

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1341

S. P. 439

In Senate, March 12, 1973

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Brennan of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Creating County Civil Service Commissions for
Investigator Deputy Sheriffs.

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

Sec. 1. R. S., T. 30, c. 11, additional. Title 30 of the Revised Statutes is amended by adding a new chapter 11 to read as follows:

CHAPTER 11

COUNTY CIVIL SERVICE COMMISSIONS FOR
INVESTIGATOR DEPUTY SHERIFFS

§ 1401. Definitions

As used in this chapter, unless the context otherwise requires, the following words shall have the following meanings.

1. Appointing authority. "Appointing authority" means the sheriff of the county.
2. Commission. "Commission" means the county civil service commission for investigator deputy sheriffs.
3. Classified service. "Classified service" means all employment as a full-time investigator deputy sheriff within the county.
4. Eligible register. "Eligible register" means whatever type of book or other record which may be used, having thereon the names of persons qualified by examinations to fill positions in the classified service.

5. Employee. "Employee" means any full-time deputy holding a classified service position subject to appointment by the appointing authority but does not apply to the chief deputy.

§ 1402. Discrimination

No discrimination shall be made on account of political or religious opinions or affiliations or because of race or national origin, sex or marital status.

§ 1403. Personnel records

Every appointment, 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 the classified service shall be reported to the director at such time, in such form and together with such supporting or pertinent information as the commission shall by rule prescribe. The director shall maintain a perpetual roster of all employees in the classified service showing for each person such data as the commission deems pertinent.

§ 1404. Membership; terms; compensation

The county civil service commission for investigator deputy sheriffs shall be composed of 3 members appointed by the county commissioners and sheriff. The terms of the members shall be 3 years, except that for the first appointment there shall be appointed one for one year, one for 2 years and one for 3 years. Vacancies shall be filled for the full term of 3 years. The commission shall elect its own chairman biennially. The members of the commission shall receive \$25 a day for the time actually spent in the discharge of their duties and their necessary expenses.

§ 1405. Powers and duties

The commission shall have the following powers and duties:

1. Rules and regulations. Upon recommendation of the sheriff and after a commission hearing, to prescribe or amend rules and regulations relative to:

- A. Eligible registers;
 - B. Classification of positions in the classified service;
 - C. Examination for admission to the classified service;
 - D. Promotion in the classified service;
 - E. Provisional, emergency, exceptional and temporary appointments;
 - F. Probationary period;
 - G. Reinstatement;
 - H. Demotion;
 - I. Suspension, layoff and dismissal;
- which rules and regulations shall be in effect and have the force of law upon the approval of the county civil service commissioners.

2. Dismissals from classified service. To make investigations and report its findings and recommendations in cases of dismissal from the classified service.
3. Enforcement. To enforce through the director the rules and regulations made thereunder.
4. Report. To receive, review and transmit to the county commissioners and sheriff the annual report of the director. The report of the director may be supplemented by any additional comment, criticism or suggestion for the more effectual accomplishment of the purposes of this chapter that the commission may care to submit.
5. Minutes. To keep full and complete minutes of its proceedings, which shall, subject to reasonable regulations, be open to public inspection.
6. Hearings. In the course of any investigation through any member of the board, to have the power to administer oaths and to subpoena and require the attendance of witnesses and the production thereby of books, papers, public records and other documentary evidence pertinent to such investigation.

In the case of the refusal of any person to comply with any subpoena issued hereunder or to testify to any matter regarding which he may be lawfully interrogated, the Superior Court in the county on application of any one of the members of the commission or of the director, when authorized by the commission, may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey such order of the court may be punished by the court as contempt thereof.

§ 1406. Register of eligibility

The civil service commission shall prepare a register of persons eligible for appointment as employees in the classified service. The register shall consist of a list of all the persons who have shown by competitive tests, education and experience that they possess the qualifications which entitle them to be considered eligible for appointment as an employee. The register shall also contain the names of employees who have resigned or been dismissed, laid off or granted leaves of absence and whose names have been restored to the eligible register.

The names of all persons attaining the minimum final determined rates established by the director in advance of giving of the test shall be placed upon the register in order of their rates.

All persons competing in any test shall be given written notice of their final determination rates and of their relative standing upon the eligible register or of their failure to attain a place upon the register.

§ 1407. Classification plan

It shall be the duty of the director to ascertain and record the duties and responsibilities of all positions in the service and to establish classes for such

positions in conformity with regulations adopted therefor by the commission.

§ 1408. Compensation plan

The director shall, as soon as practicable after the adoption of the classification plan, submit to the commission a proposed plan of compensation showing for each class of position in the classified service minimum and maximum salary rates and such intermediate rates as he deems desirable.

When the compensation plan has become effective through its adoption by the commission, it shall constitute the official schedule of salaries for all classes of positions in the classified service. No position shall be assigned a salary greater than the maximum or less than the minimum rates fixed in the compensation plan. Salaries of persons holding positions in the classified service shall not be approved by paying authorities unless such salaries conform to the adopted compensation plan.

Salary advancements within an established range shall not be automatic but shall be dependent upon specific recommendation of the appointing officer and approval of the director and the commission. Such recommendation shall be based upon standards of performance as indicated by merit ratings or other pertinent data. No advancements in salary shall be made until the employee has completed the probationary period of 12 months.

§ 1409. Training programs

The director shall cooperate with reference to complying with the training laws of the State and in the conduct of employee training programs to the end that the quality of service rendered by persons in the classified service may be continually improved.

§ 1410. 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 commission.

§ 1411. Composition of classified service

Appointments to and promotions in the classified service shall be made according to merit and fitness from eligible lists prepared upon the basis of examinations which so far as practicable shall be competitive.

§ 1412. Filling of positions

Positions in the classified service shall be filled by original appointment, promotion, reinstatement or demotion in pursuance of rules and regulations established by the commission and administered by the director.

§ 1413. Examinations

All examinations for positions in the classified service shall relate to those matters which will fairly test the capacity and fitness of the persons examined to discharge the duties of the employment sought by them, but due regard shall be shown for the capacity of the applicant for promotion to higher positions in the service.

The director, subject to the approval of the commission, 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 commission 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 commission.

§ 1414. Veterans' preference

In making appointments to any position in the classified service, preference in appointment shall be given to honorably discharged veterans and any applicant completing a certified course in criminal justice. The commission by regulation shall determine the percentage of preference to be given to veterans and graduates of certified criminal justice courses who are able-bodied.

§ 1415. Probationary period; permanent appointment

All original appointments to the classified service shall be for a probationary period. The duration of such probationary period shall be determined by the director, but in no case shall it be for less than 6 months.

§ 1416. Temporary and provisional appointments

Whenever it is impossible to certify eligible persons for appointment to a vacancy in the classified service, the appointing authority may nominate a person to the director. If such nominee is found by the director to have had experience and training which appear to qualify him for the position, he may be temporarily appointed to fill such vacancy but only until an appropriate eligible register can be established and an appointment made therefrom. In no event shall a temporary appointment be continued for more than 3 months. Successive temporary appointment of the same person shall not be made. Not more than one temporary appointment shall be made to any position within any 12-month period.

§ 1418. Dismissal and disciplinary action

An appointing authority may dismiss, suspend or otherwise discipline a classified employee for cause. In every case of such dismissal, suspension or other disciplinary action, at the request of the employee, the commission shall investigate the circumstances relating to the action and the fairness thereof, and if it shall find the charges unwarranted, the commission shall order the immediate reinstatement of the affected employee to his former position with no loss of pay, seniority or other rights and benefits resulting from the dis-

missal or disciplinary action. At the request of the employee, the commission may recommend the transfer of the employee to the same or similar class of position in another department or institution. Such transfer shall be made to such department or institution only with the approval of the appointing authority thereof.

At the request of the employee, the commission shall investigate the circumstances relating to an action of an appointing authority which lays off, demotes or otherwise deprives an employee of rights established by rules, and if it shall find the action to be contrary to the rules, the commission shall order the immediate reinstatement of the employee to his former position with no loss of pay, seniority or other rights or benefits resulting from such action.

§ 1418. Solicitation of political campaign contributions

No officer or employee in the classified service shall, directly or indirectly, solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution or political service, whether voluntary or involuntary, for any political purpose whatever from any person.

Sec. 2. Effective date. This Act shall become effective on January 1, 1974 only for the purpose of allowing county civil service commissions for investigator deputy sheriffs to implement the procedures set out in the law and to allow the appointment of county civil service commissions. This Act shall become completely operative on January 1, 1975, and shall apply to investigator deputy sheriffs who are newly appointed on and after that date; and, to deputy sheriffs who are serving in said capacity on December 31, 1974 and who are reappointed on January 1, 1975, if their eligibility is within the law when it becomes effective.

STATEMENT OF FACT

This Act will insure continuity of fully trained and qualified investigator deputy sheriffs and provide security for those deputy sheriffs in the event the sheriff leaves office.

Deputy sheriffs are subject to mandatory training (T. 25, § 2805) for a minimum of 6 weeks. The current academy basic training course is 8 weeks and by the effective date of this Act it is anticipated to be 12 weeks.

The public deserves this qualified trained protection and the deputy sheriff, as any municipal or state law enforcement officer, has the sworn responsibility of upholding the Constitution and protecting life and property.

This Act will provide this continued qualified protection in areas dependent upon the deputy sheriff and will remove him from the politics of the office. This will also provide, by amendment, the vehicle for all county employees to be provided this employment protection if so desired.