

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 2010

S. P. 721

In Senate, January 24, 1972

Committee on State Government suggested.

HARRY N. STARBRANCH, Secretary

Presented by Senator Berry of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-TWO

AN ACT Implementing the Reorganization of the Department of
Educational and Cultural Services.

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

Sec. 1. R. S., T. 20, § 1, repealed and replaced. Section 1 of Title 20 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 1. Department

The Department of Educational and Cultural Services, as heretofore established and hereinafter in this Title called the "department," shall exercise such powers and perform such duties as are set forth in this Title.

Sec. 2. R. S., T. 20, § 1-A, amended. Section 1-A of Title 20 of the Revised Statutes, as enacted by section 1 of chapter 492 of the public laws of 1971, is amended to read as follows :

§ 1-A. Department, commissioner

There is created and established the Department of ~~Education~~ Educational and Cultural ~~Resources~~ Services to supervise, guide and plan for a coordinated system of public education for all citizens of the State and interrelate public education to other social, economic, physical and governmental activities, programs and services ~~and also to~~. The department shall also provide for a coordinated, integrated system of cultural resources programs and projects ~~and to~~, encourage and stimulate public interest in the advancement of education and support and participation in the cultural heritage, institutions and activities of Maine at both the state and local level. The department shall ~~to~~ consist of a Commissioner of ~~Education~~ Educational and Cultural

~~Resources~~ **Services** appointed by the Governor from a list of 3 names to be provided by the State Board of Education as established, with the advice and consent of the Council to serve at the pleasure of the Governor and Council and a term coterminous with the Governor subject to removal for cause. The State Board of Education shall submit its list to the Governor within 20 days after the Governor takes the oath of office. If it fails to do so, the Governor may appoint the commissioner with the advice and consent of the Council. The department shall include the following as heretofore or hereinafter created and established: The Department of Education, the Maine Education Council, the Maine Commission for the Higher Education Facilities Act of 1965, the Maine Advisory Council on Vocational Education, the Maine Representatives to the New England Board of Higher Education, the Maine School Building Authority, the Governor Baxter School for the Deaf, the Maine State Commission on the Arts and the Humanities, the State Museum, the Maine State Museum Commission ~~the State Historian~~ and the Maine State Library.

Sec. 3. R. S., T. 20, § 1-B, additional. Title 20 of the Revised Statutes is amended by adding a new section 1-B to read as follows:

§ 1-B. Department, organization

The Department of Educational and Cultural Services shall be composed of the following bureaus:

1. **State Museum Bureau.** The State Museum Bureau shall be under the direction of a director who shall be qualified by training or by experience in museum work and shall be appointed by the commissioner, with the advice and consent of the Maine State Museum Commission, to serve for a term of 4 years, subject to removal for cause. The compensation of the director shall be fixed by the Governor and Council; and

2. **Arts and Humanities Bureau.** The Arts and Humanities Bureau which shall be under the direction of a director appointed by the commissioner, with the advice and consent of the Maine State Commission on the Arts and the Humanities, to serve for a term of 4 years, subject to removal for cause. The compensation of the director shall be fixed by the Governor and Council; and

3. **Maine State Library Bureau.** The Maine State Library Bureau, which shall be known as the Maine State Library and which shall be under the direction of a director, who shall be known as the State Librarian, appointed by the commissioner with the advice and consent of the Governor and Council to serve for a term of 4 years; the compensation of the State Librarian shall be fixed by the Governor and Council; and

4. **Bureau of Vocational Education.** The Bureau of Vocational Education which shall be under the direction of a director appointed by the commissioner, subject to the Personnel Law; and

5. **Other.** Such other bureaus as the commissioner deems necessary to fulfill the duties of the department, each of which shall be under the direction

of a person appointed by the commissioner, subject to the Personnel Law, to serve at the pleasure of the commissioner.

Sec. 4. R. S., T. 20, § 51, repealed and replaced. Section 51 of Title 20 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 51. State Board of Education

1. **Board.** There is created a State Board of Education which shall consist of 9 members who shall be appointed by the Governor with the advice and consent of the Council. The membership of the board shall be broadly representative of the public.

2. **—term.** The term of office of each member shall be 5 years, provided that of the members first appointed, $\frac{1}{3}$ shall be appointed for terms of one year, $\frac{1}{3}$ for terms of 2 years and $\frac{1}{3}$ for terms of 5 years. Any vacancy created shall be filled for the remainder of the unexpired term.

3. **—powers.** Notwithstanding any other provision of law, the State Board of Education shall have only the powers specifically stated in this subsection:

A. It shall act in an advisory capacity to the Commissioner of Educational and Cultural Services concerning matters contained in this Title;

B. It shall provide the Governor with a list containing the names of 3 persons from which list the Governor shall appoint the commissioner pursuant to section 1-A;

C. It shall review on the written request of any interested party decisions made by the department acting through the commissioner or his duly authorized representative pursuant to the following sections: 222, 916, 1281, 1901, 2356-B, 3457 and 3458. The written request shall be filed within 30 days from the date of the department's decision.

D. It shall have the authority granted to it pursuant to section 3672.

Sec. 5. R. S., T. 20, § 56, repealed. Section 56 of Title 20 of the Revised Statutes is repealed.

Sec. 6. R. S., T. 20, § 101, repealed. Section 101 of Title 20 of the Revised Statutes, as amended by section 1 of chapter 507 of the public laws of 1965 and by section 17 of chapter 476 of the public laws of 1967, is repealed.

Sec. 7. R. S., T. 20, § 102, amended. The first paragraph of section 102 of Title 20 of the Revised Statutes is repealed and the following enacted in place thereof:

The commissioner or his duly authorized designee shall exercise the powers and perform the duties granted to the department in this Title. The commissioner is authorized to hire whatever personnel he deems necessary, subject to the Personnel Law, to fulfill the duties of the department. He shall also have the following duties:

1. **Budget.** Prepare a budget for the department;

2. **Personnel.** Transfer personnel within the department to insure the efficient utilization of the department personnel;

3. **Purchases.** Coordinate the purchase and use of all department equipment; and

4. **Review.** Review the function and operation of the divisions to insure that overlapping functions and operations are eliminated.

The commissioner does not have authority to exercise or to interfere with the exercise of any discretionary authority granted to the Maine Museum Commission and the Maine Arts and Humanities Commission.

Sec. 8. R. S., T. 20, § 1901, amended. The 4th paragraph of section 1901 of Title 20 of the Revised Statutes, as repealed and replaced by chapter 462 of the public laws of 1967, is amended to read as follows:

After providing an opportunity for a hearing, ~~the state board, on recommendation of the commissioner~~ the department may adjust the state subsidy to an administrative unit when ~~in the opinion of the board~~ the expenditures for education in such unit show evidence of manipulation to gain an unfair advantage or are adjudged excessive. **Any interested party aggrieved by a decision of the department may appeal to the State Board of Education pursuant to section 51.**

Sec. 9. R. S., T. 20, c. 302, repealed. Chapter 302 of Title 20 of the Revised Statutes, as enacted by section 1 of chapter 443 of the public laws of 1965, and as amended, is repealed.

Sec. 10. R. S., T. 20, § 2452, amended. The first paragraph of section 2452 of Title 20 of the Revised Statutes is amended to read as follows:

The commissioner ~~with the approval of the state board~~ shall employ necessary personnel, subject to the terms of the Personnel Law, and establish rules and regulations to carry out this chapter, including the following:

Sec. 11. R. S., T. 20, § 3504, amended. The 2nd sentence of section 3504 of Title 20 of the Revised Statutes, as amended by section 1 of chapter 483 of the public laws of 1969, is further amended to read as follows:

The Maine School Building Authority shall consist of 8 members, including the Governor, the Commissioner of ~~Education~~ **Educational and Cultural Services**, one member of the committee on education to be appointed by the President of the Senate, and one member of the State Board of Education to be appointed by the Governor, to serve during their incumbency in said offices, except for the member of the committee on education, who shall serve until his successor is appointed and qualified, and 4 members at large appointed by the Governor for a period of 5 years, and said authority shall constitute a body corporate and politic.

Sec. 12. R. S., T. 20, § 3672, amended. Section 3672 of Title 20 of the Revised Statutes, as amended by section 13 of chapter 540 of the public laws of 1967, is further amended to read as follows:

§ 3672. State Board of Education as state agency

The ~~board~~ **State Board of Education** is designated as the sole agency for administering the funds allotted under any Federal Act providing for financial assistance in the construction of school facilities, **including higher educational facilities**, and it is authorized to make such certifications to the United State's Commissioner of Education as are necessary to entitle the State to receive the benefits of such Act, including the authority to elect that any portion of such a federal allotment be in the form of a commitment by the Federal Government to make direct payments of interest and principal on debts of local agencies for the construction of school facilities or other purpose.

Sec. 13. R. S., T. 27, § 1, amended. The 2nd sentence of the first paragraph of section 1 of Title 27 of the Revised Statutes is repealed and the 2nd paragraph is amended to read as follows:

The librarian may employ, subject to the Personnel Law **and the approval of the Commissioner of Educational and Cultural Services**, a deputy state librarian, and such assistants as the business of the office may require.

Sec. 14. R. S., T. 27, § 5, amended. Section 5 of Title 27 of the Revised Statutes is amended to read as follows:

§ 5. Biennial report

The State Librarian shall report to the ~~Legislature biennially~~ **Commissioner of Educational and Cultural Services annually** the receipts and expenditures on account of the library, the number of acquisitions during the ~~preceding years~~ **year**, specifying those obtained by purchase, donation and exchange and shall make in such report suggestions in relation to the improvement of the library.

Sec. 15. R. S., T. 27, § 84, repealed. Section 84 of Title 27 of the Revised Statutes, as enacted by section 1 of chapter 502 of the public laws of 1965, is repealed.

Sec. 16. R. S., T. 27, § 85, sub-§ 2, amended. The 3rd sentence of subsection 2 of section 85 of Title 27 of the Revised Statutes, as enacted by section 1 of chapter 502 of the public laws of 1965, is amended to read as follows:

He shall employ, subject to the Personnel Law **and the approval of the Commissioner of Educational and Cultural Services**, such assistants as may be necessary to carry out the purposes of this chapter.

Sec. 17. R. S., T. 27, § 403, repealed. Section 403 of Title 27 of the Revised Statutes, as enacted by section 1 of chapter 499 of the public laws of 1965, is repealed.

Sec. 18. R. S., T. 20, § 102, sub-§ 11, amended. Subsection 11 of section 102 of Title 20 of the Revised Statutes is amended to read as follows:

II. Reports. ~~Biennially~~ **Annually**, to report to the ~~board~~ **Governor** the result of his inquiries and investigations and the facts obtained from the school returns, with such suggestions and recommendations as in his judgment will best promote the improvement of public schools;

Sec. 19. Deductions. There is appropriated to be deducted from funds made available under the private and special laws of 1971, chapter 91, Section A, as passed by the 105th Legislature in regular session, the following amounts:

1972-73

EDUCATION, DEPARTMENT OF

Administration

Personal Services

(3) (\$28,799)

Vocational Education—Administration

Personal Services

(1)* (6,762)

* Position reduction effective September 1, 1972

Sec. 20. Amendatory clause. Wherever in the following list of sections in Title 20 of the Revised Statutes the terms "State Board", "board", "State Board of Education", or "Department of Education" appear they shall mean the "Department of Educational and Cultural Services": Sections 57, 58, 59, 151, 212, 213, 222, 224, 855, 856, 916, 1053, 1281, 2202, 2231, 2232, 2233, 2234, 2235, 2355, 2356, 2356-A, 2356-B, 2356-E, 2356-G, 2357, 2452, sub-§ 2; 2551, 2651, 2652, 2655, 2661, 2662, 2703, 2704, 3111, 3455, 3457, 3458, 3460, 3732 and 3734.

Sec. 21. Amendatory clause. Wherever in Title 20 of the Revised Statutes the words "commissioner" or "Commissioner of Education" appear they shall mean "Commissioner of Educational and Cultural Services."

Sec. 22. Amendatory clause. Wherever in Chapter 251 of Title 34 of the Revised Statutes the words "Department of Mental Health and Corrections" appear they shall mean the "Department of Educational and Cultural Services."

Sec. 23. Funds and equipment transferred. Notwithstanding the Revised Statutes, Title 5, section 1585, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in any account, or subdivision of an account, of any agency to be reallocated to another department strictly as a result of the reorganization effort, shall be transferred to the proper place in the new structure by the State Controller, upon recommendation of the department head, the State Budget Officer and upon approval by the Governor and Executive Council.

STATEMENT OF FACT

This bill, if enacted, will implement the reorganization of the Department of Educational and Cultural Services. The department will consist of the

Department of Education, the Governor Baxter School for the Deaf, the Maine State Museum Commission and the Maine State Library.

The department will be composed of 4 bureaus and such other bureaus as the commissioner deems necessary to fulfill the duties of the department. The 4 bureaus to be created by statute are the Maine State Museum Bureau, the Arts and Humanities Bureau, the Maine State Library Bureau and the Bureau of Vocational Education. Both the Museum Commission and the Arts and Humanities Commission are retained and continue to carry out the policy, duties and powers presently granted to them under their respective statutes. In each case, the director of these 2 bureaus will be appointed by the commissioner, with the advice and consent of the respective commissions, for a term of 4 years.

The State Board of Education has been abolished and reconstituted. It will consist of 9 people broadly representative of the public appointed by the Governor for 5-year terms. Its duties are those listed in section 10 of the bill. In summary, the board will be an advisory board to the commissioner and in certain specific instances act as an appeals board from decisions of the department. It will also continue its present function of being the sole state agency to administer funds received from the Federal Government for educational purposes. Federal law requires that the funds be administered by a board rather than a single department.

Section 9 of the bill repeals the State Scholarship Board. This board was created some time ago for the purpose of dispensing state scholarships. The board has not received any appropriations for some years; therefore, it has no reason for being in existence. It is recommended that the board be abolished, and if the program is to be initiated again the board can either be reestablished or the State Board of Education be given the function.

Section 19 of the bill amends all sections in Title 20 of the statute in which the words "State Board" or "State Board of Education" are used and transfers duties previously granted to the State Board of Education to the Department of Educational and Cultural Services to be carried out by the Commissioner.

Section 21 of the bill transfers the Governor Baxter School for the Deaf from the Department of Mental Health and Corrections to the new Department of Educational and Cultural Services.

The Commissioner of Education is appointed by the Governor from a list of 3 names provided by the State Board of Education to serve a term co-terminous with that of the Governor.