

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 701

S. P. 240

In Senate, February 10, 1971

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Tanous of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Relating to Powers and Duties of the Attorney General.

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

Sec. 1. R. S., T. 5, § 191, amended. The 6th sentence, as last amended by section 6 of chapter 504 of the public laws of 1969, and the 7th sentence, both of section 191 of Title 5 of the Revised Statutes, are amended to read as follows:

The Attorney General shall have an office in the State Capitol and shall receive an annual salary in full for all services ~~and in lieu of all fees.~~ **The Attorney General shall devote full time to his duties and shall not engage in the private practice of law during his term of office, nor shall he during such term be a partner or associate of any person in the practice of law.** He shall receive his actual expenses incurred in the performance of his official duties ~~while away from his home.~~

Sec. 2. R. S., T. 5, § 199, repealed. Section 199 of Title 5 of the Revised Statutes, as amended by section 2 of chapter 53 of the public laws of 1969, is repealed.

Sec. 3. R. S., T. 5, § 200-A, amended. The 2nd paragraph of section 200-A of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 58 of the public laws of 1967, is amended to read as follows:

The Attorney General shall have full responsibility for the direction and control of all investigation and prosecution of homicides and ~~such other major crimes as the Attorney General may deem necessary for the peace and good order of the State of Maine~~ in addition, shall be responsible for the prosecution of all crimes and offenses against the State of Maine.

Sec. 4. R. S., T. 30, § 451, amended. The first sentence of section 451 of Title 30 of the Revised Statutes is repealed, as follows:

~~County attorneys shall be elected and notified, their elections determined and vacancies filled in the same manner, and they shall enter upon the discharge of their duties at the same time as is provided respecting county commissioners, but they shall hold office for 2 years.~~

Sec. 5. R. S., T. 30, § 451, amended. The last 2 sentences of section 451 of Title 30 of the Revised Statutes are repealed as follows:

~~Only attorneys at law admitted to the general practice of law in this State and resident in the county shall be elected or appointed as county attorney, and removal therefrom vacates the office. Whenever the Governor and Council, upon complaint and due notice and hearing, shall find that a county attorney has violated any statute or is not performing his duties faithfully and efficiently, they may remove him from office and appoint another attorney in his place for the remainder of the term for which he was elected.~~

Sec. 6. R. S., T. 30, § 552, amended. Section 552 of Title 30 of the Revised Statutes is amended to read as follows:

§ 552. Appointment of substitute on death or removal

Whenever the office of county attorney becomes vacant by reason of the death, permanent incapacity or removal from the county of the incumbent of the office, except as provided for in section 452, the Governor with the advice and consent of the Council shall appoint a competent attorney, a resident of the county affected, to fill out the term of office of said incumbent.

Sec. 7. R. S., T. 30, § 552, repealed. Section 552 of Title 30 of the Revised Statutes is repealed.

Sec. 8. R. S., T. 30, §§ 553 - 562, repealed. Sections 553 to 556 as amended, section 557, section 558 as repealed and replaced by section 14 of chapter 573 of the public laws of 1969, sections 559 and 560 as enacted by section 2 of chapter 530 of the public laws of 1967, and sections 561 and 562 as enacted by sections 3 and 4 of chapter 484 of the public laws of 1969, are repealed.

Sec. 9. R. S., T. 2, § 7, amended. Section 7 of Title 2 of the Revised Statutes, as enacted by chapter 542 of the public laws of 1967, is amended to read as follows:

§ 7. Constitutional officers

Notwithstanding section 6 or any other provision of law, the respective salaries of the Attorney General, Secretary of State, State Auditor and Treasurer of State shall be as follows:

Attorney General	\$14,000 \$25,000;
Secretary of State	15,000;
State Auditor	13,000;
Treasurer of State	11,000.

Sec. 10. Transitional provisions. The present terms of office of all county attorneys and assistant county attorneys shall continue and shall not expire until successors have been appointed and qualified. In any event, the terms of county attorneys and assistant county attorneys shall expire on June 30, 1973. No assistant attorney general shall be appointed to succeed a county attorney or assistant county county attorney before January 3, 1973.

During the period that they continue in office said county attorneys and assistant county attorneys shall have the same powers, duties and obligations as they previously had. They shall be subject to the direction and control of the Attorney General.

When an assistant attorney general has been appointed and qualified to succeed a county attorney or assistant county attorney, the Attorney General shall designate the respective county attorney or county attorneys or assistant county attorney or county attorneys succeeded by that officer. Whenever a county attorney or assistant county attorney has been replaced by an assistant attorney general his term shall terminate.

Upon termination of an office of county attorney or assistant county attorney, or upon the office otherwise becoming vacant after such establishment and appointment, all cases pending before the county attorney together with his records shall be transferred to the Attorney General.

The provisions of this Act shall be liberally construed to effect the implementation of this Act and the administration of justice.

Sec. 11. Effective date. The effective date of this Act is January 3, 1973, except that sections 4 and 6 shall be effective 90 days after adjournment of the Legislature; sections 5, 7, 8 and 9 shall be effective January 1, 1973.

Sec. 12. Appropriation. There is appropriated from the General Fund to the Department of Attorney General the sum of \$264,750 to carry out the purposes of this Act. The breakdown shall be as follows:

		1972-73
ATTORNEY GENERAL, DEPARTMENT OF		
Personal Services	(40)	\$198,750
All Other		40,000
Capital Expenditures		26,000
		\$264,750

STATEMENT OF FACT

This Act would replace the present County Attorney system with a system whereby Assistant Attorneys General would be appointed to designated counties to perform all prosecution functions. The Attorney General would be responsible for the prosecution of all crimes and offenses against the State of Maine. Transitional provisions would be provided and the system would be in full effect by June 30, 1973.