

### §13063. Business Ombudsman Program

The director shall establish and implement pursuant to this section the Business Ombudsman Program, referred to in this section as "the program," and the director shall serve as the ombudsman for the program. The program is established to: resolve problems encountered by businesses dealing with other state agencies; facilitate responsiveness of State Government to small business needs; report to the commissioner and the Legislature on breakdowns in the economic delivery system, including problems encountered by businesses dealing with state agencies; assist businesses by referring businesses and persons to resources that provide the business services or assistance requested; provide comprehensive permit information and assistance; and serve as a central clearinghouse of information with respect to business assistance programs and services available in the State. [PL 2011, c. 304, Pt. C, §2 (AMD).]

**1. Referral and central clearinghouse service.** The ombudsman shall maintain and update annually a list of the business assistance programs and services and the names, locations, websites and telephone numbers of the organizations providing these programs and services that are available within the State. The ombudsman may publish a guide consisting of the business assistance programs and services available from public or private sector organizations throughout the State. This program must be designed to:

- A. Respond to written and oral requests for information about business services and assistance programs available throughout the State; [PL 1987, c. 534, Pt. A, §§17, 19 (NEW).]
- B. Obtain and compile the most current and available information pertaining to business assistance programs and services within the State; [PL 1987, c. 534, Pt. A, §§17, 19 (NEW).]
- C. Delineate the business assistance programs and services by type of program or service and by agency; and [PL 1987, c. 534, Pt. A, §§17, 19 (NEW).]
- D. Maintain a list, to be updated annually, of marketing programs of state agencies with a description of each program. [PL 1987, c. 534, Pt. A, §§17, 19 (NEW).]

[PL 2011, c. 304, Pt. C, §2 (AMD).]

**2. Business fairness and responsiveness.** The ombudsman shall implement a business fairness and responsiveness service designed to:

- A. Resolve problems encountered by businesses with other state agencies and with certified regional and local economic development organizations; [PL 2011, c. 304, Pt. C, §2 (AMD).]
- B. Coordinate programs and services for business among agencies and all levels of government; [PL 1987, c. 534, Pt. A, §§17, 19 (NEW).]
- C. Facilitate responsiveness of State Government to business needs; and [PL 2011, c. 304, Pt. C, §2 (AMD).]
- D. Report to the commissioner and the Legislature any breakdowns in the economic delivery system, including problems encountered by businesses dealing with state agencies. [PL 2011, c. 304, Pt. C, §2 (AMD).]

[PL 2011, c. 304, Pt. C, §2 (AMD).]

**3. Comprehensive permit information.** The ombudsman shall develop and maintain a program to provide comprehensive information on permits required for business undertakings, projects and activities and to make that information available to any person. This program must function as follows.

- A. By December 15, 2011, each state agency required to review, approve or grant permits for business undertakings, projects and activities shall report to the office in a form prescribed by the office on each type of review, approval and permit administered by that state agency. Application forms, applicable agency rules and the estimated time period necessary for permit application

consideration based on experience and statutory or regulatory requirements must accompany each state agency report. [PL 2011, c. 304, Pt. C, §2 (AMD).]

B. Each state agency required to review, approve or grant permits for business undertakings, projects and activities, subsequent to its report pursuant to paragraph A, shall provide to the office, for information purposes only, a report of any new permit or modification of any existing permit together with applicable forms, rules and information required under subsections 1 and 2 regarding the new or modified permit. To ensure that the department's information is current, each agency shall report immediately to the office when a new permit is adopted or any existing permit is modified. "Permit," as used in this paragraph, refers to the categorical authorization required for an activity. "Permit" does not mean a permit issued to a particular individual or business. [PL 1991, c. 826, §2 (NEW).]

C. The office shall prepare an information file on each state agency's permit requirements upon receipt of that state agency's reports and shall develop methods for that file's maintenance, revision, updating and ready access. [PL 1991, c. 826, §2 (NEW).]

D. The office shall provide comprehensive permit information on the basis of the information received under this subsection. The office may prepare and distribute publications, guides and other materials explaining permit requirements affecting business and including requirements involving multiple permits or multiple state agencies that are based on the state agency reports and the information file for the convenience of permit applicants. [PL 1991, c. 826, §2 (NEW).]

[PL 2011, c. 304, Pt. C, §2 (AMD).]

**4. Permit assistance.** By December 15, 2011, the ombudsman shall set up procedures to assist permit applicants who have encountered difficulties in obtaining timely and efficient permit review. These procedures must include the following.

A. Any applicant for permits required for a business undertaking, project or activity must be allowed to confer with the office to obtain assistance in the prompt and efficient processing and review of applications. [PL 1991, c. 826, §2 (NEW).]

B. The office shall, as far as possible, give assistance, and the ombudsman may designate an officer or employee of the office to act as an expeditor with the purpose of:

- (1) Facilitating contacts for the applicant with state agencies responsible for processing and reviewing permit applications;
- (2) Arranging conferences to clarify the interest and requirements of any state agency with respect to permit applications;
- (3) Considering with state agencies the feasibility of consolidating hearings and data required of the applicant;
- (4) Assisting the applicant in the resolution of outstanding issues identified by state agencies, including delays experienced in permit review; and
- (5) Coordinating federal, state and local permit review actions to the extent practicable. [PL 2011, c. 304, Pt. C, §2 (AMD).]

[PL 2011, c. 304, Pt. C, §2 (AMD).]

**5. Retail business permitting program.** The ombudsman shall establish and administer a central permitting program for all permits required by retail businesses selling directly to the final consumer, including, but not limited to, permits required for the operation of hotels and motels, convenience stores and eating establishments, and permits required for the sale of liquor or beer, tobacco, food, beverages, lottery tickets and gasoline. Permits issued by the Department of Environmental Protection, the Department of Marine Resources and the Maine Land Use Planning Commission are not included in this program. The ombudsman shall:

- A. Create a consolidated permit procedure that allows each business to check on a cover sheet all state permits for which it is applying and to receive all permit applications from a centralized office; [PL 1993, c. 430, §1 (NEW).]
- B. Total all permit fees due from a business, collect those fees on a semiannual basis, with 1/2 of the total fees due by January 1st and 1/2 of the total fees due by July 1st, and distribute the fees to the appropriate funds or permitting entities; [PL 1993, c. 430, §1 (NEW).]
- C. Forward a copy of the appropriate permit application to any commission, department, municipality or other agency that has responsibility for permitting that retail business; [PL 1993, c. 430, §1 (NEW).]
- D. Develop a tracking system to track permits issued by state agencies. This system must at a minimum include information on the applicant, agency involvement, time elapsed or expended on the permit and action taken; [PL 1993, c. 430, §1 (NEW).]
- E. Coordinate and supervise the permitting process to ensure that all involved state agencies process the applications and complete any necessary inspections in a timely fashion; and [PL 1993, c. 430, §1 (NEW).]
- F. Respond to inquiries from the business community and requests for information from the individual permitting entities, including reports on the status of an application. [PL 1993, c. 430, §1 (NEW).]

A retail business is not required to participate in the retail business permitting program. An enforcement action taken against a retail business for a permit obtained through the retail business permitting program does not affect other permits issued to that same retail business through that program. [PL 2017, c. 322, §1 (AMD).]

**6. Municipal permitting agents.** By February 1, 2012, the ombudsman shall establish a municipal centralized permitting program.

- A. Upon application by the municipal officers of a municipality and upon evidence that the municipality meets all qualifications as determined by departmental rulemaking, the ombudsman shall appoint the municipality as a centralized permitting agent to provide all permits for retail businesses. Upon evidence that a municipality qualified to provide permits meets the qualifications for conducting the inspection associated with any of those permits as determined by departmental rulemaking, the ombudsman shall appoint that municipality as an agent to provide that inspection for retail businesses with less than 10,000 square feet of retail space. The ombudsman shall ensure that municipalities appointed as agents for purposes of inspection are qualified and capable of conducting those inspections in a manner that ensures compliance with all applicable public health and safety requirements. Retail businesses shall pay the municipality an additional fee of \$4 for each permit included in the consolidated application up to a limit of \$40. Municipalities may retain 1/2 of all fees collected for permits requiring inspection. The remaining 1/2 of those permit fees and all fees for permits not requiring inspection must be remitted to the department, which shall remit the fees to the issuing agency. A municipality with a population of less than 4,000 may contract with an appointed municipality for centralized permitting and inspection services. A retail business is not required to participate in the municipal central permitting program. [PL 2011, c. 304, Pt. C, §2 (AMD).]
- B. The ombudsman shall make permitting and inspection training programs available to a municipality seeking appointment or appointed as a central permitting agent. The municipality shall pay a fee of \$25 for each person receiving permitting training and \$100 for each person receiving inspection training. [PL 2011, c. 304, Pt. C, §2 (AMD).]
- C. A business that seeks to determine why it has not received its permits must be directed to the municipal office where the application was filed. That office shall bring the matter to the attention

of the department, which shall contact the appropriate issuing agency. [PL 1993, c. 430, §1 (NEW).]

D. A joint standing committee of the Legislature that recommends legislation that involves a new permit for retail businesses shall indicate in the legislation whether the permit is to be included in the municipal centralized permitting program.

During a review under Title 3, chapter 35 of a permit issuing agency, the joint standing committee having responsibility for the review shall recommend whether any of the permits issued by that agency should be included in the municipal centralized permitting program. [PL 1995, c. 488, §3 (AMD).]

The ombudsman may extend by rulemaking, but may not curtail, the department's centralized permitting program or the municipal centralized permitting program, except that the programs may not be extended to include additional issuing agencies. [PL 2011, c. 304, Pt. C, §2 (AMD).]

**7. Goal and evaluation.** It is the goal of the programs established in subsections 5 and 6 for retail businesses to obtain permits more quickly at no additional cost to the taxpayers of the State. The ombudsman shall devise and implement a program of data collection and analysis that allows a determination as to whether these goals have been met. This program must include the collection of benchmark data before the initiation of the programs and an enumeration of the number of municipalities participating in the program. By January 15, 2012 and every 2 years after that date, the ombudsman shall prepare and submit a report to the joint standing committee of the Legislature having jurisdiction over economic development matters regarding the effectiveness of the program and any recommendations as to why the retail business program and the municipal centralized permitting program should not be expanded to other sizes or types of businesses, to other issuing agencies and to smaller municipalities. The first report must contain an assessment of the levels of willingness of municipalities to participate in the programs established by this section. [PL 2011, c. 304, Pt. C, §2 (AMD).]

**8. Report.** By January 15, 2012 and at least annually thereafter, the ombudsman shall report to the Governor and the joint standing committee of the Legislature having jurisdiction over economic development matters about the program with any recommendations for changes in the statutes to improve the program and its delivery of services to businesses. The joint standing committee of the Legislature having jurisdiction over economic development matters may report out a bill relating to the program. [PL 2011, c. 304, Pt. C, §2 (NEW).]

#### SECTION HISTORY

PL 1987, c. 534, §§A17,A19 (NEW). PL 1991, c. 826, §2 (AMD). PL 1993, c. 430, §1 (AMD). PL 1995, c. 488, §3 (AMD). RR 1997, c. 2, §§17,18 (COR). PL 2011, c. 304, Pt. C, §2 (AMD). PL 2011, c. 682, §38 (REV). PL 2017, c. 322, §1 (AMD).

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