

# MAINE STATE LEGISLATURE

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L.D. 1233

Date: 4/10/24 Majority

(Filing No. H-950)

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STATE AND LOCAL GOVERNMENT

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
131ST LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 781, L.D. 1233, "An Act Regarding the Maine State Cemetery Preservation Commission"

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

Sec. 1. 5 MRSA §12004-I, sub-§2-H, as enacted by PL 2021, c. 584, §1, is repealed.

Sec. 2. 5 MRSA §12004-J, sub-§21 is enacted to read:

21.

<u>Cemeteries</u>	<u>Maine State Cemetery Preservation Commission</u>	<u>Not Authorized</u>	<u>13 MRSA §1374</u>
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Sec. 3. 13 MRSA §1374, as enacted by PL 2021, c. 584, §2 and amended by PL 2023, c. 369, Pt. A, §4 and affected by §5, is further amended to read:

§1374. Maine State Cemetery Preservation Commission

The Maine State Cemetery Preservation Commission, established by Title 5, section 12004-J, subsection 21 and referred to in this section as "the cemetery preservation commission," is established by Title 5, section 12004-I, subsection 2-H an independent commission created to provide advice and education regarding matters related to local units of government and members of the public on preserving cemeteries and burying grounds.

1. Members. The cemetery preservation commission has the following 10 members:

A. Two members representing a statewide association dedicated to the preservation of neglected cemeteries, appointed by its board of directors;

B. Two members representing a statewide association of cemetery directors and supervisors, appointed by its board of directors;

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COMMITTEE AMENDMENT "A" to H.P. 781, L.D. 1233

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- C. One member representing a statewide association representing municipalities, appointed by its board of directors;
- D. One member representing a statewide association of town clerks, appointed by its board of directors;
- E. One member representing a statewide association of funeral directors, appointed by its board of directors;
- F. The Director of the Maine Bureau of Veterans' Services within the Department of Defense, Veterans and Emergency Management, or the director's designee;
- G. One member representing a statewide association of real estate brokers, appointed by its board of directors; and
- H. One member representing a statewide historical society, appointed by its board of directors.

**2. Optional member.** The tribal governments of the Mi'kmaq Nation, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe at Motahkomikuk, the Passamaquoddy Tribe at Sipayik and the Penobscot Nation may jointly appoint as a member of the ~~cemetery preservation~~ commission an individual who is a member of a federally recognized Indian nation, tribe or band in the State.

**3. Duties.** ~~The cemetery preservation commission may shall:~~

- A. Advise and educate municipalities and property owners about the existence of burying grounds and cemeteries and the laws applicable to burying grounds and cemeteries;
- B. Advise and educate municipalities, property owners and owners of burying grounds and cemeteries on the proper care and preservation of graves, gravestones, walls and fences in and around burying grounds and cemeteries; and
- C. Review statutes applicable to burying grounds and cemeteries and provide information to the Legislature on recommended changes.;
- D. Investigate violations of the laws governing burying grounds and cemeteries reported to the commission. The commission shall refer information relating to the investigations and recommendations for action on the violations to the appropriate municipal official or enforcement authority;
- E. Create a page on the State's publicly accessible website that provides information related to the commission's duties and powers; and
- F. Prepare educational materials, which may include links to websites relating to the laws governing burying grounds and cemeteries, for distribution to municipalities and to officers of associations that have representatives on the commission for distribution to their members.

~~**4. Bureau's duties.** Notwithstanding subsection 3, the duties of the Department of Defense, Veterans and Emergency Management, Maine Bureau of Veterans' Services are limited to arranging for and attending cemetery preservation commission meetings and must be accomplished within existing resources.~~

**4-A. Meetings.** The commission shall meet not less than 6 times per year at the call of the chair or by request of a majority of members.

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1 5. Bylaws. The ~~members~~ commission shall adopt bylaws ~~within one year of the~~  
2 ~~effective date of this section.~~ The bylaws must that provide for matters such as the  
3 regulation and management of the affairs of the cemetery preservation commission and  
4 ~~must establish,~~ the terms of office, including staggering the initial terms, the method for  
5 selecting a chair and the method for filling a vacancy on the ~~cemetery preservation~~  
6 commission. The bylaws may be amended at any time by the affirmative vote of a majority  
7 of members.

8 6. Executive director; staff; duties. The commission may select an individual to  
9 serve as the executive director of the commission. The executive director may hire  
10 appropriate staff to assist in carrying out the duties of the commission.

11 7. Cemetery Preservation Commission Fund. The Cemetery Preservation  
12 Commission Fund, referred to in this section as "the fund," is established as a nonlapsing  
13 account into which is deposited, on a quarterly basis, \$5 of the fee established by the  
14 Department of Health and Human Services for a permit to transport and dispose of a dead  
15 human body. The commission may use the money in the fund to carry out its duties.

16 8. Budget. The commission shall create a budget on an annual basis that includes its  
17 estimate of expenditures and appropriations necessary to enable the commission to perform  
18 its duties.

19 9. Funding. The commission is authorized to receive funds from the Federal  
20 Government, from a political subdivision of the State or from an individual, foundation or  
21 corporation and may expend these funds for purposes that are consistent with this section.

22 10. Report. By December 15th of each year, the commission shall submit a report to  
23 the joint standing committee of the Legislature having jurisdiction over state and local  
24 government matters. The report must include the commission's budget from the preceding  
25 fiscal year, an accounting of all income received and expenditures made by the  
26 commission, details on the work performed by the commission and the number of staff  
27 employed by the commission in the preceding 12-month period.

28 **Sec. 4. Burial-transit permit fee.** Notwithstanding any provision of law to the  
29 contrary, the Department of Health and Human Services shall, by December 15, 2024,  
30 amend its rule Chapter 1: Transportation and Final Disposition of Dead Bodies to increase  
31 the fee charged for a burial-transit permit by \$5.

32 **Sec. 5. Appropriations and allocations.** The following appropriations and  
33 allocations are made.

34 MAINE STATE CEMETERY PRESERVATION COMMISSION  
35 Cemetery Preservation Fund N498

36 Initiative: Provides an allocation for the Maine State Cemetery Preservation Commission  
37 for the funding received from additional fees collected for the burial-transit permit fee.

38 OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
39 All Other	\$0	\$85,500
40		
41 OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$85,500

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# COMMITTEE AMENDMENT

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Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment replaces the bill. It changes the Maine State Cemetery Preservation Commission from an advisory board under the Maine Revised Statutes, Title 5, section 12004-I to an independent advisory board under Title 5, section 12004-J. It changes the duties of the commission from optional to mandatory. It requires the commission to investigate complaints of violations of laws governing burying grounds and cemeteries reported to the commission. It permits the commission to hire an executive director to carry out the functions of the commission and authorizes the executive director to hire additional staff as needed. It requires the commission to develop a budget for each year and include the budget, income and expenses and details of the commission's activities in a report due to the joint standing committee of the Legislature having jurisdiction over state and local government matters by December 15th of each year. It establishes the Cemetery Preservation Commission Fund for use by the commission to accomplish the duties of the commission. The State Controller is required to deposit into the fund, on a quarterly basis, \$5 of the burial-transit permit fee collected by the Department of Health and Human Services. It requires the Department of Health and Human Services to amend its rules to increase the fee for a burial-transit permit by \$5. The amendment also adds an appropriations and allocations section.

**FISCAL NOTE REQUIRED**

(See attached)



# 131st MAINE LEGISLATURE

LD 1233

LR 1738(02)

## An Act Regarding the Maine State Cemetery Preservation Commission

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-950)

Committee: State and Local Government

Fiscal Note Required: Yes

### Fiscal Note

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$0	\$85,500	\$85,500	\$85,500
<b>Revenue</b>				
Other Special Revenue Funds	\$0	\$85,500	\$85,500	\$85,500

#### Fiscal Detail and Notes

The bill includes Other Special Revenue Funds allocations to the Maine State Cemetery Preservation Commission of \$85,500 in fiscal year 2024-25 for the funding received from additional fees collected for the burial transit fee.