

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND TWELVE

H.P. 1364 - L.D. 1843

**An Act To Implement the Recommendations of the Office of Program  
Evaluation and Government Accountability and the Government Oversight  
Committee Regarding Quasi-independent State Entities**

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

**PART A**

**Sec. A-1. 5 MRSA c. 379, sub-c. 3** is enacted to read:

**SUBCHAPTER 3**

**QUASI-INDEPENDENT STATE ENTITIES**

**§12021. Definitions**

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

**1. Competitive procurement.** "Competitive procurement" means the transmission of a written request for proposal, written request for qualifications or other invitation to compete on price or qualifications to at least 3 responsible suppliers that is to be replied to at a stated time.

**2. Contributions.** "Contributions" means payments for membership dues and fees, gifts, donations and sponsorships, including those that result in public advertisement of the entity.

**3. Governing body.** "Governing body" means a person or group of persons with the responsibility or authority to manage an entity.

**4. Managing director.** "Managing director" means the person with overall day-to-day responsibility for directing the operations of a quasi-independent state entity.

**5. Quasi-independent state entity.** "Quasi-independent state entity" means an organization that has been established by the Legislature as an independent board,

commission or agency to fulfill governmental purposes and that receives revenues that are derived, in whole or part, from federal or state taxes or fees.

**6. Reporting entity.** "Reporting entity" or "entity" means:

- A. The Child Development Services System under Title 20-A, section 7209;
- B. The ConnectME Authority under Title 35-A, section 9203;
- C. The Efficiency Maine Trust under Title 35-A, section 10103;
- D. The Finance Authority of Maine under Title 10, section 964;
- E. The Loring Development Authority of Maine under Title 5, section 13080;
- F. The Maine Community College System under Title 20-A, chapter 431;
- G. The Maine Educational Loan Authority under Title 20-A, section 11414;
- H. The Maine Governmental Facilities Authority under Title 4, section 1602;
- I. The Maine Health and Higher Educational Facilities Authority under Title 22, section 2054;
- J. The Maine Human Rights Commission under Title 5, section 4561;
- K. The Maine Maritime Academy under Private and Special Law 1941, chapter 37;
- L. The Maine Municipal and Rural Electrification Cooperative Agency under Title 35-A, section 4131;
- M. The Maine Municipal Bond Bank under Title 30-A, section 5951;
- N. The Maine Port Authority under Title 23, section 4420;
- O. The Maine Public Employees Retirement System under Title 5, section 17101;
- P. The Maine State Housing Authority under Title 30-A, section 4722;
- Q. The Maine Technology Institute under Title 5, section 15302;
- R. The Maine Turnpike Authority under Title 23, section 1963;
- S. The Midcoast Regional Redevelopment Authority under Title 5, section 13083-G;
- T. The Northern New England Passenger Rail Authority under Title 23, chapter 621, subchapter 2;
- U. The Small Enterprise Growth Board under Title 10, section 384;
- V. The University of Maine System under Private and Special Law 1865, chapter 532;
- W. The Washington County Development Authority under Title 5, section 13083-A;  
and
- X. The Workers' Compensation Board under Title 39-A, section 151.

**§12022. Financial policies and procedures**

A governing body of an entity:

**1. Consistency with authorizing law.** Shall ensure that all activities and expenditures of the entity are limited to those necessary to accomplish the entity's mission and to carry out the entity's duties consistent with the entity's authorizing law;

**2. Compliance with financial policies and procedures.** Shall ensure that the governing body, management and staff of the entity comply with financial policies and procedures established by the governing body;

**3. Selection of vendors.** Shall adopt by December 31, 2012 and implement by July 1, 2013 written policies and procedures governing the selection of vendors designed to ensure that the entity secures the best value in its procurements. To the extent possible, consistent with the entity's authorizing law, the policies and procedures must:

- A. Establish competitive procurement as the standard procurement method;
- B. Specify the conditions under which competitive procurement may be waived; and
- C. For procurements exceeding \$10,000 that were not competitively procured, require that written justification for and evidence of approvals are maintained on file for 5 years;

**4. Contributions.** Shall adopt by December 31, 2012 and implement by July 1, 2013 written policies and procedures governing the use of the entity's resources for contributions. To the extent possible, consistent with the entity's authorizing law, the policies and procedures must:

- A. Establish criteria to ensure that contributions are directly related to the entity's mission and activities;
- B. Require that for identification and reporting purposes contributions are budgeted and accounted for separately from other expenditures in the entity's records;
- C. Establish requirements for maintaining documentation to support each contribution; and
- D. Require that the governing body must approve the annual budget for contributions and be provided periodic reports on contributions made by the entity;

**5. Travel, meals and entertainment.** Shall adopt by December 31, 2012 and implement by July 1, 2013 written policies and procedures governing the use of the entity's resources to pay costs of travel, meals and entertainment. To the extent possible, consistent with the entity's authorizing law, the policies and procedures must:

- A. Limit travel, meal and entertainment costs to those reasonable and necessary for accomplishing the entity's mission and activities;
- B. Describe the persons for whom the entity will pay travel, meal and entertainment costs and specify the conditions under which those costs will be paid and whether directly or through reimbursement;
- C. Establish the requirements for supporting documentation and approval of travel, meal and entertainment costs paid directly or through reimbursement;

D. Require for identification and reporting purposes that travel, meal and entertainment costs are budgeted and accounted for separately from other expenditures in the entity's records; and

E. Require that the governing body must approve the annual budget for travel, meal and entertainment costs and be provided periodic reports on actual costs paid directly or reimbursed; and

6. Lobbyists. May not retain any person, other than entity staff, that is required to register as a lobbyist as defined in Title 3, section 312-A, subsection 10.

### **§12023. Reports to the Legislature**

1. Adoption and implementation. By February 1, 2013, a governing body shall submit a report to the Legislature on the adoption and implementation status of written policies and procedures required by section 12022 and describing the measures the governing body intends to use to monitor compliance with those policies and procedures. The report must be submitted to the Executive Director of the Legislative Council in a manner established by the executive director, who shall refer it to the appropriate joint standing committee or committees of the Legislature for review.

2. Ongoing reports. By February 1, 2014, and annually thereafter, a governing body shall submit a report to the Legislature containing the following information:

A. A list of all procurements exceeding \$10,000 in the preceding year for which competitive procurement was waived under the policies adopted pursuant to section 12022, subsection 3, including procurements exceeding \$10,000 that were made under contracts previously entered into for which competitive procurement was not required. The list must include the names of the vendors and costs associated with those procurements;

B. A list of all persons to which the entity made contributions greater than \$1,000 in the preceding year and the total amount contributed to each; and

C. A description of changes made in the preceding year to the written policies and procedures required by section 12022 or to the procedures used by the governing body to monitor compliance with those policies and procedures.

For the purpose of this subsection, "the preceding year" means either the most recent January 1st to December 31st budget cycle or the most recent July 1st to June 30th budget cycle, depending on the fiscal year that the entity uses.

Reports to the Legislature required by this subsection must be submitted to the Clerk of the House, the Secretary of the Senate and the Executive Director of the Legislative Council in a manner determined by the Executive Director of the Legislative Council. The Executive Director of the Legislative Council shall refer each report to the appropriate joint standing committee or committees of the Legislature.

### **§12024. Proposed quasi-independent state entities**

A joint standing committee of the Legislature that considers proposed legislation establishing a quasi-independent state entity after January 1, 2013 shall:

**1. Additions to reporting entities.** Evaluate whether the proposed quasi-independent state entity should be added to the list of reporting entities in section 12021, subsection 6. The joint standing committee shall consider:

- A. Whether the governmental purpose for which the proposed quasi-independent state entity is being established is funded with revenues that are derived, in whole or part, from federal or state taxes or fees;
- B. Whether the powers and duties of the proposed quasi-independent state entity are more than advisory as described in section 12004-I;
- C. Whether the proposed quasi-independent state entity's organizational and accountability structure allows the quasi-independent state entity to make significant policy and financial decisions independent of the Legislature and executive branch;
- D. Whether the proposed quasi-independent state entity is considered a component unit of State Government for financial reporting purposes under the standards and pronouncements issued by a governmental accounting standards board or for any purposes under Part 4; and
- E. Whether the proposed quasi-independent state entity will be subject to review under the State Government Evaluation Act.

If the committee determines that the proposed quasi-independent state entity should be added to the list of reporting entities under section 12021, subsection 6, the committee shall include that determination in any report on the legislation; and

**2. Legislative standards.** Ensure that proposed legislation that establishes a new quasi-independent state entity:

- A. Provides, if applicable, for staggered terms of office for members of the governing body, with terms not to exceed 5 years;
- B. Requires that the governing body must be responsible for:
  - (1) Appointment, performance review and termination of the managing director;
  - (2) Establishing and ensuring compliance with organizational policies and procedures, including those required by section 12022; and
  - (3) Ensuring adherence to all requirements of this chapter;
- C. Specifies qualifications required or desired of the managing director;
- D. Provides conditions under which members of the governing body and the managing director may be removed from office and establishes the process for removal;
- E. Identifies the joint standing committee of the Legislature with oversight over the entity and any matters that must be reviewed by that committee; and
- F. Contains audit and reporting requirements.

**Sec. A-2. Application.** Notwithstanding the Maine Revised Statutes, Title 5, section 12023, subsection 2, the report due pursuant to that subsection on February 1, 2014 must cover the 6-month period from July 1, 2013 to December 31, 2013.

## **PART B**

**Sec. B-1. Legislation.** A joint standing committee of the Legislature having jurisdiction over the subject matter of a quasi-independent state entity, as defined in the Maine Revised Statutes, Title 5, section 12021, subsection 5, may submit legislation to the First Regular Session of the 126th Legislature to add that entity to the list of reporting entities under Title 5, section 12021, subsection 6 or to amend the laws governing the quasi-independent state entity to be consistent with Title 5, chapter 379, subchapter 3.

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In House of Representatives, ..... 2012

Read twice and passed to be enacted.

..... Speaker

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In Senate, ..... 2012

Read twice and passed to be enacted.

..... President

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Approved ..... 2012

..... Governor