

MAINE STATE LEGISLATURE

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LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FOURTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION
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ONE HUNDRED AND FOURTEENTH LEGISLATURE
1989

A. Prior to the first meeting of the commission, the staff shall obtain necessary background information and materials for the commission.

Sec. 11. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1989-90	1990-91
LEGISLATURE		
Commission on Codification of Rules		
Personal Services	\$1,375	
All Other	4,300	
Provides funds for the per diem, travel and related expenses of the Commission on Codification of Rules		
LEGISLATURE TOTAL		
	<u>\$5,675</u>	
SECRETARY OF STATE, DEPARTMENT OF Administration - Secretary of State		
Positions	(.5)	(.5)
Personal Services	\$7,340	\$10,112
All Other	563	750
Capital Expenditures	590	
Provides funds for a part-time Clerk Typist II position and related expenses associated with rule-making activities.		
DEPARTMENT OF THE SECRETARY OF STATE TOTAL		
	<u>\$8,493</u>	<u>\$10,862</u>
APPROPRIATION TOTAL		
	<u>\$14,168</u>	<u>\$10,862</u>

See title page for effective date.

CHAPTER 575

H.P. 675 - L.D. 924

An Act to Clarify the Method of Obtaining Incapacity Benefits Under the Workers' Compensation Act

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

39 MRSA §55-B, as enacted by PL 1987, c. 559, Pt. B, §30, is amended by inserting at the end a new paragraph to read:

For purposes of determining an injured employee's degree of incapacity under this section, the commission shall consider the availability of work that the employee is able to perform in and around the employee's community and the employee's ability to obtain such work considering the ef-

fects of the employee's work-related injury. If no such work is available in and around the employee's community or if the employee is unable to obtain such work in and around the employee's community due to the effects of a work-related injury, the employee's degree of incapacity under this section is 100%.

See title page for effective date.

CHAPTER 576

H.P. 1185 - L.D. 1640

An Act to Provide Funding for and to Amend Laws Governing the Maine Human Services Council

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

Whereas, proposed amendments affecting the Maine Human Services Council will affect its current administration and operations; and

Whereas, these amendments will improve the effectiveness and efficiency of the Maine Human Services Council; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA c. 19 is enacted to read:

CHAPTER 19

MAINE HUMAN DEVELOPMENT COMMISSION

§461. Commission established

The Maine Human Development Commission shall be within State Government as established by section 12004-J, subsection 3. It shall conduct activities to encourage, enhance and support the human development of adults, children and families. The commission shall be an independent commission, separate and distinct from any other organizational unit of State Government.

§462. Membership

1. Membership; qualifications. The commission shall consist of no more than 17 members, who, excepting members representing the Legislature, shall be appointed by the Governor. To be qualified to serve, members shall have education, training, experience, knowledge, expertise and interest in human development. Members shall be residents of different geographical areas of the State, who reflect

experiential diversity and concern for human development in the State.

They shall be selected from outstanding people in the fields of education, health, income maintenance and security, juvenile services, law, law enforcement, corrections, manpower, medical care, mental health, mental retardation, poverty and community action activities, rehabilitation, social service, welfare, youth services, services to older people, and related areas. Members shall have an unselfish and dedicated personal interest demonstrated by active participation in human development activities.

Membership shall include representatives of nongovernmental organizations or groups and of public agencies concerned with human development. At least 2 members shall be current members of the Legislature, consisting of one member from the Senate appointed by the President of the Senate to serve at the President's pleasure and one member from the House of Representatives appointed by the Speaker of the House of Representatives to serve at the Speaker's pleasure. One private citizen member shall be between the ages of 16 and 21, one shall be age 60 or over, and one shall be representative of services to children. Three members shall be persons who, at the time appointed and qualified, shall be current consumers of human development activities. Three members shall be officials of public or private nonprofit community level agencies who are actively engaged in human development in public or private nonprofit community agencies. Six members shall be public members who shall be citizens at large who are not consumers of human development and who are not employees of any public or private nonprofit human development agency.

2. Terms of office; vacancies. Members shall be appointed for a term of 3 years, except that of the members first appointed, 5 shall be appointed for a term of 3 years, 5 shall be appointed for a term of 2 years and 5 shall be appointed for a term of one year, as designated by the Governor at the time of appointment; except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which that member's predecessor was appointed shall be appointed only for the remainder of such term, and except that members who are members of the current Legislature and who are appointed by the President of the Senate or the Speaker of the House of Representatives shall serve at their pleasure. Any vacancy in the commission shall not affect its powers, but shall be filled in the same manner by which the original appointment was made.

Members shall be eligible for reappointment for not more than 2 full consecutive terms and may serve after the expiration of their term until their successors have been appointed, qualified and taken office. The appointing authority may terminate the appointment of any member for good and just cause and the reason for the termination of each appointment shall be communicated to each member so terminated. The appointment of any member shall be terminated if a member is absent from 3 consecutive meetings without good and just cause that is communicated to the chair. An official, employee, consultant or any other individual employed, retained or otherwise compensated by or

representative of the executive branch of State Government shall not be a member of the commission but shall assist the commission if so requested.

3. Officers. The Governor shall designate the chair from among the members appointed to the commission. The commission may elect other officers as appropriate.

§463. Administrative authority

1. Meetings. The commission shall meet at the call of the chair or at the call of 1/4 of the members appointed and currently holding office. The commission shall meet at least once every 3 months and shall keep minutes of all meetings, including a list of people in attendance.

2. Staff. The commission may employ, subject to the Civil Service Law, staff necessary to carry out the objectives of the commission. The commission may employ consultants and contract for necessary projects. State agencies, to the extent feasible and reasonable, shall make available to the commission staff, facilities, equipment, supplies, information and other assistance.

3. Expenses. Any reasonable and proper expenses of the commission shall be provided from currently available state or federal funds. Each member of the commission shall be compensated according to the provisions of chapter 379. The commission may appoint subcommittees consisting of members of the commission and nonmembers and may allow guests to attend meetings.

4. Voting; quorum. A majority of the commission members shall constitute a quorum for the purpose of conducting business and exercising all powers. A vote of the majority of the members present shall be sufficient for all actions.

5. Funding. Any and all reasonable steps shall be taken to provide federal matching funds on a high priority basis for the commission. All expenditures eligible for federal funds shall be claimed at the highest appropriate rate of federal matching funds pursuant to federal laws, or successive federal laws or amendments or additions to those laws, including, but not limited to, the laws relating to Title XX Social Services, Title XIX Medicaid and Title IV or Title VI, of the United States Social Security Act, as amended. Any balances of funds appropriated to the commission remaining at the end of a fiscal year shall not lapse but shall be carried forward from year to year to be expended for the same purpose.

§464. Powers and duties

Regarding the human development of adults, children and families, the commission shall:

1. Advise, consult and assist. Advise, consult and assist the executive and legislative branches of State Government, especially the Governor, on activities of State Government related to human development, except those related to older people. The commission shall be solely advisory in

nature. The commission may make recommendations regarding any function intended to improve the quality of human development. If findings, comments or recommendations of the commission vary from or are in addition to those of a state agency, those statements of the commission shall be sent to the respective branches of State Government as attachments to those submitted by a state agency. Recommendations may take the form of proposed budgetary, legislative or policy actions;

2. Serve as advocate. Serve as an advocate on behalf of human development, except services to older people, promoting and assisting activities designed to meet at the national, state and community levels, problems related to human development. The commission shall serve as an ombudsman on behalf of individual citizens as a class in matters relating to human development activities under the jurisdiction of State Government. It shall be a spokesperson on behalf of human development matters to state agencies, the Governor, the Legislature, the public-at-large and the Federal Government;

3. Serve as advisory committee. Serve as the advisory committee on behalf of the State to the state agency relating to or as required by state or federal laws and regulations and the several Acts, amendments and successors to them enacted by the people of the State and those authorized by the several United States Acts, amendments and successors to them as relate to human development, including services to older people funded by Title VI, or their successors or amendments or additions thereto, of the United States Social Security Act, as amended, and excepting all other services to older people;

A. The Priority Social Services Act of 1973, except services to older people in accordance with Title 22, section 6108; and

B. Title IV and VI, or successive laws or amendments or additions to those laws, of the United States Social Security Act, as amended, except those services to older people funded under Title VI, or their successors or amendments or additions thereto, of the United States Social Security Act, as amended.

The commission shall advise concerning state and federal plans, policies, programs and other activities relating to human development, except services to older people. The commission shall submit its recommendations and comments on the state plan, and any revisions and reports to federal or state agencies. Statements at variance with or in addition to those of a state agency shall be attached to the plan or reports upon submission to agencies of the Federal Government or to state agencies;

4. Serve as review committee. Serve, through a subcommittee of the commission, as a review committee responsible for analysis of proposals and submission of advisory recommendations concerning the acceptability of proposals requesting award of state administered grant funds such as, but not limited to, those Acts enumerated in subsection 3. In order to ensure coordination and prevent duplication of human development activities the commission may

review and comment on, under its own initiative or at the request of any state or federal department or agency, any proposed agreement or agreement from any agency or organization within the State to a state or federal department or agency for assistance related to the provision of human development activities;

5. Review and evaluate. Review and evaluate on a continuing basis the purpose, the value and impact on the lives of people, state and federal policies regarding human development and other activities affecting people, except older people, conducted or assisted by any state departments or agencies;

6. Inform the public. Inform the public to develop a firm public understanding of the current status of human development, except services to older people in the State, including information on effective programs elsewhere in the State or nation, by collecting and disseminating information, conducting or commissioning studies and publishing the results of these studies and by issuing publications and reports;

7. Provide public forums. Provide public forums, including the conduct of public hearings, sponsorship of conferences, workshops and other such meetings, to obtain information about, discuss and publicize the needs of and solutions to human development problems, except problems of older people; and

8. Administer funds. Administer, in accordance with current fiscal and accounting regulations of the State, any funds appropriated for expenditure by the commission or any grants or gifts which may become available, accepted and received by the commission; and make an annual report to the Governor and Legislature concerning its work, recommendations and interests of the previous fiscal year and future plans; and shall make such interim reports as it deems advisable.

Sec. 2. 5 MRSA §12004-J, sub-§3, as enacted by PL 1987, c. 786, §5, is amended to read:

<u>3. Human Services Development</u>	<u>Maine Human Services Council Development Commission</u>	<u>\$25/Day</u>	<u>22 5 MRSA §5313 §461</u>
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Sec. 3. 22 MRSA §1, 4th ¶, as repealed and replaced by PL 1977, c. 674, §19, is amended to read:

The Director, Bureau of Resource Development and the Director, Bureau of Maine's Elderly, shall be appointed by the commissioner, after consultation with the Maine Committee on Aging and the Maine Human Services Council Development Commission. Each of these directors shall be appointed and serve in the unclassified service at the pleasure of the commissioner. Any vacancy in each of these positions shall be filled by appointment as in this paragraph for a like term.

Sec. 4. 22 MRSA c. 1475, as amended is repealed.

Sec. 5. Transitional provisions. The Maine Human Development Commission shall be the successor in every way to the powers, duties and functions of the former Maine Human Services Council, or any of its administrative units, except as otherwise provided by this Act.

1. Rules, regulations and procedures. All existing regulations in effect, in operation or promulgated in or by the Maine Human Services Council or in or by any administrative units or officers of the council, are hereby declared in effect and shall continue in effect until rescinded, revised or amended by the proper authority.

2. Contracts, agreements, compacts. All existing contracts, agreements and compacts currently in effect in the Maine Human Services Council shall continue in effect.

3. Personnel. Any position count, authorized and allocated subject to the Civil Service Law, to the former Maine Human Services Council shall be transferred to the Maine Human Development Commission or its successors and may continue to be authorized. Any employee, official or positions of such former agencies subject to the Civil Service Law on the effective date of this Act may be transferred to the reconstituted commission which replaces their former agency, and that employee or official shall continue employment after the effective date of this Act, without interruption of state service.

4. Records, property and equipment. All records, property and equipment previously belonging to or allocated for the use of the former Maine Human Services Council shall become, on the effective date of this Act, part of the property of the Maine Human Development Commission.

5. Funds and equipment transferred. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in any account, or subdivision of an account, of any agency to be reallocated to another administrative unit as a result of this Act, shall be transferred to the proper place in an account for the commission, by the State Controller, upon recommendations of the commission's executive director, the State Budget Officer and upon approval by the Governor and Legislature. A proper accounting shall be made by activity within the account.

6. Implementation. The Maine Human Services Council shall assist the executive and legislative branches of State Government to facilitate implementation of this Act.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective July 11, 1989.

CHAPTER 577

S.P. 535 - L.D. 1470

An Act to Expand the Health Occupations Training Project

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

Whereas, critical shortages of skilled workers in the State's health care industry have resulted in closing of beds in hospitals and other health care facilities; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 26 MRSA §§2151 and 2153 to 2155, as enacted by PL 1987, c. 777, §3, are amended to read:

§2151. Scope

This chapter establishes the Health Occupations Training Project which shall provide assistance to the State's health care facilities facing serious shortages of workers in certain health care occupations by combining the resources of existing federal and state job training programs.

§2153. Funding

Funding for this project may come from existing state and federal funds, an appropriation of new state funds and from funds provided by the participating institutions.

§2154. Project goals

The Health Occupations Training Project is a training strategy consisting to increase the supply of health care workers. The project consists of 3 parts that provide for:

1. Health care workers. An increased supply of certified nurses aides, home health care aides ~~and other similar occupations, including~~ licensed practical nurses, registered nurses and other support staff, through training and placement in jobs with competitive wages and benefits;

2. Allied health care workers. An increased supply of allied health care workers for hospital technical jobs through training of participants in the state job training system. For purposes of this chapter, the state job training system includes job training programs such as the Job Training Partnership Act ~~and~~; the Welfare, Employment, Education and Training Program; the Maine Training Initiative; the Additional Support for People in Retraining and Education Program; and programs administered by participating hospitals; and