

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 2058

S. P. 779

In Senate, March 1, 1972

Reported from Committee on State Government pursuant to Joint Order (S. P. 751) and printed under Joint Rules No. 18.

HARRY N. STARBRANCH, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-TWO

**AN ACT Implementing the Reorganization of the Department of
Manpower Affairs**

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

Sec. 1. R. S., T. 26, § 41, amended. Section 41 of Title 26 of the Revised Statutes, as amended, is further amended to read as follows:

§ 41. Director; personnel; salaries; expenses

A ~~State Department Bureau~~ of Labor and Industry **within the Department of Manpower Affairs**, as heretofore established and hereinafter in this Title called the ~~department~~ "bureau," shall be maintained under the direction of an officer whose title shall be ~~Commissioner~~ **Director of the Bureau** of Labor and Industry and state factory inspector, hereinafter in this Title, except in chapter 13, called the ~~commissioner~~ "director". He shall be appointed by the ~~Governor~~ **Commissioner of Manpower Affairs**, with the advice and consent of the **Governor and Council**, for a term of 3 years, and shall hold office until his successor is appointed and qualified. He shall have an office in the State Capitol. He shall appoint, subject to the Personnel Law, such employees as may be necessary and a deputy who shall be clerk of the ~~department~~ bureau and deputy state factory inspector. The ~~commissioner~~ **director** (Labor and Industry) shall receive an annual salary and in addition a salary annually for his services as a member of the Industrial Accident Commission and his actual, necessary cash expenses while away from his office on official business of the Industrial Accident Commission. The ~~commissioner~~ **director** and deputy state factory inspector shall receive their actual traveling expenses. The ~~commissioner~~ **director** shall appoint a woman factory inspector. All expenses of the department shall be audited and paid as provided by law.

Sec. 2. R. S., T. 26, § 1081, sub-§ 1, amended. The first 2 sentences of subsection 1 of section 1081 of Title 26 of the Revised Statutes are amended to read as follows:

The Maine Employment Security Commission, as heretofore created, shall consist of 3 members, one of whom shall be a representative of labor, one of whom shall be a representative of employers, and ~~one of whom~~ **the Commissioner of Manpower Affairs** who shall be impartial and shall represent the public generally, and shall be chairman. Upon the expiration of the term of office of ~~any member~~ **the labor representative or the employers' representative**, his successor shall be appointed by the Governor, with the advice and consent of the Council, to hold office for a term of 6 years or until his successor has been duly appointed and qualified, or during the pleasure of the Governor and Council, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

Sec. 3. R. S., T. 26, § 1081, sub-§ 2, amended. Subsection 2 of section 1081 of Title 26 of the Revised Statutes, as last repealed and replaced by section 44 of chapter 504 of the public laws of 1969, is amended to read as follows:

2. Salaries. The ~~chairman~~ **Commissioner of Manpower Affairs** and other members of the commission (Employment Security) shall receive a fixed weekly salary and shall be paid from the Employment Security Administration Fund.

Sec. 4. R. S., T. 26, § 1081, sub-§ 3, amended. The 2nd sentence of subsection 3 of section 1081 of Title 26 of the Revised Statutes is amended to read as follows:

Whenever the commission hears any case involving a disputed claim for benefits under this chapter, the ~~impartial member of the commission~~ **Commissioner of Manpower Affairs** shall act alone in the absence or disqualification of any other member, provided that in the event of illness or extended absence on the part of the ~~impartial member~~ **Commissioner of Manpower Affairs** or in the event of a vacancy in that position, the remaining members may act on appeals and conduct hearings and render a decision, provided both members agree.

Sec. 5. R. S., T. 26, § 1081, sub-§ 3, amended. Subsection 3 of section 1081 of Title 26 of the Revised Statutes is amended by adding at the end the following new sentence:

Any action, decision, order, rule or recommendation which is required by law to be made by the Maine Employment Security Commission shall not be made until the commission has held a meeting in the regular course of its business for which all members have been provided with reasonable notice of the meeting and its agenda.

Sec. 6. R. S., T. 26, § 1082, sub-§ 1, amended. The 5th sentence of subsection 1 of section 1082 of Title 26 of the Revised Statutes is amended to read as follows:

Not later than the first day of May of each year, the ~~commission~~ **Commissioner of Manpower Affairs** shall submit to the Governor a report covering the administration and operation of this chapter during the preceding calendar year and shall make such recommendations for amendments to this chapter as ~~the commission~~ he deems proper.

Sec. 7. R. S., T. 26, § 1082, sub-§ 3, amended. Subsection 3 of section 1082 of Title 26 of the Revised Statutes is amended to read as follows:

3. **Publication.** The ~~commission~~ **Commissioner of Manpower Affairs** shall cause to be printed for distribution to the public the text of this chapter, the commission's regulations, ~~its~~ his annual reports to the Governor and any other material the commission deems relevant and suitable, and shall furnish the same to any person upon application therefor.

Sec. 8. R. S., T. 26, § 1082, sub-§ 4, amended. The first sentence of subsection 4 of section 1082 of Title 26 of the Revised Statutes is amended to read as follows:

Subject to other provisions of this chapter, the ~~commission~~ **Commissioner of Manpower Affairs** is authorized to appoint, and prescribe the duties and powers of, and fix the compensation of such officers, accountants, attorneys, experts and other persons as may be necessary in the performance of ~~its~~ his duties, subject to the Personnel Law.

Sec. 9. R. S., T. 26, § 1082, sub-§ 5, amended. The first sentence of subsection 5 of section 1082 of Title 26 of the Revised Statutes is amended to read as follows:

The ~~commission~~ **Commissioner of Manpower Affairs** shall appoint a state advisory council consisting of not more than 9 members composed of an equal number of employer representatives and employee representatives who may fairly be regarded as representative because of their vocation, employment or affiliations and an equal number of members representing the general public.

Sec. 10. R. S., T. 26, § 1082, sub-§ 6, amended. Subsection 6 of section 1082 of Title 26 of the Revised Statutes is amended to read as follows:

6. **Employment stabilization.** The ~~commission~~ **Commissioner of Manpower Affairs**, with the advice and aid of such advisory council as ~~it~~ he may appoint, may take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise and assist in the establishment and operation, by municipalities, counties, school districts and the State, of reserves for public works to be used in times of business depression and unemployment; to promote the reemployment of unemployed workers throughout the State in every other way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

Sec. 11. R. S., T. 26 § 1221, sub-§ 10, ¶ E, amended. The first sentence of paragraph E of subsection 10 of section 1221 of Title 26 of the Revised

Statutes, as enacted by section 41 of chapter 538 of the public laws of 1971, is amended to read as follows:

The ~~commissioner~~ **Commissioner of Manpower Affairs**, in accordance with such regulations as ~~it~~ **he** may prescribe, shall notify each such employer of any determination which is made of its status as an employer and of the effective date of any election which it makes and any termination of such election.

Sec. 12. R. S., T. 26, § 1401, repealed and replaced. Section 1401 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 499 of the public laws of 1971, is repealed and the following enacted in place thereof:

§ 1401. Department; commissioner

There is created and established the **Department of Manpower Affairs** to achieve the most effective utilization of the manpower resources in the State by developing and maintaining an accountable state manpower policy by insuring safe working conditions and protection against loss of income and by enhancing the opportunities of the individual to improve his economic status to consist of a **Commissioner of Manpower Affairs** appointed by the Governor with the advice and consent of the Council for a term coterminous with that of the Governor subject to removal for cause and the following is heretofore created and established: The **Employment Security Commission**, the **Department of Labor and Industry**, the **Maine Manpower Advisory Committee**, the **Cooperative Area Manpower Planning System** and the **Manpower Development Training Program**.

The **Commissioner of the Department of Manpower Affairs** shall also be chairman of the **Employment Security Commission**. The commissioner shall 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 department personnel subject to the **Personnel Law**;
3. **Purchase.** Coordinate the purchase and use of all the department equipment; and
4. **Review.** Review the function and operation of the department to insure that overlapping functions and operations are brought to the attention of the Governor and Legislature.

Sec. 13. Amendatory provision. Wherever in the Revised Statutes, Title 26, the words "Department of Labor and Industry" appear, they shall mean the "Bureau of Labor and Industry within the Department of Manpower Affairs." Wherever the word "commissioner," meaning the "Commissioner of the Department of Labor and Industry" appears, it shall mean the "Director of the Bureau of Labor and Industry," except in the Revised Statutes, Title 26, chapter 13.

Sec. 14. Transitional provision. All existing regulations currently in effect and operation in the Department of Labor and Industry and the Maine Employment Security Commission or in any bureau, division, institution, ad-

ministrative unit or office thereof shall continue in effect, unless in conflict with this Act until rescinded, amended or changed.

“Regulation” shall include but is not limited to any regulation, rule, order, administrative procedure, policy, determination, directive, authorization, permit, license, privilege, requirement, designation or agreement.

Sec. 15. Funds and equipment transferred. Notwithstanding the Revised Statutes, Title 15, 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 the recommendation of the department head, the State Budget Officer and upon approval by the Governor and Executive Council.

Sec. 16. Effective date. This Act shall become effective July 1, 1972.