

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

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Legislative Document

No. 980

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H. P. 699

House of Representatives, February 21, 1967

Referred to Committee on State Government. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Jalbert of Lewiston.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-SEVEN

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AN ACT Revising the Maine State Personnel Laws.

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

**Sec. 1. R. S., T. 5, § 552, repealed and replaced.** Section 552 of Title 5 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 552. Definitions

Certain words and phrases shall have, for the purposes of chapters 51 to 61, the following meaning;

1. **Advisory council.** "Advisory council" means the State Director's Advisory Council.

2. **Appointing authority.** "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.

3. **Board.** "Board" means the Citizen's Personnel Advisory Board.

4. **Classified service.** "Classified service" means all offices and positions of trust and employment in the state service except those placed in the unclassified service by chapters 51 to 61.

5. **Director.** "Director" means the State Director of Personnel.

6. **Eligible register.** "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.

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

8. **Line manager.** "Line manager" means the chief administrator of a department, agency or commission.

**Sec. 2. R. S., T. 5, § 554, amended.** Section 554 of Title 5 of the Revised Statutes is amended to read as follows:

**§ 554. Personnel records**

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~~ director 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~~ he deems pertinent.

**Sec. 3. R. S., T. 5, c. 53, repealed and replaced.** Chapter 53 of Title 5 of the Revised Statutes is repealed and the following enacted in place thereof:

**CHAPTER 53**

**CITIZEN'S PERSONNEL ADVISORY BOARD**

**§ 591. Membership; term; compensation**

A Citizen's Personnel Advisory Board is established and shall be composed of 3 members. The members shall be nonstate employees and not representative of either the employees or the State and shall be appointed by the Governor with the advice and consent of the Council, and in making such appointments consideration shall be given to competence and experience in personnel matters as a prerequisite for board membership. One member of the board shall be designated by the Governor as chairman. Of the first appointments, one member shall be appointed for a term of one year, one for a term of 2 years and one for a term of 3 years, and until their successors are appointed and qualified. Thereafter each of the appointed members shall be appointed for a term of 3 years and until his successor is appointed and qualified.

A board member may be removed for cause by the Governor with the advice and consent of the Council. 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.

Secretarial personnel shall be provided by the State Director of Personnel, but shall not be a member of the board, and the minutes of the meetings of the board shall be recorded, reproduced and copies shall be made available to the Governor and shall be open to public inspection.

The members of the board shall receive \$20 a day for the time actually spent in the discharge of their duties and their necessary expenses.

**§ 592. Powers and duties; Citizen's Personnel Advisory Board**

The advisory board shall meet at the call of the chairman or at the request of the Governor or 2 members of the advisory board. Suitable accommodations shall be provided for such meetings by the State Director of Personnel. The State Director of Personnel shall be present at meetings of the advisory board, if requested.

The advisory board shall review personnel policies and personnel administration of the State, make such recommendations and render advice relative to the operation of the state's personnel administration programs, as they deem advisable to the Governor. A record of the recommendations and advice of the Governor and advisory board shall be maintained by the State Director of Personnel. Within 30 days after the filing of a recommendation by the Governor or the advisory board, at the request of the Governor, the State Director of Personnel shall file with the Governor his response to such recommendations. After review and action on appeals by the director, the advisory board shall be empowered to hear further appeals of the employees.

Sec. 4. R. S., T. 5, §§ 631-632, repealed and replaced. Sections 631 and 632 of Title 5 of the Revised Statutes are repealed and the following enacted in place thereof:

**§ 631. Qualifications; tenure; compensation**

A Department of Personnel shall be established and hereinafter in this chapter called the "department" and shall be under the management and control of a State Director of Personnel, hereinafter in this chapter called the "director." He shall be appointed by the Governor with the advice and consent of the Council. He shall receive an annual salary to be determined by the Governor and confirmed by the Council and his actual traveling expenses incurred in the performance of his duties. His tenure of office shall be at the pleasure of the Governor and he shall hold office until his successor is appointed and qualified. The director 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 and shall be able to provide leadership to the state's system of personnel management through developing procedures for supervisory training, a prompt recruiting service and a sound system for measuring employee performance through encouraging the setting of performance standards, prompt discharging of unsuitable employees and ensuring that organization plans are effective. The director should be capable of sole responsibility for the management of the state's personnel activities.

**§ 632. Powers and duties**

The director shall have the power, duty and authority to make final decisions, to administer, to apply and make effective chapters 51 to 61 and he shall be under the immediate supervision, direction and control of the Governor and shall perform such delegated duties as he may prescribe, except as otherwise provided by law. He shall attend meetings of the advisory board, provide its secretarial personnel as provided in sections 591 and 592, approve expenditures and appoint the employees of the department, investigate the operation of the system periodically and report annually to the Governor on his administration.

The director shall have the duty and authority as follows:

1. Assistant director. To employ one or more assistant directors and such other employees and clerks as the department may require, subject to the Personnel Law. The director may employ or engage such expert, professional or other assistance as may be necessary or appropriate to assist the department in carrying out its functions. The director may train his employees or have them trained in such manner as he deems desirable, at the expense of the department.

2. Classification plan. To ascertain and record the duties and responsibilities of all positions in the service and to establish classes for such positions, upon adoption by the Governor. 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.

3. Compensation plan. To submit to the Governor, after adoption of the classification plan, a proposed plan of competitive compensation showing salary rates for each class of position in the classified and unclassified service.

When the compensation plan has become effective through its adoption by the Governor, it shall constitute the official schedule of salaries for all classes of positions in the classified and unclassified service. No position shall be assigned a salary greater than the maximum rates fixed in the compensation plan. Salaries of persons holding positions in the classified and unclassified 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 recommendations of the appointing officer and approval of the director, except as provided in subsection 4. Such recommendation shall be based upon standards of performance as indicated by merit ratings or other pertinent data.

4. Decentralization. To develop personnel policies and procedures to decentralize the recruiting, examining, placement and other similar functions of personnel management among the various departments and agencies of the State to the maximum extent feasible, and perform those functions which cannot be decentralized effectively. To advise and counsel line managers in all departments of the State in personnel matters and to help with the problems handled by all managers; to analyze various indicators of organization, such as absenteeism, internal mobility, complaints, grievances and employee turnover; to provide personnel procedures and services to aid line managers to obtain more effective results through personnel administration. Personnel administration procedures and services shall include, but not be limited to, recruiting, testing, orientation, training, salary surveying and safety. The director shall be responsible for obtaining coordination of these activities and for the uniform administration of personnel policies among the departments of State Government through discussions with managers and reports to the Governor, who has the final responsibility for seeing that policies and procedures are consistently administered.

5. **Director's Advisory Council.** To organize a Director's Advisory Council to be composed of all state department heads with the director acting as chairman. The council shall meet quarterly or more often as needed and shall advise the director on the effectiveness of the state's personnel management system as well as means of improving it. The Director's Advisory Council shall be concerned with operating matters and shall recommend the need for matters of policy.

6. **Organization.** To organize and establish a Department of Personnel to carry out all the activities of the state's personnel administration including but not limited to the following functions; recruitment, examination, certification and records, classification and pay, organization planning and management development, in-service training, research and planning and eligible registers.

**Sec. 5. R. S., T. 5, §§ 633-634, repealed.** Sections 633 and 634 of Title 5 of the Revised Statutes, as amended, are repealed.

**Sec. 6. R. S., T. 5, §637, amended.** Section 637 of Title 5 of the Revised Statutes is amended to read as follows:

**§ 637. Service ratings**

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 592.~~

**Sec. 7. R. S., T. 5, § 671, amended.** The last sentence of the 2nd paragraph of section 671 of Title 5 of the Revised Statutes is amended to read as follows:

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 chapters 51 to 61 and in the rules of the ~~board~~ director made in pursuance to chapters 51 to 61.

**Sec. 8. R. S., T. 5, § 671, amended.** The last paragraph of section 671 of Title 5 of the Revised Statutes is amended to read as follows:

Competitive, noncompetitive and labor, in accordance with rules and regulations prescribed by the ~~board~~ director.

**Sec. 9. R. S., T. 5, § 672, amended.** Section 672 of Title 5 of the Revised Statutes is amended to read as follows:

**§ 672. Filling of positions**

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. 10. R. S., T. 5, § 673, amended.** The last 2 paragraphs of section 673 of Title 5 of the Revised Statutes are amended to read as follows:

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 one 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~~ director.

**Sec. 11. R. S., T. 5, § 674, amended.** The next to the last paragraph of section 674 of Title 5 of the Revised Statutes is amended to read as follows:

In determining qualifications for examination, appointment, promotion, re-  
tention, transfer or reinstatement with respect to preference eligibles under this  
section, the ~~board~~ director or other examining agency may waive requirements  
as to age, height and weight, provided any such requirement is not essential  
to the performance of the duties of the position for which examination is given.  
The ~~board~~ director or other examining agency, after giving due consideration  
to the recommendation of any accredited physician, may waive the physical  
requirements in the case of any veteran, provided such veteran is, in the  
opinion of the ~~board~~ director or other examining agency, physically able to  
discharge efficiently the duties of the position for which the examination is  
given.

**Sec. 12. R. S., T. 5, § 675, amended.** The last sentence of section 675 of  
Title 5 of the Revised Statutes is amended to read as follows:

Examinations shall be conducted for such applicants not later than the quarter-  
ly period succeeding that in which the application has been filed with the State  
~~Personnel Board~~ **Director of Personnel.**

**Sec. 13. R. S., T. 5, § 677, amended.** The 3rd sentence of section 677 of  
Title 5 of the Revised Statutes is amended to read as follows:

The director ~~with the approval of the board~~ may make a provisional appoint-  
ment 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.

**Sec. 14. R. S., T. 5, § 678, amended.** Section 678 of Title 5 of the Re-  
vised Statutes is amended to read as follows:

**§ 678. Dismissal and disciplinary action**

An appointing authority may dismiss, suspend or otherwise discipline a  
classified employee for cause. In every case of such dismissal, suspension or  
other disciplinary action, at the request of the employee, the ~~board~~ director  
shall investigate the circumstances relating to the action, and the fairness

thereof, and if it shall find the charges unwarranted, the ~~board~~ **director** shall order the immediate reinstatement of the affected employee to his former position with no loss of pay, seniority or other rights and benefits resulting from the dismissal or disciplinary action. At the request of the employee the ~~board~~ **director** may recommend the transfer of the employee to the same or similar class of position in another department or institution. Such transfer shall be made to such department or institution only with the approval of the appointing authority thereof.

At the request of the employee, the ~~board~~ **director** shall investigate the circumstances relating to an action of an appointing authority which lays off, demotes or otherwise deprives an employee of rights established by chapters 51 to 61 ~~or by rules prescribed in section 592, subsection 2,~~ and if ~~it~~ **the director** shall find the action to be contrary to chapters 51 to 61 ~~and rules,~~ ~~the board~~ **he** shall order the immediate reinstatement of the employee to his former position with no loss of pay, seniority or other rights or benefits resulting from such action.

**Sec. 15. Appropriation.** There is appropriated from the General Fund to the Personnel Department the sum of \$46,445 for the fiscal year ending June 30, 1968 and the sum of \$59,951 for the fiscal year ending June 30, 1969, to carry out the purposes of this Act. The breakdown shall be as follows:

PERSONNEL, DEPARTMENT OF		1967-68		1968-69
Administration				
Personal Services	(7)	\$44,445	(7)	\$59,951
All Other		—		—
Capital Expenditures		2,000		—
		<hr/>		<hr/>
Total		\$46,445		\$59,951