

MAINE STATE LEGISLATURE

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with the state house, and make or supervise the making of all construction, repairs, alterations, and improvements in and about such grounds and buildings.

Upon the request of department heads concerning buildings and property under their control, the superintendent shall supervise the construction, repairs, alterations, and improvements to said buildings and property. The superintendent shall regularly inspect all buildings and property in the state and report to the department head concerned whatever construction, repairs, alterations, and improvements are necessary, and he shall, if he deems it advisable, make a similar report to the governor and council.

The powers and duties of the superintendent shall not include those already granted by law to the Maine State Office Building Authority.

The superintendent shall assign the rooms in all buildings used by the state for offices and may determine the occupancy thereof in such manner as the public service may require. The superintendent may employ, subject to the provisions of the personnel law, such help as may be reasonably necessary to enable him to perform his duties. The superintendent, with the consent of the governor and council, may, in such manner as he may deem proper, provide for food service in the state house.

See c. 9, § 10, re room for press; c. 32, § 29, re state park in Augusta; c. 38, § 3, re library; c. 63, § 1, re room for board of registration for nurses; c. 76, §§ 1-2; re art commission; P. & S. L. 1941, c. 76, re Maine State Office Building Authority.

Sec. 5. To examine and approve contracts. 1943, c. 176, § 5. All contracts for repairs and construction of state buildings shall be examined and approved by the superintendent of public buildings prior to their submission to the governor and council for their final approval and acceptance.

Sec. 6. Plans for new institutions to be submitted to department. R. S. c. 157, § 7. 1933, c. 1, § 305. 1939, c. 223. All plans and specifications for new institutions and buildings for charitable or correctional purposes, which are to be in any way under the inspection of the department of institutional service, shall be submitted to said department for criticism and suggestions before the same are accepted.

Sec. 7. Report. 1943, c. 176, § 7. The superintendent of public buildings shall submit an annual report to the governor and council, and such other reports as the governor and council may require.

CHAPTER 59.

LAWS RELATING TO STATE PERSONNEL.

Sec. 1. Definition of terms. 1937, c. 221, § 1. Certain words and phrases hereinafter used shall have, for the purposes of this chapter, the following meaning:

- I. "Board" means the "state personnel board."
- II. "Director" means the "state personnel director."
- III. "Appointing authority" means the officer, board, commission, person, or group of persons having the power by virtue of the constitution, a statute, or lawfully delegated authority to make appointments.

IV. "Classified service" means all offices and positions of trust and employment in the state service except those placed in the unclassified service by this chapter.

V. "Employee" means any person holding a position subject to appointment by an appointing authority.

VI. "Eligible register" means whatever type of book, binder, or other record which may be used having thereon the names of persons qualified by examinations to fill positions in the classified service.

Sec. 2. Short title. 1941, c. 196, § 1. This chapter and all acts amendatory thereof shall be known and may be cited as the "Personnel Law".

Sec. 3. State personnel board. 1937, c. 221, § 2. 1941, c. 196, § 2. 1943, c. 344. The state personnel board, as heretofore established, shall be composed of 3 members not more than 2 of whom shall be of the same political party. The members of the board shall be appointed by the governor with the advice and consent of the council. One member of the board shall be designated by the governor as chairman. The term of all members of the board shall be 4 years and until their successors are appointed and qualified. Vacancies in the membership of the board shall be filled within 60 days after the vacancy occurred by the governor with the advice and consent of the council for the unexpired portion of the term. The members of the board shall receive \$10 a day for the time actually spent in the discharge of their duties, and their necessary expenses.

Sec. 4. Powers and duties of the personnel board. 1937, c. 221, § 3. 1941, c. 196, § 4. The board shall have the following powers and duties:

I. To appoint a personnel director in accordance with the provisions of section 5.

II. Upon recommendation of the director and after a public hearing, and subject to the requirements of this chapter, to prescribe or amend rules and regulations relative to:

- A. eligible registers,
- B. classification of positions in the classified service,
- C. compensation plan,
- D. examination for admission to the classified service,
- E. promotion in the classified service,
- F. provisional, emergency, exceptional, and temporary appointments,
- G. probationary period,
- H. transfer,
- I. reinstatement,
- J. demotion,
- K. suspension, lay-off, and dismissal,
- L. leave of absence, resignation, hours of service, vacations, and sick leave,
- M. personnel records,
- N. in-service training,
- O. service ratings, and
- P. certification of pay-rolls;

which rules and regulations shall be in effect and have the force of law upon the approval of the governor.

III. To make investigations and report its findings and recommendations in cases of dismissal from the classified service as is provided in section 16.

IV. To make investigations either at the direction of the governor or the legislature, or upon the petition of an employee or a citizen, or of its own motion concerning the enforcement and effect of this chapter.

V. To enforce through the director the observance of the provisions of this chapter and the rules and regulations made thereunder.

VI. To receive, review, and transmit to the governor the annual report of the director; provided, however, that the report of the director may be supplemented by any additional comment, criticism, or suggestions for the more effectual accomplishment of the purposes of this chapter that the board may care to submit.

VII. To keep full and complete minutes of its proceedings, which shall, subject to reasonable regulations, be open to public inspection.

VIII. In the course of any investigation under the provisions of this chapter, through any member of the board, to have the power to administer oaths and to subpoena and require the attendance of witnesses and the production thereby of books, papers, public records, and other documentary evidence pertinent to such investigation.

In case of the refusal of any person to comply with any subpoena issued hereunder or to testify to any matter regarding which he may be lawfully interrogated, the superior court in any county on application of any one of the members of the board or of the director, when authorized by the board, may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

Sec. 5. Director of personnel; powers and duties. 1937, c. 221, §§ 4, 5. 1941, c. 196, § 5. The director of personnel shall be, at the time of his appointment, a person thoroughly familiar with the principles and experienced in the methods and techniques of public personnel administration on the merit basis. His tenure of office shall be at the pleasure of the appointing board and he shall receive such compensation as shall be fixed by the board with approval of the governor.

The director shall have the power and duty to administer and make effective the provisions of this chapter and the rules and regulations of the board as herein provided.

Sec. 6. Classified service. 1937, c. 221, § 6. The classified service shall consist of all persons holding offices and employments now existing or hereafter created in the state service, except persons who are holding or shall hold offices and employments exempted by the provisions of section 7.

Appointments to and promotions in the classified service shall be made according to merit and fitness, from eligible lists prepared upon the basis of examinations, which so far as practicable shall be competitive. No person shall be appointed, transferred, promoted, or reduced as an officer, clerk, or employee, or laborer in the classified service in any manner or by any means other than those prescribed in this chapter and in the rules of the board made in pursuance to this chapter.

The classified service shall be separated into the following divisions:

- I. Competitive,
- II. Non-competitive,
- III. Labor,

in accordance with rules and regulations prescribed by the board.

Sec. 7. Unclassified service. 1937, c. 221, § 7. 1943, c. 11. The unclassified service comprises positions held by officers and employees who are:

- I. Chosen by popular election or appointed to fill an elective office.

II. Officers who, under the constitution or statutes, are chosen by the legislature.

III. Heads of departments and members of boards and commissions required by law to be appointed by the governor with the advice and consent of the council, bureau directors, and the official clerk of the public utilities commission and of the state liquor commission.

IV. Officers and employees in the judicial service of the state.

V. Officers and employees of the senate and house of representatives of the legislature.

VI. Officers and enlisted men in the national guard and naval militia of the state.

VII. The private secretary, assistant secretary, and stenographers in the governor's office, and the employees working at the Blaine Mansion.

VIII. Commissioned officers, non-commissioned officers and patrolmen of the state police, provided that the chief may avail himself of the facilities of the personnel board in the examination of applicants for the position of police officer. The appointment, training, promotion, supervision, dismissal, and administration of the state police shall continue to be governed by the provisions of chapter 13.

IX. Officers and employees of the University of Maine, of the several state normal schools, and of the unorganized territory school system.

X. (1943, c. 11) Wardens and hatchery employees of the department of inland fisheries and game.

XI. All officers and employees of the Maine forestry district.

XII. Deputy and assistants of the attorney-general's department.

XIII. Chief deputy and division chiefs under the commissioner of agriculture in the agricultural department.

Sec. 8. Eligible registers. 1937, c. 221, § 8. The director shall prepare for each class of positions in the classified service, registers of persons eligible for appointment to positions in each such class. Each eligible register shall consist of a list of all of the persons, who have shown by competitive tests, as provided for in section 12, that they possess the qualifications which entitle them to be considered eligible for appointment to any position in the class for which the eligible register is to be prepared, and of employees who have resigned or been dismissed, laid off, or granted leaves of absence and whose names have been restored to the eligible register in accordance with the provisions of this chapter.

The names of all persons attaining the minimum final earned ratings established by the director in advance of the giving of the test shall be placed upon the register in order of their ratings.

All persons competing in any test shall be given written notice of their final earned ratings, and of their relative standing upon the eligible register, or of their failure to attain a place upon the register.

Sec. 9. Classification plan. 1937, c. 221, § 9. It shall be the duty of the director to ascertain and record the duties and responsibilities of all positions in the service and to establish classes for such positions, in conformity with regulations adopted therefor by the board as provided in section 4. The titles so classified and so established shall be used in all personnel, accounting, budget, appropriation, and financial records of all state departments, commissions, and institutions.

Sec. 10. Compensation plan. 1937, c. 221, § 10. The director shall, as soon as practicable after the adoption of the classification plan, submit to the board a proposed plan of compensation showing for each class of position in the classified service minimum and maximum salary rates and such intermediate rates as he deems desirable.

When the compensation plan has become effective through its adoption by the board as provided in section 4, it shall constitute the official schedule of salaries for all classes of positions in the classified service. No position shall be assigned a salary greater than the maximum or less than the minimum rates fixed in the compensation plan. Salaries of persons holding positions in the classified service shall not be approved by paying authorities unless such salaries conform to the adopted compensation plan.

Salary advancements within an established range shall not be automatic, but shall be dependent upon specific recommendation of the appointing officer and approval of the director and the board. Such recommendation shall be based upon standards of performance as indicated by merit ratings or other pertinent data. No advancements in salary shall be made until the employee has completed the probationary period.

Sec. 11. Positions in the classified service; how filled. 1937, c. 221, § 11. Positions in the classified service shall be filled by original appointment, promotion, transfer, reinstatement, or demotion in pursuance of rules and regulations established by the board and administered by the director.

Sec. 12. Examinations. 1937, c. 221, § 12. All examinations for positions in the classified service shall relate to those matters which will fairly test the capacity and fitness of the persons examined to discharge the duties of the office or employment sought by them, but due regard shall be shown for the capacity of the applicant for promotion to higher positions in the service.

The director, subject to the approval of the board, shall determine the character, type, and content of examination for admission to the classified service; the time and place of holding examinations; the forms of application blanks for admission to the examination to be filed by applicants provided that admission to examinations shall be open only to those who have been legal residents of Maine for at least 1 year except that at the request of the appointing authority the residence requirement may be waived in exceptional or emergency cases in which the board deems such action necessary for the good of the service; the minimum requirements for admission to the examination; and the value for each phase of the tests used in determining the average rating of the applicant.

Public notice of the time, place, and general scope or nature of every examination or test shall be given in the manner prescribed by rules drawn up by the director and approved by the board.

Sec. 13. Discrimination prohibited. 1937, c. 221, § 13. In carrying out the provisions of this chapter, no discrimination shall be made on account of political or religious opinions or affiliations, sex, or marital status.

Sec. 14. Probationary period; permanent appointment. 1937, c. 221, § 14. All original appointments to the classified service shall be for a probationary period. The duration of such probationary period shall be determined by the director, but in no case shall it be for less than 6 months.

Sec. 15. Temporary and provisional appointments. 1937, c. 221, § 15.

Whenever it is impossible to certify eligible persons for appointment to a vacancy in the classified service, then, the appointing authority may nominate a person to the director. If such nominee is found by the director to have had experience and training which appear to qualify him for the position, he may be temporarily appointed to fill such vacancy but only until an appropriate eligible register can be established and an appointment made therefrom, provided that the director with the approval of the board may make a provisional appointment to fill a technical or professional position, which requires a specialized knowledge or training to carry out the duties of the position, and cannot be filled from the eligible register. In no event shall a temporary appointment be continued for more than 3 months. Successive temporary appointment of the same person shall not be made; not more than 1 temporary appointment shall be made to any position within any 12-month period. The director may authorize, without requiring competitive tests, the appointment of unskilled laborers or persons engaged in custodial and domestic work in state institutions or departments.

Sec. 16. Dismissal. 1937, c. 221, § 16. An appointing authority may dismiss a classified employee whenever he considers the good of the service to be served thereby. In every case of such dismissal, at the request of the dismissed employee, the board shall investigate the circumstances relating to the dismissal and the fairness thereof and, if it shall find the charges unwarranted, the board may recommend the transfer of the dismissed employee to the same or a similar class of position in another department or institution, provided that such transfer shall be made to such department or institution only with the approval of the appointing authority thereof. In case such transfer is not effected, the name of the dismissed employee may be placed on the appropriate eligible register.

Sec. 17. Personnel records. 1937, c. 221, § 17. Every appointment, transfer, promotion, demotion, dismissal, vacancy, change of salary rate, leave of absence, absence from duty, and other temporary or permanent change in status of employees in both the classified service and the unclassified service shall be reported to the director at such time, in such form, and together with such supporting or pertinent information as the board shall by rule prescribe.

The director shall maintain a perpetual roster of all officers and employees in the classified and unclassified services, showing for each person such data as the board deems pertinent.

Sec. 18. Training programs. 1937, c. 221, § 18. The director shall devise plans for and cooperate with appointing authorities and other supervising officials in the conduct of employee training programs to the end that the quality of service rendered by persons in the classified service may be continually improved.

Sec. 19. Service ratings. 1937, c. 221, § 19. The director shall establish standards of performance for each class of position and a system of service ratings based upon such standards, which shall be in effect upon their approval by the board as provided in section 4.

Sec. 20. Solicitation of political campaign contributions prohibited. 1937, c. 221, § 20. No officer or employee in the classified service of this state shall, directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving any assessment, subscription, or contribution, or political service, whether voluntary or involuntary, for any political purpose whatever, from any officer, agent, clerk, or employee of the state or from any person.

Sec. 21. Certification of pay-rolls. 1937, c. 221, § 21. No fiscal officer of the state shall draw, sign, or issue, or authorize the drawing, signing, or issuing of any warrant or check upon the treasurer of state or other disbursing officer of the state for the payment of a salary or other compensation for personal services, nor shall the treasurer of state or other disbursing officer of the state pay any salary or other compensation for personal services, unless a pay-roll or account for such salary or other compensation, containing the names of all persons to be paid and the amounts to be paid them, has been certified by the director or a person designated by him.

Any payment, made in violation of the provisions of the compensation plan or the rules pertaining thereto or made to a person appointed or established in his position in a manner contrary to the provisions of this chapter, may be recovered from the appointing authority, the director, or any officer or person making such payment, whoever is culpable, or from the sureties on the official bond of such officer or person. Action for such recovery may be maintained by the board or any member thereof, any officer or employee of the state service, or any citizen of the state. All moneys recovered under the provisions of this section shall be paid into the state treasury and credited to the general fund.

Sec. 22. Violations of chapter and rules; penalty. 1937, c. 221, § 24. Any person violating any of the provisions of this chapter or of the rules established in accordance with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$100. Any person holding a public office or position who is convicted under the provisions of this section shall be deemed to have vacated the office or position and such person shall be incapable of holding public office for a period of 5 years after the date of such conviction.

Sec. 23. Employees in military or naval service; substitutes. 1939, c. 314, § 1. 1943, c. 300, § 1. Whenever any employee, regularly employed for a period of at least 6 months by the state, or by any department, bureau, commission, or office thereof, or by any county, municipality, township, or school district within the state, and who has attained permanent status in such employment, shall in time of war, contemplated war, emergency or limited emergency enlist, enroll, be called, or ordered, or be drafted in the military or naval service of the United States, or any branch or unit thereof, or shall be regularly drafted under federal man power regulations, he shall not be deemed or held to have thereby resigned from or abandoned his said employment, nor shall he be removable therefrom during the period of his service, but the duties of his said employment shall, if there is no other person authorized by law to perform the powers and duties of such employee during said period, be performed by a substitute, who shall be appointed for the interim by the same authority who appointed such employee if such authority shall deem the employment of such substitute necessary.

Such employee while in the military or naval service of the United States or still employed after draft under federal man power regulations shall be considered as on leave of absence without pay, and for the purpose of computing time in regard to pension rights and seniority, shall be considered during the period of his federal service as in the service of the governmental agency by which he was employed at the time of his entry into such federal service. Said interim appointments may be considered permanent if the employee granted the military leave fails to report for duty within a 90-day period from the date of his discharge from the military or naval forces of the United States, and provided further, that such discharge must have been effective not later than 6 months after the state of war

ceases between the United States and every foreign government except in cases where a male or female veteran of World War II was receiving treatment in a hospital at the time of his or her discharge, and except in cases where such veteran has not been returned from and discharged from foreign service, in which event his or her status shall be governed by section 2 of chapter 300 of the public laws of 1943.

See 1943, c. 300, § 2, re duration of provisions of § 23.

CHAPTER 60.

STATE EMPLOYEES' RETIREMENT SYSTEM.

Sec. 1. Definitions. 1941, c. 328. The following words and phrases as used in this chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

I. "Retirement system" shall mean the employees' retirement system of the state, as defined in section 2.

II. "Board of trustees" shall mean the board provided for in section 11 to administer the retirement system.

III. "Department" shall mean any department, commission, institution, or agency of the state government.

IV. "Employee" shall mean any regular classified or unclassified officer or employee in a department, including teachers in the state normal schools and Madawaska training school, and superintendents of schools in service as such prior to July 1, 1924, but shall not include any member of the state legislature or the council, nor shall it include any member of the state police who is now entitled to retirement benefits under the provisions of sections 21 and 22 of chapter 13, or any judge of the superior court or supreme judicial court who is now or may be later entitled to retirement benefits under the provisions of section 5 of chapter 91 and section 3 of chapter 94. In all cases of doubt the board of trustees shall determine whether any person is an employee as defined in this chapter.

See § 5, sub-§ V; c. 13, §§ 21, 23, re state police retirement.

V. "Member" shall mean any employee included in the membership of the retirement system, as provided in section 3.

VI. "Beneficiary" shall mean any person in receipt of a pension, an annuity, a retirement allowance, or other benefit as provided by this chapter.

VII. "Service" shall mean service as an employee for which compensation is paid by the state.

VIII. "Membership service" shall mean service rendered while a member of the retirement system for which credit is allowable under the provisions of section 4.

IX. "Prior service" shall mean service rendered prior to the date of establishment of the retirement system for which credit is allowable under the provisions of section 4.

X. "Creditable service" shall mean membership service plus prior service.

XI. "Earnable compensation" shall mean the full rate of compensation that would be payable to an employee if he worked the full normal working time for his position. In cases where compensation includes maintenance, the board of trustees shall fix the value of that part of the compensation not paid in money.