

## L.D. 1903 – Sections Creating Office of Policy and Management

### PART DD

**Sec. DD-1. 5 MRSA §1531, sub-§1**, as enacted by PL 2005, c. 2, Pt. A, §5 and affected by §14, is amended to read:

**1. Average population growth.** "Average population growth" means the average for the prior 10 calendar years, ending with the most recent calendar year for which data is available, of the percent change in population from July 1st of each year and estimated by the United States Department of Commerce, Bureau of Census as adjusted ~~and maintained by the Executive Department, State Planning Office~~ by the Governor's Office of Policy and Management.

**Sec. DD-2. 5 MRSA §1531, sub-§2**, as amended by PL 2005, c. 621, §1, is further amended to read:

**2. Average real personal income growth.** "Average real personal income growth" means the average for the prior 10 calendar years, ending with the most recent calendar year for which data is available, of the percent change in personal income in this State, as estimated by the United States Department of Commerce, Bureau of Economic Analysis, less the percent change in the Consumer Price Index for the calendar year. For purposes of this subsection, "Consumer Price Index" has the same meaning as in Title 36, section 5402, subsection 1. The average real personal income growth is determined by October 1st, annually, by the ~~Director of the State Planning Office within the Executive Department~~ Governor's Office of Policy and Management.

**Sec. DD-3. 5 MRSA §1710-D**, as enacted by PL 1995, c. 368, Pt. J, §1, is amended to read:

#### **§ 1710-D. Staffing**

The commission may receive staff support from the ~~State Planning Office~~ Governor's Office of Policy and Management.

**Sec. DD-4. 5 MRSA §1710-I**, as amended by PL 1997, c. 526, §14, is further amended to read:

#### **§ 1710-I. Staffing**

The committee may receive staff assistance from the Bureau of the Budget, the ~~State Planning Office~~ Governor's Office of Policy and Management, the Bureau of Revenue Services and, at the discretion of the Legislature, the Office of Fiscal and Program

Review. The committee may also utilize other professionals having revenue forecasting, economic and fiscal expertise.

**Sec. DD-5. 5 MRSA c. 310** is enacted to read:

## **CHAPTER 310**

### **GOVERNOR'S OFFICE OF POLICY AND MANAGEMENT**

#### **§ 3101. Definitions**

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

**1. Director.** "Director" means the Director of the Governor's Office of Policy and Management established by section 3102.

**2. Office.** "Office" means the Governor's Office of Policy and Management established by section 3102.

#### **§ 3102. Office established; purpose**

The Governor's Office of Policy and Management is established in the Executive Department to facilitate achievement of long-term state economic goals and objectives and identification and implementation of opportunities to improve the efficiency and effectiveness of the performance of the functions of and delivery of services by State Government.

#### **§ 3103. Director**

The Director of the Governor's Office of Policy and Management is appointed by the Governor and serves at the pleasure of the Governor.

#### **§ 3104. Powers and duties**

The director is authorized to exercise the powers and is responsible for fulfillment of the duties of the office provided for by this section.

**1. Duties.** The director shall:

**A.** Appoint, remove and prescribe the duties of staff of the office as necessary to implement the duties of the office. The director is authorized to hire as unclassified employees professional personnel competent by education, training and experience in such areas as economics, law, accounting and public policy. The director is authorized to hire as classified employees other personnel, who are subject to the Civil Service Law and personnel policies established for state employees generally, as required to support implementation of the duties of the office;

B. Prepare long-range economic projections to ensure that projected available state financial resources are commensurate with projected state expenditures needed to meet long-term state economic goals and policies;

C. Analyze the structure and functions of State Government and identify options and develop recommendations for consideration by the Governor regarding improvement of the efficiency and effectiveness of governmental functions and programs and delivery of governmental services. In carrying out duties under this paragraph, the director may:

(1) Prepare strategic and long-range plans and goals for reform of State Government through creation of efficiencies and streamlining of operations;

(2) Establish metrics for and further develop systems for ongoing evaluation of the efficiency and effectiveness of state programs and delivery of state services; and

(3) Review and determine whether there is continuing need for state programs, boards and commissions, in part through consideration of whether their public benefit equals or exceeds their cost;

D. Recommend governmentwide policies to improve financial management for consideration by the Governor. In carrying out duties under this paragraph, the director may review state agencies' proposals for funding from public and private entities, including the Federal Government, for consistency with pertinent state law and fiscal policy;

E. Conduct studies and continuing economic analyses of the state economy, including economic forecasting, and collect, collate and analyze all pertinent data and statistics relating to those studies and analyses to assist the Governor, the Legislature and the various state departments in formulating economic goals and programs and policies to achieve such goals. The office shall make these data and statistics available to the Legislature upon request. All state agencies shall cooperate with the office regarding implementation of the provisions of this paragraph. In implementing this paragraph, the office may use secondary data made available to the office by other state agencies or other organizations;

F. At the Governor's request, advise on the risks, costs, benefits and effects on job creation and job retention in the State of proposed legislation or other policy initiatives;

G. Conduct research, reviews and studies to fulfill the office's duties as the director determines appropriate;

H. Facilitate intergovernmental and intragovernmental coordination, relations and communications and provide general coordination and review of plans in functional areas of State Government as may be necessary for receipt of federal funds; and

I. Perform other duties related to the purposes of the office under section 3102 as assigned by the Governor or as directed by statute.

**2. Powers.** The director may, in connection with the performance of the duties of the office, apply to the Superior Court for a subpoena to compel the attendance of witnesses and the production of books, papers, records and documents of individuals, firms, associations and corporations and all officers, boards, commissions and departments of State Government. The court, before issuing the subpoena, shall provide adequate opportunity for the director and the party against whom the subpoena is requested to be heard. The court may issue the subpoena only on a showing by the director and specific findings of fact by the court that the attendance of the witness or the

production of the books, papers, records or documents is reasonably necessary to carry out specific duties of the office that are related to the operations and finances of State Government and that the director has made reasonable efforts to secure the attendance or the books, papers, records or documents without recourse to compulsory process. Any materials or information turned over to the director that is of a confidential or proprietary nature is confidential under section 3108.

### **§ 3105. Acceptance and administration of funds**

The office may accept, administer and expend funds, including but not limited to funds from the Federal Government or from private sources, for purposes consistent with this chapter. The director shall provide a report of the amount of any outside funding received from private sources and its designated purpose to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs no later than 30 days after receiving the funds.

### **§ 3106. Contracts**

The office may contract with public and private entities for research and analysis and other services as the director determines necessary to address the office's duties under this chapter. The director shall provide a report of the contracts awarded to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs no later than 30 days after awarding the contract.

### **§ 3107. Governmental cooperation; temporary reassignment of governmental employees**

All departments, agencies, authorities, boards, commissions and other instrumentalities of the State shall, at the director's request, assist the office in the gathering of information, reports and data that relate to the performance of the duties of the office. Subject to approval by the Governor, at the request of the director a state agency shall, as provided in chapter 309, assign qualified personnel to the office for a period of up to 6 months to assist the office in the performance of its duties.

### **§ 3108. Confidential or proprietary information**

**1. Access to records.** Upon the request of the director, a department, commission or agency shall provide access to records necessary to carry out the duties of the office.

**2. Confidential information available to the director.** Notwithstanding any state law relating to the confidentiality of information, all information in the files of any department, commission or agency of the State must be made available when necessary to the director in connection with the performance of the duties of the office related to the operations and finances of State Government.

**3. Consultation; limited access.** Before beginning a study, a review or research that may require access to records containing confidential or privileged

information, the director shall consult with representatives of the department, commission or agency to discuss methods of identifying and protecting privileged or confidential information in those records. During that consultation, the department, commission or agency shall inform the director of all standards and procedures set forth in department, commission or agency policies or agreements to protect information considered by the department, commission or agency to be confidential or privileged. The director shall limit access to information that is privileged or confidential by appropriate methods, which may include examining records without copying or removing them from the department, commission or agency.

**4. Removal of identifying information.** In making information available to the director, the department, commission or agency that is subject to the study, review or research or that provides the information may remove information that identifies individuals or institutions to protect privileged or confidential information, as long as the information necessary for the director to fulfill the duties of the office is disclosed to the director.

**5. Confidentiality, privilege apply to director.** Documentary or other information obtained by the director during the course of a study, review or research is privileged or confidential to the same extent under law that that information would be privileged or confidential in the possession of the department, commission or agency providing the information. Any privilege or statutory provision, including penalties, concerning the confidentiality or obligation not to disclose information in the possession of any department, commission or agency or their officers or employees applies equally to the director. Privileged or confidential information obtained by the director during the course of a study, review or research may be disclosed only as provided by law and with the agreement of the department, commission or agency that provided the information.

**6. Compliance with policy.** If the director accesses information classified as privileged or confidential pursuant to department, commission or agency policy or procedures or by agreement, the director shall comply with the department, commission or agency standards or procedures for handling that information.

**Sec. DD-6. 5 MRSA §13056, sub-§3**, as enacted by PL 1987, c. 534, Pt. A, §§17 and 19, is amended to read:

**3. Conduct planning and research.** Conduct planning, research and analysis for department needs, but not macroeconomic forecasting , which ~~shall be~~ is the responsibility of the ~~State Planning Office~~ Governor's Office of Policy and Management. The department shall gather, maintain and have access to all economic and other information necessary to the performance of its duties;

**Sec. DD-7. 5 MRSA §13120-Q, first ¶**, as enacted by PL 2001, c. 703, §6, is amended to read:

The authority, with the advice of the department, the Department of Labor ~~, the State Planning Office~~ and such other agencies it determines appropriate, may waive the requirements of section 13120-P, subsection 2, paragraph E and section 13120-P,

subsection 3, paragraph E if the municipality has experienced a historical lack of private investment and it is reasonably expected that private investment will not be available to assist with project financing and one of the following conditions is met:

**Sec. DD-8. 10 MRSA §363, sub-§2-A**, as amended by PL 1999, c. 728, §2, is further amended to read:

**2-A. Recommendation of Governor and issuers.** At any time action of the Legislature under subsection 1-A is necessary or desirable, the Governor shall recommend to the appropriate committee of the Legislature a proposed allocation or reallocation of all or part of the state ceiling. To assist the Governor in making a recommendation of proposed allocations of the state ceiling on private activity bonds, the group of 7 representatives described in subsection 1-A shall make a recommendation regarding allocation or reallocation of the state ceiling. In order to assist the group in making its recommendation and to assist the Governor and the Legislature, the ~~State Planning Office~~ Department of Administrative and Financial Services, in consultation with the Governor's Office of Policy and Management, shall prepare an annual analysis of the State's economic outlook, prevailing interest rate forecasts related to tax-exempt financing by the issuers specifically identified in subsections 4 to 8, the availability to those issuers of alternative financing from sources that do not require an allocation of the state ceiling and the relationship of these factors and various public policy considerations to the allocation or reallocation of the state ceiling. In recommending any allocation or reallocation of the state ceiling to the Legislature, the Governor shall consider the requests and recommendations of those issuers of bonds within the State designated in this section, the recommendations of the group of representatives described in subsection 1-A and the annual analysis of the ~~State Planning Office~~ Department of Administrative and Financial Services.

**Sec. DD-9. 12 MRSA §8876, sub-§2**, as amended by PL 1997, c. 720, §9, is further amended to read:

**2. Future demand.** Project future demand for forest resources based on a common economic forecast developed by the ~~State Planning Office~~ Governor's Office of Policy and Management and on other appropriate economic projections;

**Sec. DD-10. 26 MRSA §3**, as amended by PL 1997, c. 132, §1, is further amended to read:

### **§ 3. Records confidential**

All information and reports recorded by the director or the director's authorized agents under this Title are confidential, and no names of individuals, firms or corporations may be used in any reports of the director nor made available for public inspection. The director may release information and reports to other government agencies if the director believes that the information will serve to further the protection of

the public or assist in the enforcement of local, state and federal laws. The director may also release information and reports to the public pertaining to final bureau action taken under the authority of this Title. Records pertaining to the work force, employment patterns, wage rates, poverty and low-income patterns, economically distressed communities and regions and other similar information and data must be made available to the Department of Economic and Community Development and to the ~~State Planning Office~~ Governor's Office of Policy and Management for the purposes of analysis and evaluation, measuring and monitoring poverty and economic and social conditions throughout the State and to promote economic development with the understanding that the confidentiality of the information will be maintained.

**Sec. DD-11. 30-A MRSA §5652, sub-§2**, as enacted by PL 2007, c. 405, §2, is amended to read:

**2. Funding municipal education foundations.** A municipality may accept endowment funds from citizens, estates, municipal contributions and bond money to fund a municipal education foundation to support local education pursuant to section 5724, subsection 10. The foundation may not spend the funds until it meets certain growth standards recommended by the ~~Executive Department, State Planning Office~~ Department of Administrative and Financial Services.

**Sec. DD-12. 30-A MRSA §5724, sub-§10**, as enacted by PL 2007, c. 405, §3, is amended to read:

**10. Municipal education foundations.** A municipal education foundation is established with the assistance of the ~~Executive Department, State Planning Office~~ Department of Administrative and Financial Services and must contain the following provisions.

A. The endowment of a municipal education foundation is funded by contributions by citizens, estates, municipalities and bond money if the foundation meets ~~the Executive Department, State Planning Office~~ standards pursuant to section 5652, subsection 2.

B. Trustees of a municipal education foundation must be citizens of the municipality and contain at least one member who is a teacher or administrator in the municipality's education system to be a liaison between the school system and the municipal education foundation.

**Sec. DD-13. 30-A MRSA §5903, sub-§6-A**, as enacted by PL 1989, c. 48, §§14 and 31, is amended to read:

**6-A. Median household income.** "Median household income" means the income computed based on the most current census information available, as provided by the ~~State Planning Office~~ Governor's Office of Policy and Management.

**Sec. DD-14. 35-A MRSA §3454, first ¶**, as enacted by PL 2007, c. 661, Pt. A, §7, is amended to read:

In making findings pursuant to Title 12, section 685-B, subsection 4 or Title 38, section 484, subsection 3, the primary siting authority shall presume that an expedited wind energy development provides energy and emissions-related benefits described in section 3402 and shall make additional findings regarding other tangible benefits provided by the development. The Department of Labor, the ~~Executive Department, State Planning Office~~ Governor's Office of Policy and Management, the Governor's Energy Office and the Public Utilities Commission shall provide review comments if requested by the primary siting authority.

**Sec. DD-15. 35-A MRSA §3454, sub-§5**, as enacted by PL 2009, c. 642, Pt. A, §7, is amended to read:

**5. Promoting economic development and resource conservation; assistance to host communities.** To the extent practicable within existing resources, the Department of Economic and Community Development, the Governor's Energy Office and the ~~Executive Department, State Planning Office, Governor's Office of Policy and Management~~ shall provide, upon the request of a host community, assistance for the purpose of helping the host community maximize the economic development and resource conservation benefits from tax payments and payments made pursuant to a community benefit agreement or a community benefits package in connection with expedited wind energy developments. As part of this assistance, the department and the ~~office~~ Department of Economic and Community Development shall support host communities in identifying additional funding and developing regional economic and natural resource conservation strategies.

**Sec. DD-16. 36 MRSA §6759**, as enacted by PL 1995, c. 669, §5, is amended to read:

#### **§ 6759. Program administration**

The commissioner shall administer this Act. The commissioner and the State Tax Assessor may adopt rules pursuant to the Maine Administrative Procedure Act for implementation of the program, including, but not limited to, rules for determining and certifying eligibility. The commissioner may also by rule establish fees, including fees payable to the State Tax Assessor ~~and the State Planning Office~~ for obligations under this chapter. Any fees collected pursuant to this chapter must be deposited into a special revenue account administered by the State Tax Assessor and those fees may be used only to defray the actual costs of administering this Act.

**Sec. DD-17. 36 MRSA §7302**, as enacted by PL 2005, c. 2, Pt. H, §2, is amended to read:

#### **§ 7302. Progress reporting and data**



**1. Assessment and report.** The ~~State Planning Office~~ Governor's Office of Policy and Management shall separately assess and report on the progress made by the State, municipalities, counties and school administrative units, respectively, in achieving the tax burden reduction goals established in section 7301.

**2. Indicators; annual report.** With reference to Title 5, chapter 142; Title 20-A, section 15671, subsection 1; and Title 30-A, sections 706-A and 5721-A, the ~~State Planning Office~~ Governor's Office of Policy and Management shall develop and apply specific, quantifiable performance indicators against which the progress in achieving the tax burden reduction goals established in section 7301 can be measured. On January 15, 2006 2013 and annually thereafter, the ~~State Planning Office~~ Governor's Office of Policy and Management shall report to the Governor and to the joint standing committee of the Legislature having jurisdiction over taxation matters on the progress made by the State, counties, municipalities and school administrative units, respectively, in achieving the tax burden reduction goals. The report required by this subsection must be comprised of 4 distinct parts reporting on the progress made by the State, municipalities, counties and school administrative units, respectively. The ~~State Planning Office~~ Governor's Office of Policy and Management may also include in its report recommendations on alternative strategies to achieve the tax burden reduction goals established in section 7301 that reflect the best practices in this State, other states and other countries.

**3. Data.** The ~~State Planning Office~~ Governor's Office of Policy and Management shall annually collect and analyze data regarding spending and revenues for municipalities, counties and school administrative units. The ~~State Planning Office~~ Governor's Office of Policy and Management shall submit an annual report that provides information and analysis regarding government spending and revenue behavior and trends to the Governor and the joint standing committee of the Legislature having jurisdiction over taxation matters. The report must include information that identifies spending and revenue behavior by individual municipalities, counties and school administrative units. Upon request, other departments of State Government shall cooperate and assist the ~~State Planning Office~~ Governor's Office of Policy and Management in the preparation of the report.

**Sec. DD-18. 38 MRSA §484, sub-§10**, as amended by PL 2009, c. 615, Pt. E, §18, is further amended to read:

**10. Special provisions; wind energy development or offshore wind power project.** In the case of a grid-scale wind energy development, or an offshore wind power project with an aggregate generating capacity of 3 megawatts or more, the proposed generating facilities, as defined in Title 35-A, section 3451, subsection 5:

A. Will be designed and sited to avoid unreasonable adverse shadow flicker effects;

B. Will be constructed with setbacks adequate to protect public safety. In making a finding pursuant to this paragraph, the department shall consider the recommendation of a professional, licensed civil engineer as well as any applicable setback recommended by a manufacturer of the generating facilities; and

C. Will provide significant tangible benefits as determined pursuant to Title 35-A, section 3454, if the development is an expedited wind energy development.

The Department of Labor, the ~~Executive Department, State Planning Office~~ Governor's Office of Policy and Management, the Governor's Energy Office and the Public Utilities Commission shall provide review comments if requested by the primary siting authority.

For purposes of this subsection, "grid-scale wind energy development," "primary siting authority," "significant tangible benefits" and "expedited wind energy development" have the same meanings as in Title 35-A, section 3451.

**Sec. DD-19. Resolve 1997, c. 36, §1** is repealed.

**Sec. DD-20. Maine Revised Statutes headnote amended; revision clause.**

In the Maine Revised Statutes, Title 5, Part 8, in the part headnote, the words "state planning" are amended to read "policy and management" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. DD-21. Initial recommendations.** No later than December 1, 2012, the Governor's Office of Policy and Management shall develop and recommend to the Governor and the Legislature changes in the structure, functions or operations of State Government to achieve General Fund savings of at least \$1,000,000 during fiscal year 2013-14 and at least \$1,000,000 during fiscal year 2014-15.

**Sec. DD-22. Creation of Governor's Office of Policy and Management; elimination of the Executive Department, State Planning Office; transition provisions.** The following transition provisions govern the creation of the Governor's Office of Policy and Management and the elimination of the Executive Department, State Planning Office.

1. The Governor's Office of Policy and Management, referred to in this section as "the office," is created as of May 1, 2012. The Governor shall appoint the Director of the Governor's Office of Policy and Management at any time on or after that date. The director shall organize the office, including creation of up to 4 temporary positions by financial order pursuant to this Act, to be hired on or after July 1, 2012. The director shall provide a report to the chairs of the Joint Standing Committee on Appropriations and Financial Affairs within 30 days of creating the temporary positions by financial order. Of the temporary positions created, only one of the positions may be an attorney position performing the usual and customary functions of an attorney admitted to the bar. The director shall submit a request to continue the positions in the biennial budget for 2014-2015.

2. The Executive Department, State Planning Office is eliminated on July 1, 2012. All transfers of Executive Department, State Planning Office responsibilities to the Governor's Office of Policy and Management under this Act are effective on July 1, 2012.

3. All records, property and equipment previously belonging to or allocated for the use of the Executive Department, State Planning Office that have not otherwise been provided

for under this Act become the property of the Governor's Office of Policy and Management.

**Sec. DD-23. Transition provisions; economics and demographics matters.** The following provisions apply to the reassignment of duties, responsibilities and activities of the Executive Department, State Planning Office regarding economics and demographics.

1. Two authorized positions and incumbent personnel in the Executive Department, State Planning Office that are assigned to that office's economics and demographics program are transferred to the Governor's Office of Policy and Management. These employees must retain their accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits.

2. If so designated by the Governor, the Department of Labor is authorized to serve as the State Data Center for purposes of the State Data Center Program administered by the United States Department of Commerce, United States Census Bureau and to develop a memorandum of agreement with the bureau that outlines responsibilities of the department and bureau under the State Data Center Program.

**Sec. DD-24. Effective date.** This Part takes effect May 1, 2012.