

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2381

S. P. 840

In Senate, January 18, 1974

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Speers of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FOUR

AN ACT Relating to Examining and Certifying Boards.

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

Sec. 1. R. S., T. 4, § 801, amended. The first paragraph of section 801 of Title 4 of the Revised Statutes, as repealed and replaced by section 1 of chapter 286 of the public laws of 1971, is amended to read as follows:

To assist the Supreme Judicial Court, and as a part of the Judicial Department, a ~~The~~ Board of Examiners for the Examination of Applicants for Admission to the Bar, as heretofore established and hereinafter in this chapter called the "board," shall be composed of ~~5~~ 7 competent lawyers of the State and shall consist, as of the effective date of this legislation, of the 7 lawyers who now serve as the members and additional members of the board, who shall serve for the remainder of the terms for which they have been appointed; as the terms of the present and future members expire, one or more ~~member~~ members of said board shall be appointed annually by the Governor on the recommendation of the Chief Justice of the Supreme Judicial Court and shall hold office for the term of 5 years beginning on the first day of September of each year. Vacancies occurring from death, resignation, removal or inability to act shall be filled in like manner for the unexpired term. ~~In addition to the 5 members of the board, 2 additional members of the board shall be appointed, in the first instance one for a term ending August 31, 1973 and one for a term ending August 31, 1975, by the Governor on the recommendation of the Chief Justice of the Supreme Judicial Court, and that after the initial terms, each subsequently appointed additional member shall hold office for the term of 5 years beginning on the first day of September of the year con-~~

cerned. ~~Vacancies occurring from death, resignation or removal or inability to act of an additional member shall be filled in like manner for the unexpired term. The additional members of the board shall assist the board in the performance of its duties from time to time as the chairman of the board shall deem appropriate.~~ The board shall hold at least 2 sessions annually at such times and places in the State as the board shall determine and the Supreme Judicial Court shall approve for the purpose of examining all applicants for admission to the bar, as to their legal learning and general qualifications to practice in the several courts of the State as attorneys and counselors at law and solicitors and counselors in chancery. Upon such examination being had, the board shall issue to each applicant who shall pass the required examinations and satisfy all other requirements of this chapter a certificate of qualification stating the standing of the applicant and recommending his admission to the bar. The members of the board shall elect from their number a secretary and a chairman who may, but need not, be the same person and shall make such rules and regulations relative to the performance of the duties of the board and to the examinations which the board conducts as to them may seem proper. ~~Three~~ Four members of said board shall constitute a quorum for the transaction of business.

Sec. 2. R. S., T. 4, § 801, amended. The 3rd paragraph of section 801 of Title 4 of the Revised Statutes, as repealed and replaced by section 1 of chapter 286 of the public laws of 1971, is amended to read as follows:

The members of the board ~~and the additional members of the board~~ shall each receive as compensation for their services ~~\$10~~ \$40 a day for the time actually spent and their necessary expenses incurred in the discharge of their duties, to be certified by the secretary of the board.

Sec. 3. R. S., T. 4, § 804, amended. The first sentence of section 804 of Title 4 of the Revised Statutes, as amended by section 3 of chapter 550 of the public laws of 1973, is repealed and the following enacted in place thereof:

In addition to the foregoing requirements, each applicant shall produce to the said board satisfactory evidence that he has graduated from a law school approved by said board, provided that any person otherwise qualified may qualify to take the bar examinations upon proof that he has successfully completed $\frac{2}{3}$ of the requirements for graduation from a law school approved by said board, and thereafter has pursued the study of law in the office of some attorney within the State of Maine for at least one year.

Sec. 4. R. S., T. 4, § 804, amended. The 2nd sentence of section 804 of Title 4 of the Revised Statutes is repealed.

Sec. 5. R. S., T. 4, § 805, amended. The last paragraph of section 805 of Title 4 of the Revised Statutes, as amended by section 4 of chapter 286 of the public laws of 1971, is repealed.

Sec. 6. R. S., T. 5, § 2301, sub-§ 1, amended. The 2nd through the 21st paragraphs of subsection 1 of section 2301 of Title 5 of the Revised Statutes, as amended, are repealed and the following enacted in place thereof:

Aeronautical Director;

The Arborist Examining Board ;
Board of Barbers ;
Board of Chiropractic Examination ;
Board of Cosmetology ;
Board of Dental Examiners ;
Board of Environmental Protection ;
Board of Examiners in Physical Therapy ;
Board of Examiners of Psychologists ;
Board of Funeral Service ;
Board of Hearing Aid Dealers and Fitters ;
Board of Licensure of Administrators of Medical Care Facilities other than
Hospitals ;
Board of Osteopathic Examination ;
Board of Registration for Architects ;
Board of Registration for Land Surveyors ;
Board of Registration for Professional Engineers ;
Board of Registration in Medicine ;
Board of Registration in Optometry ;
Board of Registration of Nurses ;
Board of Sanitation ;
Board of Social Worker Registration ;
Board of Veterinary Examiners ;
Boxing Commission ;
Chief of State Police, but only as he controls and supervises the licensing
of official inspection stations ;
Commission on the Arts and Humanities ;
Commissioners of the Profession of Pharmacy ;
Department of Health and Welfare, but only as that department controls
and supervises the licensing of institutions, businesses or individuals in
the following categories :

Sec. 7. R. S., T. 32, c. 1-A, additional. Title 32 of the Revised Statutes
is amended by adding a new chapter 1-A, to read as follows :

CHAPTER 1-A

BOARDS AND COMMISSIONS — GENERAL PROVISIONS

§ 58. Public members

Notwithstanding any other statutory provisions to the contrary, there is added one public member to each of the boards and commissions enumerated in this section. Such public member shall represent the consumer interest of the citizens of the State and shall be appointed by the Governor, with the approval of the Executive Council, for a term not inconsistent with the terms for other members of the respective boards and commissions.

This section shall apply to the following boards and commissions: The Board of Accountancy; the Arborist Examining Board; the Board of Registration for Architects; the Board of Examiners of Applicants for Admission to the Bar; the Board of Barbers; the Board of Chiropractic Examination and Registration; the Board of Dental Examiners; the Electricians Examining Board; the Board of Registration for Professional Engineers; the Board of Funeral Service; the Board of Cosmetology; the Board of Hearing Aid Dealers and Fitters; the Board of Registration in Medicine; the Board of Registration of Nurses; the Oil Burner Men's Licensing Board; the Board of Examination and Registration in Optometry; the Board of Osteopathic Examination and Registration; the Board of Commissioners of the Profession of Pharmacy; the Board of Examiners in Physical Therapy; the Plumbers' Examining Board; the Examiners of Podiatrists; the Board of Examiners of Psychologists; the Board of Social Worker Registration; the Board of Registration for Land Surveyors; the Board of Veterinary Examiners.

§ 59. Compensation

Notwithstanding any statutory provision to the contrary, the members of the boards and commissions of this section shall receive as compensations for their services \$40 a day for the time actually spent and their necessary expenses incurred in the discharge of their duties. Nothing in this section shall be deemed to extend such compensation to persons presently excluded because employed in State Government. Nothing in this section shall affect the limitations on the number of days for which members may be paid or the maximum amount to be received in any year by any member. Nothing in this section shall affect salaries presently received by members or employees of the boards and commissions of this section.

This section shall apply to the following boards and commissions: The Board of Accountancy; the Arborist Examining Board; the Board of Registration for Architects; the Board of Examiners of applicants for Admission to the Bar; the Board of Barbers; the Board of Chiropractic Examination and Registration; the Board of Dental Examiners; the Electricians Examining Board; the Board of Registration for Professional Engineers; the Board of Funeral Service; the Board of Cosmetology; the Board of Hearing Aid Dealers and Fitters; the Board of Registration in Medicine; the Board of Registration of Nurses; the Oil Burner Men's Licensing Board; the Board of Examination and Registration in Optometry; the Board of Osteopathic

Examination and Registration; the Board of Commissioners of the Profession of Pharmacy; the Board of Examiners in Physical Therapy; the Plumbers Examining Board; the Examiners of Podiatrists; the Board of Examiners of Psychologists; the Board of Social Worker Registration; the Board of Registration for Land Surveyors; the Board of Veterinary Examiners.

STATEMENT OF FACT

This Act is intended to implement recommendations 4, 8 and 15 of the Management and Cost Survey affecting certain examining and certifying boards.

A public member is appointed to each board which presently lacks such a member. This recommendation is intended to make the boards more responsive to the public in whose interest they exist.

Several of the boards not presently utilizing the services of the Administrative Court Judge are added to those included in the Administrative Code. The Administrative Court Judge would hear suspension and revocation cases. Sections 5 and 6 of this bill specify that the Board of Bar Examiners is a part of the Judicial Department and creates a 7-member board appointed by the Governor, and increases the per diem figure. Also, the legislation proposes to eliminate the present statutory provision requiring any applicant who has failed 2 examinations to wait 11 months before he can again take an examination, and to repeal certain historic educational standards which no longer have pertinence. This clarification of administration of the Board of Bar Examiners is closely related to the inclusion of other boards under the Administrative Code. For this reason, the Governor suggests these sections be added to implement the recommendations more fully.

Per diem payments for members of the several boards and commissions are standardized. This is intended to simplify payments, reduce status problems and improve attitude toward board members.

This Act was supported by the Governor in his Special Message to the Special Session of the 106th Legislature on January 10, 1974.