

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

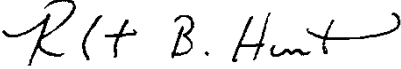
No. 949

H.P. 652

House of Representatives, March 17, 2015

**An Act To Enact the Recommendations of the Commission on
Independent Living and Disability**

Reference to the Committee on Health and Human Services suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative McCLELLAN of Raymond.

Cosponsored by Representatives: MALABY of Hancock, PETERSON of Rumford.

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

2 **PART A**

3 **Sec. A-1. 5 MRSA §12004-I, sub-§82-A** is enacted to read:

4 **82-A.**

5 <u>Transportation:</u>	<u>Public Transit</u>	<u>Not Authorized</u>	<u>23 MRSA §4209-A</u>
6 <u>Public Transit</u>	<u>Advisory Council</u>		

7 **Sec. A-2. 23 MRSA §4209, sub-§1**, as amended by PL 2009, c. 130, §1, is
8 further amended to read:

9 **1. Geographic regions.** The ~~Department of Transportation~~ department shall divide
10 the State into a number of geographic regions for regional distribution of state-
11 administered transportation funds. Upon designation of the geographic regions, a regional
12 public transportation agency must be selected from each region to formulate a ~~biennial~~
13 ~~regional operations plan~~ quinquennial locally coordinated plan for regional transit in
14 accordance with federal requirements. ~~Selection of~~ The department shall select regional
15 public transportation agencies ~~must be by the Department of Transportation~~ in
16 collaboration with ~~the committee established in subsection 1-A~~ transit stakeholders,
17 including transportation providers, social service organizations, the Department of Health
18 and Human Services, the Department of Labor, the United States Department of
19 Transportation, Federal Transit Administration and the Public Transit Advisory Council
20 under section 4209-A. The ~~Department of Transportation~~ department shall establish a
21 schedule for submittal of the ~~biennial~~ quinquennial locally coordinated plans for regional
22 operations plan and shall reference these plans in its biennial transportation improvement
23 plan submitted to the Legislature transit to the department for review and approval in
24 accordance with subsection 2.

25 **Sec. A-3. 23 MRSA §4209, sub-§1-A**, as enacted by PL 2009, c. 130, §2, is
26 repealed.

27 **Sec. A-4. 23 MRSA §4209, sub-§2**, as amended by PL 2009, c. 130, §3, is
28 further amended to read:

29 **2. Quinquennial locally coordinated plan for regional transit.** The ~~biennial~~
30 quinquennial locally coordinated plan for regional operations plan transit submitted by
31 each regional public transportation agency must provide for the following:

- 32 A. Maximum feasible coordination of funds among all state agencies that sponsor
33 transportation in the region;
- 34 B. Development and maintenance of a permanent and effective public transportation
35 system, with particular regard to riders who are low-income or elderly or who have
36 disabilities;
- 37 C. Participation of private transit operators in the service, to the greatest extent
38 possible;

1 D. Conformity with general operations requirements as may be prescribed by the
2 commissioner; and

3 E. Compliance with any appropriate federal regulations, including but not limited to
4 the federally required locally coordinated plan.

5 In years in which no ~~biennial~~ quinquennial plan is required, amendments to the effective
6 operations may be submitted. Approval of each locally coordinated plan for regional
7 ~~operations plan transit~~ must be by the ~~Department of Transportation~~ department in
8 collaboration with transit stakeholders, including transportation providers, social service
9 organizations, the Department of Health and Human Services, the Department of Labor,
10 the United States Department of Transportation, Federal Transit Administration and the
11 ~~committee~~ Public Transit Advisory Council under section 4209-A. Upon approval, all
12 agencies, groups or organizations named to participate in the provision of service in
13 accordance with a locally coordinated plan for regional operations plan transit are eligible
14 to receive funds administered by the ~~Department of Transportation~~ department and the
15 Department of Health and Human Services.

16 **Sec. A-5. 23 MRSA §4209, sub-§3, ¶¶A and C,** as amended by PL 1987, c.
17 428, §2, are further amended to read:

18 A. Planning and technical assistance, information transfer, capital and operations
19 planning, performance monitoring and evaluation, quality assurance, accounting,
20 assistance with management information systems and service reporting to a locally
21 coordinated plan for regional operations plan transit drafter or transportation provider
22 and securing of provider compliance with the requirements of other state agencies in
23 these areas;

24 C. Operating assistance to transportation providers in an amount up to 1/2 of the
25 operating deficit incurred in fulfillment of the ~~biennial~~ quinquennial locally
26 coordinated plan for regional operations plan transit; and

27 **Sec. A-6. 23 MRSA §4209, sub-§4,** as amended by PL 2009, c. 130, §4, is
28 further amended to read:

29 **4. Human services assistance; priorities.** The ~~committee~~ commissioner, the
30 Commissioner of Health and Human Services and the Commissioner of Labor shall act to
31 coordinate purchase of service contracts and. The Public Transit Advisory Council under
32 section 4209-A shall serve in an advisory capacity to the department, the Department of
33 Health and Human Services and the Department of Labor in matters concerning public
34 transportation. In the event that transportation funds for human services programs are
35 insufficient for full implementation of the human services portion of an approved ~~biennial~~
36 quinquennial locally coordinated plan for regional operations plan transit, priorities
37 established by the Department of Health and Human Services determine the priority
38 clients that must be initially served by human services funds. ~~Members of the committee~~
39 The department, the Department of Health and Human Services and the Department of
40 Labor and their contractors shall actively engage local transportation providers in the
41 planning of new services that are expected to have a transportation component.

1 The Department of Health and Human Services and the Department of Labor shall ensure
2 that any new service to be provided is adequately funded to cover the costs of the
3 transportation component of the program.

4 **Sec. A-7. 23 MRSA §4209, sub-§5**, as enacted by PL 1979, c. 505, §4, is
5 amended to read:

6 **5. Intercity service.** Intercity service ~~shall be~~ is service designated as such in a
7 public transportation plan developed by the department. Intercity service planning ~~shall~~
8 must fulfill the requirements set forth in subsection 2 and ~~shall~~ must address public
9 transportation needs that cannot be met by locally coordinated regional operations transit
10 planning. The State may contribute to the nonfederal costs of intercity service.

11 **Sec. A-8. 23 MRSA §4209-A** is enacted to read:

12 **§4209-A. Public Transit Advisory Council**

13 **1. Council established.** The Public Transit Advisory Council, referred to in this
14 section as "the council," is established in accordance with Title 5, section 12004-I,
15 subsection 82-A to advise the Legislature and the department regarding public transit
16 services in the State. The council shall advise the department on the review and approval
17 of locally coordinated plans for regional transit under section 4209 and shall advise on
18 any statewide strategic transit planning undertaken by the department, including short-
19 term and long-term fiscal, operating and capital investments, and the integration of transit
20 planning with the Sensible Transportation Policy Act.

21 **2. Membership.** The council must include, but is not limited to, the following:

22 A. The commissioner or the commissioner's designee;

23 B. The Commissioner of Health and Human Services or the commissioner's
24 designee;

25 C. The Commissioner of Labor or the commissioner's designee;

26 D. The Commissioner of Economic and Community Development or the
27 commissioner's designee; and

28 E. The following individuals appointed by the commissioner:

29 (1) One representative each from the federally designated planning organizations
30 for the Portland, Bangor and Lewiston regions;

31 (2) One representative of private bus operators;

32 (3) One representative of a statewide nonprofit organization advocating on
33 behalf of the elderly;

34 (4) One representative of a medical provider;

35 (5) One representative of a business that relies on public transportation;

36 (6) One representative of a statewide association of planning and development
37 agencies;

1 (7) One representative of an organization representing persons with disabilities;

2 (8) One representative of a nonprofit transit provider;

3 (9) One representative of an economic development organization; and

4 (10) One representative of an organization representing low-income persons.

5 In making appointments, the commissioner shall ensure that rural and urban areas and
6 each transportation planning region of the State designated pursuant to section 4209,
7 subsection 1 is represented.

8 **3. Council invitees.** In addition to the requirements in subsection 2, the
9 commissioner shall invite at least 2 members of the joint standing committee of the
10 Legislature having jurisdiction over transportation matters representing different political
11 parties and at least one representative of a rail transit group to participate in council
12 meetings.

13 **4. Terms, vacancies and council chair.** A member of the council appointed
14 pursuant to subsection 2, paragraph E serves for a term of 3 years. If a member is unable
15 to complete the term, the commissioner shall appoint a member from the same category
16 of members listed in subsection 2, paragraph E as the member who vacated the council to
17 serve out the unexpired portion of the term. The commissioner shall determine how the
18 council is to choose a chair and for how long the chair is to serve.

19 **5. Report.** The council shall report on its deliberations and any recommendations by
20 March 1st of each odd-numbered year to the Governor, the joint standing committee of
21 the Legislature having jurisdiction over transportation matters and the joint standing
22 committee of the Legislature having jurisdiction over health and human services matters.

23 **Sec. A-9. 30-A MRSA §3515, sub-§1, ¶A,** as enacted by PL 1987, c. 737, Pt. A,
24 §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10,
25 is further amended to read:

26 A. The directors of a district that participates in a locally coordinated plan for
27 regional ~~operations plan~~ transit that has been approved in accordance with Title 23,
28 section 4209, shall establish routes and fixed fares in accordance with the plan
29 whenever the plan requires.

30 **Sec. A-10. Department of Health and Human Services to convene a work**
31 **group; develop statewide transportation voucher program.** The Department of
32 Health and Human Services shall convene a work group to develop a proposal for a
33 statewide transportation voucher program for persons with disabilities. Members of the
34 work group must include representatives from the following: the Department of
35 Transportation, the Department of Labor, Alpha One and the Statewide Independent
36 Living Council established pursuant to 29 United States Code, Section 796d. The work
37 group shall examine the flexibility of federal funding and matching fund sources, consult
38 with the University of Montana Research and Training Center on Disability in Rural
39 Communities for assistance developing the proposal and submit its findings and
40 recommendations to the Joint Standing Committee on Transportation, the Joint Standing
41 Committee on Health and Human Services and the Joint Standing Committee on Labor,

1 Commerce, Research and Economic Development no later than December 15, 2015. The
2 Joint Standing Committee on Health and Human Services may report out a bill regarding
3 this subject matter to the Second Regular Session of the 127th Legislature.

4 **Sec. A-11. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title
5 23, section 4209-A, subsection 4, of the initial members of the Public Transit Advisory
6 Council appointed pursuant to Title 23, section 4209-A, subsection 2, paragraph E, the
7 Commissioner of Transportation shall appoint 4 to 3-year terms, 3 to 2-year terms and 3
8 to one-year terms.

9 **PART B**

10 **Sec. B-1. 20-A MRSA §7258, sub-§1,** as enacted by PL 1997, c. 345, §1, is
11 amended to read:

12 **1. Pupil evaluation team meetings; transition contact person; transition plan.**
13 Annually, representatives from appropriate state service agencies, as determined by the
14 pupil evaluation team of the school administrative unit, and in accordance with special
15 education rules, shall designate a transition contact person to participate in transition
16 planning for students with disabilities and students qualified under Section 504 of the
17 federal Rehabilitation Act of 1973, 29 United States Code, Section 701 et seq. The
18 transition contact person shall attend pupil evaluation team meetings or provide relevant
19 information to the pupil evaluation team for transition planning purposes. This
20 requirement applies to students with disabilities who have attained ~~16 years of age, or~~ 14
21 years of age ~~when determined by the pupil evaluation team to be appropriate.~~

22 In performing the transition planning for a student with a disability or a student qualified
23 under Section 504 of the federal Rehabilitation Act of 1973, the school administrative
24 unit shall include consultation with community partners, community service providers,
25 the student and the student's family, the division of vocational rehabilitation within the
26 Department of Labor, Bureau of Rehabilitation Services and the agency that is designated
27 by the Governor pursuant to Title 5, section 19502 to serve as the protection and
28 advocacy agency for persons with disabilities. The transition planning must include an
29 independent living assessment for the student. For a student who receives services from
30 the Department of Health and Human Services, Office of Child and Family Services, the
31 school administrative unit shall work in consultation with the division of vocational
32 rehabilitation within the Department of Labor, Bureau of Rehabilitation Services to
33 include postsecondary preparation strategies for the student during transition planning.

34 **PART C**

35 **Sec. C-1. 26 MRSA §1411-D, sub-§8,** as enacted by PL 1995, c. 560, Pt. F, §13,
36 is amended to read:

37 **8. Eligibility and priority.** Shall determine the eligibility of individuals for
38 rehabilitation services or evaluation and vocational services and the priority for those
39 services in accordance with rules established by the department; ~~and~~

1 **Sec. C-2. 26 MRSA §1411-D, sub-§9**, as amended by PL 2011, c. 348, §8, is
2 further amended to read:

3 **9. Transitional services coordination.** Shall participate with school administrative
4 units in transition planning for each student receiving special education services who is
5 16 years of age or older, or 14 years of age if determined appropriate by the student's
6 individualized education program team, and shall assign appropriate staff as a transition
7 contact person and as a member of the transition planning team for each student; and

8 **Sec. C-3. 26 MRSA §1411-D, sub-§10** is enacted to read:

9 **10. Progress report.** Beginning January 15, 2016, shall provide an annual report to
10 the joint standing committee of the Legislature having jurisdiction over health and human
11 services matters on the State's efforts to improve vocational rehabilitation outcomes as
12 required under this subchapter and to reduce the length of time it takes the department to
13 enter into an individualized plan of employment with individuals eligible to receive
14 services under this subchapter.

15 **Sec. C-4. 26 MRSA §1412-I** is enacted to read:

16 **§1412-I. Strategic planning report**

17 In addition to its existing duties, the Statewide Independent Living Council,
18 established pursuant to 29 United States Code, Sections 796 to 796f (1999) and
19 administered by the Bureau of Rehabilitation Services, shall, beginning January 15, 2016,
20 provide an annual report to the joint standing committee of the Legislature having
21 jurisdiction over health and human services matters on the State's strategic planning
22 efforts to increase opportunities for persons with disabilities to live independently within
23 the community, the effectiveness and coordination of programs and services designed to
24 support independent living efforts and any recommendations for improvement in the
25 delivery of services to persons with disabilities.

26 **PART D**

27 **Sec. D-1. 5 MRSA §4594-G, sub-§7**, as enacted by PL 2011, c. 322, §8, is
28 amended to read:

29 **7. Inspection.** If officials of the municipality in which a restaurant, motel, hotel or
30 inn; state, municipal or county building; or an elementary or secondary school covered by
31 this subsection is constructed, renovated, remodeled or enlarged inspect buildings for
32 compliance with construction standards, that inspection must include an inspection for
33 compliance with plans certified by the Office of the State Fire Marshal or by a
34 professional pursuant to subsection 4. The municipal officials shall require that a facility
35 covered by this paragraph be inspected through an on-site visit by a representative of the
36 Office of the State Fire Marshal for compliance with the standards of construction
37 required by subsection 3 before the municipal officials permit a facility covered by this
38 paragraph subsection to be occupied.

1 **Sec. D-2. 5 MRSA §19505, sub-§3**, as enacted by PL 1989, c. 837, §1, is
2 amended to read:

3 **3. Pursuit of remedies.** The agency may pursue administrative, legal and other
4 appropriate remedies on behalf of persons with disabilities. The agency has standing to
5 file a civil action for alleged violations of chapter 337, subchapter 5 in Superior Court.
6 Notwithstanding section 4622, subsection 1, the agency may be awarded reasonable
7 attorney's fees and costs as provided in section 4614.

8 **Sec. D-3. 10 MRSA §9722, sub-§6, ¶L**, as corrected by RR 2011, c. 1, §11, is
9 amended to read:

10 L. In the adoption and amendment of the Maine Uniform Building and Energy Code,
11 adopt the standards for residential basement wall insulation under the 2006 edition of
12 the International Energy Conservation Code published by the International Code
13 Council; ~~and~~

14 **Sec. D-4. 10 MRSA §9722, sub-§6, ¶M**, as reallocated by RR 2011, c. 1, §12, is
15 amended to read:

16 M. Adopt, amend and maintain the Maine Uniform Building Code and the Maine
17 Uniform Energy Code; and

18 **Sec. D-5. 10 MRSA §9722, sub-§6, ¶N** is enacted to read:

19 N. In the adoption and amendment of the Maine Uniform Building and Energy Code,
20 adopt the most recent federal Americans with Disabilities Act of 1990 accessibility
21 guidelines as published by the International Code Council.

22 **PART E**

23 **Sec. E-1. 30-A MRSA §4743, sub-§4** is enacted to read:

24 **4. Rental housing list service.** It shall post all rental housing vacancies that are
25 readily accessible to and usable by persons with disabilities in accordance with applicable
26 local, state and federal accessibility requirements, including Title VIII of the federal Civil
27 Rights Act of 1968, federal Fair Housing Act, the federal Americans with Disabilities Act
28 of 1990 and Section 504 of the federal Rehabilitation Act of 1973, on the Maine State
29 Housing Authority's publicly accessible rental housing listing service website.

30 **PART F**

31 **Sec. F-1. Medicaid state plan amendment; telehealth coverage.** The
32 Department of Health and Human Services shall pursue amendment to the federally
33 approved Medicaid state plan to include and broaden coverage for assistive technology
34 without the restrictions currently applied to telehealth; cover assistive technology within
35 all Department of Health and Human Services waivers; include telemedicine; broaden
36 telehealth use; and broaden telehealth home-based care. For the purposes of this section,
37 "telehealth," as it pertains to the delivery of health care services, means the use of
38 electronic information and telecommunications technologies to support long-distance

1 clinical health care, patient and professional health-related education, public health and
2 health administration and includes videoconferencing, the Internet, store-and-forward
3 imaging, streaming media and terrestrial and wireless communications.

4 **SUMMARY**

5 This bill includes the final recommendations of the Commission on Independent
6 Living and Disability and does the following.

7 1. Part A replaces the requirement in current law for biennial plans for regional
8 transit with a requirement for quinquennial plans, which is consistent with federal
9 requirements. It eliminates the Interagency Transportation Coordinating Committee and
10 replaces it with a new public transit advisory council. It also specifies the role of the
11 council and requires reporting every 2 years. It requires the Department of Health and
12 Human Services to convene a work group to develop a statewide transportation voucher
13 program for persons with disabilities.

14 2. Part B adds new transition planning requirements for students with disabilities to
15 include team meetings that must begin at 14 years of age with community partners,
16 community service providers, the students and their families, the division of vocational
17 rehabilitation within the Department of Labor, Bureau of Rehabilitation Services and the
18 agency that is designated by the Governor to serve as the protection and advocacy agency
19 for persons with disabilities. It requires that the transition planning include independent
20 living assessments for the students. For students who receive services from the
21 Department of Health and Human Services, Office of Child and Family Services, it
22 requires the school administrative unit to work in consultation with the division of
23 vocational rehabilitation within the Department of Labor, Bureau of Rehabilitation
24 Services to include postsecondary preparation strategies for the students during transition
25 planning.

26 3. Part C requires the Statewide Independent Living Council to provide an annual
27 report to the Legislature on the State's strategic planning efforts to increase opportunities
28 for persons with disabilities to live independently within the community. It also requires
29 the Commissioner of Labor to provide an annual report to the Legislature on the State's
30 efforts to improve vocational rehabilitation outcomes and reduce the length of time it
31 takes the department to enter into an individualized plan of employment with individuals
32 eligible to receive rehabilitation services.

33 4. Part D amends the Maine Human Rights Act to require an on-site inspection by a
34 representative of the Office of the State Fire Marshal to ensure that new public buildings
35 and certain buildings to which the public has access are constructed in compliance with
36 the Maine Human Rights Act. It also requires the Technical Building Codes and
37 Standards Board to adopt the most recent federal Americans with Disabilities Act of 1990
38 accessibility guidelines as published by the International Code Council. It also authorizes
39 the agency that is designated by the Governor to serve as the protection and advocacy
40 agency for persons with disabilities in Maine to bring a civil action in Superior Court for
41 violations of the Maine Human Rights Act regarding public accommodations and allows
42 the agency to receive reasonable attorney's fees and costs.

1 5. Part E requires a housing authority to post all rental housing vacancies that are
2 readily accessible to and usable by persons with disabilities on the Maine State Housing
3 Authority's publicly accessible rental housing listing service website.

4 6. Part F requires the Department of Health and Human Services to amend the
5 federally approved Medicaid state plan to include and broaden coverage for assistive
6 technology without the restrictions currently applied to telehealth; cover assistive
7 technology within all Department of Health and Human Services waivers; include
8 telemedicine; broaden telehealth use; and broaden telehealth home-based care.