

LD 2 An Act To Require the Inclusion of Racial Impact Statements in the Legislative Process

To: Members, Joint Standing Committee on State and Local Government

From: Lynne Caswell, Esq., Legislative Analyst

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SUMMARY

Section 2 of this bill requires the Legislative Council, or its delegate:

- Study - conduct a study to determine the best method to establish and implement a system using racial impact statements for legislation;
- Report - prepare a report with findings on the results of the study by November 1, 2021;
- Pilot Project – implement, by December 1, 2021, a pilot project for use of racial impact statements by at least 1, but no more than 4 joint standing committees during the 2nd Regular Session;
- Report by committee chairs – the chairs of each committee participating in the pilot project must report to the Legislative Council within 30 days of adjournment of the 1st Regular Session; and
- Determine future use - the Legislative Council shall determine, by December 15, 2022, whether to expand or eliminate the use of racial impact statements

Section 1 of this bill requires state agencies provide, upon request, data, analysis and other information necessary to prepare a racial impact statement to joint standing committee and other committees, commission or councils established by the Legislature, and comprised wholly or partially of Legislators, to conduct the business of the legislature.

- “State agency” is defined to include: state departments, agencies, offices, boards or commissions; and quasi-independent agencies, boards, commissions, authorities and institutions.
- “Racial impact statement” is defined to be an assessment of the potential impact that legislation could have on historically disadvantaged racial populations.

TESTIMONY

Sponsor (Rep. Talbot Ross)**Proponents:**

1. Legislators: Sen Carney; Rep Breen; Rep Cloutier; Rep Harnett; Rep Newell; Rep Osher; Rep Peabworth; Rep Sachs; Rep Warren; Rep Zager
2. Executive Branch: SOS Bellows
3. Individuals: Abigail Bradford; Ana Noriega; Anthony Jackson; Claudia Cummings; Dale McCormick; Dawn Neptune Adams; dee Clarke; Lani Graham; Mali Obonsawim, Citizen of Wabanaki 1st Nation; Michael Mosley, Equal Justice Volunteer; Teal Jackson;
4. Organizations: AFL-CIO (Adam Goode); Survivors Speaks (Amanda Coneau); Maine People’s Alliance (Cate Blackford); Maine Black Community Development (Craig Hickman); Maine Medical Association (Dan Morin); Maine Education Association Grace Leavitt); Maine Center on Economic Policy (James Myall); Maine Unitarian Universalist State Advocacy Network (Jane Makela); Maine Chapter of the National Association of Social Workers (Jerry Marz); Preble Street (Joann Bautisa); Maine Equal Justice

(Joby Thoyalil); Immigrant Legal Aid Program (Julia Brown); Sierra Club Maine (Julia St.Clair); League of Women Voters of Maine (Lado Lodoka); GLBTQ Legal Advocates Defenders (Mary Bonauto); ACLU of Maine (Meggie Sway); Maine Human Rights Coalition (Mufalo Chitam); Planned Parenthood of New England (Nicole Clegg); Maine Prisoner Advocacy Coalition (Peter Lehman); Maine Public Health Association (Rebecca Boulos); Health Equity Alliance (Whitney Parish); Anti-Racism Policy Group of HopeGateWay United Methodist Church in Portland (Rev. Donald Rudalevige; Social Action Committee of Congregation Beth El.)

Opponents (none)

NFNA (written only: Office of the Governor)

POTENTIAL ISSUES / TECHNICAL PROBLEMS

1. Follow-up information provided by the sponsor indicates the intent of this bill was to have nonpartisan legislative staff compete the racial impact statements. Nonpartisan staff services are specified in 3 MRSA §163-A (Attachment A). The obligation on OFPR to provide fiscal impact statements, found in sub-§12, may be an example to use to better reflect who will prepare the statement.
2. Statutory Requirement to Provide Information / Separation of Powers

Several sections of statute require executive branch agencies to provide written materials and reports to the Legislative branch, including:

- 3 MRSA §165, sub-§4 requires “[e]ach state department shall furnish to a [joint standing] committee such documents, material or information as may be requested by a committee”
- 3 MRSA §551 requires the DAFS Commission and the State Treasurer to “advise the Legislature and the Governor in a timely manner and in written form as to the effect on the State's bonded debt of any bond issue or issues proposed.”
- 3 MRSA ch. 35, State Government Evaluation Act requires state and independent agencies to submit a program evaluation report to the committee of jurisdiction every 8 years
- Section 996 of the Government Evaluation Act requires the Commissioner of DAFS, and others to provide “assistance”. Specifically, this section state:

“The Department of the Attorney General, the State Auditor, the State Controller, the Commissioner of Administrative and Financial Services, the Director of the Office of Fiscal and Program Review and the Director of the Office of Policy and Legal Analysis shall assist the committee and office with program evaluations under this chapter if the committee and the director determine that such assistance is necessary.”

Me Const. Art III, §2, Distribution of Powers, states:

“Section 2. To be kept separate. No person or persons, belonging to one of these departments, shall exercise any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted.”

FISCAL IMPACT - Preliminary (OFPR)

Unavailable as of this date.

3 MRSA §163-A. Nonpartisan legislative staff services

Nonpartisan legislative staff shall provide the following services under the direction of the Executive Director: [PL 2015, c. 102, §6 (AMD).]

- 1. Bill drafting.** To furnish to the members of the Legislature the assistance of expert drafters qualified to aid the Legislature in the preparation of bills for introduction into the Legislature;
- 2. Revision.** Upon request, to assist any agency appointed to revise the statutes of the State or any portion of the statutes and, at the direction of such agency, to consolidate, revise and clarify the statutes of the State;
 - 2-A. Engrossing.** To engross all bills passed by the Legislature;
- 3. Session laws.** To prepare and index for printing as promptly as possible, after the adjournment of each session, the session laws, which compilation includes all Acts and resolves that the Legislature has adopted during the session and that have received the approval of the Governor, when such approval is necessary, and any other material of a general nature that the Executive Director may determine;
- 4. Copy of public laws.** After each session of the Legislature, to cause the public laws enacted at that session to be printed on good paper and in suitable type and to distribute the same within the State to all citizens making a request for those laws;
- 5. Pocket supplements.** After each session of the Legislature, to cause to be published cumulative pocket supplements of the volumes of the Revised Statutes, and any replacement or recompiled volumes, which must contain an accurate transcription of all public laws, the material contained in the next preceding pocket supplement, complete and accurate annotations to the statutes, appendix and other material accumulated since the publication of the next preceding pocket supplement and a cumulative index of that material;
- 6. Continuing revision.** [PL 2015, c. 102, §6 (RP).]
- 7. Committee assistance.** To provide research, analysis and bill drafting assistance for joint standing or select committees, including, but not limited to, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and other legislative agencies;
- 8. Reports and legislation.** To prepare narrative reports on matters referred to joint standing committees for review or study and prepare legislation to be introduced pursuant to those reports;
- 9. Research services.** To provide a comprehensive research service for Legislators, legislative joint standing or select committees and commissions and the Legislative Council;
- 10. Collection of fiscal information.** To collect and assemble factual information concerning the fiscal affairs of the State for the use of the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs in formulating its proposals for appropriations and to collect and assemble fiscal information concerning other revenue funds for the use of any joint standing committee in formulating proposals for allocation acts;
- 11. Appropriation requests.** To examine all requests for appropriations made by the various agencies of State Government and attend any hearings necessary to obtain complete information;
- 12. Statement of cost.** To prepare statements pertaining to the existence of cost or the amount of cost to municipalities or counties for implementing or complying with a proposed law. The statement of cost is made within the limits of information provided to the office designated by the Legislative Council as having responsibility for financial analysis. The statements must be furnished to the appropriate committee for the information of its members and for inclusion in bills that receive an ought to pass report when reported by the committee. A statement is not necessary for any bill that has no cost to municipalities or counties; and
- 13. Other duties.** To undertake such other duties as are assigned by the Executive Director.