



# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1073

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S.P. 355

In Senate, March 16, 2017

### An Act To Clarify Laws Regarding Maine's Community Colleges

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Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator LANGLEY of Hancock.  
Cosponsored by Representative KORNFIELD of Bangor and  
Senators: DOW of Lincoln, LIBBY of Androscoggin, MAKER of Washington,  
WHITTEMORE of Somerset, Representatives: MALABY of Hancock, TUELL of East  
Machias.

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

2 **Sec. 1. 5 MRSA §18, sub-§1, ¶B**, as repealed and replaced by PL 1989, c. 443,  
3 §5 and amended by PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to  
4 read:

5 B. "Executive employee" means the constitutional officers, the State Auditor,  
6 members of the state boards and commissions as defined in chapter 379 and  
7 compensated members of the classified or unclassified service employed by the  
8 Executive Branch, but it ~~shall~~ does not include:

9 (1) The Governor;

10 (2) Employees of and members serving with the National Guard;

11 (3) Employees of the University of Maine System, the Maine Maritime  
12 Academy and ~~state community colleges~~ the Maine Community College System;

13 (4) Employees who are employees solely by their appointment to an advisory  
14 body;

15 (5) Members of boards listed in chapter 379, who are required by law to  
16 represent a specific interest, except as otherwise provided by law; and

17 (6) Members of advisory boards as listed in chapter 379.

18 **Sec. 2. 20-A MRSA §12701, sub-§1**, as enacted by PL 1985, c. 695, §11, is  
19 repealed.

20 **Sec. 3. 20-A MRSA §12701, sub-§4-A** is enacted to read:

21 **4-A. Presidents' council.** "Presidents' council" means the advisory council of the  
22 system as established in section 12713.

23 **Sec. 4. 20-A MRSA §12706, sub-§1**, as amended by PL 1989, c. 878, Pt. I, §4  
24 and PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

25 **1. Policies.** To develop and adopt policies for the operation of the system, the Maine  
26 Community College System Office and the colleges; establish the ~~administrative~~  
27 presidents' council; and approve programs and policies recommended by the president of  
28 the system and the ~~administrative~~ presidents' council;

29 **Sec. 5. 20-A MRSA §12706, sub-§9**, as enacted by PL 1985, c. 695, §11, is  
30 amended to read:

31 **9. Contracts and agreements.** To enter into any contracts, leases and agreements  
32 and any other instruments and arrangements that are necessary, incidental or convenient  
33 to the performance of its duties and the execution of its powers under this chapter; ~~except~~  
34 that any such agreement other than an employment agreement that contains the following  
35 provisions against the system is void:

- 1           A. Any requirement that the system must waive its governmental immunity or  
2           limited liability;
- 3           B. Any requirement that the system must carry insurance in addition to or in excess  
4           of its existing insurance;
- 5           C. Any requirement that the system must defend, indemnify or hold harmless any  
6           other party;
- 7           D. Any requirement that the system must submit to the law of a state other than this  
8           State;
- 9           E. Any requirement that the system must waive its insurer's rights of subrogation;
- 10          F. Any requirement that the system must pay another party's attorney's fees; and
- 11          G. Any requirement that the agreement is subject to an automatic renewal other than  
12          month to month;

13           **Sec. 6. 20-A MRSA §12706, sub-§13**, as amended by PL 2007, c. 67, §3, is  
14 further amended to read:

15           **13. Property management.** To acquire by purchase, gift, lease or rent any property,  
16 lands, buildings, structures, facilities or equipment necessary to fulfill the purposes of this  
17 chapter. The board of trustees shall manage, rent, lease, sell and dispose of property,  
18 including lands, buildings, structures, equipment and facilities, and license dormitory  
19 rooms for occupancy by students. The purchase and installation of faucets, shower heads,  
20 toilets and urinals is subject to Title 5, section 1762-A. ~~If the board of trustees proposes~~  
21 ~~to sell or permanently transfer any interest in real estate, the transaction must be approved~~  
22 ~~by the Legislature before the interest is transferred. Any revenues derived from these~~  
23 ~~uses are to be credited to a separate fund to be used for the purposes of this chapter.~~  
24 ~~Notwithstanding any other provision of law, the board of trustees may grant or otherwise~~  
25 ~~transfer utility easements without legislative approval;~~

26           **Sec. 7. 20-A MRSA §12706, sub-§14**, as enacted by PL 1985, c. 695, §11, is  
27 amended to read:

28           **14. Facilities management; construction and renovation.** To authorize the  
29 construction, maintenance, renovation, reconstruction or other necessary improvements  
30 of buildings, structures and facilities and promote the regular use of facility master  
31 planning in order to coordinate efficient long-term facilities planning;

32           **Sec. 8. 20-A MRSA §12706, sub-§15**, as enacted by PL 1985, c. 695, §11, is  
33 amended to read:

34           **15. Courses of study and degrees.** To offer courses of study, grant diplomas and  
35 certificates on completion of courses of study, confer associate degrees based on 2 years  
36 of instruction and establish qualifications for admission; to offer short-term and on-site  
37 training, to meet the needs of the private and public sectors and economic development  
38 and employment training programs; ~~and~~ to offer adult education and continuing  
39 educational opportunities to meet the needs of nontraditional students and of adults who  
40 need training or retraining in response to changes in technology or the needs of the

1 economy; and to encourage the development of innovative delivery methods, course  
2 schedules, student support services and prior learning assessments that help expand  
3 access to both credit and noncredit programming;

4 **Sec. 9. 20-A MRSA §12706, sub-§19**, as amended by PL 2001, c. 590, §2 and  
5 by PL 2003, c. 20, Pt. OO, §2 and affected by §4 and amended by PL 2005, c. 397, Pt. D,  
6 §3, is further amended to read:

7 **19. Advisory committees.** To appoint or identify advisory committees to advise the  
8 board of trustees with respect to career and technical education and training policies and  
9 programs, to procedures for modifying the programs of the colleges to meet the needs of  
10 the State's economy and the changing job market and to the efficient operation of the  
11 colleges and the Maine Community College System Office. These committees may  
12 include, but need not be limited to, the Maine Council on Vocational Education,  
13 authorized under the United States Carl D. Perkins Vocational Education Act, Section  
14 112, Public Law 98-524, or its successor; ~~and~~

15 **Sec. 10. 20-A MRSA §12706, sub-§20**, as enacted by PL 2001, c. 590, §3, is  
16 amended to read:

17 **20. Debt.** To borrow funds, issue bonds and negotiate notes and other evidences of  
18 indebtedness or obligations of the system for renovation, public improvements, land  
19 acquisition and construction purposes to pay for costs as defined in Title 22, section 2053,  
20 subsection 3. The board of trustees may issue temporary notes and renewal notes to pay  
21 for those costs. Bonds, notes or other evidences of indebtedness or obligations of the  
22 system are legal obligations of the system on behalf of the State and are payable solely  
23 from the system's revenues and other sources of funds, including funds obtained pursuant  
24 to Title 22, section 2053, subsection 4-B, paragraph A. These borrowings by the system  
25 do not constitute debts or liabilities of, and are not includable in, any debt obligation of  
26 the State. The board of trustees has the discretion to fix the date, maturities,  
27 denomination, interest rate, place of payment, form and other details of the bonds or notes  
28 of the system. Unless otherwise provided in the vote authorizing their issuance, bonds or  
29 notes of the system must be signed by the president of the system and countersigned by  
30 the chair of the board of trustees. The aggregate principal amount of outstanding bonds,  
31 notes or other evidences of indebtedness of the system may not exceed \$35,000,000 at  
32 any one time, excluding temporary notes and renewal notes. The bonds may be issued  
33 through the Maine Health and Higher Education Facilities Authority. The board of  
34 trustees may pledge or assign its revenues, including any funds that have been or may be  
35 appropriated to the system, and the proceeds of those revenues and its other property as  
36 security toward its bonds, notes, other evidences of indebtedness or other obligations of  
37 the system. The proceeds of bonds, notes or other evidences of indebtedness may be  
38 invested in accordance with subsection 8. Bonds, notes and other evidences of  
39 indebtedness issued under this subsection are not debts of the State, nor a pledge of the  
40 credit of the State, but are payable solely from the funds of the system. Indebtedness  
41 incurred and evidences of indebtedness issued under this chapter constitute a proper  
42 public purpose, and all income derived is exempt from taxation in the State. The net  
43 earnings of the system may not inure to the benefit of any private person, and no  
44 borrowing may be effected pursuant to this chapter unless the amount of the borrowing

1 and the project or projects are submitted to the Office of Fiscal and Program Review for  
2 review by the joint standing committee of the Legislature having jurisdiction over  
3 appropriations and financial affairs at least 60 days before closing on such borrowing for  
4 the project or projects is to be initiated; and

5 **Sec. 11. 20-A MRSA §12706, sub-§21** is enacted to read:

6 **21. Campus security.** To support the development of campus security plans and  
7 policy, including the assessment of how persons qualified and designated by law  
8 enforcement or system policy may exercise the powers of Title 17-A, sections 107 and  
9 108.

10 **Sec. 12. 20-A MRSA §12709, sub-§1**, as amended by PL 1991, c. 376, §38, is  
11 further amended to read:

12 **1. Leadership.** To develop policies, goals and objectives with respect to the  
13 operation of the colleges, to be reviewed and, when necessary, approved by the board of  
14 trustees. The president of the system shall meet regularly with the ~~administrative~~  
15 presidents' council to develop these policies and goals;

16 **Sec. 13. 20-A MRSA §12709, sub-§9**, as enacted by PL 1985, c. 695, §11, is  
17 amended to read:

18 **9. Long-range planning and research.** In cooperation with the ~~administrative~~  
19 presidents' council, to undertake long-range planning and research, including planning for  
20 construction, renovation and reconstruction projects and report findings and  
21 recommendations to the board of trustees;

22 **Sec. 14. 20-A MRSA §12713**, as amended by PL 1989, c. 878, Pt. I, §11, is  
23 further amended to read:

24 **§12713. Presidents' council**

25 The ~~administrative~~ presidents' council ~~shall be~~ is a nonvoting, advisory council  
26 composed of the presidents of the colleges to advise the board of trustees and the  
27 president of the system. The ~~administrative~~ presidents' council shall advise the president  
28 of the system in the performance of the duties assigned under this chapter and shall make  
29 recommendations to the president of the system and the board of trustees with respect to  
30 the administration of the colleges, courses of study, educational programs, curricula,  
31 coordination of programs between the colleges, coordination with other institutions of  
32 higher learning and other educational and training institutions and other matters as  
33 requested by the president of the system or the board of trustees.

34 **Sec. 15. 20-A MRSA §12716, sub-§1**, as amended by PL 1989, c. 443, §52, is  
35 further amended to read:

36 **1. Scholarships and campus employment.** The board of trustees shall develop and  
37 administer ~~a program~~ programs of scholarships and campus employment for college  
38 students. Awards ~~shall~~ must be based on evidence of individual need and worth.

- 1 Students selected to receive a scholarship ~~shall~~ must fulfill the following qualifications:
- 2 A. Show evidence of the qualifications necessary to complete a course of study  
3 successfully and to become a competent technical or craft worker in an industrial,  
4 administrative, technical or trade pursuit;
- 5 B. Show demonstrated ability and willingness to support the expenses of education  
6 and training; and
- 7 C. Show demonstrated need of financial assistance to help pay the cost of college  
8 attendance or, in the case of on-campus employment programs, demonstrate the  
9 ability to benefit from the increased engagement that such programs provide.

10 **SUMMARY**

11 This bill changes the name of the Maine Community College System's advisory  
12 council of college presidents from the administrative council to the presidents' council. It  
13 allows the Board of Trustees of the Maine Community College System to encourage the  
14 development of innovative education delivery methods, course schedules, student support  
15 services and prior learning assessments that help expand access to both credit and  
16 noncredit programming, to support the development of campus security plans and policy  
17 and to develop and administer programs of campus employment. It makes changes to  
18 promote the regular use of facility master planning and removes the requirement that the  
19 Legislature must approve real estate transactions selling or permanently transferring any  
20 interest in real estate. It also imposes a number of constraints on contracts the board of  
21 trustees may enter into, other than employment contracts.