

# MAINE STATE LEGISLATURE

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# ONE HUNDRED AND SEVENTH LEGISLATURE

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**Legislative Document**

**No. 1427**

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H. P. 1124

House of Representatives, March 24, 1975

On motion of Mr. Cooney of Sabattus, referred to the Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Farnham of Hampden.

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## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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### AN ACT to Reorganize the Department of Personnel.

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

Sec. 1. 5 MRSA § 591, as amended by PL 1967, c. 476, § 11, is repealed and the following enacted in place thereof:

§ 591. Membership; term; compensation

The State Personnel Board, as heretofore established, shall be composed of 3 members, no more than 2 of whom shall be of the same political party. The members shall not be state employees and not representative of either the employees or the State and shall be appointed by the Governor with the advice and consent of the Executive Council. One member of the board shall be designated by the Governor as chairperson. Each member shall be appointed for 3 years, or until his successor has been appointed and qualified, except that of the 3 members first appointed, the chairperson shall be appointed for 3 years, one member shall be appointed for 2 years and the 3rd member shall be appointed for one year. Any vacancies shall be filled within 60 days by the Governor, with the advice and consent of the Executive Council, for the unexpired portion of the term.

The qualifications for members of the State Personnel Board shall be demonstrated experience and expertise in personnel management.

Secretarial assistance to the State Personnel Board shall be provided by the Director of Personnel and the minutes of the meetings of the board shall be recorded, reproduced and copies shall be made available to the Governor and shall be open to public inspection.

The members of the State Personnel Board shall receive \$20 a day for the time actually spent in the discharge of their duties and their necessary expenses.

Within 60 days after the effective date of this Act, the Governor, with the advice and consent of the Executive Council, shall appoint the 3 members of the board. Until these appointments are made, the present board members will continue to serve.

Sec. 2. 5 MRSA § 592, as amended by PL 1973, c. 625, § 20, is repealed and the following enacted in place thereof:

§ 592. Powers and duties

The State Personnel Board shall review the personnel policies and personnel administration of the State and make such recommendations and render advice relative to the operation of the state's personnel administration, as they deem advisable, to the Governor and the Director of Personnel. A record of said recommendations and said advice shall be maintained by the Director of Personnel. Within 30 days after the filing of a recommendation or advice with the Governor, the State Director of Personnel shall file with the Governor his response to said recommendation or advice.

Sec. 3. 5 MRSA § 593 is enacted to read:

§ 593. Appeals to the board

Any employee or appointing authority aggrieved by the determination of the Director of Personnel concerning the classification of positions, the allocation of new positions or the reallocation of existing positions in the classified service may appeal from such determination to the State Personnel Board. Such appeal must be made within 30 days after receipt of written notice of such determination from the director. Such employee or appointing authority or their representatives shall be afforded a public hearing before the board with an opportunity to present facts and arguments in support of or in relation to such appeal at a time and place and in such manner as may be prescribed by the board. The board shall examine and review such appeal and, upon the vote of at least 2 of its members, make such changes in classification, allocation or reallocation as may be just and equitable. Determinations of the board shall be transmitted to the State Budget Officer, the Director of Personnel and the employees and department heads affected thereby.

Any classification of a position and any allocation or reallocation of a position made by the director or the State Personnel Board pursuant to the provisions of this section shall become effective on the first day of the fiscal year following approval by the State Budget Officer and the appropriation of funds therefor, except that the State Budget Officer may, if sufficient funds exist in his discretion, authorize an effective date prior to the first day of the ensuing fiscal year.

Sec. 4. 5 MRSA § 631 is repealed and the following enacted in place thereof:

§ 631. Qualifications; tenure; powers and duties

The Director of Personnel shall be, at the time of his appointment, a person thoroughly familiar with the principles and experienced in the methods and techniques of personnel administration on the merit basis. The director shall be appointed by the Governor, with the advice and consent of the Executive Council, and shall serve a term coterminous with that of the Governor or until his successor has been appointed and qualified.

The director shall have the following powers and duties:

1. Rules and regulations. After a public hearing, and subject to the requirements of chapters 51 to 61, to prescribe or amend rules and regulations relative to:

- A. Eligible registers,
- B. Classification of positions in the classified service,
- C. Compensation plan,
- D. Examination for admission to the classified service,
- E. Promotion in the classified service,
- F. Provisional, emergency, exceptional and temporary appointments,
- G. Probationary period,
- H. Transfer,
- I. Reinstatement,
- J. Demotion,
- K. Suspension, layoff and dismissal,
- L. Leave of absence, resignation, hours of service, vacations and sick leave,
- M. Personnel records,
- N. In-service training,
- O. Service ratings, and
- P. Certification of payrolls;

which rules and regulations shall be in effect and have the force of law upon the approval of the Governor.

2. Investigations. To make investigations either at the direction of the Governor or the Legislature, or upon the petition of an employee or a citizen or on his own motion concerning the enforcement and effect of chapters 51 to 61.

3. Enforcement. To enforce the observance of chapters 51 to 61 and the rules and regulations made thereunder.

4. Report. To transmit an annual report to the Governor.

5. Minutes. To keep full and complete minutes of his proceedings, which shall be recorded and reproduced and copies shall be made available to the Governor and shall be open to public inspection.

6. Hearings. In the course of any investigations under chapters 51 to 61, 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 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 any county, on application of the director, 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 a contempt thereof.

7. Advisory council. The Director of Personnel shall be the chairperson of an advisory council for personnel operations, consisting of all state department heads. The advisory council shall meet at least 4 times a year or upon call of the director to discuss the effectiveness of personnel management and methods of improving it. The advisory council shall give counsel and advice to the director in relation to the overall administration of the merit system in State Government.

8. Organization and decentralization. To organize the department and separate it into such divisions and along such functional lines as the director may deem most efficient and decentralize the functions of personnel management among the various departments and agencies of the State to the maximum extent feasible, and to perform those functions which cannot be decentralized effectively.

#### STATEMENT OF FACT

The purpose of this bill is to reorganize the Department of Personnel. The Director of Personnel will be appointed by the Governor for a coterminous period and he shall exercise the principal powers and duties of the department. An impartial 3-member Personnel Board will advise the Governor and director and hear appeals from decisions of the director in matters of classification and allocation. This bill was supported by the Governor in his legislative address to the 107th Legislature.