

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 597

H. P. 469

House of Representatives, February 4, 1971

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Farrington of Old Orchard Beach.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Relating to Executive Reorganization.

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

R. S., T. 5, part 10, additional. Title 5 of the Revised Statutes is amended by adding a new part 10, to read as follows:

PART 10

EXECUTIVE REORGANIZATION

CHAPTER 317

EXECUTIVE REORGANIZATION

§ 3361. Declaration of objectives and purposes of reorganization plans

1. Determination of changes. The Governor shall examine and from time to time reexamine the organization of all agencies of the Government and shall determine what changes therein are necessary to accomplish the following purposes:

A. To promote the better execution of the laws, the more effective management of the executive branch of the Government and of its agencies and functions, and the expeditious administration of the public business;

B. To reduce expenditures and promote economy, to the fullest extent consistent with the efficient operation of Government;

C. To increase the efficiency of the operations of the Government to the fullest extent practicable;

D. To group, coordinate and consolidate functions of the Government, as nearly as may be, according to major purposes;

E. To reduce the number of bureaus and divisions of various agencies by consolidating those having similar functions under a single head, and to abolish such bureaus or divisions or functions thereof as may not be necessary for the efficient conduct of the Government; and

F. To eliminate overlapping and duplication of effort.

2. Legislative declaration. The Legislature declares that the public interest demands the carrying out of the purposes specified in subsection 1 and that such purposes may be accomplished in great measure by proceeding under this chapter, and can be accomplished more speedily thereby than by the enactment of specific legislation.

§ 3362. Powers and duties of Governor; preparation and contents of reorganization plan; submission to Legislature

Whenever the Governor, after investigation, finds that:

1. Transfer. The transfer of the whole or any part of any bureau or division, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other commission, department, bureau or division; or

2. Abolition. The abolition of all or any part of the functions of any bureau or division; or

3. Consolidation. The consolidation or coordination of the whole or any part of any bureau or division, or of the whole or any part of the functions thereof, with the whole or any part of any other bureau or division or the functions thereof; or

4. Coordination. The consolidation or coordination of any part of any bureau or division or the functions thereof with any other part of the same commission or department or the functions thereof; or

5. Delegation. The authorization of any officer to delegate any of his functions; or

6. Plan. The abolition of the whole or any part of any bureau or division which bureau or division or part does not have, or upon the taking effect of the reorganization plan will not have any functions, is necessary to accomplish one or more of the purposes of section 3361, subsection 1, he shall prepare a reorganization plan for the making of the reorganizations as to which he has made findings and which he includes in the plan, and transmit such plan, bearing an identifying number, to the Legislature, together with a declaration that, with respect to each organization included in the plan, he has found that such reorganization is necessary to accomplish one or more of the purposes of section 3361, subsection 1. The delivery to both branches shall be on the same day and shall be made to each branch while it is in session. The Governor, in his message transmitting a reorganization plan, shall specify with respect to each abolition of a function included in the plan the statutory authority for the exercise of such function, and shall specify the reduction of

expenditures, itemized so far as practicable, which it is probable will be brought about by the taking effect of the reorganizations included in the plan.

§ 3363. Additional contents of plans

Any reorganization plan transmitted by the Governor under section 3362:

1. Name. Shall change, in such cases as he deems necessary, the name of any agency affected by a reorganization, and the title of its head, and shall designate the name of any agency resulting from a reorganization and the title of its head;

2. Appointment and compensation. May include provisions for the appointment and compensation of the head and one or more other officers of any agency, including an agency resulting from a consolidation or other type of reorganization, if the Governor finds, and in his message transmitting the plan declares, that by reason of a reorganization made by the plan such provisions are necessary. The head so provided for may be an individual or may be a commission or board with 2 or more members. In the case of any such appointment the term of office shall not be fixed at more than 4 years, the compensation shall not be at a rate in excess of that found by the Governor to prevail in respect of comparable offices in the executive branch, and, if the appointment is not under the classified civil service, it shall be by the Governor, with the advice and consent of the Council.

3. Transfer of records, etc. Shall make provision for the transfer or other disposition of the records, property and personnel affected by any reorganization;

4. Transfer of appropriations. Shall make provision for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with any function or agency affected by a reorganization, as he deems necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have such functions after the reorganization plan is effective, but such unexpended balances so transferred shall be used only for the purposes for which such appropriation was originally made;

5. Termination. Shall make provision for terminating the affairs of any agency abolished.

§ 3364. Limitations on powers respecting reorganizations; termination date

1. Limitations. No reorganization plan shall provide for, and no reorganization under this Title shall have the effect of:

A. Creating any new executive department, or abolishing or transferring an executive department or commission or all the functions thereof or consolidating any 2 or more executive departments or commissions or all the functions thereof; or

B. Continuing any agency beyond the period authorized by law for its existence or beyond the time when it would have terminated if the reorganization had not been made; or

C. Continuing any function beyond the period authorized by law for its exercise, or beyond the time when it would have terminated if the reorganization had not been made; or

D. Authorizing any agency to exercise any function which is not expressly authorized by law at the time the plan is transmitted to the Legislature; or

E. Increasing the term of any office beyond that provided by law for such office.

§ 3365. Effective date of reorganization specified in plan

1. Effective date. Except as may be otherwise provided pursuant to subsection 3, the provisions of the reorganization plan shall take effect upon the expiration of the first period of 30 calendar days, of continuous session of the Legislature, following the date on which the plan is transmitted to it; but only if, between the date of transmittal and the expiration of such 30-day period there has not been passed by either of the 2 branches a resolution stating in substance that that branch does not favor the reorganization plan.

2. Construction. For the purposes of subsection 1:

A. Continuity of session shall be considered as broken only by an adjournment of the Legislature sine die; but

B. In the computation of the 30-day period there shall be excluded the days on which either branch is not in session because of an adjournment of more than 3 days to a day certain.

3. Time operative. Any provision of the plan may, under provisions contained in the plan, be made operative at a time later than the date on which the plan shall otherwise take effect.

§ 3366. "Agency" defined

When used in this chapter, the term "agency" means any executive department, commission, council, independent establishment, government corporation, board, bureau, division, service, office, officer, authority, administration or other establishment in the executive branch of the Government. Such term does not include the State Auditor or the Department of Audit, which are a part of the legislative branch of the Government.

§ 3367. What constitutes a reorganization

For the purposes of this chapter, the term "reorganization" means any transfer, consolidation, coordination, authorization or abolition referred to in section 3362.

§ 3368. Effect of reorganization on statutes and regulations or other actions; effect on pending legal proceedings

1. Statutes and regulations.

A. Any statute enacted, and any regulation or other action made, prescribed, issued, granted or performed in respect of or by any agency or function affected by a reorganization under this chapter before the effective date of such reorganization, shall, except to the extent rescinded, modified, superseded or made inapplicable by or under authority of law or by the abolition of a function, have the same effect as if such reorganization had not been made; but where any such statutes, regulation or other action has vested the function in the agency from which it is removed under the plan, such function shall, insofar as it is to be exercised after the plan becomes effective, be considered as vested in the agency under which the function is placed by the plan.

2. Regulation defined. As used in subsection 1, the term "regulation or other action" means any regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation or other action.

3. Legal proceedings. No suit, action or other proceeding lawfully commenced by or against the head of any agency or other officer of the State of Maine, in his official capacity or in relation to the discharge of his official duties, shall abate by reason of the taking effect of any reorganization plan under this chapter, but the court may, on motion or supplemental petition filed at any time within 12 months after such reorganization plan takes effect, showing a necessity for a survival of such suit, action or other proceeding to obtain a settlement of the questions involved, allow the same to be maintained by or against the successor of such head or officer under the reorganization effected by such plan or, if there be no such successor, against such agency or officer as the Governor shall designate.

§ 3369. Effect on unexpended appropriations

The appropriations or portions of appropriations unexpended by reason of the operation of this chapter shall not be used for any purpose, but shall be impounded and returned to the State Treasury.

§ 3370. Publication of reorganization plans

Each reorganization plan which shall take effect shall be printed in the Revised Statutes in the same volume as the public laws, and shall be printed in the compilation of Acts and resolves of the Legislature in accordance with Title 3, section 164, subsection 6.

§ 3371. Rules of Senate and House of Representatives in case of resolutions on reorganization plans

This chapter is enacted by the Legislature:

1. Rule-making power of Legislature. As an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each branch, respectively, but applicable only with respect to the procedure to be followed in such branch in the case of resolutions, as defined in section 3372; and such rules

shall supersede other rules only to the extent that they are inconsistent therewith; and

2. Change of rules. With full recognition of the constitutional right of either branch to change such rules, so far as relating to the procedure in such branch, at any time, in the same manner and to the same extent as in the case of any other rule of such branch.

§ 3372. Resolution defined

As used in this chapter, the term "resolution" means only a resolution of either of the 2 branches of the Legislature, the matter after the resolving clause of which is as follows: "That the does not favor the reorganization plan numbered transmitted to Legislature by the Governor on 19.....", the first blank space therein being filled with the name of the resolving branch and the other blank spaces therein being appropriately filled; and does not include a resolution which specifies more than one reorganization plan.

§ 3373. Reference of reorganization plan resolution to committee

A resolution with respect to a reorganization plan shall be referred to a joint committee, and all resolutions with respect to the same plan shall be referred to the same committee, by the President of the Senate or the Speaker of the House of Representatives, as the case may be, with the advice and consent of the Committee on Reference of Bills.

§ 3374. Discharge of committee considering reorganization plan resolution

If the committee to which has been referred a resolution with respect to a reorganization plan has not reported it before the expiration of 14 calendar days after its introduction, it shall then, but not before, be in order to move either to discharge the committee from further consideration of such resolution, or to discharge the committee from further consideration of any other resolution with respect to such reorganization plan which has been referred to the committee.

Such motion may be made only by a person favoring the resolution, shall be highly privileged, except that it may not be made after the committee has reported a resolution with respect to the same reorganization plan, and debate thereon shall be limited to not to exceed one hour, to be equally divided between those favoring and those opposing the resolution. No amendment to such motion shall be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

If the motion to discharge is agreed to or disagreed to, such motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same reorganization plan.

§ 3375. Procedure after report or discharge of committee; debate

When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a reorganization plan, it shall at any

time thereafter be in order, even though a previous motion to the same effect has been disagreed to, to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. No amendment to such motion shall be in order and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

Debate on the resolution shall be limited to not to exceed 10 hours, which shall be equally divided between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

§ 3376. Decisions on motions to postpone or proceed to be without debate

All motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a reorganization plan, and all motions to proceed to the consideration of other business, shall be decided without debate.

All appeals from the decisions of the chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

STATEMENT OF FACT

This legislation is similar to the Federal Reorganization Act which has demonstrated its worth under both Republican and Democratic Presidents for nearly 20 years. It would authorize administrative reorganization to be effective after submission to the Legislature if the Legislature does not disapprove within 30 days of submission by the Governor.