

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
107TH LEGISLATURE

(Filing No. H-785)

COMMITTEE AMENDMENT "A" to H.P. 1469, L.D. 1813, Bill,
"AN ACT to Create the Department of State Police."

Amend said Bill by striking out all of the Title and
inserting in place thereof the following:

'AN ACT to Reorganize the Department of Public Safety.'

Further amend said Bill by striking out everything after
the Title and inserting in place thereof the following:

Emergency preamble. Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

Whereas, the Department of Public Safety has been a department
of State government for a sufficient time to evaluate the strengths
and weaknesses of its operation; and

Whereas, legitimate questions have been raised concerning
the organization of the department and the operation of its
bureaus and agencies; and

Whereas, it is necessary to strengthen the department to
assure the safety and well-being of Maine citizens and the
efficient management of law enforcement responsibilities of the
State; and

Whereas, an opportunity has now occurred to carry out improve-
ments in the organization of the department with minimum dis-
placement of personnel; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 10 MRSA §8001, first ¶, as last repealed and replaced by PL 1973, c. 788, §43, is amended to read:

§8001. Department; commissioner

There is created and established the Department of Business Regulation to regulate financial institutions and transactions and protect depositors, to regulate the business of insurance in the State, to regulate commercial sports, to award just compensation in land condemnations, to license electricians and oil burner men and to regulate real estate brokers and salesmen. The administrative head of said department shall be the Commissioner of Business Regulation, who shall be appointed by the Governor with the advice and consent of the Council to serve a term coterminous with that of the Governor subject to removal for cause by the Governor and Council and said department shall be composed of the following bureaus, commissions and board boards, as heretofore created and established: The Bureau of Banks and Banking, formerly the

Department of Banks and Banking; the Bureau of Insurance, formerly the Department of Insurance, except the Fire Prevention Division thereof; the Real Estate Commission; the Boxing Commission; ~~the Running Horse Racing Commission/~~ ^{-and-;} the Land Damage Board; the Electricians' Examining Board and the Oil Burner Men's Licensing Board.

Sec. 2. 10 MRSA §8002, last ¶, as last repealed and replaced by PL 1973, c. 585, §4, is amended to read:

The commissioner shall not have the authority to exercise or interfere with the exercise of any discretionary statutory authority granted to the following, which authority shall be exclusively within the specific bureau, commission or board:
The Bureau of Banks and Banking, formerly the Department of Banks and Banking; the Bureau of Insurance, formerly the Department of Insurance; the Real Estate Commission; the Boxing Commission; the Running Horse Racing Commission; ~~and~~ the Land Damage Board; the Electricians' Examining Board and the Oil Burner Men's Licensing Board.

Sec. 3. 25 MRSA §1501 as last amended by PL 1971, c. 592, §6, is repealed and the following enacted in place thereof:

§1501. Chief; deputy; members of force; rules and regulations

The Commissioner of Public Safety, with the advice and consent of the Governor and Council, shall appoint a Chief of the State

Police, as heretofore appointed, to serve for a term of 4 years unless removed for cause. Such appointment shall be made from the commissioned officer ranks of the State Police. He may be removed by the Commissioner of Public Safety, with the approval of the Governor and Council, only after charges have been preferred in writing and, if he so requests, after public hearing.

of the State Police

The Chief shall be the executive head of the Bureau of State Police, as heretofore established, and shall execute the duties of his office under the direction and subject to the approval of the Commissioner of Public Safety. In the absence of the Commissioner of Public Safety, the Chief of the State Police shall assume the duties and shall have the authority of the commissioner, except that he shall have no authority to change any general rules and regulations unless he is serving in the capacity of acting commissioner as a result of the death, removal, extended leave of absence or resignation of the commissioner.

Subject to the approval of the Commissioner of Public Safety, the chief may designate a commissioned officer of the State Police to act as his deputy and serve in such capacity a term continuous with that of the chief, subject to removal for cause. Subject to the Personnel Law, the Chief of the State Police may enlist suitable persons as members of the State Police to

enforce the law and employ such other employees as may be necessary. The Chief of the State Police shall make rules and regulations, subject to the approval of the Personnel Board, for the discipline and control of the State Police.

It is the intent of the Legislature that the Governor may in his discretion appoint the same person to serve as Commissioner of Public Safety and Chief of the Maine State ^{the} Police. In this event, the Chief of State Police shall be 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 by the Governor and Council. Such appointment may be made from the commissioned officer membership of the State Police. In the event that the Commissioner of Public Safety and the Chief of the State Police are the same person, the commissioner shall receive only the salary designated for the Commissioner of Public Safety.

Sec. 4. 25 MRSA §2396, first 2 sentences, as last repealed and replaced by PL 1973, c. 632, §6, are amended to read:

←The office of State Fire Marshal is hereby established as a bureau within the Department of Public Safety. The Commissioner of Public Safety ~~is authorized and empowered to~~ shall appoint, ~~subject to the Personnel Law a suitable person~~ AN STATE

~~-and-~~

Fire Marshal/a person experienced in fire prevention work, who may be removed for cause by the commissioner. The State Fire Marshal shall appoint, subject to the Personnel Law, such inspectors and other employees as may be necessary to carry out the duties assigned to his office.

repealed and replaced
Sec. 5. 25 MRSA §2801, as / by PL 1973, c. 136, §1,
is amended to read:

§2801. Maine Criminal Justice Academy; purpose

There is created within the Department of Public Safety a law enforcement and criminal justice training facility to be known as the "Maine Criminal Justice Academy" which shall be established at some convenient and suitable place in the Augusta area ~~as the board of trustees, hereinafter established may determine.~~

The purpose of the Maine Criminal Justice Academy shall be to provide a central training facility for all law enforcement personnel of the state and also for criminal justice personnel. The academy shall serve to promote the highest levels of professional law enforcement performance and to facilitate coordination and cooperation between various law enforcement and criminal justice agencies.

Sec. 6. 25 MRSA §2802, 1st ¶, as last repealed and replaced by PL 1971, c. 592, §11, is amended to read:

§2802. Board of trustees

There is created a board of trustees for the academy consisting of ~~11~~ 12 members as follows: The Commissioner of Public Safety, ex officio, the Attorney General, ex officio, and the following to be appointed by the Governor with the advice and consent of the Council: A commissioned officer of the State Police, A a county sheriff, ~~3 other persons who shall be~~ a chief of a municipal police department, 2 officers of municipal police departments, an educator, a representative from a criminal justice agency not involved in the general enforcement of Maine criminal laws, a representative of a federal law enforcement agency, a citizen and a municipal officer.

Sec. 7. 25 MRSA, §2803, as last amended by PL 1973, c. 327, §1, is repealed and the following enacted in place thereof:

§2803. Powers and duties ~~The board of trustees of the academy shall have the following powers and duties:~~

1. Training and certification of deputy sheriffs and local law enforcement officers. In accordance with the provisions of section ²⁸⁰⁵ ~~to set standards for admission to the academy, set requirements for graduation from the academy, prescribe curriculum and certify graduates of the academy;~~

2. Training and certification of sheriffs. To establish suitable training programs for sheriffs within the curriculum, set requirements for graduation of sheriffs from the academy and certify sheriffs who graduate from the academy;

3. Training and certification of State Police enlisted personnel. With the approval of the Chief of ^{the} State Police, to establish suitable training programs for enlisted personnel of the State Police and set requirements for graduation of such personnel from the academy. The board shall certify State Police enlisted personnel who graduate from the academy;

4. Other training programs. To establish, within the limits of funds available and with the approval of the commissioner, additional training programs considered to be beneficial to law enforcement officers and criminal justice personnel;

5. Establish fees. To establish, with the approval of the commissioner, reasonable fees for attendance in order to defray part of the costs of operation of the academy;

6. Formulate a budget. To formulate a budget for the academy, which shall be presented to the commissioner for his approval and inclusion in the budget of the Department of Public Safety;

7. Accept funds and grants. With the approval of the commissioner, to accept such federal funds or grants as may be available to carry out the purposes of the Academy; and

8. Acquire facilities. With the approval of the commissioner, to lease, rent or acquire adequate facilities to conduct the academy's training programs.

Sec. 8. 25 MRSA §2804, last sentence, as last amended by PL 1971, c.241, is further amended to read:

The board shall organize annually by electing a chairman, vice-chairman and secretary ~~and a treasurer~~ from among its members.

Sec. 9. 25 MRSA §2804-A, is enacted to read:

§2804-A. Director; appointment; powers and duties

The Commissioner of Public Safety, with the approval of the board of trustees, shall appoint a director, who shall be the administrator of the academy. Qualifications of the director shall be established by the commissioner and the board jointly. The salary of the director shall be established by the commissioner and the board jointly. The director may be dismissed for cause by the commissioner with the approval of the board.

The director shall have the duty to plan, direct and supervise the day-to-day operation of the academy and shall be charged with the responsibility of carrying out the policy and procedures established by the board.

The director shall employ, within the limits of funds available, with the approval of the board and the commissioner and subject to the Personnel Law, such personnel as may be reasonably necessary to carry out the purposes of the academy.

and replaced
Sec. 10. 25 MRSA §2901, as repealed / by PL 1973, c. 788,

§113, is amended to read:

§2901. Department; commissioner

There is hereby created and established the Department of Public Safety to coordinate and efficiently manage the law enforcement responsibilities of the State of Maine, to consist of the Commissioner of Public Safety, who shall be appointed by the Governor with the advice and consent of the Council to serve a term coterminous with that of the Governor, subject to removal for cause by the Governor and Council and the following as heretofore created and established: ~~The Bureau of State Police, the Enforcement-Division-within-the-Department of-Public-Safety~~ Bureau of Liquor Enforcement, the Office of the State Fire Marshal and the Maine Criminal Justice Academy.

Sec. 11. 25 MRSA §2901-A, is enacted to read:

§2901-A. Duties of commissioner ~~The commissioner shall be the chief executive officer of the Department of Public Safety. He shall coordinate and supervise the activities and programs of the bureaus and agency which are part of the department; undertake comprehensive planning and analysis with respect to the functions and responsibilities of the department; and develop and implement, whenever necessary, procedures and practices to promote economy and coordination within the department.~~

From time to time, he shall recommend to the Governor and Legislature such changes in the laws relating to the organization, functions, services or procedures of the agency and bureaus of the department as he shall deem desirable. The commissioner shall prepare a budget for the department.

Sec. 12. 25 MRSA §2902, as last amended by PL 1973, c. 788, §114, is repealed and the following enacted in place thereof:

§2902. Organization

The Commissioner ^{of Public Safety} /shall organize the Department of Public Safety > into the Maine Criminal Justice Academy and the following bureaus:

1. Bureau of State Police. The Bureau of State Police, which shall be under the direction of the Chief of ^{the} State Police;
2. Office of State Fire Marshal. The Office of State Fire Marshal, which shall be under the direction of the State Fire Marshal; and
3. Bureau of Liquor Enforcement. The Bureau of Liquor Enforcement, which shall be under the direction of the Director of Liquor Enforcement.

Sec. 13. 28 MRSA, §55, sub-§14, first 4 sentences, as last amended by PL 1971, c. 592, §§17 and 18, are repealed and the following enacted in place thereof:

← The enforcement division of the State Liquor Commission shall be the Bureau of Liquor Enforcement within the Department of Public Safety as heretofore created. The Commissioner of Public Safety shall appoint as director of the Bureau of Liquor Enforcement a person experienced in law enforcement or enforcement of liquor laws, who may be removed for cause by the commissioner. The director, subject to the personnel law, may appoint as many inspectors as may be found necessary. The inspectors shall be under the direct supervision and control of the director.

Sec. 14. 32 MRSA, §1151, first sentence, as last repealed and replaced by PL 1973, c. 363, is amended to read:

An Electricians' Examining Board, as heretofore established and in this chapter called the "board," shall consist of an executive secretary, who shall be the Commissioner of Public Safety Business Regulation or a representative appointed by said commissioner, with the approval of a majority of the board, hereinafter called the "appointive members," who shall be appointed by the Governor with the advice and consent of the Council.

Sec. 15. 32 MRSA §1152, first and (second) sentences, as last repealed and replaced by PL 1973, c. 363, are amended to read:

←The Commissioner of Public-Safety Business Regulation, with the advice and consent of the board, shall be empowered to appoint, subject to the Personnel Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the Department of Public-Safety Business Regulation and under the administrative and supervisory direction of the Commissioner of Public-Safety Business Regulation.

Sec. 16. 32 MRSA §2351, first sentence, as last repealed and replaced by PL 1973, c. 384, is amended to read:

An Oil Burner Man's Licensing Board, as heretofore established and in this chapter called the "board," shall consist of an executive secretary, who shall be the Commissioner of Public--Safety Business Regulation or a representative appointed by said commissioner, with the approval of a majority of the board, and 4 other members, hereinafter called the "appointive members," who shall be appointed by the Governor with the advice and consent of the Council.

Sec. 17. 32 MRSA §2352, first ¶, first and (second) sentences, as last repealed and replaced by PL 1973, c. 384, are amended to read:

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COMMITTEE AMENDMENT "A" to H.P. 1469, L.D. 1813

-14-

The Commissioner of Public-Safety Business Regulation, with the advice and consent of the board, shall be empowered to appoint, subject to the Personnel Law, such employees as may be necessary to carry out this chapter. Any persons so employed shall be located in the Department of Public-Safety Business Regulation and under the administrative and supervisory direction of the Commissioner of Public-Safety Business Regulation.

Sec. 18. 32 MRSA §3805, first sentence, as enacted by PL 1971, c. 582, §1, is amended to read:

An application for a license to engage in the private detective business or a license to engage in the business of watch, guard or patrol agency shall be filed with the Governor Chief of the State Police on forms furnished by him, and statements of fact therein shall be under oath of the applicant.

Sec. 19. 32 MRSA §3805, as enacted by PL 1971, c. 582, §1, is amended by adding at the end a new sentence, to read:

The Chief of the State Police shall process such applications and review the applicants to assure compliance with the provisions of this section and shall present such applications, with his findings, to the Governor.

Sec. 20. 32 MRSA §3806, 3rd ¶, last sentence, as enacted
by PL 1971, c. 582, §1, is amended to read:

An application for a ^{the} renewal shall be on a form furnished by
the Governor Chief of State Police and the information contained
in such application shall be reviewed by the chief for continued
compliance with the provisions of ^{section} 3805 before such application
is submitted to the Governor.

Sec. 21. Terms of Board of Trustees of the Maine Criminal
Justice Academy.

↳ Notwithstanding the provisions of Title 25, section 2802,
when the Governor next appoints members to the board of trustees
of the Maine Criminal Justice Academy, he shall appoint for
terms as follows: a commissioned officer of the State Police,
a municipal police officer, a representative from a criminal
justice agency not involved in the general enforcement of Maine
criminal laws, and a representative from a federal law
enforcement agency to a one-year term; a county sheriff, a
municipal police officer and a municipal officer to a 2-
year term; a chief of a municipal police department, an educator
and a citizen to a 3-year term. At the conclusion of these
terms, all appointments shall be for 3-year terms as provided
in section 2805.

Sec. 22. Transitional provisions. All existing rules and regulations currently in effect and operation on the effective date of this Act in any agency or board referred to in this Act shall continue in effect until rescinded, amended or changed according to law.

The term "regulation" shall include, but is not limited to, any regulation, rule, order, administrative procedure, policy determination, directive, authorization, permit, license, privilege, form, blank, requirement, designation or agreement.

All employees of the Electricians' Licensing Board and the Oil Burner Men's Licensing Board are, on the effective date of this Act, transferred to the Department of Business Regulation and shall continue in their employment after such effective date without interruption of state services.

Notwithstanding the Revised Statutes, Title 5, ~~Section~~ 1585, all accrued expenditures, assets, liabilities, transfers, revenues or other available funds in any account or subdivision of an account of the Electricians' Examining Board and the Oil Burner Men's Licensing Board shall be transferred to the Department of Business Regulation by the State Controller, upon recommendation of the department head, the State Budget Officer and upon approval by the Governor and Council.

Emergency Clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.'

Statement of Fact

The purpose of this amendment is to make several organizational changes in the Department of Public Safety. Some of these changes were recommended by a Task Force appointed by the Governor to study the organization of the department and to make recommendations to the Governor on the subject.

Changes proposed are as follows: The Electricians' Examining Board and the Oil Burner Men's Licensing Board are moved to the Department of Business Regulation; the Chief of State Police is made Deputy Commissioner of the Department of Public Safety in the absence of the Commissioner; the Fire Marshal is made an unclassified officer to be appointed by the Commissioner; the relationship of the Maine Criminal Justice Academy to the Department of Public Safety and the duties of the Board of Trustees of the Academy are more clearly defined; the Director of the Academy is made an unclassified officer, to be appointed by the Commissioner with the consent of the Board of Trustees; the structure of the Department of Public Safety is more clearly outlined in the statutes, although not changed except as noted in this statement; the Director of the Bureau of Liquor Enforcement has been made an unclassified officer to be appointed by the Commissioner; processing of applications for watch, guard and patrol agencies (which are

licensed by the Governor) has been assigned to the Bureau of State Police; and staggered terms for the trustees of the Criminal Justice Academy have been established.

Reported by the Committee on State Government.

Reproduced and distributed under the direction of the Clerk of the House.
6/18/75

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