

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE LAW LIBRARY
AUGUSTA, MAINE

STATE GOVT.

Maine

LR
Shelf
1970

A REPORT TO
THE LEGISLATIVE RESEARCH COMMITTEE

A Proposed Department
of
Consumer Protection

HC
107
.N23
C63
1970

State Planning Office
November, 1970

AUG 22 1985

Agencies proposed for inclusion in the proposed department:

DEPARTMENT OF CONSUMER PROTECTION (5)

Department of Banks and Banking
Credit and Collection Board
Maine Board of Accountancy

Department of Insurance
Postassessment Guaranty Association
General Lines Agent Examination Advisory Board
Life Agent Examination Advisory Board

Maine Real Estate Commission

Public Utilities Commission
Trade Regulation Activities of the Attorney General's Office
Weights and Measures Division of the Department of Agriculture

Land Damage Board

Boxing Commission
Harness Racing Commission
Running Horse Racing Commission

Board of Certification of Water Treatment Plant Operators

Certification of Sewage Treatment Plant Operators

Registration of Tattoo Artists

Licensing of Auctioneers
Licensing of Private Detectives
Licensing of Vendors
Licensing of Guides
Licensing of Taxidermists
Licensing of Photographers

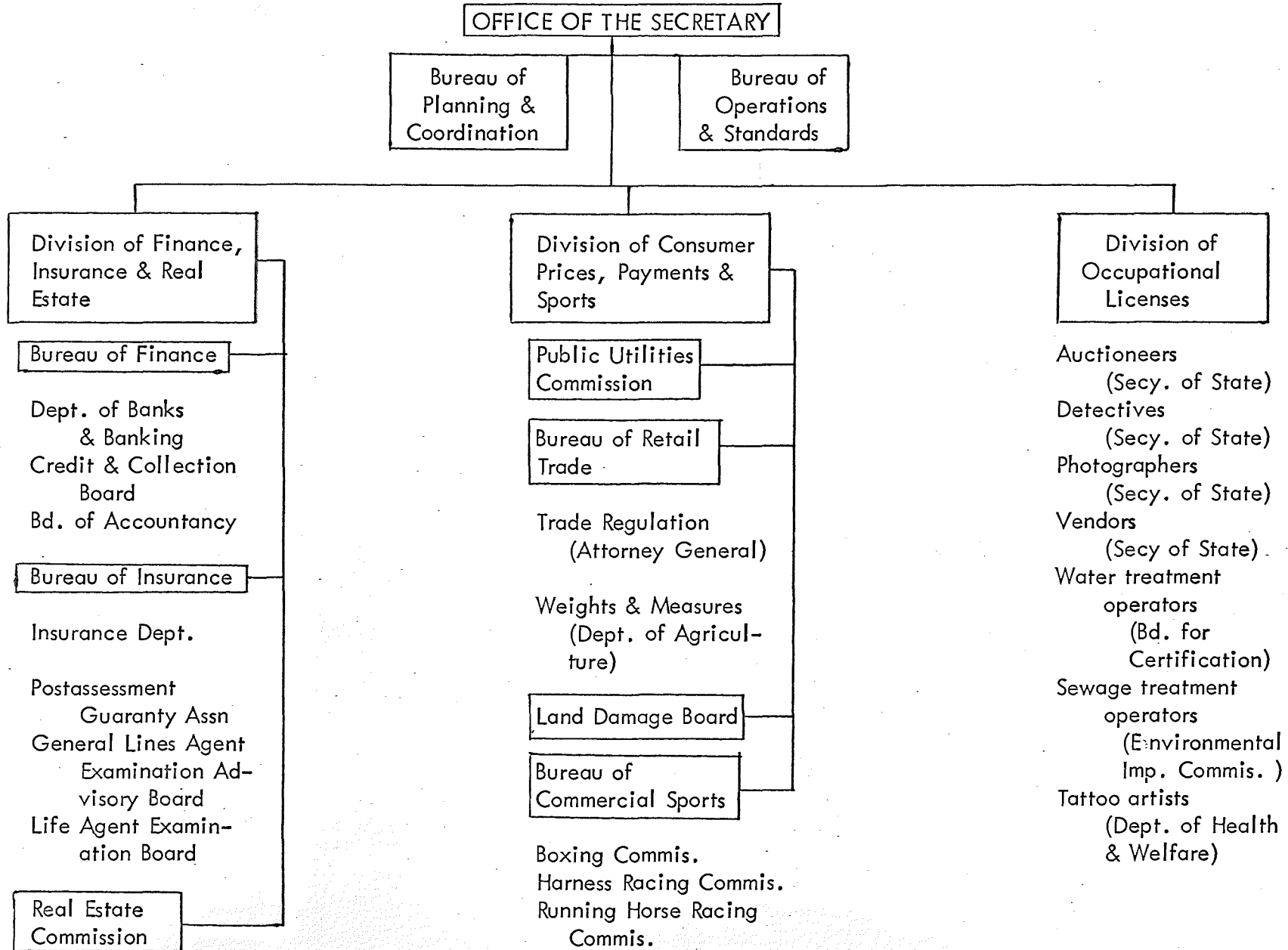
I. PURPOSE OF PROPOSED DEPARTMENT
OF CONSUMER PROTECTION

The general mission of the proposed Department of Consumer Protection would be to enhance the Consumer's benefits from purchases of goods and services and to protect the interests of depositors and investors in the State of Maine. This would be accomplished by exercising the State's control over prices and services rendered by legal monopolies, by restraining fraudulent or unfair business practices in finance and trade, by preventing injury or loss due to fire or accident, by regulating commercial sports in the public interest, and by ensuring the competence of persons and institutions performing services which could be harmful to one's body or property.

II. STRUCTURE OF PROPOSED DEPARTMENT OF CONSUMER AFFAIRS

Although all of the functions relating to consumer protection which are outlined in this chapter have been performed--most of them for many years--by about fifty existing agencies, it is felt that the interests of the state's consumers would be enhanced by centralizing all or most of these regulatory functions in one department which would be more directly accountable to the Governor and Legislature. Furthermore, it is believed that there would be considerable economies resulting from the centralized issuance of professional and occupational licenses and the conduct of related examinations and investigations which are now carried out by widely fragmented agencies. Under this proposal, the statutory functions and personnel of each agency would be absorbed by the new Department.

PROPOSED DEPARTMENT OF CONSUMER PROTECTION



A. Office of the Secretary

It is recommended that the Secretary of the proposed Department of Consumer Protection be appointed by the Governor and serve at his pleasure. He would be responsible for comprehensive planning and coordination of the activities of all agencies absorbed by the Department and the efficient operation of the subordinate agencies, including the hiring of any additional personnel, the preparation of budgets, the handling of moneys, the compilation of records, and issuance of licenses and related activities.

In order to carry out the above responsibilities, it is recommended that ~~three~~ ^{two} bureaus be established within the Office of the Secretary, as follows: a Bureau of Planning and Coordination, a Bureau of Operations and Standards, ~~and a Bureau of Occupational Licenses.~~

1. Bureau of Planning and Coordination

This Bureau would contain a small staff of highly-trained professionals in planning, management systems, personnel, law, and public information. Its functions would include the preparation of budgets and recommendations to the Secretary for more efficient structuring and procedures within the Department.

2. Bureau of Operations and Standards

This Bureau would inform the Secretary concerning the day-to-day operations of the various Divisions within the Department, and would carry out his orders concerning the conduct of these Divisions. The Bureau could contain a section on standards which would coordinate and supervise the activities of the inspectors of various business premises now carried out by the separate agencies proposed for inclusion in the Department. (An alternative proposal is the carrying out of the inspection function by each appropriate Division with the Department.)

B. Division of Finance, Insurance, and Real Estate

This proposed Division would consist of three bureaus: a Bureau of Finance, a Bureau of Insurance, and the present Real Estate Commission. All of the functions of these Bureaus are now carried out by a number of existing departments, boards, or commissions. The director of this Division could provide the necessary coordination of regulatory activities related to banking, insurance, and real estate which has heretofore been lacking.

1. Bureau of Finance

This Bureau would absorb the present Department of Banks and Banking, the Credit and Collection Board, and the Board of Accountancy.

The Department of Banks and Banking is responsible for the chartering and examination of records of financial institutions within the state in order to prevent fraud to depositors and investors. Its Division of Personal and Consumer Finance registers small loan agencies and discloses financing charges to consumers. The Department's Securities Division registers securities dealers and the issuance of securities to the public, in order to prevent fraud. The present Credit and Collection Board registers collection agencies and investigates those whose licenses have been suspended by the Department of Banks and Banking. The Board of Accounting registers and examines applicants for licenses to become Certified Public Accountants and public accountants, and may revoke such licenses for sufficient cause.

The Department of Banks and Banking receives revenues from both the General Fund and from an assessment on banks. The Credit and Collection Board is dependent on the General Fund, while the Board of Accountancy receives dedicated revenues only.

2. Bureau of Insurance

This Bureau would include the present functions of the Insurance Department (~~except for fire prevention~~) as well as those of the newly-created Postassessment Guaranty Association, the General Lines Agent Examination Board, and the Life Agent Examination Advisory Board.

The Insurance Department's present Divisions of Accounting, Examining, Licensing, and Rating are responsible for the licensing and examination of records of insurance companies and the investigation of fraud.

(The Postassessment Guaranty Association was created recently to make payment of certain claims against insolvent insurers of automobiles, Workmen's Compensation, and other specified property. The General Lines Agent Examination Board and the Life Agent Examination Advisory Board make recommendations to the Insurance Commissioner on examinations and practices of respective insurance agents.

All the above agencies are dependent on dedicated revenues, although the Insurance Department also receives General Fund moneys for administration.

3. Real Estate Commission

The existing Real Estate Commission examines and licenses real estate brokers and salesmen and may revoke licenses for cause. The Commission is dependent solely on dedicated revenues.

C. Division of Occupational Licenses

This division would have the responsibility for licensing Auctioneers, Detectives, Photographers, Vendors (all presently licensed by the Secretary of State), Sewage Treatment Plant Operators (presently by E.I.C.), Water Treatment Plant Operators and Tattoo Artists (both presently licensed by Health and Welfare).

In addition, this Division would also be given the responsibility of performing administrative or clerical duties for any occupational licensing boards who request these services on a contract basis.

D. Division of Consumer Prices, Payments, and Sports

This Division would include the Public Utilities Commission, a new Bureau of Retail Trade, the existing Land Damage Board, and a Bureau of Commercial Sports. All functions to be contained in this Division are now carried out by several agencies.

1. Public Utilities Commission

The present functions of the Public Utilities Commission regarding the prescribing of intrastate rates and service and prevention of discrimination among customers by utilities and transportation carriers would be retained within this Division. No change is contemplated in the present quasi-judicial structure of the Commission in regard to the above functions, although consideration should be given to additional means of ensuring adequate protection of the public interest, versus the desires of the utilities or carriers.

The functions listed above are now supported by General Fund Revenues, except that Highway Fund moneys are relied on for the regulation of motor carriers.

2. Bureau of Retail Trade

It is proposed that this Bureau be created to encompass the present activities of the Attorney General in relation to the

regulation of trade, as well as the price-setting functions of the Milk Commission and the regulation of weights and measures by the Consumer Protection Division of the Department of Agriculture. This Bureau is intended to be one of the most active State agencies on behalf of the consumer. All of the above functions are supported by the General Fund, with the single exception of the Milk Commission, which depends on dedicated revenues.

It is recommended that an assistant Attorney General be assigned to this Bureau to direct the enforcement of laws on profiteering, price-fixing, and trademarks. (An alternative arrangement could be the retention of this Assistant within the Attorney General's office, although that would lessen the importance of this Bureau.) Further consideration should be given to whether it is in the public interest to set prices of milk, drugs, or any other retail commodity.

3. Land Damage Board

This Board determines the fair price of land taken for highways by the State under eminent domain from former owners. This quasi-judicial function should remain independent of the land-taking agencies (Highway Department and the Attorney General). The Board is supported entirely from Highway Fund Revenues.

4. Bureau of Commercial Sports

This proposed Bureau would absorb the functions of the present Boxing Commission, Harness Racing Commission and Running Horse Racing Commission. These Commissions were established to license matches or races, prevent "fixed" fights or races, prevent injury to performers, and to regulate betting on horse races. The Commissions are supported by General Fund revenues, although the State imposes taxes on the sporting events they supervise.

It is recommended that the proposed Bureau employ personnel to carry out the staff functions of the three Commissions, who would continue to prescribe rules and regulations, supervise pari-mutuel pools, and issue licenses for sporting events.