

## CHAPTER 17

## DEVELOPMENTAL DISABILITIES

**§17001. Maine Developmental Disabilities Council**

**1. Establishment.** The Maine Developmental Disabilities Council, referred to in this section as "the council," is established as authorized by Title 5, section 12004-I, subsection 66 and in accordance with the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402. [PL 2003, c. 417, §3 (NEW); PL 2003, c. 417, §4 (AFF).]

**2. Status.** The council is a public instrumentality of the State, and the exercise of the power conferred by this section is the performance of essential governmental functions. The council may not be considered a state agency for any purposes, including, but not limited to, budgeting, accounts and control, auditing and purchasing. [PL 2003, c. 417, §3 (NEW); PL 2003, c. 417, §4 (AFF).]

**3. Appointments.** The Governor shall appoint appropriate representatives to the council, as required under the Developmental Disabilities Assistance and Bill of Rights Act of 2000, upon consideration of recommendations made by current members of the council. [PL 2003, c. 417, §3 (NEW); PL 2003, c. 417, §4 (AFF).]

**4. Duties.** The council shall perform its duties in compliance with the requirements of the Developmental Disabilities Assistance and Bill of Rights Act of 2000. [PL 2003, c. 417, §3 (NEW); PL 2003, c. 417, §4 (AFF).]

**5. Designated state agency.** Notwithstanding subsection 2, the Department of Administrative and Financial Services is the designated state agency for the purposes of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402. As the designated state agency, the department shall meet all requirements specified in 42 United States Code, Section 15025 but may assume no liabilities other than those set forth in 42 United States Code, Section 15025 in connection with the receipt of federal funds for the purpose of disbursement to the council. [PL 2005, c. 519, Pt. BB, §1 (AMD).]

**6. Council personnel and members.** As of the effective date of this section:

A. All employees assigned to the council who state that they wish to continue as employees of the council must be transferred from state employment to employment of the council in its capacity as an independent advisory agency; [PL 2003, c. 417, §3 (NEW); PL 2003, c. 417, §4 (AFF).]

B. Accrued fringe benefits from state employment of transferred personnel, including, but not limited to, vacation and sick leave, health and life insurance and retirement credits, remain available to the transferred personnel; [PL 2003, c. 417, §3 (NEW); PL 2003, c. 417, §4 (AFF).]

C. Members and employees of the council are not considered state employees for the purpose of the state civil service provisions of Title 5, Part 2 and chapter 372 or for any other purpose except as follows.

(1) Employees of the council, including employees hired after the effective date of this section, are deemed state employees for the purposes of the state retirement provisions of Title 5, Part 20 and the state employee health insurance program under Title 5, chapter 13, subchapter 2.

(2) For purposes of the Maine Tort Claims Act, the council is deemed a governmental entity and its employees and members are deemed employees as those terms are defined in Title 14, section 8102; and [PL 2003, c. 417, §3 (NEW); PL 2003, c. 417, §4 (AFF).]

D. An employee of the council may return to state employment at any time up to 2 years from the effective date of this section. Employees expressing such a preference must be placed on the appropriate registers maintained by the Department of Administrative and Financial Services, Bureau of Human Resources and must be treated as though on recall in accordance with current collective bargaining provisions. [PL 2003, c. 417, §3 (NEW); PL 2003, c. 417, §4 (AFF).] [PL 2003, c. 417, §3 (NEW); PL 2003, c. 417, §4 (AFF).]

**7. Council report.** The council, pursuant to its duties under subsection 4, shall provide information from the comprehensive review and analysis of services, supports and other assistance for persons with disabilities required by 42 United States Code, Chapter 144, Section 15024 (c) (3) to the Legislature by January 31st of each year. [PL 2007, c. 152, §2 (NEW).]

#### SECTION HISTORY

PL 2003, c. 417, §3 (NEW). PL 2003, c. 417, §4 (AFF). PL 2005, c. 137, §1 (AMD). PL 2005, c. 519, §BB1 (AMD). PL 2007, c. 152, §2 (AMD).

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