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INNOVATION, DEVELOPMENT, ECONOMIC ADVANCEMENT AND BUSINESS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 145, L.D. 210, “An Act To Require Crane Operators To Be Licensed”

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

Sec. 1. 5 MRSA §12004-A, sub-§50 is enacted to read:

50.

State Board of Licensure for Crane Operators \$35/day 32 MRSA §18606

Sec. 2. 32 MRSA c. 147 is enacted to read:

CHAPTER 147

CRANE OPERATORS

§18601. Definitions

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

1. Board. "Board" means the State Board of Licensure for Crane Operators.

2. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.

3. Crane. "Crane" means a fixed or mobile machine used in construction for lifting, lowering and horizontally moving a load, with the hoisting mechanism an integral part of the machine, as described in 29 Code of Federal Regulations, Section 1926.1400 (2020).

4. Crane operator. "Crane operator" means a person who operates a crane.

COMMITTEE AMENDMENT

1 5. License. "License" means a license issued by the board granting a person the
2 authority to act as a crane operator in this State.

3 6. Licensed crane operator. "Licensed crane operator" means a person licensed by
4 the board to operate a crane pursuant to this chapter.

5 **§18602. State Board of Licensure for Crane Operators**

6 1. Creation; purpose. The State Board of Licensure for Crane Operators, as
7 established by Title 5, section 12004-A, subsection 50, is responsible for the administration
8 of this chapter.

9 2. Membership. The board consists of 7 members appointed by the Governor as
10 follows:

11 A. Five licensed crane operators who have been engaged in crane operation for at least
12 5 years immediately preceding appointment; and

13 B. Two public members, as defined by Title 5, section 12004-A.

14 Each member of the board must be a citizen of the United States and a resident of this State.

15 3. Term; removal. Appointments to the board under subsection 2 are for 5-year terms
16 and must comply with Title 10, section 8009. The Governor may remove a member of the
17 board for cause.

18 4. Organization and meetings. The board shall meet at least once a year to conduct
19 its business and to elect its officers. Additional meetings may be held as necessary to
20 conduct the business of the board and may be convened at the call of the chair or a majority
21 of the board members. The board shall elect or annually appoint a chair and vice-chair. A
22 quorum of the board is 4 members.

23 5. Compensation and expenses. Members of the board are entitled to compensation
24 according to the provisions of Title 5, chapter 379. Clerical expenses may not be allowed
25 any member of the board, except as provided in section 18603, subsection 1.

26 6. Powers and duties of the board. The board has the following powers and duties
27 in addition to those otherwise set forth in this chapter:

28 A. The duty to evaluate the qualifications of applicants for licensure under this chapter;

29 B. The power to conduct an investigation on its own motion or on written complaint
30 filed with the board regarding a licensee's potential noncompliance with or violation of
31 this chapter or of any rules adopted by the board;

32 C. The authority to adopt rules reasonably necessary for the proper performance of its
33 duties and the administration of this chapter. Rules adopted pursuant to this paragraph
34 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;

35 D. The authority to adopt rules establishing fees for the purposes authorized under this
36 chapter. Rules adopted pursuant to this paragraph are major substantive rules as
37 defined in Title 5, chapter 375, subchapter 2-A;

38 E. The power to conduct hearings and to subpoena witnesses, records and documents
39 to assist with investigations, to determine whether grounds exist for suspension,
40 revocation or denial of a license, or as otherwise necessary to the fulfillment of the

1 board's responsibilities under this chapter. Hearings must be conducted in conformity
2 with Title 5, chapter 375, subchapter 4, as applicable;

3 F. The power to adopt and have an official seal; and

4 G. The power to enter into contracts to carry out the board's responsibilities under this
5 chapter.

6 **§18603. Recordkeeping and reporting**

7 **1. Receipts and disbursements.** The board shall receive and account for all funds
8 derived under this chapter and shall pay the money to the Treasurer of State who shall
9 deposit the money in a separate fund to be known as the Crane Operators Fund. The board
10 may make other expenditures from this fund, upon itemized vouchers approved by the chair
11 of the board, that in the opinion of the board are reasonably necessary for the proper
12 performance of its duties under this chapter.

13 **2. Records and reports.** The board shall keep such records and minutes as are
14 necessary to the ordinary dispatch of its functions. Not later than August 1st of each year,
15 the board shall submit to the commissioner a report of its transactions of the preceding
16 fiscal year ending June 30th and shall transmit to the commissioner a complete statement
17 of the receipts and expenditures of the board, attested by affidavits of the chair.

18 **§18604. Role of commissioner**

19 The commissioner shall act as a liaison between the board and the Governor. The
20 commissioner may not exercise or interfere with the exercise of discretionary, regulatory
21 or licensing authority granted by statute to the board. The commissioner may require the
22 board to be accessible to the public for complaints and questions during regular business
23 hours and to provide any information the commissioner requires in order to ensure that the
24 board is operating administratively within the requirements of this chapter.

25 The board shall submit to the commissioner its budgetary requirements in the same
26 manner as is provided in Title 5, section 1665. The budget submitted by the board to the
27 commissioner must be sufficient to enable the board to comply with this chapter.

28 **§18605. License required**

29 Beginning January 1, 2023, a person may not act as a crane operator without a license
30 issued under this chapter or during any period in which that person's license has expired or
31 has been suspended or revoked. A person who is being trained in crane operation on or
32 after January 1, 2023, in accordance with standards established under 29 Code of Federal
33 Regulations, Section 1926.1427, may operate a crane without a license as part of the
34 person's training.

35 **§18606. Licensing qualifications**

36 **1. General requirements.** Application for licensure as a crane operator must be made
37 on a form prescribed and furnished by the board and contain statements made under oath
38 showing the following:

39 A. Current licensure as a crane operator in another state or territory of the United
40 States; or

1 B. Current certification by an independent organization accredited by the American
2 National Standards Institute or successor organization for the certification of crane
3 operators.

4 2. Fee. Applicants for licensure under this section shall pay a fee, as established by
5 the board by rule under section 18602, subsection 6, paragraph D.

6 3. Roster of licensed crane operators. The board shall maintain a roster of all active
7 licensed crane operators on its publicly accessible website. Copies of the roster must be
8 made available upon request for such fees as the board may authorize in its rules.

9 **§18607. License revocation and reissuance**

10 1. Violations; grounds for revocation. The board may suspend, revoke or refuse to
11 renew the license of a crane operator pursuant to Title 5, section 1004. The board may
12 refuse to issue or renew, or the District Court, pursuant to Title 4, chapter 5, may revoke,
13 suspend or refuse to renew, the license of a crane operator who is found guilty of:

14 A. The practice of any fraud or deceit in obtaining a license as a crane operator;

15 B. Any gross negligence, incompetence or misconduct in operating cranes; or

16 C. Violating any provision of this chapter or any rule of the board.

17 2. Complaints. Any person may register a complaint of fraud, deceit, gross
18 negligence, incompetence or misconduct against any licensed crane operator. A complaint
19 must be in writing, signed by the individual making the complaint and filed with the board.

20 3. Reissuance; replacement. The board may reissue a license to a crane operator
21 whose license or certificate has been revoked if 4 or more members of the board vote in
22 favor of that reissuance. The board may issue a new license to replace any license or
23 certificate revoked, lost, destroyed or mutilated, subject to the rules of the board and
24 payment of a fee established by the board.

25 **§18608. License expiration and renewal**

26 1. Expiration and renewals generally. A crane operator license expires on the last
27 day of December of each odd-numbered year and a person may not operate a crane with an
28 expired license. The board shall notify every person licensed under this chapter of the date
29 of the expiration of that person's license and the amount of the fee that is required for its
30 renewal. A license may be renewed up to 90 days after the date of its expiration upon
31 payment of a late fee established by rule by the board in addition to the renewal fee. A
32 person who submits an application for renewal more than 90 days after the license renewal
33 date is subject to all requirements governing new applicants under this chapter, except that
34 the board may, giving due consideration to the protection of the public, waive any
35 additional qualifications if the renewal application is made within 3 years from the date of
36 the expiration, the applicant has held a license for at least 10 years and the applicant has
37 never been subject to discipline in this or any other jurisdiction.

38 2. Exemptions from expiration and renewal fees. Notwithstanding any other
39 provision of this chapter, the board shall waive examination and payment of renewal fees
40 if a renewal application is made within 90 days after separation from the United States
41 Armed Forces, under conditions other than dishonorable, by a person who failed to renew
42 the person's license because the person was on active duty in the United States Armed
43 Forces and the person submits satisfactory evidence to the board.

1 **3. Required hearing.** The board may not refuse to renew a license for any reason
 2 other than failure to pay a required fee unless it has afforded the licensed crane operator
 3 notice of an opportunity for an adjudicatory hearing pursuant to Title 5, chapter 375. The
 4 board shall hold an adjudicatory hearing at the written request of any person who is denied
 5 a license without a hearing for any reason other than a failure to pay a required fee if the
 6 board receives the written request within 30 days of the applicant's receipt of written notice
 7 of the denial of the application, the reasons for the denial and the right to request a hearing.

8 **Sec. 3. Initial appointments to the State Board of Licensure for Crane**
 9 **Operators.** The initial 5 members of the State Board of Licensure for Crane Operators
 10 established by the Maine Revised Statutes, Title 5, section 12004-A, subsection 50 may be
 11 appointed without holding a license pursuant to Title 32, section 18605 if the appointee
 12 holds a current license as a crane operator in good standing in another state or territory of
 13 the United States or holds a current certification by an independent organization accredited
 14 by the American National Standards Institute for the certification of crane operators.

15 **Sec. 4. Transfer.** Notwithstanding any provision of law to the contrary, the State
 16 Controller shall transfer \$489,879 from the unappropriated surplus of the General Fund to
 17 the Board of Licensure for Crane Operators, Other Special Revenue Funds account within
 18 the Department of Professional and Financial Regulation no later than October 1, 2021 to
 19 support the establishment and start-up costs of the State Board of Licensure for Crane
 20 Operators.

21 **Sec. 5. Appropriations and allocations.** The following appropriations and
 22 allocations are made.

23 **PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**
 24 **Administrative Services - Professional and Financial Regulation 0094**

25 Initiative: Allocates funds to update the agency licensing management system for the
 26 implementation of the licensure of crane operators and for ongoing maintenance and
 27 support.

28 OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
29 All Other	\$21,402	\$2,704
30		
31 OTHER SPECIAL REVENUE FUNDS TOTAL	\$21,402	\$2,704

32 **Board of Licensure for Crane Operators N388**

33 Initiative: Allocates funds for one Office Specialist II position, one Senior Electrical
 34 Inspector position, 5 Electrical Inspector positions and one half-time Consumer Assistant
 35 and Hearing Coordinator and related All Other costs as well as per diem costs for 7 board
 36 members to establish and operate the State Board of Licensure for Crane Operators.

37 OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
38 POSITIONS - LEGISLATIVE COUNT	7,500	7,500
39 Personal Services	\$506,297	\$706,535
40 All Other	\$159,312	\$159,937
41		
42 OTHER SPECIAL REVENUE FUNDS TOTAL	\$665,609	\$866,472

1	PROFESSIONAL AND FINANCIAL		
2	REGULATION, DEPARTMENT OF		
3	DEPARTMENT TOTALS	2021-22	2022-23
4			
5	OTHER SPECIAL REVENUE FUNDS	\$687,011	\$869,176
6			
7	DEPARTMENT TOTAL - ALL FUNDS	\$687,011	\$869,176
8			

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

11 **SUMMARY**

12 This amendment, which is the minority report of the committee, strikes the bill, which
13 is a concept draft. The amendment establishes a requirement and qualifications for
14 licensure of crane operators. It establishes the State Board of Licensure for Crane Operators
15 and tasks the board with administering licensure of crane operators. The amendment also
16 adds an appropriations and allocations section.

17 **FISCAL NOTE REQUIRED**
18 **(See attached)**