

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1073

S.P. 355

In Senate, March 16, 2017

An Act To Clarify Laws Regarding Maine's Community Colleges

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator LANGLEY of Hancock.
Cosponsored by Representative KORNFIELD of Bangor and
Senators: DOW of Lincoln, LIBBY of Androscoggin, MAKER of Washington,
WHITTEMORE of Somerset, Representatives: MALABY of Hancock, TUELL of East
Machias.

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

2 **Sec. 1. 5 MRSA §18, sub-§1, ¶B**, as repealed and replaced by PL 1989, c. 443,
3 §5 and amended by PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to
4 read:

5 B. "Executive employee" means the constitutional officers, the State Auditor,
6 members of the state boards and commissions as defined in chapter 379 and
7 compensated members of the classified or unclassified service employed by the
8 Executive Branch, but it ~~shall~~ does not include:

9 (1) The Governor;

10 (2) Employees of and members serving with the National Guard;

11 (3) Employees of the University of Maine System, the Maine Maritime
12 Academy and ~~state community colleges~~ the Maine Community College System;

13 (4) Employees who are employees solely by their appointment to an advisory
14 body;

15 (5) Members of boards listed in chapter 379, who are required by law to
16 represent a specific interest, except as otherwise provided by law; and

17 (6) Members of advisory boards as listed in chapter 379.

18 **Sec. 2. 20-A MRSA §12701, sub-§1**, as enacted by PL 1985, c. 695, §11, is
19 repealed.

20 **Sec. 3. 20-A MRSA §12701, sub-§4-A** is enacted to read:

21 **4-A. Presidents' council.** "Presidents' council" means the advisory council of the
22 system as established in section 12713.

23 **Sec. 4. 20-A MRSA §12706, sub-§1**, as amended by PL 1989, c. 878, Pt. I, §4
24 and PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

25 **1. Policies.** To develop and adopt policies for the operation of the system, the Maine
26 Community College System Office and the colleges; establish the ~~administrative~~
27 presidents' council; and approve programs and policies recommended by the president of
28 the system and the ~~administrative~~ presidents' council;

29 **Sec. 5. 20-A MRSA §12706, sub-§9**, as enacted by PL 1985, c. 695, §11, is
30 amended to read:

31 **9. Contracts and agreements.** To enter into any contracts, leases and agreements
32 and any other instruments and arrangements that are necessary, incidental or convenient
33 to the performance of its duties and the execution of its powers under this chapter; ~~except~~
34 that any such agreement other than an employment agreement that contains the following
35 provisions against the system is void:

- 1 A. Any requirement that the system must waive its governmental immunity or
2 limited liability;
- 3 B. Any requirement that the system must carry insurance in addition to or in excess
4 of its existing insurance;
- 5 C. Any requirement that the system must defend, indemnify or hold harmless any
6 other party;
- 7 D. Any requirement that the system must submit to the law of a state other than this
8 State;
- 9 E. Any requirement that the system must waive its insurer's rights of subrogation;
- 10 F. Any requirement that the system must pay another party's attorney's fees; and
- 11 G. Any requirement that the agreement is subject to an automatic renewal other than
12 month to month;

13 **Sec. 6. 20-A MRSA §12706, sub-§13**, as amended by PL 2007, c. 67, §3, is
14 further amended to read:

15 **13. Property management.** To acquire by purchase, gift, lease or rent any property,
16 lands, buildings, structures, facilities or equipment necessary to fulfill the purposes of this
17 chapter. The board of trustees shall manage, rent, lease, sell and dispose of property,
18 including lands, buildings, structures, equipment and facilities, and license dormitory
19 rooms for occupancy by students. The purchase and installation of faucets, shower heads,
20 toilets and urinals is subject to Title 5, section 1762-A. ~~If the board of trustees proposes~~
21 ~~to sell or permanently transfer any interest in real estate, the transaction must be approved~~
22 ~~by the Legislature before the interest is transferred. Any revenues derived from these~~
23 ~~uses are to be credited to a separate fund to be used for the purposes of this chapter.~~
24 ~~Notwithstanding any other provision of law, the board of trustees may grant or otherwise~~
25 ~~transfer utility easements without legislative approval;~~

26 **Sec. 7. 20-A MRSA §12706, sub-§14**, as enacted by PL 1985, c. 695, §11, is
27 amended to read:

28 **14. Facilities management; construction and renovation.** To authorize the
29 construction, maintenance, renovation, reconstruction or other necessary improvements
30 of buildings, structures and facilities and promote the regular use of facility master
31 planning in order to coordinate efficient long-term facilities planning;

32 **Sec. 8. 20-A MRSA §12706, sub-§15**, as enacted by PL 1985, c. 695, §11, is
33 amended to read:

34 **15. Courses of study and degrees.** To offer courses of study, grant diplomas and
35 certificates on completion of courses of study, confer associate degrees based on 2 years
36 of instruction and establish qualifications for admission; to offer short-term and on-site
37 training, to meet the needs of the private and public sectors and economic development
38 and employment training programs; ~~and~~ to offer adult education and continuing
39 educational opportunities to meet the needs of nontraditional students and of adults who
40 need training or retraining in response to changes in technology or the needs of the

1 economy; and to encourage the development of innovative delivery methods, course
2 schedules, student support services and prior learning assessments that help expand
3 access to both credit and noncredit programming;

4 **Sec. 9. 20-A MRSA §12706, sub-§19**, as amended by PL 2001, c. 590, §2 and
5 by PL 2003, c. 20, Pt. OO, §2 and affected by §4 and amended by PL 2005, c. 397, Pt. D,
6 §3, is further amended to read:

7 **19. Advisory committees.** To appoint or identify advisory committees to advise the
8 board of trustees with respect to career and technical education and training policies and
9 programs, to procedures for modifying the programs of the colleges to meet the needs of
10 the State's economy and the changing job market and to the efficient operation of the
11 colleges and the Maine Community College System Office. These committees may
12 include, but need not be limited to, the Maine Council on Vocational Education,
13 authorized under the United States Carl D. Perkins Vocational Education Act, Section
14 112, Public Law 98-524, or its successor; ~~and~~

15 **Sec. 10. 20-A MRSA §12706, sub-§20**, as enacted by PL 2001, c. 590, §3, is
16 amended to read:

17 **20. Debt.** To borrow funds, issue bonds and negotiate notes and other evidences of
18 indebtedness or obligations of the system for renovation, public improvements, land
19 acquisition and construction purposes to pay for costs as defined in Title 22, section 2053,
20 subsection 3. The board of trustees may issue temporary notes and renewal notes to pay
21 for those costs. Bonds, notes or other evidences of indebtedness or obligations of the
22 system are legal obligations of the system on behalf of the State and are payable solely
23 from the system's revenues and other sources of funds, including funds obtained pursuant
24 to Title 22, section 2053, subsection 4-B, paragraph A. These borrowings by the system
25 do not constitute debts or liabilities of, and are not includable in, any debt obligation of
26 the State. The board of trustees has the discretion to fix the date, maturities,
27 denomination, interest rate, place of payment, form and other details of the bonds or notes
28 of the system. Unless otherwise provided in the vote authorizing their issuance, bonds or
29 notes of the system must be signed by the president of the system and countersigned by
30 the chair of the board of trustees. The aggregate principal amount of outstanding bonds,
31 notes or other evidences of indebtedness of the system may not exceed \$35,000,000 at
32 any one time, excluding temporary notes and renewal notes. The bonds may be issued
33 through the Maine Health and Higher Education Facilities Authority. The board of
34 trustees may pledge or assign its revenues, including any funds that have been or may be
35 appropriated to the system, and the proceeds of those revenues and its other property as
36 security toward its bonds, notes, other evidences of indebtedness or other obligations of
37 the system. The proceeds of bonds, notes or other evidences of indebtedness may be
38 invested in accordance with subsection 8. Bonds, notes and other evidences of
39 indebtedness issued under this subsection are not debts of the State, nor a pledge of the
40 credit of the State, but are payable solely from the funds of the system. Indebtedness
41 incurred and evidences of indebtedness issued under this chapter constitute a proper
42 public purpose, and all income derived is exempt from taxation in the State. The net
43 earnings of the system may not inure to the benefit of any private person, and no
44 borrowing may be effected pursuant to this chapter unless the amount of the borrowing

1 and the project or projects are submitted to the Office of Fiscal and Program Review for
2 review by the joint standing committee of the Legislature having jurisdiction over
3 appropriations and financial affairs at least 60 days before closing on such borrowing for
4 the project or projects is to be initiated; and

5 **Sec. 11. 20-A MRSA §12706, sub-§21** is enacted to read:

6 **21. Campus security.** To support the development of campus security plans and
7 policy, including the assessment of how persons qualified and designated by law
8 enforcement or system policy may exercise the powers of Title 17-A, sections 107 and
9 108.

10 **Sec. 12. 20-A MRSA §12709, sub-§1**, as amended by PL 1991, c. 376, §38, is
11 further amended to read:

12 **1. Leadership.** To develop policies, goals and objectives with respect to the
13 operation of the colleges, to be reviewed and, when necessary, approved by the board of
14 trustees. The president of the system shall meet regularly with the ~~administrative~~
15 presidents' council to develop these policies and goals;

16 **Sec. 13. 20-A MRSA §12709, sub-§9**, as enacted by PL 1985, c. 695, §11, is
17 amended to read:

18 **9. Long-range planning and research.** In cooperation with the ~~administrative~~
19 presidents' council, to undertake long-range planning and research, including planning for
20 construction, renovation and reconstruction projects and report findings and
21 recommendations to the board of trustees;

22 **Sec. 14. 20-A MRSA §12713**, as amended by PL 1989, c. 878, Pt. I, §11, is
23 further amended to read:

24 **§12713. Presidents' council**

25 The ~~administrative~~ presidents' council ~~shall be~~ is a nonvoting, advisory council
26 composed of the presidents of the colleges to advise the board of trustees and the
27 president of the system. The ~~administrative~~ presidents' council shall advise the president
28 of the system in the performance of the duties assigned under this chapter and shall make
29 recommendations to the president of the system and the board of trustees with respect to
30 the administration of the colleges, courses of study, educational programs, curricula,
31 coordination of programs between the colleges, coordination with other institutions of
32 higher learning and other educational and training institutions and other matters as
33 requested by the president of the system or the board of trustees.

34 **Sec. 15. 20-A MRSA §12716, sub-§1**, as amended by PL 1989, c. 443, §52, is
35 further amended to read:

36 **1. Scholarships and campus employment.** The board of trustees shall develop and
37 administer ~~a program~~ programs of scholarships and campus employment for college
38 students. Awards ~~shall~~ must be based on evidence of individual need and worth.

- 1 Students selected to receive a scholarship ~~shall~~ must fulfill the following qualifications:
- 2 A. Show evidence of the qualifications necessary to complete a course of study
3 successfully and to become a competent technical or craft worker in an industrial,
4 administrative, technical or trade pursuit;
- 5 B. Show demonstrated ability and willingness to support the expenses of education
6 and training; and
- 7 C. Show demonstrated need of financial assistance to help pay the cost of college
8 attendance or, in the case of on-campus employment programs, demonstrate the
9 ability to benefit from the increased engagement that such programs provide.

10 **SUMMARY**

11 This bill changes the name of the Maine Community College System's advisory
12 council of college presidents from the administrative council to the presidents' council. It
13 allows the Board of Trustees of the Maine Community College System to encourage the
14 development of innovative education delivery methods, course schedules, student support
15 services and prior learning assessments that help expand access to both credit and
16 noncredit programming, to support the development of campus security plans and policy
17 and to develop and administer programs of campus employment. It makes changes to
18 promote the regular use of facility master planning and removes the requirement that the
19 Legislature must approve real estate transactions selling or permanently transferring any
20 interest in real estate. It also imposes a number of constraints on contracts the board of
21 trustees may enter into, other than employment contracts.