

History of Quasi-independent State Entity Reporting and Reviews Required by 5 MRSA §12023

Title 5 §§12021-12023 contain requirements established for quasi-independent State entities in 2012 via Public Law 2011, Chapter 616. The law resulted from Government Oversight Committee (GOC) action related to a review of the Maine Turnpike Authority conducted by the Office of Program Evaluation and Government Accountability (OPEGA) in 2010 and 2011. The GOC felt, and the Legislature agreed, it was appropriate to clarify legislative expectations and strengthen legislative oversight for all significant quasi-independent entities created by the Legislature.

Section 12022 of the statute establishes responsibilities, expectations and requirements for certain financial policies and procedures of the 24 quasi-independent entities currently defined as “reporting entities” in §12021-6. The following general criteria were used to select entities for this list.

- They are established for a governmental purpose funded with revenues derived, in whole or part, from federal or state taxes or fees.
- They are a “component unit” of State government for purposes of the State’s financial statements. The criteria used by the State Controller’s Office to determine a component unit indicates both significant financial activity and a significant relationship to State government. (See general definition below).
- The statutory powers and duties of the quasi-independent state entity are considerably more than just advisory in nature and include such powers and duties as:
 - Right to sue and be sued;
 - Authority to enter into contracts;
 - Authority to hire staff and consultants;
 - Authority to establish and collect fees, issue bonds, accept grants, make loans etc.;
 - Authority to acquire and manage property; and
 - Authority to establish rules.
- Their organizational and accountability structure allows them to make significant policy and financial decisions independent of the Legislature and Executive state agencies.

Section 12023 of the statute also requires the “reporting entities” to submit annual reports to the Legislature regarding those financial policies and certain types of expenditures made by the entity. The designated entities are to file these reports with the Office of the Executive Director of the Legislative Council, the Clerk of the House and the Secretary of the Senate. The Executive Director is responsible for referring them to the appropriate joint standing committees of jurisdiction for review.

The first annual report from each “reporting entity” was due to the Legislature on February 1, 2013. This report included a discussion of the adoption and implementation status for the written financial policies and procedures required under §12022. In accordance with statute, the governing bodies of the entities were to have adopted policies by December 31, 2012 and be in position to fully implement the policies in their organizations by July 1, 2013. The first report was also supposed to describe the measures the governing body planned to use to monitor the organization’s compliance with the adopted policies.

Beginning in February 2014, the “reporting entities” annual reports to the Legislature are to include a list of all procurements greater than \$10,000 in the preceding year that were not competitively procured and a list of all contributions made in the preceding year that exceeded \$1,000. The terms “competitive procurement” and “contributions” are defined in §12021 of the statute.

In 2015, the GOC again initiated legislation that was enacted as Public Law 2015 Chapter 253, now codified in statute as 5 MRSA §12023 sub-§3. This statutory provision is intended to enhance legislative oversight of quasi-independent state entities by ensuring that joint standing committees of jurisdiction are monitoring the entities' compliance with requirements in 5 MRSA §§12022 and 12023. The GOC took this action after follow-up work by OPEGA determined that, while nearly all of the quasi-independent State entities had been submitting their annual reports, the annual reports had not been formally reviewed by the relevant legislative committees of jurisdiction. Title 5 §12023 sub-§3 now provides for review of the annual reports by those committees, with communication to the GOC on the results of the reviews and areas identified that perhaps should be examined in more depth.