

MAINE STATE LEGISLATURE

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Maine Historic Preservation Commission
PROGRAM EVALUATION REPORT

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1. ENABLING LEGISLATION

27 M.R.S.A. §§ 502-510

CHAPTER 17
MAINE HISTORIC PRESERVATION COMMISSION

Section

- 501. Declaration of policy.
- 502. Maine Historic Preservation Commission.
- 503. Membership.
- 504. Duties.
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- 506. Hearings; contracts.
- 507. Assistance from other state agencies.
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- 509. Compliance with federal law.
- 510. Annual Report.

Chapter 17, Maine Historic Preservation Commission, was enacted by Laws 1971, c. 536, § 1.

§ 501. Declaration of policy

The Legislature declares it is the policy of the State that in order to preserve the architectural, historic and environmental heritage of the people of the State, and to develop and promote the cultural, educational and economic benefits of these resources, the Maine Historic Preservation Commission, as established by Title 5, section 12004, subsection 10, shall work to implement this policy. 1971, c. 536, § 1; 1983, c. 812, § 171.

Historical Note

Laws 1983, c. 812, deleted "there is established" following "resources," and added ", as established by Title 5, section 12004, subsection 10, shall work to implement this policy".

Savings clause. For savings clause provision of Laws 1983, c. 812, § 302, see the Historical Note under 2801 of title 25.

Cross References

Advisory boards and boards with minimal responsibility, powers and responsibilities, compensation, see title 5, § 12004-I.

Library References

Health and Environment ⇨25.5(8).
C.J.S. Health and Environment § 61 et seq.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

§ 502. Maine Historic Preservation Commission

There shall be created within the Department of Educational and Cultural Services a bureau which shall be designated as the "Maine Historic Preservation Commission." It shall consist of 11 members made up as follows: The Commissioner or a representative of the Department of Transportation, and the Commissioner or a representative of the Department of Conservation, to serve ex officio,

MAINE HISTORIC PRESERVATION
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9 representatives elected chairman, in this field, including an ecologist, one historian, one geologist, one archaeologist, one given by the Governor, one given to the recommendations of the educational association, one given to the historic preservation commission. 1971, c. 536, § 1; 1972; 1973, c. 169, § 21.

Laws 1971, c. 593, in titled "Department of State Highway Commission".

Laws 1971, c. 618, in titled "Board of Environmental Improvement".

Laws 1971, c. 622, in titled "State Parks and Recreation".

Laws 1973, c. 169, in titled "within the Department of Cultural Services".

Laws 1973, c. 460, in titled "Bureau of Parks and Recreation".

Laws 1975, c. 771, and consent of the Governor".

Laws 1979, c. 21, re section, which prior to

"Commission

"There is created a commission within the D-

States ⇨45.

C.J.S. States § 79 et

§ 503. Member

Upon the expiration of each appointed member's term, if there is a vacancy, other than a vacancy, other than a vacancy, shall be appointed by the Governor. The commission shall meet at least once a year. The provisions of 1971, c. 536, § 1; 1972; 1973, c. 169, § 21.

¹ Section 12001 et seq.

9 representatives from among the citizens of Maine, one of whom shall be elected chairman, who are known for their competence, experience and interest in this field, including at least one prehistoric archaeologist, one historic archaeologist, one historian, one architectural historian and one architect, to be appointed by the Governor. In making these appointments, due consideration shall be given to the recommendations made by the representative professional, civic and educational associations and groups concerned with or engaged in the field of historic preservation.

1971, c. 536, § 1; 1971, c. 593, § 22; 1971, c. 618, § 12; 1971, c. 622, § 89, eff. March 15, 1972; 1973, c. 169, § 2; 1973, c. 460, § 19; 1975, c. 771, § 294, eff. Jan. 4, 1977; 1979, c. 21.

Historical Note

Laws 1971, c. 593, in the first sentence, substituted "Department of Transportation" for "State Highway Commission."

Laws 1971, c. 618, in the first sentence, substituted "Board of Environmental Protection" for "Environmental Improvement Commission".

Laws 1971, c. 622, in the first sentence, substituted "State Parks and Recreation Department" for "State Parks and Recreation Commission".

Laws 1973, c. 169, in the first sentence, inserted "within the Department of Educational and Cultural Services".

Laws 1973, c. 460, in the first sentence, substituted "Bureau of Parks and Recreation" for "Parks and Recreation Department".

Laws 1975, c. 771, deleted "with the advice and consent of the Council" following "the Governor".

Laws 1979, c. 21, repealed and replaced this section, which prior thereto read:

"Commission

"There is created and established a state commission within the Department of Educational

and Cultural Services to be known as the 'Maine Historic Preservation Commission' to consist of not less than 12 nor more than 15 members made up as follows: Director or representative of the Arts and Humanities Commission, chairman or representative of the Department of Transportation, director or representative of the Maine State Museum Commission, director or representative of the Bureau of Parks and Recreation, director or representative of the State Planning Office and director or representative of the Board of Environmental Protection to serve ex officio and a minimum of 7 representatives from among citizens of Maine, one of whom shall be elected chairman, who are known for their competence, experience and interest in this field, including at least one archeologist, one historian and one architect, to be appointed by the Governor. In making such appointments, due consideration shall be given to the recommendations made by the representative professional, civic and educational associations and groups concerned with or engaged in the field of historic preservation."

Library References

States ⇐45.
C.J.S. States § 79 et seq.

§ 503. Membership

Upon the expiration of the term of existing members, the term of office of each appointed member shall be 5 years or until his successor is appointed and qualified. No member shall serve more than 2 successive terms. In the case of a vacancy, other than the expiration of a term, the appointment of a successor shall be appointed by the Governor for the balance of the term. The commission shall meet at least 4 times a year. It shall adopt and may amend bylaws for its internal organization and operation. The director shall serve as secretary to the commission. The members of the commission shall be compensated according to the provisions of Title 5, chapter 379¹.

1971, c. 536, § 1; 1979, c. 21; 1983, c. 812, § 172.

¹Section 12001 et seq. of title 5.

Historical Note

Laws 1979, c. 21, repealed and replaced this section, which prior thereto read:

"The term of office of each member shall be 5 years; provided that of those members first appointed, 5 shall be appointed for terms of 2 years, 5 for 4 years and the remainder for 5 years. Their successors shall be appointed for 5 years. Each member shall serve for the term of his appointment and thereafter until his successor is appointed and qualified, but in no event more than 2 consecutive terms. All vacancies shall be filled for the balance of the unexpired term in the same manner as original appointments.

"Members shall serve without compensation but shall receive their necessary expenses."

Laws 1983, c. 812, in the seventh sentence, substituted "be compensated according to the provisions of Title 5, chapter 379" for "serve without compensation, but shall be reimbursed for expenses incurred in the performance of their duties".

Savings clause. For savings clause provision of Laws 1983, c. 812, § 302, see the Historical Note under § 2801 of title 25.

Library References

States ⇐51.
C.J.S. States § 61 et seq.

§ 504. Duties

The commission shall set policy with regard to:

1. **Administration.** The steps which are necessary and relevant to encourage and stimulate public interest and participation in the historic, architectural and archaeological heritage of our State, and to advise the State Historic Preservation Officer with regard to liaison between the State and Federal Governments and public or private agencies or organizations interested in and participating in the field of historic preservation; and

2. **Programs.** The steps which are necessary to administer the program of the National Historic Preservation Act of 1966,¹ and other private and governmental programs within the purposes of this chapter except in those areas specifically assigned by federal law to the State Historic Preservation Officer. 1971, c. 536, § 1; 1975, c. 771, § 295, eff. Jan. 4, 1977; 1979, c. 21.

¹ 16 U.S.C.A. § 470 et seq.

Historical Note

Laws 1975, c. 771, in the third sentence of subsec. 4, deleted, " , however," following "provided" and "and Council" following "the Governor".

Laws 1979, c. 21, repealed and replaced this section, which prior thereto read:

"The duties of the commission shall be:

"1. **Administration.** To take those steps necessary and relevant to encourage and stimulate public interest and participation in the architectural and historic heritage of our State, provide liaison between the State and Federal Governments and public or private agencies or organizations interested in and participating in the field of historic preservation; and

"2. **Programs.** To administer the program of the National Historic Preservation Act of 1966, and other private and governmental programs within the purposes of this commission; and

"3. **Register of historic places.** To prepare a State Register of Historic Places; and

"4. **Acceptance of gifts and bequests.** To accept gifts, devises, bequests and endowments for purposes consistent with the purposes of this commission. Any funds given as an endowment shall be invested by the Treasurer of State according to the laws governing investment of trust funds. All gifts, devises, bequests and proceeds of endowment funds shall be used sole-

ly to carry out the purpose made; provided, however, shall not accept any gift without the consent of the that will require the expenditure of federal or federal-match maintenance, preservation

States ⇐73.
C.J.S. States §§ 60, 1

§ 505. Director

1. **Appointment** a director, with the Services, who shall historic preservation Officer upon appointment cause under the Ci

2. Duties.

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historic places. To prepare
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of the Treasurer of State ac-
cording to the laws govern-
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ly to carry out the purposes for which they were
made; provided, however, that the commission
shall not accept any gifts, devises or bequests
without the consent of the Governor and Council
that will require the expenditure of any state,
federal or federal-matching funds for its repair,
maintenance, preservation or operation; and

"5. Biennial report. To report, biennially, to
the Governor and Legislature facts and recom-
mendations relating to the work and needs of
this commission; and

"6. Rules and regulations. To promulgate
such rules and regulations as are necessary to
effectuate the purposes of this chapter."

Library References

States 73.
C.J.S. States §§ 60, 130 et seq.

§ 505. Director

1. Appointment. The Maine Historic Preservation Commission may appoint a director, with the approval of the Commissioner of Educational and Cultural Services, who shall be qualified by special training or experience in the field of historic preservation and who shall also serve as the State Historic Preservation Officer upon appointment by the Governor and shall be subject to removal for cause under the Civil Service Law.¹

2. Duties.

A. The Maine Historic Preservation Commission shall be under the management and supervision of a director who shall make rules and regulations for the proper management of the bureau, subject to the approval of the Commissioner of Educational and Cultural Services.

B. The director may employ, subject to the personal laws, such assistants as the business of the office may require.

C. The director shall, subject to the approval of the commission, accept gifts, devises, bequests and endowments for purposes, consistent with the purposes of this chapter. Any funds given as an endowment shall be invested by the Treasurer of State according to the laws governing investment of trust funds. All gifts, devises, bequests and proceeds of endowment funds shall be used solely to carry out the purposes for which they were made.

D. The director may administer a program of state financed grants for the stabilization and restoration of unique historic structures consistent with the following conditions.

(1) An applicant for a grant must be either a governmental or a nonprofit organization.

(2) The historic structure which is the subject of the grant application must be on the National Register of Historic Places as provided by the National Historic Preservation Act of 1966² or have been nominated to the register by the commission.

(3) An applicant must provide assurance that public access to the structure will be reasonably provided with respect to admission fees, visitation hours and physical accessibility, while maintaining the historical integrity of the structure.

(4) Applications must address, to the satisfaction of the commission, the applicant's organizational and financial capacity to provide long-term maintenance of that structure which is the subject of the application.

(5) Grants shall not exceed 50% of the total expense of the proposed project, except that grants to this State may be 100% of the total expense of the proposed project.

(6) All grants shall be subject to final approval, by the commission.

(7) Prior to final approval, the commission may require the applicant to execute a covenant to secure continued public access and maintenance of the historic integrity of the structure, and a right of first refusal for the State.

With respect to the quality of work to be performed through this grant program, the commission and the director shall be guided by the United States Secretary of the Interior's Standards for Rehabilitation.

1971, c. 536, § 1; 1975, c. 771, § 296, eff. Jan. 4, 1977; 1979, c. 21; 1983, c. 585, § 2; 1985, c. 785, § B, 125, eff. July 1, 1986.

¹ See § 7039 of title 5.

² 16 U.S.C.A. § 470 et seq.

Historical Note

Laws 1975, c. 771, in the third sentence, deleted "and Council" following "the Governor".

Laws 1979, c. 21, repealed and replaced this section, which prior thereto read:

"The Maine Historic Preservation Commission may appoint a director who shall be qualified by special training or experience in the field of historic preservation. He shall serve at the will and pleasure of the commission and may be removed for cause. Compensation of the director shall be established by the commission, with the approval of the Governor and Council.

The powers and duties of the director shall be prescribed by the commission."

Laws 1983, c. 585, added par. D of subsec. 2.

Laws 1985, c. 785, in subsec. 1, substituted "Civil Service" for "Personnel".

Savings clause. Laws 1985, c. 785, § B, 182, provides:

"Nothing in Part B is intended to conflict or be inconsistent with current retirement law which shall prevail."

Library References

States \Leftrightarrow 46.

C.J.S. States § 61 et seq.

§ 506. Hearings; contracts

The commission may hold public and private hearings related to the field of historic preservation. The director may enter into contracts, within the limit of funds available therefor, with individuals or organizations and institutions for services furthering the objectives of this chapter; and enter into contracts, within the limit of funds available therefor, with public or private, local or regional organizations or associations for cooperative endeavors furthering the objective of this chapter. The director may make recommendations to the commissioner regarding the acceptance of gifts, contributions, devises and bequests of funds and objects from individuals, foundations, corporations and other organizations, and institutional or governmental bodies for the purpose of furthering the objectives of this chapter.

1971, c. 536, § 1; 1975, c. 771, § 297, eff. Jan. 4, 1977; 1979, c. 21.

Historical Note

Laws 1975, c. 771, deleted "and Council" following "the Governor".

Laws 1979, c. 21 repealed and replaced this section, which prior thereto read:

"The commission is authorized and empowered to hold public and private hearings related to the field of historic preservation and to enter into contracts within the limit of funds available therefor with individuals or organizations and institutions for services furthering the objectives of the commission's programs; to enter into contracts, within the limit of funds available therefor, with public or private local or regional

organizations or associations for cooperative endeavors furthering the commission's programs; approve the acceptance or, when necessary, make initial approval and recommendations for acceptance to the Governor and Council of gifts, contributions, devises and bequests of funds and objects from individuals, foundations, corporations and other organizations, and institutional or governmental bodies for the purpose of furthering the commission's programs; to make and sign any agreements and to do and perform any acts that may be necessary to carry out the purposes of this chapter."

Library References

States ⇐94.
C.J.S. States § 156 et seq.

§ 507. Assistance from other state agencies

The director may request from any department, division, board, bureau, commission or agency of the State such assistance and data as will enable him to properly carry out this chapter.

1971, c. 536, § 1; 1979, c. 21.

Historical Note

Laws 1979, c. 21, repealed and replaced this section, which prior thereto read:

"The commission may request and shall receive from any department, division, board, bu-

reau, commission or agency of the State such assistance and data as will enable it properly to carry out its powers and duties."

§ 508. Recommendations

The director shall make recommendations and give assistance to private and governmental bodies as consistent with the purposes of this chapter.

1971, c. 536, § 1; 1979, c. 21.

Historical Note

Laws 1979, c. 21, repealed and replaced this section, which prior thereto read:

"The commission shall make recommendations and give assistance to private and governmental

bodies as consistent with the purposes of this chapter."

§ 509. Compliance with federal law

The State Historic Preservation Officer may adopt any regulation necessary to enable the State to comply with any law of the United States intended to promote public historic preservation services. The Treasurer of State shall be custodian of any money that may be allotted by the Federal Government for programs related to the purposes of the Maine Historic Preservation Commission.

1971, c. 536, § 1; 1979, c. 21.

Historical Note

Laws 1979, c. 21, repealed and replaced this section, which prior thereto read:

funds made available by the Federal Government for programs related to the purposes of the commission."

"Funds

"The commission shall be the official agency of the State to receive and disburse any and all

Library References

States ⇄127.
C.J.S. States § 228.

§ 510. Annual report

The Historic Preservation Director shall report to the commissioner annually the receipts and expenditures on account of the bureau, the number of acquisitions during the preceding year, specifying those obtained by purchases, donation and exchange, and shall make in that report suggestions in relation to the improvement of the Maine Historic Preservation Commission.

1971, c. 536, § 1; 1973, c. 625, § 186, eff. July 5, 1973; 1979, c. 21.

Historical Note

Laws 1973, c. 625, deleted "not later than January 1, 1973, and thereafter" following "Legislature" where first appearing.

Laws 1979, c. 21, repealed and replaced this section, which prior thereto read:

"Reports

"The commission shall approve the report of the director to the Governor and the Legislature within 10 days after the commencement of each regular session of the State Legislature."

Sunset

Laws 1987, c. 469, § 11, which provided that Laws 1987, c. 469, shall sunset 3 years from its effective date, was itself repealed by Laws 1989, c. 912, § 10.

Historical and Statutory Notes

Codification

Laws 1987, c. 469, § 11, which provided that Laws 1987, c. 469, shall sunset 3 years from its effective date, was itself repealed by Laws 1989, c. 912, § 10.

Laws 1989, c. 912, § 8, in subsec. 3, deleted part of the provision which related to procedures for contracting with architects for services relating to the planning for the acquisition of works of art.

Amendments

1989 Amendment. Laws 1989, c. 912, § 7, added subsec. 2-A.

§ 459. Administrative costs

Eligible administrative costs incurred by the contracting agency that are associated with the acquisition of works of art shall be included as part of the amount allocated to section 453, subsection 1, for works of art.
1987, c. 469, § 11; 1989, c. 912, §§ 9, 10.

Sunset

Laws 1987, c. 469, § 11, which provided that Laws 1987, c. 469, shall sunset 3 years from its effective date, was itself repealed by Laws 1989, c. 912, § 10.

Historical and Statutory Notes

Codification

Laws 1987, c. 469, § 11, which provided that Laws 1987, c. 469, shall sunset 3 years from its effective date, was itself repealed by Laws 1989, c. 912, § 10.

Amendments

1989 Amendment. Laws 1989, c. 912, § 9, deleted reference to eligible administrative costs incurred by the architect.

CHAPTER 17

MAINE HISTORIC PRESERVATION COMMISSION

Section

- 501. Declaration of policy.
- 502. Maine Historic Preservation Commission.
- 504. Duties.

Section

- 505. Director.
- 506. Hearings; contracts.
- 509. Compliance with federal law.
- 510. Repealed.

§ 501. Declaration of policy

The Legislature declares it is the policy of the State that in order to preserve the architectural, historic and environmental heritage of the people of the State, and to develop and promote the cultural, educational and economic benefits of these resources, the Maine Historic Preservation Commission, as established by Title 5, section 12004-G, subsection 7-D, shall work to implement this policy.

1989, c. 503, § B. 116, eff. June 30, 1989; 1989, c. 700, § B-37.

Historical and Statutory Notes

Amendments

1989 Amendments. Laws 1989, c. 503, § B, 116, in subsec. 1, substituted reference to § 12004-I, subsec. 13, for reference to § 12004, subsec. 10.

Laws 1989, c. 700, § B-37, substituted reference to § 12004-G of title 5, subsec. 7-D, for reference § 12004-I of title 5, subsec. 13.



27 § 502

LIBRARIES, HISTORY, CULTURE
Title 27

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§ 502. Maine Historic Preservation Commission

There is created the Maine Historic Preservation Commission. It consists of 11 members made up as follows: The Commissioner of Transportation or a representative of the Department of Transportation, and the Commissioner of Conservation or a representative of the Department of Conservation, to serve ex officio; and 9 representatives from among the citizens of the State, one of whom must be elected chair and one of whom must be elected vice-chair, who are known for their competence, experience and interest in historic preservation, including at least one prehistoric archaeologist, one historic archaeologist, one historian, one architectural historian and one architect, to be appointed by the Governor. In making these appointments, due consideration must be given to the recommendations made by the representative professional, civic and educational associations and groups concerned with or engaged in the field of historic preservation.
1989, c. 700, § B-38; R.R.1991, c. 2, § 103.

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Historical and Statutory Notes

Codification

Revisor's Report 1991, c. 2, § 103, made grammatical changes and clarified references throughout.

Amendments

1989 Amendment. Laws 1989, c. 700, § B-38, substituted provision stating that there is created

the Maine Historic Preservation Commission for provision stating that there shall be created, within the Department of Educational and Cultural Services, a bureau, which shall be designated as the Maine Historic Preservation Commission, made reference to chairman gender-neutral, and provided that one of the members shall be elected vice-chair.

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§ 504. Duties

The commission shall set policy with regard to:

[See main volume for 1 and 2]

2-A. Rules. The Maine Historic Preservation Commission may adopt rules pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375¹ to implement this section.
1989, c. 647, § 1.

¹ 5 M.R.S.A. § 8001 et seq.

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Historical and Statutory Notes

Amendments

1989 Amendment. Laws 1989, c. 647, § 1, added subsec. 2-A.

§ 505. Director

1. Appointment. The Maine Historic Preservation Commission may appoint a director who must be qualified by special training or experience in the field of historic preservation and who shall also serve as the State Historic Preservation Officer upon appointment by the Governor and is subject to removal for cause under the Civil Service Law.¹ The commission shall fix compensation for the director within salary range 88.

2. Duties.

A. The Maine Historic Preservation Commission is under the management and supervision of a director who may adopt rules pursuant to the Maine Administrative Procedure Act² to implement this section.

[See main volume for B to D]

1989, c. 647, § 2; 1989 c. 700, §§ B-39, B-40; 1991, c. 528, §§ E-33, RRR; 1991, c. 591, § E-33, eff. July 17, 1991; 1991, c. 824, § A-56, eff. April 6, 1992.

¹ See 5 M.R.S.A. § 7039.

² See 5 M.R.S.A. § 8001 et seq.

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Historical and Statutory Notes

1, c. 528, § E-33, approved July 8, changes to this section which were Laws 1991, c. 528, § RRR, eff. July 11, 1991, c. 591, does not refer to Laws but effects changes virtually identical made by Laws 1991, c. 528. For an example of the changes made temporarily by c. 528, § E-33, see the note below Laws 1991, c. 591, § E-33.

Laws 1989, c. 700, § B-40, in subsec. 2, par. A, without incorporating changes made by Laws 1989, c. 647, § 2, substituted reference to the commission for bureau, and deleted the proviso that such power to make rules and regulations shall be subject to the approval of the Commissioner of Educational and Cultural Services.

1991 Amendments. Laws 1991, c. 591, § E-33, in subsec. 1, provided that the commission shall fix compensation for the director within salary range 88.

Laws 1991, c. 824, § A-56, repealed and replaced subsec. 2, par. A, to consolidate the effect of changes by Laws 1989, c. 647, § 2, and Laws 1989, c. 700, § B-40.

Endowment Funds

Laws 1991, c. 622, § V-6, eff. Dec. 23, 1991, provided:

"It is the intent of the Legislature that the Maine Arts Commission, the Maine Historic Preservation Commission, the Maine State Library and the Maine State Museum shall actively pursue the establishment of endowment funds."

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 Amendments. Laws 1989, c. 647, § 2, in par. A, substituted provision authorizing to adopt rules pursuant to the Maine Administrative Procedure Act, title 5, chapter 375, in this section for provision authorizing to make rules and regulations for the management of the bureau.
 9, c. 700, § B-39, in subsec. 1, deleted the approval of the Commissioner of Educational and Cultural Services relating to the appointment of a director.

Hearings; contracts

Commission may hold public and private hearings related to the field of historic preservation. The director may enter into contracts, within the limit of funds available, with public or private organizations and institutions for services furthering the objectives of this chapter and enter into contracts, within the limit of funds available, with public or private, regional organizations or associations for cooperative endeavors furthering the objectives of this chapter. The director may make recommendations to the commission regarding the acceptance of gifts, contributions, devises and bequests of funds and objects from individuals, foundations, corporations and other organizations, and institutional or other bodies for the purpose of furthering the objectives of this chapter. The director is authorized and empowered to establish an endowment fund. Any funds, if established as an endowment, must be invested by the Treasurer of State according to the laws governing the investment of trust funds.

§ V-5, eff. Dec. 23, 1991.

Historical and Statutory Notes

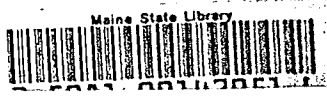
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 Amendment. Laws 1991, c. 622, § V-5, made changes, authorized the commission

to establish an endowment fund and provided that any funds given as an endowment must be invested by the Treasurer of State according to the laws of the State governing the investment of trust funds.

Compliance with federal law

The Historic Preservation Officer may adopt rules pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, to enable the State to comply with any law of the United States intended to promote public historic preservation services. The Treasurer of State shall be custodian of any money that may be allotted by the Federal Government for the purposes of the Maine Historic Preservation Commission.

19-A. § 8001 et seq.



27 § 509

LIBRARIES, HISTORY, CULTURE
Title 27

Historical and Statutory Notes

Amendments

1989 Amendment. Laws 1989, c. 647, § 3, substituted provision authorizing the State Historic Preservation Officer to adopt rules pursuant to the

Maine Administrative Procedure Act, title 5, chapter 375, to comply with United States laws for provision authorizing such officer to adopt any regulation necessary for such compliance.

§ 510. Repealed. Laws 1989, c. 700, § B-41

Historical and Statutory Notes

The repealed section, which provided that the Historic Preservation Director shall report to the commissioner annually the receipts and expenditures on account of the bureau, the number of acquisitions during the preceding year, etc., was derived from:

- Laws 1971, c. 536, § 1.
- Laws 1973, c. 625, § 186.
- Laws 1979, c. 21.

CHAPTER 18

MAINE STATE CULTURAL AFFAIRS COUNCIL

Section

- 551. Definitions.
- 552. Maine State Cultural Affairs Council.
- 553. Membership.

Section

- 554. Staff.
- 555. Duties.
- 556. Limitations.
- 557. Annual report.

Historical and Statutory Notes

Codification

Chapter 18, Maine State Cultural Affairs Council, was enacted by Laws 1989, c. 700, § B-42.

§ 551. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Cultural agencies. "Cultural agencies" means the Maine Arts Commission, the Maine Historic Preservation Commission, the Maine Library Commission, the Maine State Museum Commission and programs of these commissions.
 2. Directors. "Directors" means the Director of the Maine Arts Commission, the Director of the Maine Historic Preservation Commission, the State Librarian and the Director of the Maine State Museum.
- 1989, c. 700, § B-42.

§ 552. Maine State Cultural Affairs Council

The Maine State Cultural Affairs Council, as established in Title 5, section 12004-G, subsection 7-A, shall ensure a coordinated, integrated system of cultural resources programs and projects and shall ensure the support of cultural heritage institutions and activities of the State.

1989, c. 700, § B-42.

§ 553. Membership

The Maine State Cultural Affairs Council shall consist of the chair of the State Cultural Affairs Council, appointed pursuant to subsection 1, and the chair and vice-chair from the Maine Arts Commission, the Maine Historic Preservation Commission, the Maine Library Commission and the Maine State Museum Commission. The Governor may designate a staff

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2. PROGRAM DESCRIPTION

Created in 1971 by the 105th Legislature, the Maine Historic Preservation Commission administers the provisions of the National Historic Preservation Act of 1966 in partnership with the Department of the Interior.

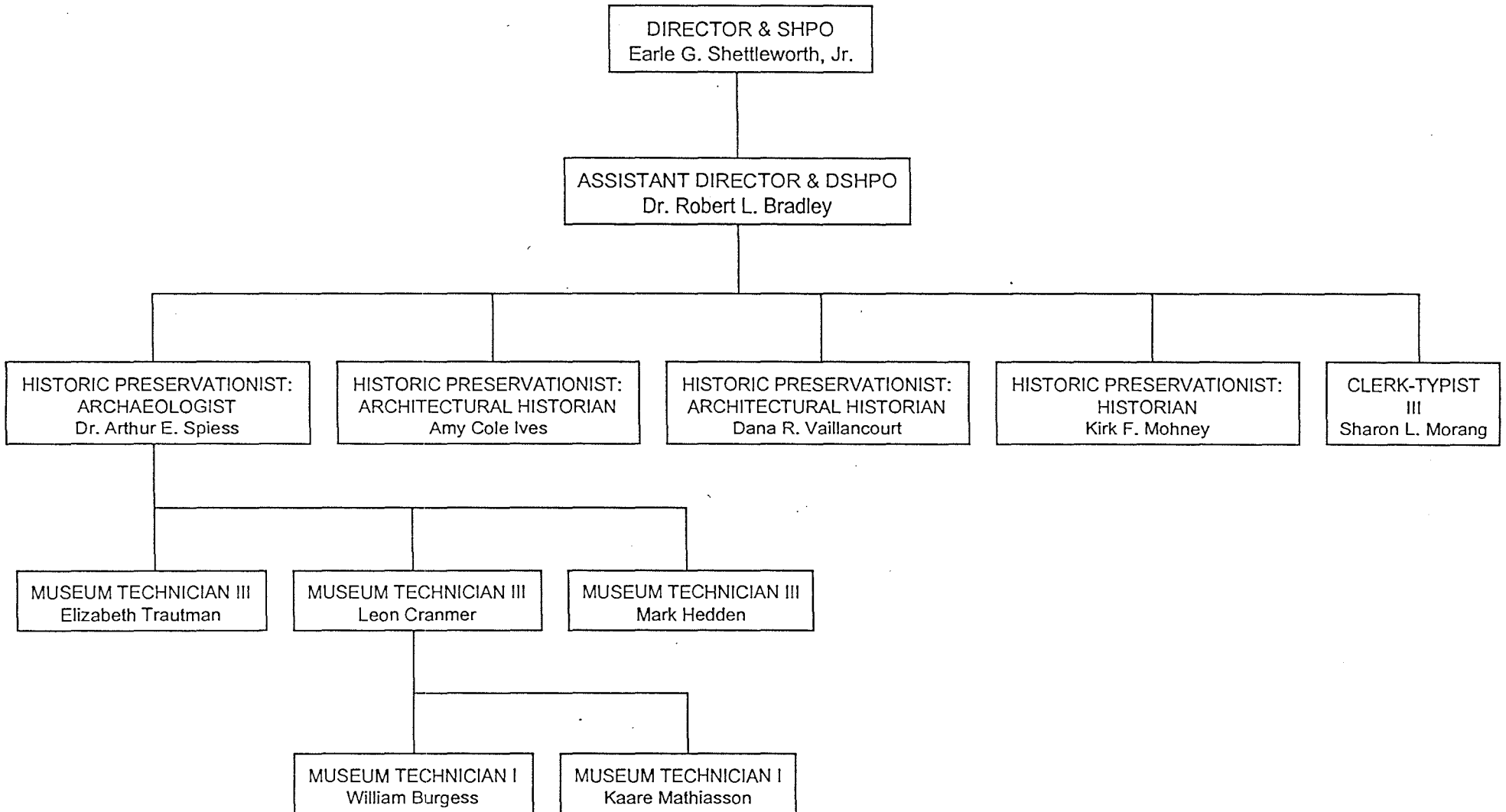
Under both state and federal mandates, the Commission conducts statewide survey and inventory of all types of historic resources - historic, architectural and archaeological. Significant buildings, sites and structures are nominated individually or as historic or archaeological districts to the National Register of Historic Places, protecting them from damage or destruction by federal, federally-licensed and federally-funded construction projects. The Commission awards state and federal grants for surveys and for restoration projects, and it administers the federal tax incentive program for the rehabilitation of registered depreciable properties. The Commission works closely with many other state agencies, as well as non-profit institutions, the business community and the public at large, in providing technical assistance in historic preservation. It also provides inventory data to local government planners to facilitate municipal growth management. And the Commission actively furthers public education in historic preservation by means of free publications, statewide and regional workshops, and lectures.

The Department of the Interior requires that every state preservation program address each of the following program areas: Review and Compliance, National Register Nominations, Preservation Tax Incentives, Survey, Planning, Certified Local Governments, Covenants, and Public Education.

3. ORGANIZATIONAL STRUCTURE, POSITION COUNT, JOB CLASSIFICATIONS

The following two pages contain the above items.

MAINE HISTORIC PRESERVATION COMMISSION: OFFICE STRUCTURE (1999)



COMPLIANCES

Civil Rights

Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance (Section 601).

Title IX of the Education Amendments of 1972 provides that no person in the United States shall, on the basis of sex, be subject to discrimination under any educational program or activity receiving federal financial assistance.

The Age Discrimination Act of 1975 provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program receiving federal assistance.

People with Disabilities

Disability is defined as anyone who has a physical or mental impairment which substantially limits one or more of such persons major life activities, has a record of such impairment, or is regarded as having such impairment.

Section 504 of the Rehabilitation Act of 1973 provides that no otherwise qualified person with a disability in the United States, as defined in Section 7(6), shall, solely by reason of his or her disability, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving federal assistance.

The Americans with Disabilities Act of 1991 extends protections of the Civil Rights Act of 1964 by prohibiting discrimination in employment based on disability, requiring places of public accommodation be accessible to people with disabilities, mandating gradual replacement of buses and railroad cars with equipment that can accommodate people with disabilities, and making telephone services available to people with hearing and speech impairments, nationwide.

Drug Free Workplace

The Drug Free Workplace Act of 1988 requires that employees of the grantee not engage in the unlawful manufacture, dispensation, possession, or use of controlled substances in the grantee's workplace or work site.

Maine Historic Preservation Commission

Expenditures

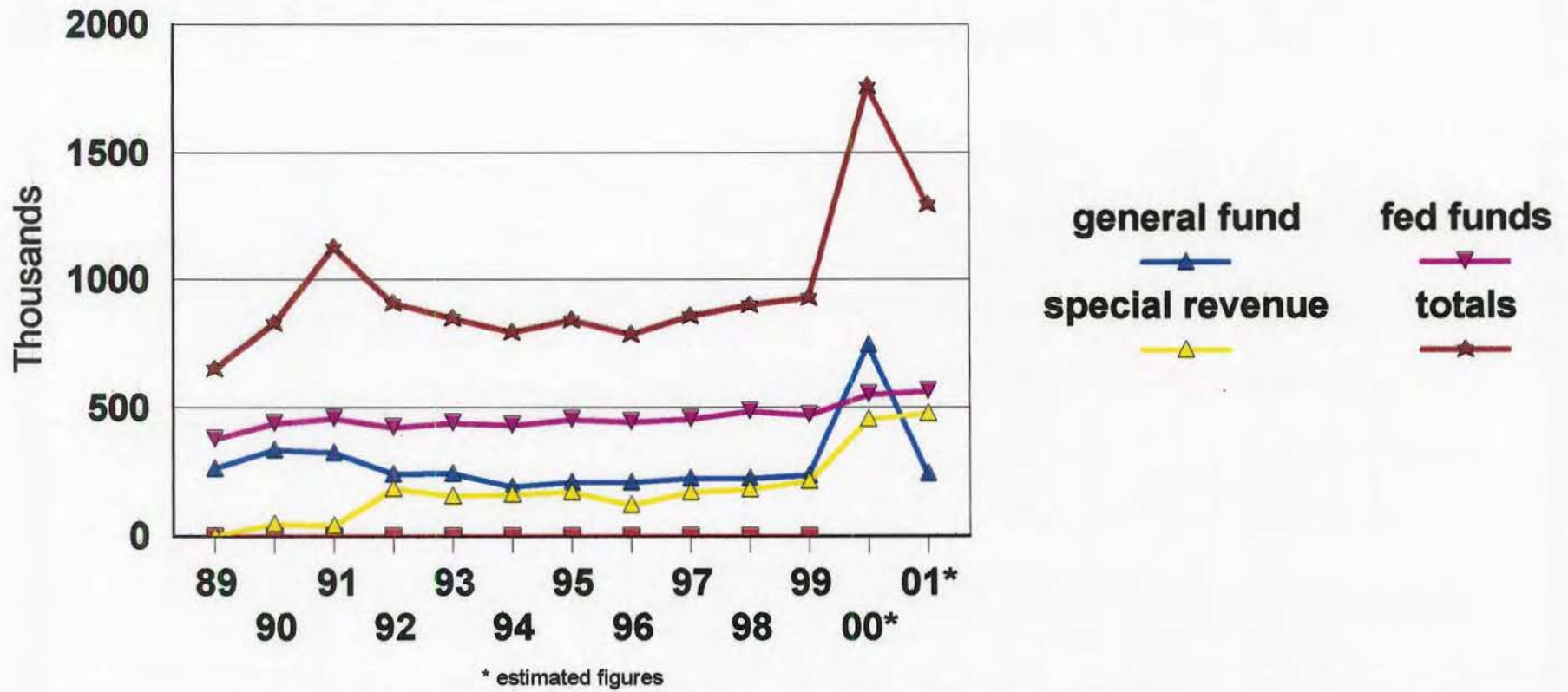
| | 89 | 90 | 91 | 92 | 93 | 94 | 95 | 96 | 97 | 98 | 99 | 00* | 01* |
|-----------------|----------------|----------------|------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------|------------------|
| general fund | 267,456 | 340,717 | 328,607 | 247,425 | 247,910 | 196,881 | 213,398 | 214,598 | 228,710 | 228,957 | 241,436 | 750,965 | 249,116 |
| special revenue | 5,856 | 51,234 | 44,035 | 187,521 | 160,149 | 166,974 | 175,930 | 125,262 | 174,197 | 185,214 | 219,251 | 460,205 | 481,134 |
| fed funds | 381,685 | 441,786 | 462,386 | 426,838 | 444,514 | 435,620 | 458,348 | 449,713 | 460,082 | 490,801 | 474,078 | 554,918 | 568,171 |
| bond | 0 | 0 | 293,392 | 50,401 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| totals | 654,997 | 833,737 | 1,128,420 | 912,185 | 852,573 | 799,475 | 847,676 | 789,573 | 862,989 | 904,972 | 934,765 | 1,766,088 | 1,298,421 |

Positions

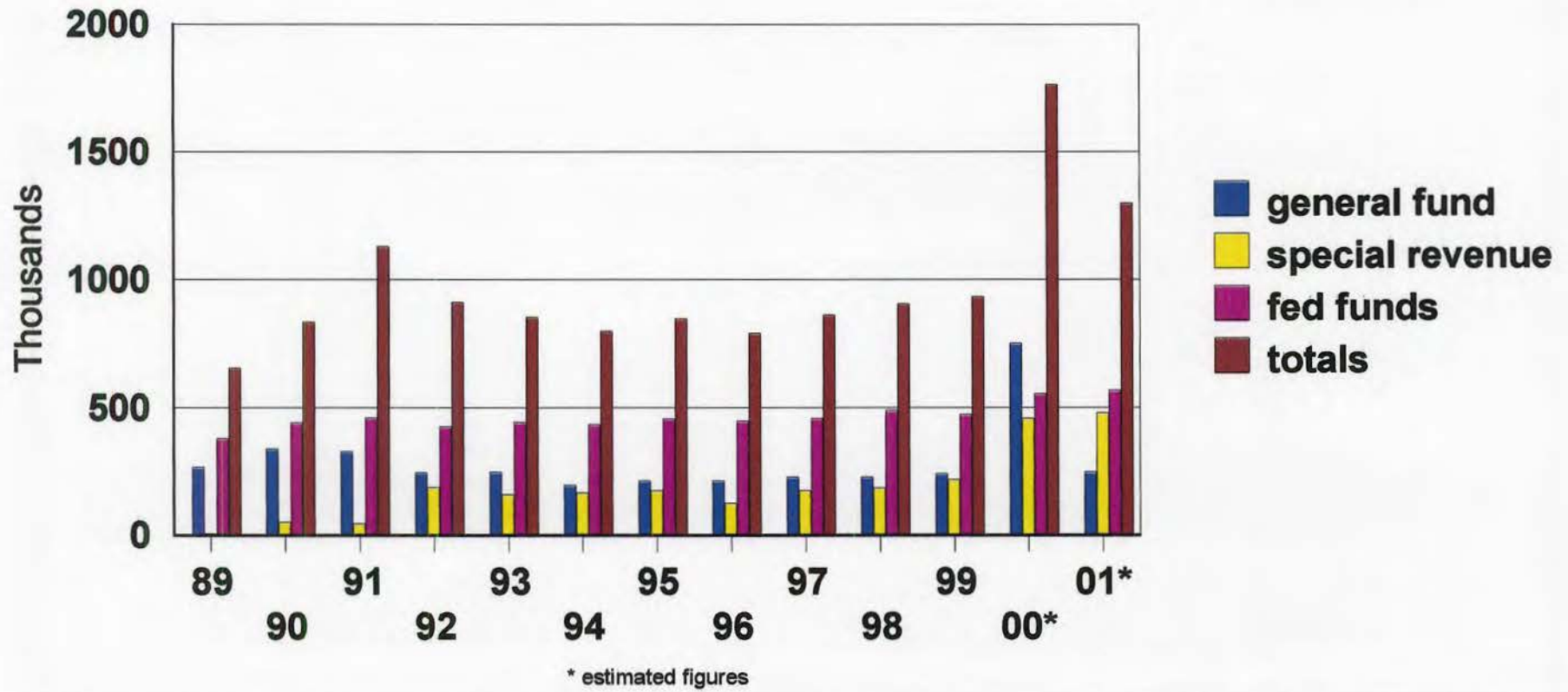
| | 89 | 90 | 91 | 92 | 93 | 94 | 95 | 96 | 97 | 98 | 99 | 00* | 01* |
|---------------------------|-----------|-----------|-----------|-------------|-------------|-----------|-------------|-----------|-----------|-----------|-----------|-----------|-----------|
| general fund positions | 5 | 5 | 5 | 4 | 4 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 |
| special revenue positions | 0 | 2 | 2 | 9.5 | 9.5 | 10 | 9.5 | 4 | 4 | 4 | 4 | 11 | 11 |
| fed positions | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 |
| total | 10 | 12 | 12 | 18.5 | 18.5 | 18 | 17.5 | 12 | 12 | 12 | 12 | 19 | 19 |

* estimated

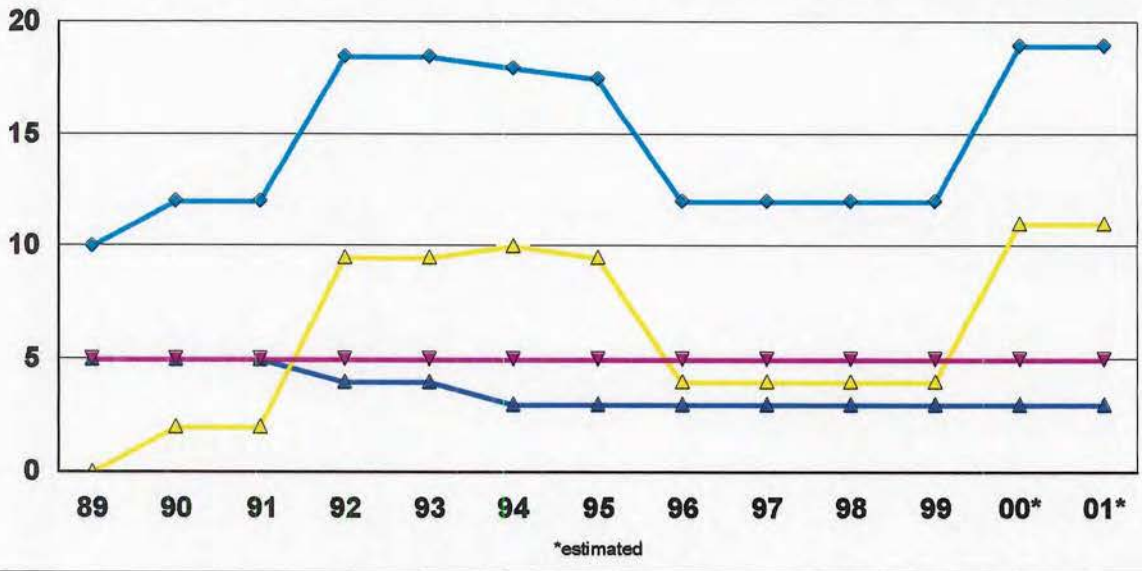
Maine Historic Preservation Commission







Maine Historic Preservation Commission

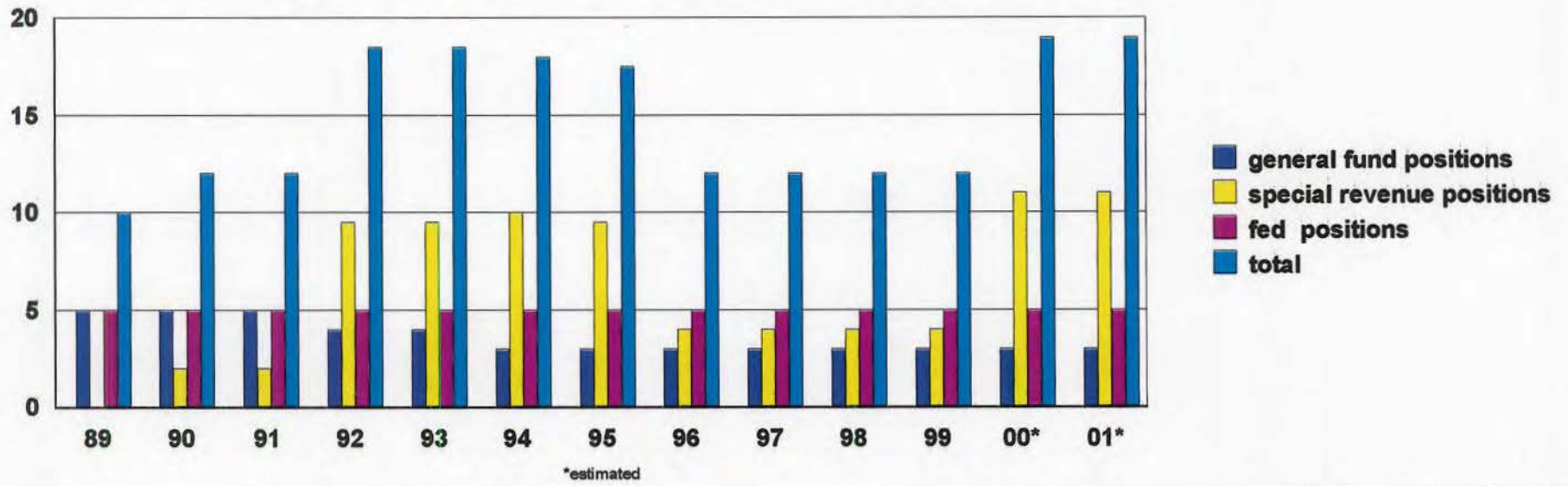


Maine Historic Preservation Commission - Positions



general fund positions **fed positions**
 
special revenue positions **total**
 

Maine Historic Preservation Commission - Positions



6. REGULATORY AGENDA AND SUMMARY OF RULES ADOPTED

The Maine Historic Preservation Commission does not anticipate adopting any new rules or amending existing rules in the foreseeable future. A summary of each of its existing rules follows:

94-089 MAINE HISTORIC PRESERVATION COMMISSION AND MAINE STATE MUSEUM

Chapter 100: RULES FOR IMPLEMENTING AN ACT TO PRESERVE MAINE'S ARCHAEOLOGICAL HERITAGE

SUMMARY: These rules set forth the standards and procedures for access to records in the possession of the Maine Historic Preservation Commission, the State Museum Bureau, the Bureau of Parks and Recreation and other State agencies or the University of Maine containing information regarding the locations or other attributes of archaeological sites. These rules are jointly adopted by the Maine Historic Preservation Commission and Maine State Museum, but are codified under the Maine Historic Preservation Commission's umbrella number of 94-089.

State law exempts archaeological site location information held by the Maine Historic Preservation Commission, the Maine State Museum, the Bureau of Parks and Recreation, other State agencies, or the University of Maine from the Freedom of Information Act - Title 1, Chapter 13. The law charges the Directors of the Maine State Museum and the Maine Historic Preservation Commission to adopt rules establishing standards and procedures for access to site location records. 27 M.R.S.A. § 377.

94-089 MAINE HISTORIC PRESERVATION COMMISSION

Chapter 810: MAINE HISTORIC RESTORATION STANDARDS

The Maine Historic Restoration Standards are adopted to guide and govern owners of historic buildings and structures, and local historical commissions involved in the preservation, restoration, reconstruction, and rehabilitation of historic properties. These standards shall govern all projects funded by state grants administered by the Director of the Maine Historic Preservation Commission and buildings offered for federal tax incentives pertaining to historic preservation. Otherwise, the standards serve as guides for owners of historic buildings and structures who seek to follow appropriate standards of care.

The intent of the Maine Historic Restoration Standards is to assist the public in the proper preservation, restoration, reconstruction, and rehabilitation of historic buildings and structures. While no two historic buildings or structures have the same problems and needs, the Standards detail proper approaches to treatment of historic fabric.

94-089 MAINE HISTORIC PRESERVATION COMMISSION

Chapter 811: HISTORIC BUILDINGS RESTORATION GRANTS

Historic Buildings Restoration Grants are awards of state monies to restore and preserve buildings and structures listed in or nominated to the National Register of Historic Places which are in governmental or non-profit ownership and which are open to the public.

94-089 MAINE HISTORIC PRESERVATION COMMISSION

Chapter 812: STATE HISTORIC PRESERVATION OFFICER'S STANDARDS FOR
ARCHAEOLOGICAL WORK IN MAINE

These rules and regulations contain the composition and functions of the Archaeological Advisory Committee, the credentials requirements for persons on the Commission's

approved lists of prehistoric archaeologists and historic archaeologists, procedure for review of credentials, procedure for removal from approved lists, method for applying for survey grants, participation in environmental impact projects, and guidelines for research and reporting.

7. COORDINATION WITH OTHER AGENCIES

In State Government the Maine Historic Preservation Commission works closely with two other bureaus, the State Museum and the State Bureau of Parks and Lands (Department of Conservation). These relationships are grounded principally in the area of archaeology. However, the objectives of the three agencies are complementary, not the same or similar. In essence, the State Museum is a repository and educational vehicle for state-owned objects and artifacts, while the Bureau of Parks and Lands is custodian for state-owned historic sites. The Commission has and continues to provide federal grants to both of its sister agencies for both prehistoric and historic archaeological surveys. The Commission is not in the business of storing artifacts or administering sites. Rather, it is the key repository or data bank for our evolving knowledge of Maine's prehistory and early history, and it plays a regulatory role unique to the three bureaus.

In its regulatory role of reviewing all federal, federally-funded, and federally-licensed projects, the Commission regularly interacts with several state agencies: Departments of Transportation, Conservation, Environmental Protection, Inland Fisheries and Wildlife, and the Maine State Housing Authority. Technical services are provided to the State Planning Office and the Bureau of General Services.

In accordance with Sections 106 and 110 of the National Historic Preservation Act, the Commission regularly assists federal agencies when construction activities are planned or federal properties need to be assessed for potentially significant historic resources.

One of the most far-reaching inter-agency efforts in State Government was the collaboration in 1999 of the Commission and six other cultural partners in seeking funding for the Maine Communities in the New Century Program: Maine Arts Commission, Maine State Library, Maine State Museum, Maine Historical Society, Maine State Archives, and Maine Humanities Council.

This program is designed to provide a wide range of cultural services statewide to local communities. Since this is filling large void, it is hoped that the program can secure continuing biennial appropriations.

8. CONSTITUENCIES SERVED BY AGENCY, CHANGES OR PROJECTED CHANGES

The entire Maine population is served by the Maine Historic Preservation Commission. Co-operation with all levels of government - state, regional, municipal - is essential. Close ties are maintained with both public and private colleges and universities. Educational services are provided to primary and secondary schools. In addition, technical and educational assistance is made available to local historical societies and museums. The business community is directly involved with preservation, as the Commission assists developers seeking federal investment tax credits for the rehabilitation of depreciable historic buildings. Because of the Commission's public education programs (staff lectures, workshops, conferences, publications) every year more and more of the people of Maine in various ways share in the benefits of identifying and preserving the tangible remains of our state's heritage.

9. EFFORTS AT ALTERNATIVE DELIVERY SYSTEMS, INCLUDING PRIVATIZATION

In 1993, in response to a state economic crisis, the State Historic Preservation Officer of South Carolina enquired of the National Park Service whether the state preservation offices could charge fees for services, such as nominating a building to the National Register of Historic Places or reviewing a rehabilitation tax credit application. The response was “no,” since the state programs receive annual federal apportionments to provide these services.

As stipulated in the National Historic Preservation Act of 1966, the states are partners with the Department of the Interior in administering the program. Thus each state must have a designated State Historic Preservation Officer, advised by a specifically-structured, multi-disciplinary professional staff and overseen by a likewise specifically-structured, multi-disciplinary Review Board (Commission). Thus, there is no alternative delivery system for the Commission’s services.

10. EMERGING ISSUES FOR THE AGENCY

In recent years reductions or at best level funding of the Maine Historic Preservation Commission's annual federal apportionment have meant a decline in the amount of statewide survey for historic, archaeological, and architectural resources. The reductions have also meant that virtually no such funds have been available to provide matching restoration grants to preserve historic buildings, sites, and structures. The inadequate funding for these two essential program areas is why the commission focussed exclusively on these activities in its component of the Maine Communities in the New Century program. It is fortunate that in 1999 legislation was enacted which provided funds for a year of survey and preservation grants. However, these are program areas which need annual support in order to be effective.

The Commission sees the future as an opportunity to build on the accomplishments of the past, a firm base in the areas of statewide surveys, publications, and co-operative relationships with other agencies. The Commission plans new publications in the areas of prehistoric archaeology, historical archaeology, and architectural history, designed, as in the past, to release valuable data on Maine's historical landscape as quickly as possible for official as well as public use. Coupled with publications will be continuing technical advice to members of the public. Important progress has been made to work closely with municipalities regarding preservation on the local level, a process in which the Commission is the vital link between the Federal and local governments. For example, of 128 National Register Historic Districts in Maine, only 23 are protected on the local level. Historic Preservation, a program which has come of age from the state and federal standpoint, is a continuing process which should be solidly institutionalized. This is not only because new data are collected and analyzed every year, but also because historic resources must be protected on a day-to-day basis as an element of our environment just as important as natural resources. It is essential that

Maine's historic landscape - its heritage - be permanently monitored to ensure that future development of our state evolves in the best interests of the people of Maine.

11. **OTHER INFORMATION SPECIFICALLY REQUESTED BY THE COMMITTEE OF JURISDICTION**

The Maine Historic Preservation Commission is not aware of any other information requested by the Joint Standing Committee on Education and Cultural Affairs.



MAINE HISTORIC PRESERVATION COMMISSION
55 CAPITOL STREET
65 STATE HOUSE STATION
AUGUSTA, MAINE
04333

ANGUS S. KING, JR.
GOVERNOR

EARLE G. SHETTLEWORTH, JR.
DIRECTOR

MEMORANDUM

To: Evan D. Richert, Director, State Planning Office
John R. Nicholas, State Budget Officer
James A. Clair, Director, Office of Fiscal and Program Review
David E. Boulter, Director, Office of Policy and Legal Analysis
Joint Standing Committee on Education and Cultural Affairs

From: Earle G. Shettleworth, Jr., Director, Maine Historic Preservation Commission

Date: December 21, 1999

Re: Maine Historic Preservation Commission Strategic Plan, FY 2000-2001

Attached please find the Commission's Strategic Plan for 2000-2001. In addition to this state-required document, the Department of the Interior stipulates that State Historic Preservation Offices nationwide operate their programs in accordance with Comprehensive Plans. These documents must be revised at intervals of no more than five years. The Commission's revised Comprehensive Plan will be completed by November, 2000, for review by the Department of the Interior by the end of the year.

Attachment

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Maine Historic Preservation Commission

STRATEGIC PLAN FY2000-2001

**Submitted to State Planning Office, State Budget Office,
and the Committee on Education and Cultural Affairs**

December 1, 1999

MAINE HISTORIC PRESERVATION COMMISSION

STRATEGIC PLAN FY2000-2001

Background:

The Maine Historic Preservation Commission was created by an act of the Legislature in 1971. Its mandate is to administer the provisions of the National Historic Preservation Act of 1966, which include co-ordination of rehabilitation projects under the Tax Incentives Program, assistance to local governments in preservation planning, review of development activities to determine their effect upon the historic environment, nomination of properties to the National Register of historic Places, statewide survey, and public education.

Mission:

The mission of the Maine Historic Preservation Commission is to provide the people of Maine the opportunity to preserve their archaeological and historical legacy for the enrichment of present and future generations.

Goal:

All Maine people will be assured the opportunity to be enriched by the preservation of their archaeological and historical legacy.

Objective:

By the year 2002, increase by 20%, from the 1999 baseline, the number of Maine people, individually and through their local governments, who will value the importance of Maine's archaeological and historical legacy.

Performance Measure:

Internal Quarterly Reports tracking all products, as well as annual End-of-Year reports reporting all such data as required by the Department of the Interior, such data being independently verifiable.

Strategies:

1. *Assist the owners of depreciable historic buildings to qualify for the Federal rehabilitation tax credit.* Half a dozen such projects are completed each year, involving a private sector investment averaging over \$4 million per year over the past decade. Most of these projects involve visually very prominent components of their neighborhoods, benefitting and educating residents in the value of their local history and landmarks.
2. *Assist municipalities in the development of their growth management plans.* Each year the commission provides current data from its archaeological and architectural inventories to dozens of local governments, supplemented with observations about further survey needs. Subsequently, the staff reviews all draft municipal plans to determine how effectively historic and archaeological resources are addressed.
3. *Assist municipalities seeking Certified Local Government status from the Department of the Interior, and provide training and education both to CLGs and to potential CLGs.* By definition, this annual activity exposes local residents to historic preservation in all of its dimensions.
4. *Review construction projects to determine their effect upon historic and archaeological resources.* Each year the commission conducts about one thousand eight hundred such reviews, of which five to ten percent call for further research or protective action. Resulting archaeological and architectural fieldwork attracts great interest in communities, and usually

makes important use of the involvement of local residents.

5. *Nominate buildings to the National Register of Historic Places.* Annually, the commission nominates several archaeological sites and historic districts along with some two dozen individual buildings and structures. Researching information essential to this process often involves community residents and local document repositories. Press releases on the local level announce the subsequent listing of properties in the National Register.
6. *Nominate sites to the National Register of Historic Places.*
7. *Nominate districts to the National Register of Historic Places.*
8. *Provide public education about Historic Preservation statewide and locally (lectures).*
Annually, the staff presents lectures statewide to a full range of audiences on the subjects of Maine's prehistoric archaeology, historical archaeology, and architectural history.
9. *Provide public education about Historic Preservation statewide and locally (newsletters).*
Annually, the Commission co-sponsors publication of an educational periodical on all aspects of the Historic Preservation Program.
10. *Provide public education about Historic Preservation statewide and locally (conference).*
Annually, the Commission co-sponsors a public conference which focusses on an historic preservation theme or issue of importance.
11. *Provide public education about Historic Preservation statewide and locally (workshop).*
Annually, the Commission co-sponsors a well-attended public workshop pertaining to an issue of importance to the Certified Local Government program area.

MAINE HISTORIC PRESERVATION COMMISSION

Establishment of the Commission

In 1966 the National Historic Preservation Act became law, creating the National Register of Historic Places and establishing mechanisms to enable the states to identify and preserve significant cultural resources.

Mindful of this federal action, Maine's 105th Legislature in 1971 created the Maine Historic Preservation Commission. The Commission immediately began administering the historic preservation program, assuming responsibility from the Maine Bureau of Parks and Recreation, which had operated it since 1969.

Organization

In accordance with state and federal statutes, the Commission consists of nine members appointed by the Governor and two ex-officio members. Of these, five are Public Members; the remaining are professionals representing the fields of history, architectural history, architecture, prehistoric archaeology, and historical archaeology. The Commission oversees the administration of the program by a Director, whose staff must be comprised of professionals in the same disciplines as represented on the Commission.

Program

During the past thirty-three years, the program has developed in ways that the Congressional founders could hardly have imagined at its inception. Maine's statistics provide ample evidence of the growth and breadth of the historic preservation program.

In 1971, Maine's entries in the National Register totaled 78 individual properties and 5 historic districts. Through 1999, the figures are 1,170 individual properties and 128 historic districts. Listing in the National Register is important in that it provides certain protections under the law, as well as potential eligibility for federal grants and tax incentives. During 1999, the Commission nominated 15 buildings to the National Register.

Conducted on both an in-house basis and by means of collaboration with other agencies and institutions, surveys to identify and evaluate buildings, districts, and archaeological sites statewide are the essential first step toward preserving endangered historic and prehistoric resources. Over the past year in Maine, more than ten thousand acres were studied, with the result that the Commission's inventories were increased by over 300 buildings and more than 40 sites.

Other essential program areas merit mention:

- * * The Commission staff annually reviews all proposed federal, federally-funded, and federally-licensed construction projects to ensure that significant archaeological sites and buildings will not be damaged or destroyed. Last year, two thousand such reviews were conducted, and over 250 called for further research or protective action.
- * * In addition to setting annual priorities based upon its comprehensive plan - published in 1996 - the Commission assisted 21 municipalities with the development of their growth management plans and reviewed eight draft zoning ordinances, ensuring that historic resources are considered on the local level when land-use decisions are made. A majority of Maine's cities and towns have now received such assistance from the Commission. In addition, eight Maine municipalities have been designated Certified Local Governments by the Secretary of the Interior, advised by the Commission. These communities have established local historic preservation boards and are eligible for grants amounting to at least ten percent of Maine's share of the annual federal appropriation.
- * * Since 1981, the staff has assisted Maine's private development community in gaining federal investment tax credits through the proper rehabilitation of depreciable buildings listed in the National Register. Over the history of this program, more than 200 significant Maine buildings have been saved, involving a private sector investment totaling \$58.6 million in the past 13 years alone. Three such projects were seen through to completion in 1999. In 1999 the Legislature passed a state tax credit which supplements the federal program.

* * Over its entire history the Commission has placed a high priority on public education and public benefit relating to its many program areas. The 30 lectures which the staff delivered to a full range of audiences in 1999 was typical for this annual activity. Every year the Commission provides essential support for a statewide preservation conference, for a Certified Local Governments workshop, and for the publication of a non-profit *Newsletter*. The Commission's long list of publications includes the volumes in the series *Occasional Publications in Maine Archaeology*. Architectural histories will be joined in 2000 by a major study of Maine's historic railway-related buildings and structures.