District Court funds.** Except as otherwise provided by law, all fines, forfeitures,  
5 surcharges, assessments and fees collected in any division of the District Court or by the  
6 violations bureau must be paid to the clerk of that District Court, who shall deposit them  
7 in a special account in a timely manner. Once each month, the clerk shall remit the sums  
8 to the Treasurer of State, who shall credit them to the General Fund. At the same time,  
9 the clerk shall remit the sums that have been collected in accordance with section 1057;  
10 Title 5, chapter 316-A; Title 7, section 3910-A; Title 17, section 1015; Title 29-A, section  
11 2411, subsection 7; former Title 34-A, section 1210-A, subsection 9; and Title 34-A,  
12 section 1210-B, subsection 6. Funds received by the clerk as bail in criminal cases must  
13 be deposited daily in a special account. The clerk shall deposit the funds in an interest-  
14 bearing account unless the clerk determines that it is not cost-effective to do so. Interest  
15 accrued in the account is the property of and accrues to the State. The forfeiture and  
16 setoff of bail is governed as otherwise provided by law.

17 ~~The court shall file a monthly report with the State Auditor itemizing the amount of fines,~~  
18 ~~surcharges and assessments imposed and to whom each is payable.~~

19 **Sec. 2. 4 MRSA §554**, as amended by PL 1991, c. 132, §3, is further amended to  
20 read:

21 **§554. Accounting by clerks**

22 Clerks of judicial courts shall account monthly ~~under oath to the State Auditor~~ for all  
23 fees received by them or payable to them by virtue of their office, except those portions  
24 of fees collected for passports and naturalization proceedings that are payable to the  
25 Federal Government, specify the items and pay the whole amount of the same to the  
26 Treasurer of State at such times and in such manner as the Chief Justice of the Superior  
27 Court or the Chief Justice's designee ~~shall~~ from time to time ~~specify~~ specifies.

28 **Sec. 3. 5 MRSA §241, 2nd ¶**, as enacted by PL 1997, c. 516, §1, is amended to  
29 read:

30 If a person elected to the office of State Auditor is not qualified as, or has not  
31 successfully completed or passed the examination for, a certified public accountant,  
32 ~~public accountant~~ certified information systems auditor or certified internal auditor at the  
33 time of election and fails to become so qualified within 9 months of being sworn into  
34 office, as required by section 242, that person may no longer serve as State Auditor and is  
35 ineligible for reelection by the same Legislature and the office of State Auditor is deemed  
36 vacant.

37 **Sec. 4. 5 MRSA §242, 2nd ¶**, as amended by PL 2013, c. 16, §2, is further  
38 amended to read:

1 Any person elected to the position of State Auditor or any person permanently  
2 employed by the Office of the State Auditor as deputy auditor, director of audits or  
3 assistant director of audits must be currently qualified as or have successfully completed  
4 or passed the examination for a certified public accountant, ~~public accountant~~ certified  
5 information systems auditor or certified internal auditor. Persons not so qualified may be  
6 employed in these audit supervisory positions on a temporary basis not to exceed 9  
7 months.

8 **Sec. 5. 15 MRSA §1943**, as amended by PL 1979, c. 663, §108 and PL 2013, c.  
9 16, §10, is further amended to read:

10 **§1943. Fines, costs and forfeitures in Superior Court**

11 Every clerk of a Superior Court shall render under oath a detailed account of all fines,  
12 costs and forfeitures upon convictions and sentences before ~~him, on forms prescribed by~~  
13 ~~the Office of the State Auditor,~~ the court and shall pay them into the State Treasury on or  
14 before the 15th day of the month following the collection of such fines, costs and  
15 forfeitures. Any person who fails to make such payments into the State Treasury ~~shall~~  
16 ~~forfeit~~ forfeits, in each instance, double the amount so neglected to be paid over, to be  
17 recovered by indictment for the persons entitled to such fines, costs and forfeitures, and in  
18 default of payment, that person is guilty of a Class E crime.

19 **Sec. 6. 30-A MRSA §1654**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C,  
20 §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10 and PL 2013,  
21 c. 16, §10, is further amended to read:

22 **§1654. Supplies for jails; accounts audited**

23 The county commissioners of the several counties shall, without extra charge or  
24 commission to themselves or to any other person, procure all necessary supplies,  
25 including necessary food, fuel, bedding and clothing for the jails and the prisoners in the  
26 jails, to be furnished and purchased under their direction and at the expense of the  
27 counties. ~~No~~ A county commissioner may not be interested directly or indirectly in the  
28 purchase of any such supplies or in any contract for such supplies made by the board of  
29 which and while ~~he~~ the county commissioner is a member, and all contracts made in  
30 violation of this provision are void. A suitable person ~~shall~~ must be employed to prepare  
31 the foods of the prisoners in each county at the expense of the county. The service of the  
32 food to the prisoners is under the general direction of the jailer, master or keeper. The  
33 sheriff shall appoint the person employed to prepare the food of the prisoners subject to  
34 the approval of the county commissioners. The county commissioners may at any time  
35 direct specific rations or articles of food, clothing, soap, fuel or other necessities to be  
36 provided to the prisoners. The bills and accounts for supplies furnished and the items of  
37 expense incurred in preparing and serving these supplies ~~shall~~ must be audited ~~by the~~  
38 ~~Office of the State Auditor, as provided by Title 5, section 243, subsection 2 pursuant to~~  
39 section 951.

40 **Sec. 7. 30-A MRSA §4910**, as amended by PL 1997, c. 125, §1 and PL 2013, c.  
41 16, §10, is further amended to read:

1           **§4910. Annual report**

2           The director of the Maine State Housing Authority shall prepare and submit to the  
3 Governor and the bank superintendent annually a complete report and a complete  
4 financial report duly audited and certified by the Office of the State Auditor or a ~~qualified~~  
5 certified public accountant to be distributed in the same way as state departmental reports.

6           **Sec. 8. 30-A MRSA §5685, sub-§5, ¶E**, as enacted by PL 1993, c. 351, §1, is  
7 repealed.

8           **Sec. 9. 30-A MRSA §5706, sub-§1, ¶A**, as amended by PL 1995, c. 206, §1 and  
9 PL 2013, c. 16, §10, is further amended to read:

10           A. Accounts and deposits exceeding an amount equal to 25% of the capital, surplus  
11 and undivided profits of any trust company or national bank or a sum exceeding an  
12 amount equal to 25% of the reserve fund and undivided profit account of a mutual  
13 savings bank or state or federal savings and loan association on deposit at any one  
14 time must be secured by the pledge of certain securities as collateral, or fully covered  
15 by insurance.

16           (1) The collateral must be in an amount equal to the excess deposit. The  
17 municipal officers shall determine the value of the pledged securities on the basis  
18 of market value and shall review the value of the pledged securities on the first  
19 business day of January and July of each year.

20           (2) The collateral may consist only of securities in which municipalities may  
21 invest, as provided in article 2. The securities must be held in a depository  
22 institution approved by the municipal officers and pledged to indemnify the  
23 municipalities against any loss. The depository institution shall notify the  
24 municipal officers of the pledging when the securities are deposited ~~and shall~~  
25 ~~mail a copy of the notice to the Office of the State Auditor;~~

26           **Sec. 10. 30-A MRSA §5823, first ¶**, as enacted by PL 1987, c. 737, Pt. A, §2 and  
27 Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10 and PL  
28 2013, c. 16, §10, is further amended to read:

29           Each municipality and quasi-municipal corporation shall have an annual postaudit  
30 made of its accounts covering the last complete fiscal year by the Office of the State  
31 Auditor or by a ~~qualified~~ certified public accountant elected by ballot or engaged by its  
32 officers. The officers shall notify the State Auditor of the name and address of the  
33 auditor within 30 days after the auditor is elected or engaged. The postaudit ~~shall~~ must be  
34 conducted ~~on the basis of~~ according to government auditing standards ~~and procedures~~  
35 ~~prescribed promulgated~~ by the ~~State Auditor~~ United States Government Accountability  
36 Office.

37           **Sec. 11. 30-A MRSA §5823, sub-§1**, as enacted by PL 1987, c. 737, Pt. A, §2  
38 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10 and  
39 PL 2013, c. 16, §10, is further amended to read:



1 funds and removes language regarding the Office of the State Auditor's receiving by mail  
2 copies of certain notices to municipalities. It changes language regarding the auditing  
3 standards of municipal postaudits to replace a reference to the State Auditor, who does  
4 not establish auditing standards, with a reference to the United States Government  
5 Accountability Office, which does. It makes further changes to the law regarding  
6 municipal postaudits to reflect that the Office of the State Auditor is usually not involved  
7 with municipal audits, including audits regarding jail supplies. It repeals a provision  
8 regarding the State Auditor's reporting of the financial matters of municipalities and  
9 quasi-municipal corporations. It changes the laws governing the Board of Emergency  
10 Municipal Finance to remove language requiring the State Auditor to determine whether  
11 a municipality or unorganized territory is unable to provide for its direct relief and work  
12 programs.