

**§2054. Health Facilities Authority; executive director**

**1. Authority.** The Maine Health and Higher Educational Facilities Authority, established by Title 5, chapter 379, is constituted a public body corporate and politic and an instrumentality of the State, and the exercise by the authority of the powers conferred by this chapter is deemed and held to be the performance of an essential public function. The authority consists of 12 members, one of whom must be the Superintendent of Financial Institutions, ex officio; one of whom must be the Commissioner of Health and Human Services, ex officio; one of whom must be the Commissioner of Education, ex officio; one of whom must be the Treasurer of State, ex officio; and 8 of whom must be residents of the State appointed by the Governor. Not more than 4 of the appointed members may be members of the same political party. Three of the appointed members must be trustees, directors, officers or employees of health care facilities and one of these appointed members must be a person having a favorable reputation for skill, knowledge and experience in state and municipal finance, either as a partner, officer or employee of an investment banking firm that originates and purchases state and municipal securities, or as an officer or employee of an insurance company or bank whose duties relate to the purchase of state and municipal securities as an investment and to the management and control of a state and municipal securities portfolio. Of the 3 members first appointed who are trustees, directors, officers or employees of hospitals, one shall serve for 2 years, one for 3 years and one for 4 years. Of the 5 remaining members initially appointed, one shall serve for one year, one for 2 years, one for 3 years, one for 4 years and one for 5 years. For the 2 members whose terms expire in 1980 and 1981, the Governor shall appoint as successors, for terms of 5 years each, persons who are trustees, members of a corporation or board of governors, officers or employees of institutions for higher education. Annually, the Governor shall appoint, for a term of 5 years, a successor to the member whose term expires. Members shall continue in office until their successors have been appointed and qualified. The Governor shall fill any vacancy for the unexpired terms. A member of the authority is eligible for reappointment. Any non-ex officio member of the authority may be removed by the Governor, after hearing, for misfeasance, malfeasance or willful neglect of duty. Each member of the authority before entering upon the member's duties must take and subscribe the oath or affirmation required by the Constitution of Maine, Article IX. A record of each such oath must be filed in the office of the Secretary of State. The Superintendent of Financial Institutions, the Treasurer of State, the Commissioner of Health and Human Services and the Commissioner of Education may designate their deputies to represent them with full authority and power to act and vote in their behalf or, in the case of the Superintendent of Financial Institutions, the Commissioner of Health and Human Services and the Commissioner of Education, any member of their staffs to represent them as members at meetings of the authority with full power to act and, in the case of the Superintendent of Financial Institutions, the Commissioner of Health and Human Services and the Commissioner of Education, to vote in their behalf.

[PL 1993, c. 390, §10 (AMD); PL 2001, c. 44, §11 (AMD); PL 2001, c. 44, §14 (AFF); PL 2003, c. 689, Pt. B, §7 (REV).]

**2. Chair, vice-chair; executive director.** The authority shall annually elect one of its members as chair and one as vice-chair and shall also appoint an executive director who is not a member of the authority and who serves at the pleasure of the authority and receives such compensation as set by the authority.

[RR 2021, c. 2, Pt. B, §114 (COR).]

**3. Duties of executive director.** The executive director shall keep a record of the proceedings of the authority and is the custodian of all books, documents and papers filed with the authority and of the minute book or journal of the authority and of its official seal. The executive director may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon the certificates.

[RR 2021, c. 2, Pt. B, §115 (COR).]

**4. Powers of authority.** The powers of the authority are vested in its members, and 5 members of the authority constitute a quorum at any meeting of the authority. A vacancy in the membership of the authority does not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. An action taken by the authority under this chapter may be authorized by resolution approved by a majority of the members present at any regular or special meeting, which resolution takes effect immediately, or an action taken by the authority may be authorized by a resolution circularized or sent to each member of the authority, which resolution takes effect at such time as a majority of the members have signed an assent to such resolution. Resolutions of the authority need not be published or posted. The authority may delegate by resolution to one or more of its members or its executive director such powers and duties as it considers proper.

The authority may meet by telephonic, video, electronic or other similar means of communication with less than a quorum assembled physically at the location of a public proceeding identified in the notice required by Title 1, section 406 only if:

A. Each member can hear all other members, speak to all other members and, to the extent reasonably practicable, see all other members by videoconferencing or other similar means of communication during the public proceeding, and members of the public attending the public proceeding at the location identified in the notice required by Title 1, section 406 are able to hear and, to the extent reasonably practicable, see all members participating from other locations by videoconferencing or other similar means of communication; [PL 2015, c. 449, §2 (NEW).]

B. Each member who is not physically present at the location of the public proceeding and who is participating through telephonic, video, electronic or other similar means of communication identifies all persons present at the location from which the member is participating; [PL 2015, c. 449, §2 (NEW).]

C. A member who participates while not physically present at the location of the public proceeding identified in the notice required by Title 1, section 406 does so only when the member's attendance is not reasonably practical. The reason that the member's attendance is not reasonably practical must be stated in the minutes of the meeting; and [PL 2015, c. 449, §2 (NEW).]

D. Each member who is not physically present at the location of the public proceeding and who is participating through telephonic, video, electronic or other similar means of communication has received prior to the public proceeding all documents and materials discussed at the public proceeding, with substantially the same content as those presented at the public proceeding. Documents or other materials made available at the public proceeding may be transmitted to the member not physically present during the public proceeding if the transmission technology is available. Failure to comply with this paragraph does not invalidate an action taken by the authority at the public proceeding. [PL 2015, c. 449, §2 (NEW).]

[PL 2015, c. 449, §2 (AMD).]

**5. Bond.** Each member of the authority shall execute a surety bond in the penal sum of \$50,000 and the executive director shall execute a surety bond in the penal sum of \$100,000, or, in lieu thereof, the chair of the authority shall execute a blanket position bond covering each member, the executive director and the employees of the authority, each surety bond to be conditioned upon the faithful performance of the duties of the office or offices covered, to be executed by a surety company authorized to transact business in this State as surety and to be approved by the Attorney General and filed in the office of the Secretary of State. The cost of each bond must be paid by the authority.

[RR 2021, c. 2, Pt. B, §116 (COR).]

**6. Expenses.** The members of the authority shall be compensated according to the provisions of Title 5, chapter 379.

[PL 1983, c. 812, §125 (RPR).]

**7. Conflict of interest.** Notwithstanding any other law to the contrary, it does not constitute a conflict of interest for a trustee, director, officer or employee of a health care facility or a participating institution providing an educational program or for a trustee, member of a corporation or board of governors, officer or employee of an institution for higher education to serve as a member of the authority if that trustee, director, member of a corporation or board of governors, officer or employee abstains from deliberation, action and vote by the authority under this chapter in specific respect to the health care facility, institution for higher education or participating institution providing an educational program of which that member is a trustee, director, member of a corporation or board of governors, officer or employee.

[PL 2007, c. 354, §8 (AMD).]

#### SECTION HISTORY

PL 1971, c. 303, §1 (NEW). PL 1973, c. 585, §11 (AMD). PL 1973, c. 713, §6 (AMD). PL 1973, c. 788, §84 (AMD). PL 1975, c. 771, §217 (AMD). PL 1979, c. 533, §§11-13 (AMD). PL 1979, c. 680, §§8,9 (AMD). PL 1983, c. 812, §§124,125 (AMD). PL 1987, c. 403, §4 (AMD). PL 1989, c. 700, §A76 (AMD). PL 1991, c. 50, §§6,7 (AMD). PL 1993, c. 390, §§10,11 (AMD). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF). PL 2003, c. 689, §B7 (REV). PL 2007, c. 354, §8 (AMD). PL 2015, c. 449, §2 (AMD). RR 2021, c. 2, Pt. B, §§114-116 (COR).

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