

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1553

6
7 S.P. 530

In Senate, May 3, 1983

8 Submitted by the Department of Personnel pursuant to Joint Rule 24.
9 Referred to the Committee on State Government. Sent down for
concurrency and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Conley of Cumberland.

Cosponsor: Speaker Martin of Eagle Lake.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT Relating to Major Policy-
18 influencing Positions in Certain
19 Regulatory and Law Enforcement Agencies.
20

21 Be it enacted by the People of the State of Maine as
22 follows:

23 Sec. 1. 5 MRSA §711, sub-§2, ¶A, as amended by
24 PL 1981, c. 708, §§1-3, is further amended to read:

25 A. The following positions in the following
26 departments are major policy-influencing posi-
27 tions. These positions and their successor posi-
28 tions shall be subject to this subsection, not-
29 withstanding any other provision of law:

30 (1) Department of the Attorney General:

31 (a) Deputy Attorneys General; and

32 (b) Assistant Attorneys General;

1 (1-A) Department of Agriculture, Food and
2 Rural Resources:

3 (a) Deputy Commissioners;

4 (b) Associate Commissioner for Policy
5 Development;

6 (c) Director, Bureau of Agricultural
7 Productions;

8 (d) Director, Bureau of Agricultural
9 Marketing;

10 (e) Director, Bureau of Agricultural
11 and Rural Resources; and

12 (f) Director, Bureau of Public Ser-
13 vices-;

14 (2) Department of Business Regulation:

15 (a) Superintendent, Bureau of Banking;

16 (b) Superintendent, Bureau of Consumer
17 Credit Protection; and

18 (c) Superintendent, Bureau of Insur-
19 ance-;

20 (3) Department of Conservation:

21 (a) Director, Administrative Services;

22 (b) Director, Planning and Program
23 Services;

24 (c) Director, Bureau of Forestry;

25 (d) Director, Maine Geological Survey;

26 (e) Executive Director, Maine Land Use
27 Regulation Commission;

28 (f) Director, Bureau of Parks and
29 Recreation;

1 (g) Director, Bureau of Public Lands;
2 and

3 (h) Forest Insect Manager, Bureau of
4 Forestry-;

5 (4) Department of Educational and Cultural
6 Services:

7 (a) Assistant to the Commissioner;

8 (b) Deputy Commissioner;

9 (c) Associate Commissioner, Bureau of
10 School Management;

11 (d) Associate Commissioner, Bureau of
12 Instruction; and

13 (e) Associate Commissioner, Bureau of
14 Vocational Education-;

15 (4-A) Department of Environmental Protec-
16 tion:

17 (a) Deputy Commissioner;

18 (b) Assistant to the Commissioner;

19 (c) Director, Bureau of Air Quality;

20 (d) Director, Bureau of Land Quality;

21 (e) Director, Bureau of Water Quality;

22 (f) Director, Bureau of Oil and
23 Hazardous Materials;

24 (g) Director, Administrative Services;
25 and

26 (h) Director, Public Assistance;

27 (5) Department of Finance and Administra-
28 tion:

29 (a) State Controller;

1 (b) State Purchasing Agent;
2 (c) State Tax Assessor;
3 (d) Director, Bureau of Public
4 Improvements;
5 (e) Director, Bureau of Alcoholic Bev-
6 erages; and
7 (f) State Budget Officer;i
8 (6) Department of Human Services:
9 (a) Deputy Commissioners;
10 (b) Director, Bureau of Maine's
11 Elderly;
12 (c) Director, Bureau of Resource
13 Development;
14 (d) Director, Bureau of Health;
15 (e) Director, Bureau of Rehabilita-
16 tion;
17 (f) Director, Bureau of Income Mainte-
18 nance;
19 (g) Director, State Health Planning
20 and Development Agency; and
21 (h) Director, Bureau of Medical Ser-
22 vices;i
23 (7) Human Rights Commission:
24 (a) Executive Director; and
25 (b) Chief Compliance Officer;i
26 ~~(8) Department of Indian Affairs:~~
27 ~~(a) Deputy Commissioner:~~
28 (9) Department of Inland Fisheries and
29 Wildlife:

- 1 (a) Deputy Commissioner; i
2 (b) Game Warden Colonel;
3 (c) Director, Division of Wildlife
4 Management;
5 (d) Director, Division of Fishery Man-
6 agement;
7 (e) Director, Division of Program
8 Development and Coordination;
9 (f) Director, Atlantic Sea Run Salmon
10 Commission;
11 (g) Director, Division of Licensing
12 and Regulation;
13 (h) Assistant to the Commissioner for
14 Public Information;
15 (i) Assistant to the Commissioner; and
16 (j) Director, Administrative Services;
17 (10) Maine State Lottery Commission:
18 (a) Deputy Director; i
19 (11) Department of Labor:
20 (a) Director, Manpower Training Divi-
21 sion;
22 (b) Director, Bureau of Labor Stan-
23 dards; and
24 (c) Executive Director, Maine Labor
25 Relations Board; i
26 (12) Department of Marine Resources:
27 (a) Deputy Commissioner; i
28 (b) Director, Bureau of Marine Devel-
29 opment;

1 (c) Chief, Bureau of Marine Patrol;

2 (d) Director, Bureau of Marine Sci-
3 ences;

4 (e) Assistant to the Commissioner; and

5 (f) Director, Administrative Services;

6 (13) Department of Mental Health and Cor-
7 rections:

8 (a) Associate Commissioner;

9 (b) Director, Bureau of Mental Health;

10 (c) Superintendent, Augusta Mental
11 Health Institute;

12 (d) Superintendent, Bangor Mental
13 Health Institute;

14 (e) Director, Bureau of Mental Retar-
15 dation;

16 (f) Superintendent, Pineland Center;
17 and

18 (g) Director, Bureau of Corrections; i

19 (14) Department of Defense and Veterans
20 Services:

21 (a) Deputy Adjutant General;

22 (b) Director, Bureau of Civil Emer-
23 gency Preparedness; and

24 (c) Director, Bureau of Veterans Ser-
25 vices; i

26 (15) Department of Public Safety:

27 (a) Chief, Bureau of State Police;

28 (b) Director, Bureau of Liquor
29 Enforcement;

- 1 (c) Director, Office of State Fire
2 Marshal; ~~and~~
- 3 (d) Director, Maine Criminal Justice
4 Academy;
- 5 (e) Director, Administrative Services;
- 6 (f) Assistant to the Commissioner for
7 Public Information;
- 8 (g) Assistant to the Commissioner;
- 9 (h) Director, Bureau of Safety;
- 10 (i) Deputy Chief, State Police; and
- 11 (j) State Police Major;
- 12 (16) Department of Secretary of State:
- 13 (a) Deputy Secretaries of State; and
- 14 (b) State Archivist; and
- 15 (17) Department of Transportation:
- 16 (a) Deputy Commissioners; and
- 17 (b) Chief Counsel, Bureau of Legal
18 Services.

19 Sec. 2. 5 MRSA §711, sub-§2, ¶B, as amended by
20 PL 1979, c. 127, §§32-A and 32-B, is repealed and the
21 following enacted in its place:

22 B. Except where a term is otherwise provided by
23 law, the legislatively designated appointing
24 authority of the department or agency in which a
25 major policy-influencing position is located may
26 appoint and remove persons to and from these
27 positions, provided that, if any position is sub-
28 ject to the Personnel Law on the effective date
29 of this paragraph, the incumbent of the position
30 or person on leave of absence from the position
31 on that day may retain his appointment subject to
32 the Personnel Law until July 1, 1984.

1 Any person permanently appointed to a classified
2 position who accepts an appointment to a major
3 policy-influencing position, shall have the
4 right, for 12 months subsequent to appointment to
5 the major policy-influencing position, to be
6 restored to the classified position from which he
7 shall have been promoted or to a position equiva-
8 lent thereto in salary grade in an agency, with-
9 out impairment of his personnel status or the
10 loss of seniority, retirement or other rights to
11 which uninterrupted service in the classified
12 position would have entitled him. If his service
13 in that unclassified supervisory position shall
14 have been terminated for cause, his right to be
15 so restored shall be determined by the Personnel
16 Board. During the 12-month period, the appointing
17 authority shall have the right to temporarily
18 appoint a person to the position under the Per-
19 sonnel Law, provided that funds are available for
20 the appointment and that it is consistent with
21 the law.

22 Sec. 3. 12 MRSA §6022, sub-§3, as enacted by PL
23 1977, c. 661, §5, is amended to read:

24 3. Organization and personnel. The commissioner
25 shall organize the department into the administrative
26 units which he decides are necessary to carry out its
27 duties. The commissioner shall hire all necessary
28 employees of the department subject to the Personnel
29 Law, except as provided in section 6023, and shall
30 prescribe their duties that persons in the following
31 positions shall be appointed by and serve at the
32 pleasure of the commissioner: Deputy Commissioner;
33 Director, Bureau of Marine Development; Chief, Bureau
34 of Marine Patrol; Director, Bureau of Marine Sci-
35 ences; Director, Administrative Services; and Assis-
36 tant to the Commissioner.

37 Sec. 4. 12 MRSA §7034, sub-§2-A is enacted to
38 read:

39 2-A. Employment of personnel. The commissioner
40 shall employ, subject to the Personnel Law, such
41 employees as are necessary to carry out the duties of
42 his organization, except the persons in the following
43 positions shall be appointed by and serve at the

1 pleasure of the commissioner: Deputy Commissioner;
2 Game Warden Colonel; Director, Division of Wildlife
3 Management; Director, Division of Fishery Management;
4 Director, Division of Program Development and Coordi-
5 nation; Director, Atlantic Sea Run Salmon Commission;
6 Director, Division of Licensing and Regulation;
7 Director, Administrative Services; Assistant to the
8 Commissioner; and Assistant to the Commissioner for
9 Public Information.

10 Sec. 5. 25 MRSA §1501, 3rd¶, as repealed and
11 replaced by PL 1975, c. 579, §3, is amended to read:

12 Subject to the approval of the Commissioner of
13 Public Safety, the chief may ~~designate~~ appoint a com-
14 missioned officer of the State Police to act as his
15 deputy and serve ~~in such capacity a term coterminous~~
16 ~~with that of the chief; subject to removal for cause~~
17 ~~at his pleasure.~~ Subject to the Personnel Law, the
18 Chief of the State Police may enlist suitable persons
19 as members of the State Police to enforce the law and
20 employ such other employees as may be necessary. The
21 Chief of the State Police shall make rules ~~and regu-~~
22 ~~lations,~~ subject to the approval of the Personnel
23 Board, for the discipline and control of the State
24 Police.

25 Sec. 6. 25 MRSA §2902, as amended by PL 1981, c.
26 98, §§4 and 5, is further amended by adding at the
27 end a new paragraph to read:

28 Unless specified otherwise by statute, department
29 personnel shall be appointed subject to the Personnel
30 Law. Persons holding major policy-influencing posi-
31 tions under Title 5, section 711, subsection 2, para-
32 graph A, shall be appointed by and serve at the
33 pleasure of the commissioner.

34 Sec. 7. 38 MRSA §342, sub-§2, as enacted by PL
35 1971, c. 618, §8, is repealed and the following
36 enacted in its place:

37 2. Personnel. The commissioner may employ, sub-
38 ject to the Personnel Law, such personnel as he deems
39 necessary to fulfill the duties of the department and
40 of the Board of Environmental Protection, except that
41 persons in the following positions shall be appointed

1 by and serve at the pleasure of the commissioner:
2 Deputy Commissioner; Assistant to the Commissioner;
3 Director, Bureau of Air Quality; Director, Bureau of
4 Land Quality; Director, Bureau of Water Quality;
5 Director, Bureau of Oil and Hazardous Materials;
6 Director, Administrative Services; and Director,
7 Public Assistance.

8 STATEMENT OF FACT

9 The 107th and 108th Legislatures conducted a
10 broad review of policy-influencing positions, provid-
11 ing that a number of them should be appointive, that
12 is, unclassified, subject to appointment and removal
13 by the appointing authority. Positions which exer-
14 cise substantial influence over state programs and
15 the rights and property of others must be responsive
16 to the public will through the appointment process.

17 This bill continues the efforts of earlier Legis-
18 latures to periodically review those positions in
19 State Government which are major policy-influencing
20 positions and should be appointive.

21 The Joint Standing Committee on State Government
22 of the 107th Legislature recommended that a number of
23 positions in law enforcement and regulatory agencies
24 be appointive. The 108th Legislature did not adopt
25 all of these recommendations, in part because of the
26 relative inexperience with the effects of the
27 appointive process at that time. This bill
28 reconsiders some of those positions and addresses
29 others appropriate to the responsibility and complex-
30 ity of the agencies.

31 Section 2 provides that the incumbent of a posi-
32 tion that is made appointive may retain his appoint-
33 ment subject to the Personnel Law until July 1, 1984.
34 Existing law provides that a classified employee
35 appointed to a major policy-influencing position may
36 return to his former position or a position of equal
37 grade up to 12 months after his promotion.

38 Sections 3 and 4 address the Department of Inland
39 Fisheries and Wildlife and the Department of Marine
40 Resources. These departments do have appointive dep-

1 uty commissioners. The bill addresses all of the
2 major program and administrative unit heads, along
3 with support staff for the commissioners.

4 Sections 5 and 6 deal with the Department of
5 Public Safety. The department currently has 5
6 appointive positions. One of these, the Deputy
7 Chief, Bureau of State Police, is made appointive in
8 Title 25, section 1501. This bill makes the appoint-
9 ive process consistent and includes the position in
10 the broad listing of appointive positions. State
11 Police Major are also included, reflecting the
12 responsibilities of the State Police and their state-
13 wide operations. The Bureau of Safety is the remain-
14 ing program area whose director is not currently
15 appointive. As in other departments, the Director of
16 Administrative Services and the commissioner's sup-
17 port staff are made appointive.

18 Section 7 provides for appointive positions in
19 the Department of Environmental Protection for major
20 program and administrative unit heads, as well as for
21 a deputy commissioner and the support staff to the
22 commissioner. There are presently no appointive
23 positions other than the Commissioner in the Depart-
24 ment of Environmental Protection.

25 The remaining sections conform current statutes
26 to the changes in sections 1 to 7.

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