

# 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)

---

---

ONE HUNDRED AND THIRD LEGISLATURE

---

---

Legislative Document

No. 1707

H. P. 1200

House of Representatives, June 8, 1967

Reported by a Minority of the Committee on State Government. Printed under Joint Rules No. 18.

BERTHA W. JOHNSON, Clerk

---

---

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-SEVEN

---

---

**AN ACT Revising the Maine State Personnel Laws.**

---

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 R. S., T. 5, § 552, repealed and replaced. Section 552 of Title 5 of the Revised Statutes is repealed and the following enacted in place thereof: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

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.

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. He shall hold office for 6 years and until his successor has been 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.

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, retention, 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 quarterly 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 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.

**Sec. 14. R. S., T. 5 § 678, repealed.** Section 678 of Title 5 of the Revised Statutes is repealed.

**Sec. 15. R. S., T. 5, c. 63, additional.** Title 5 of the Revised Statutes is amended by adding a new chapter 63, to read as follows:

## CHAPTER 63

### STATE EMPLOYEES APPEALS BOARD

#### § 681. State Employees Appeals Board

There is established an impartial board of arbitration to be known as the State Employees Appeals Board which shall consist of 3 members to be appointed by the Governor, with the advice and consent of the Council, from persons not employed by the State of Maine and who have established background positively indicating a capacity to mediate grievances between management and labor, one of whom shall be an attorney admitted to practice law in this State. Of those members first appointed, one shall be appointed for a term of one year, one for 2 years and one for 3 years. Their successors shall be

appointed for 3 years. The compensation of the members of the board shall be fixed by the Governor and Council. The members of the board shall receive their necessary expenses.

The board shall:

1. Administration. Administer this chapter. In exercising its administration, the board may promulgate operating policies, establish organizational and operational procedures, and exercise general supervision. The board shall employ, subject to the Personnel Law, such assistants as may be necessary to carry out the purposes of this chapter.

2. Rules and regulations. Promulgate such rules and regulations as are necessary to effectuate the purposes of this chapter.

3. Report. Report biennially to the Governor and Legislature facts and recommendations relating to the administration and needs of the board.

#### § 682. Arbitration authority

The board shall have the authority to arbitrate the final settlement of all grievances and disputes between individual state employees and their respective state agencies. All complaints between a state employee and the state agency by which he is employed shall be made and heard in the manner provided by this chapter for the mediation and settlement of such complaints. The decision of the board shall be final and binding upon the state agency and state employees involved in the dispute, and shall supersede any prior action taken by the state agency with reference to the employment and working conditions of such employees.

#### § 683. Procedure for settlement

A grievance or dispute between a state employee and the agency of the State by whom he is employed shall be entertained by the board upon the application of the employee, providing there shall have been compliance with the following requirements:

1. Adjust dispute. That the employee aggrieved by the dispute and the employee or his representatives, or both, shall have attempted to adjust the dispute with the employee's immediate supervisor.

2. Brievance in writing. If the employee is dissatisfied with the oral decision of his immediate supervisor, he may present the grievance to his supervisor again, this time in written form. The supervisor is then required to make his decision in writing and present it to the employee within 3 working days.

3. Appeal to department head. If the employee is dissatisfied with the supervisor's written decision, he then may appeal, in writing to the department head. Within 3 working days, the employee shall receive, in writing, the department head's decision.

4. Meeting. If the employee is dissatisfied with the department head's written decision, the department head shall meet with the employee or his representative, or both, and attempt to adjust the dispute. At least one day



prior to such meeting, the employee's representative, if any, shall have access to the work location of the employee involved during the working hours for the purpose of investigating the causes of the grievance.

5. **Appeal to Director of Personnel.** If the employee is dissatisfied with the decision, following a meeting with the department head, he shall appeal to the Director of Personnel who shall, within 3 working days, reply in writing

6. **Submission to board.** In the event the grievance shall not have been satisfactorily adjusted within 2 weeks under subsections 1 to 5, the dispute shall be submitted to the board which shall investigate the matters in controversy, shall hear all interested persons who come before it, and make a written decision thereof, which shall be binding on the parties involved.

#### § 684. Dismissal and disciplinary action

An appointing authority may dismiss, suspend or otherwise discipline a classified employee for cause. This right is subject to the right of appeal and arbitration of grievances set forth in sections 681 to 683.

**Sec. 16. 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

**Sec. 17. Appropriation.** There is appropriated from the General Fund to the State Employees Appeals Board the sum of \$1,125 for the fiscal year ending June 30, 1968 and the sum of \$1,500 for the fiscal year ending June 30, 1969 to carry out the purposes of this Act. The breakdown shall be as follows:

STATE EMPLOYEES APPEALS BOARD		1967-68		1968-69
Personal Services	(3)	\$ 750	(3)	\$ 1,000
All Other		375		500
		<hr/>		<hr/>
		\$ 1,125		\$ 1,500