

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

SECOND SPECIAL SESSION

November 18, 1983

AND AT THE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

AND AT THE

THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

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J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND ELEVENTH LEGISLATURE
JANUARY 4, 1984 TO APRIL 25, 1984

CHAPTER 716

H.P. 1798 - L.D. 2375

AN ACT to Create the Maine Uniform Accounting and Auditing Practices Act for Community Agencies.

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

Sec. 1. 5 MRSA c. 148, as enacted by PL 1977, c. 541, is repealed.

Sec. 2. 5 MRSA c. 148-B is enacted to read:

CHAPTER 148-B

MAINE UNIFORM ACCOUNTING AND AUDITING

PRACTICES ACT FOR COMMUNITY AGENCIES

§1651. Short title

This chapter shall be cited as the "Maine Uniform Accounting and Auditing Practices Act for Community Agencies."

§1652. Declaration of problem

A community agency which provides services funded by several state departments is often subjected to:

1. Records and reports. Maintaining various accounting records and filing multiple grant contract fiscal reports for several state departments. These accounting records and reports are often required in an uncoordinated, overlapping and inefficient manner; and

2. Audits. Receiving within one fiscal year, numerous routine audits by the same or different state departments.

Many community agencies propose that the State adopt standard accounting and auditing practices, to include under normal circumstances, only one state financial audit for each fiscal year covering all funds disbursed by the State and received by a community agency.

The Legislature also finds that current required community agency accounting practices are both costly to Maine taxpayers and inefficient and, therefore, may be improved to more fully protect state funds and justify this Act.

§1653. Definitions

For the purposes of this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Agreement. "Agreement" means a legally binding written document between 2 or more parties, including such documents as are commonly referred to as accepted application, proposal, prospectus, contract, grant, joint or cooperative agreement, purchase of service or state aid.

2. Commissioner. "Commissioner" means the Commissioner of the Department of Finance and Administration.

3. Community agency. "Community agency" means any public or private nonprofit organization; or any firm, partnership or business corporation operated for profit, which:

A. Operates a service program at the community level;

B. Receives public funds from one or more state departments or agencies;

C. Is not an administrative unit of the Federal Government or State Government; and

D. Is not a health care facility within the meaning of Title 22, section 382, subsection 6.

4. Department. "Department" means the Department of Educational and Cultural Services, the Department of Human Services, the Department of Mental Health and Mental Retardation and the Department of Corrections; the Division of Community Services of the Executive Department; the Criminal Justice Planning and Assistance Agency of the Executive Department; or the Department of Transportation; and may mean such other administrative units of State Government as are defined from time to time by the commissioner, except that the Maine Health Care Finance Commission shall not be defined as "department" for the purposes of this chapter.

5. Lead agency. "Lead agency" means that state agency, as designated by the commissioner, which is responsible for coordinating, directing or conducting a single audit.

6. Nonprofit organization. "Nonprofit organization" means any agency, institution or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefits of any private shareholder or individual.

7. Public. "Public" means municipal, county or other governmental body which is a political subdivision within the State.

8. Service. "Service" means any alcoholism, children's community action, corrections, criminal justice, developmental disability, education, elderly, health, income supplementation, juvenile, law enforcement, legal, medical care, mental health, mental retardation, poverty, rehabilitation, services to older people, substance abuse, transportation or youth service or other social service operated by a community agency under an agreement financially supporting the service wholly or in part by funds authorized for expenditure by the department, except manpower programs and educational services operated directly by public schools or school administrative districts on behalf of a political subdivision of this State.

9. Single audit. "Single audit" means one state financial audit of all funds contracted for between the State and community agency, excluding Medicaid done on a grant by grant basis, that will be conducted usually on an annual basis but no less frequently than every 2 years, and may encompass more than one community agency fiscal year. The 2-year period shall be calculated from the date of the previous single state audit or the effective date of July 1, 1987.

§1654. Maine Accounting and Auditing Practices Act

1. Intent. It is the intent of the Legislature that an agreement entered into by the department with a community agency, the purpose of which is to financially support the provision of a service, shall be governed by the following state accounting and auditing practices effective with the dates indicated in this chapter and unless future enactments of law rescind the provisions of this chapter.

2. Standard accounting practices. Effective July 1, 1984, the commissioner will begin the process of:

A. Developing written guidelines on uniform community agency accounting practices;

B. Developing uniform and standard state administrative practices at least in the following areas:

(1) Uniform contract grant fiscal year wherever possible;

(2) Standard and uniform contracts or grants;

(3) Standard and uniform billing forms;

(4) Standard and uniform financial reports;

(5) Standard and uniform line items; and

(6) Standard and uniform state grant, contract administrative policies and procedures; and

C. Developing definitions of all items covered in this section.

These standard accounting practices will be finalized by July 1, 1987, as promulgated by the commissioner through rules under the Maine Administrative Procedure Act, chapter 375.

3. Standard audit practices. Effective July 1, 1984, to July 1, 1987, community agencies may elect to have a single state audit, provided that they meet the conditions of election in subsection 4, paragraph C.

Effective July 1, 1987, the State shall conduct a single audit of community agencies, provided that the community agency meets the minimum requirements for receiving a single state audit as outlined in subsection 4, paragraph C. Such a single state audit shall be intended to:

A. Meet the reasonable financial, administrative and compliance requirements of each department financially supporting the community agency, but shall not involve program monitoring;

B. Meet generally accepted auditing standards as established by the Comptroller General of the United States and by the American Institute of Certified Public Accountants; and

C. Meet the intent of this chapter.

The department shall accept such an audit as satisfying the department requirements, unless significant omissions, errors or other conditions exist as determined by the commissioner or unless there is reasonable justification to conduct an additional audit based upon irregularities. Irregularities include such matters as conflicts of interest, falsification of records or reports and misappropriation of funds or other assets. If the commissioner determines that an additional audit is warranted, he shall determine how this audit shall be performed.

4. Responsibilities of parties. The responsibilities of commissioner, lead agency and community agency shall be as follows.

A. The commissioner shall:

(1) Establish final written community standard accounting practices;

(2) Promulgate final rules governing performance guidelines and criteria for standard audit practices incorporating those outlined in subsection 3. These rules shall also include:

(a) Criteria to be used by the lead agency responsible for directing and completing the single state audit;

(b) Clarification of the responsibilities of the lead agency in carrying out a single state audit;

(c) Identification of the responsibilities and role of state departments other than the lead agency; and

(d) Specification of the conditions under which a community agency can obtain a waiver from the single audit;

(3) Maintain the register of all agencies qualifying as a community agency;

(4) Maintain a register of all grants or contracts administered by the State to community agencies. The register will include at a minimum the name of the community agency, a listing of all grant or contract fiscal years, the contracting state agency name and the approximate amount of the grant or contract;

(5) Ensure that at a minimum, annual training be available for community agencies on standard accounting practices;

(6) Serve as the individual ultimately responsible for the interim and final administration and implementation of this chapter; and

(7) At the request of a community agency, the commissioner may waive certain requirements in the Maine Uniform Accounting and Audit Practices Act when the requirements are determined by the commissioner to be an unreasonable economical hardship.

B. The lead agency shall:

(1) Direct or conduct the single state audit;

(2) Maintain all audit workpapers on the single audit. These workpapers and reports shall be retained for a minimum of 3 years from the date of the audit report, unless the lead agency is notified in writing by the commissioner of the need to extend the retention period;

(3) Conduct a formal exit interview with representatives of the community agency prior to the issuance of the audit report;

(4) Issue the single audit report;

(5) Ensure that written response from the community agency shall become a part of the audit report;

(6) Maintain a follow-up system on audit reports to assure that audit findings and recommendations are resolved in writing within a reasonable period of time;

(7) Provide technical advice and act as a liaison between all interested parties;

(8) Conduct the audit in accordance with generally accepted auditing standards as prescribed by the American Institute of Certified Public Accountants and the United States General Accounting Office; and

(9) Whenever possible rely upon any fiscal audit already conducted on the community agency.

C. The community agency shall:

(1) Maintain accounting records in accordance with standards of accounting practices and generally accepted accounting principles as promulgated by the commissioner. Until the standards of accounting practices have been finally issued, the accounting records shall be maintained in accordance with generally accepted principles;

(2) Meet by July 1, 1987, the minimum requirements necessary for obtaining a single state audit or obtain from the commissioner a waiver to the single state audit. The minimum requirements include:

(a) A fiscal year filed with the Secretary of State;

(b) At a minimum, annual financial review statements prepared by an independent auditor registered with the Maine Board of Accounting which includes:

(i) A balance sheet; and

(ii) A statement of revenue, expenses and balance;

(c) Individual final grant statements of revenue, expense and balance prepared for each contract or grant. These individual grant statements must:

(i) Be prepared in accordance with the uniform state policies and in accordance with generally accepted accounting principles as promulgated by the American Institute of Certified Public Accountants. Any deviations from these American Institute of Certified

Public Accountants' standards shall include the necessary disclosures;

(ii) Be prepared on uniform state forms;

(iii) Be reconciled with the financial statements prepared by the outside public accounting firm;

(iv) Be filed with the department's grantor and be accompanied by the auditor's comments and recommendations on internal control and management practices, if any, be accompanied by an adjusted trial balance; and

(v) Be dated and signed by the community agency's internal accountant.

5. Single audit report. At a minimum, the state audit report shall include:

A. A final audited statement on a grant by grant basis of revenue, expense and balance of the community agency;

B. The lead agency's comments on the audit statement and which shall:

(1) Identify the initial statements examined and the period covered;

(2) Identify the various programs under which the organization received funds contracted by the State and the amount of the awards received;

(3) State that the audit was done in accordance with standards specified in this Act; and

(4) Express an opinion as to whether the financial statements are fairly presented in accordance with generally accepted accounting principles. If an unqualified opinion cannot be expressed, state the nature of the qualification;

C. The lead agency's comments on compliance and internal control and shall:

(1) Include comments on weaknesses in, and noncompliance with, the systems of internal control, separately identifying material weaknesses;

(2) Identify the nature and impact of any noted instances of noncompliance with the terms of agreements and those provisions of state or federal law or regulations that may have a material effect on the financial statements and reports; and

(3) Contain a positive assurance with respect to compliance with requirements for tested items and negative assurance for untested items;

D. Comments on the accuracy and completeness of the community agency financial reports submitted to the department;

E. Comments on corrective action taken or planned by a community agency on current and prior audit findings;

F. The community agency's written response and shall become a part of the compliance and internal controls report; and

G. Settlement of all disputed items shall be confirmed in writing by the lead agency within a reasonable time frame and made a part of the audit report.

§1655. Transition for implementation

1. Election for single audit. Prior to the effective date of July 1, 1987, a community agency may elect to request the performance of a single audit. These agencies shall serve as models for the purpose of determining an eventual final process for implementation of the mandatory single audit.

2. Conditions of elections. To elect the single audit option during the transition period, the community agency shall submit a written request to the commissioner at least 6 months prior to the expected date of audit but no sooner than 6 months after the effective date of this chapter, and shall meet the minimum requirements as stated in section 1654, subsection 4, paragraph C. The 6-month period may be waived as determined by the commissioner.

3. Transition committee. The commissioner shall convene a committee by July 1, 1984, to include at least one representative from each department affected by this chapter and at least 4 representatives from community agencies of which one may be a representative of the Maine Society of Certified Public Accountants to develop the standards and process for implementation of the mandatory single audit and uniform accounting practices requirement by July 1, 1987. Provisions shall be made to ensure maximum input from other community agency personnel prior to any final decisions. The transition committee shall include in its area of responsibility the development of criteria for determining the designation of a lead agency.

4. Report. The commissioner shall report by July 1, 1985, July 1, 1986, and July 1, 1987, to the joint standing committee of the Legislature having jurisdiction over audit and program review on the process of implementation of this chapter. At these times any problems shall be identified and any savings or cost associated with the implementation shall also be identified.

5. Public notice. The final decisions of the transition committee and substantive changes made thereafter by the commissioner shall be subject to notifying the public through the Maine Administrative Procedure Act, chapter 375.

§1656. Appeals procedure

Any person aggrieved under this chapter shall be entitled to judicial review, as provided in the Maine Administrative Procedure Act, chapter 375. The commissioner shall develop with the transition committee additional appeals procedures as he deems appropriate provided that aggrieved persons shall be entitled to judicial review as provided in the Maine Administrative Procedure Act, chapter 375.

§1657. Application of chapter

1. Department of Audit. Nothing in this chapter may be construed to affect or limit any previously existing power or duty of the Department of Audit or the Department of Finance and Administration.

2. Federal Government. Nothing in this chapter may be construed to affect or limit any power or duty reserved by the Federal Government.

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1984-85

FINANCE AND ADMINISTRATION,
DEPARTMENT OF

Accounts and Control	
Positions	(-1)
Personal Services	(\$17,700)
Accounts and Control	
Positions	(1)
Personal Services	\$17,700

The above deappropriation and reappropriation reduces one vacant funded Accountant II position in the Bureau of Accounts and Control and establishes a Field Examiner II position to carry out the purposes of this Act. No additional appropriation is required for the implementation of this Act.

TOTAL

0

Effective July 25, 1984.

CHAPTER 717

S.P. 858 - L.D. 2331

**AN ACT to Authorize County Commissioners
to Establish Separate Voting Places in
Unorganized Townships.**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, primary and general elections will be held this year; and