

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
107TH LEGISLATURE
FIRST SPECIAL SESSION

(Filing No. H-1167)

HOUSE AMENDMENT "C" to COMMITTEE AMENDMENT "A" to H.P. 1997, L.D. 2197, Bill, "AN ACT Redistributing the Powers of the Executive Council."

Amend said Amendment by inserting after the 3rd paragraph the following:

'Further amend said Bill in section 11 by inserting after that part designated "§152." a new section to read:

§153. Terms of certain officers; dismissals

1. Application. The tenure of office of the following officers is subject to the provisions of this section:

A. The Commissioner of Finance and Administration; the Commissioner of Agriculture; the Commissioner of Business Regulation; the Commissioner of Inland Fisheries and Wildlife; the Commissioner of Marine Resources; the Commissioner of Conservation; the Commissioner of Educational and Cultural Services; the Commissioner of Human Services; the Commissioner of Transportation; the Commissioner of Public Safety; the Commissioner of Manpower Affairs; the Commissioner of Mental Health and Corrections and the Commissioner of Environmental Protection.

2. Tenure. The officers described in subsection 1 shall be subject to removal from office within one year after the date of the final action of their confirmation by the Senate only in accordance with the procedure in this section. After the expiration of such year, these officers shall serve at the pleasure of the Governor.

3. Procedure. If, within one year from the date of the final action of confirmation by the Senate of an officer subject to this section, the Governor proposes to dismiss such officer, the procedure shall be as follows.

A. The Governor shall send to the President of the Senate a written notice setting forth the name and title of the officer whose dismissal is sought and a statement of the reason or reasons for the dismissal.

B. If the officer whose dismissal is sought makes a written request to the President of the Senate for a public hearing or if the Senate, by a majority vote of members present and voting, votes for a public hearing, the Joint Standing Committee which is charged by law with reviewing nominations to the office in question shall hold a public hearing on the dismissal. The hearing shall be at a time and place convenient to the public. Notice of the hearing shall be published in the State paper at least 7 days before the hearing. The notice shall contain the time and place of the hearing, the name and title of the person whose dismissal is sought and the reason or reasons for the dismissal as stated by the Governor. At the hearing, the committee shall take oral or written testimony from the public, which shall be limited to relevant comments and questions regarding the reason or reasons for the dismissal.

C. The committee shall recommend approval or disapproval of the dismissal by majority vote of the committee members present and voting. The vote of the committee shall be taken only upon an affirmative motion to recommend removal of the officer. A tie vote of the committee shall be considered a defeat of such motion. The committee vote shall be by the yeas and nays. Such vote shall be taken no less than 20 days from the date of the Governor's written notice to the President of the Senate of the dismissal. The chairman of the committee shall send written notice of the committee's vote to the President of the Senate.

D. The Governor's recommendation of dismissal shall become final action unless the Senate by vote of 2/3 of the members present and voting overrides the Governor's recommendation. The Senate vote shall be by the yeas and nays, and shall be taken no later than 45 days from the date of the Governor's written notice of recommendation of dismissal to the President of the Senate.'

Further amend said Amendment by striking out the underlined last sentence in that part designated "§287." of section 52-A, and inserting in place thereof the following underlined sentence:

'The Commissioner of Finance and Administration shall be appointed by the Governor, subject to review by the Joint Standing Committee on Appropriations and Financial Affairs and to Confirmation by the Legislature and shall hold office subject to Title 3, section 153.'

Further amend said Amendment ← → after that paragraph which starts "Further amend said Bill in section 85" by inserting the following:

'Further amend said Bill in section 96, by striking out all of the 2nd sentence of that part designated "§1." and inserting in place thereof the following underlined sentence:

The commissioner shall be appointed by the Governor, subject to review by the Joint Standing Committee on Agriculture and to confirmation by the Legislature, and subject to Title 3, section 153.'

Further amend said Amendment ← → after that paragraph which starts "Further amend said Bill in section 110" by inserting the following 4 paragraphs:

'Further amend said Bill in section 122 by striking out all of the underlined first sentence and inserting in place thereof the following underlined sentence:

The administrative head of that department shall be the Commissioner of Business Regulation, who shall be appointed by the Governor, subject to review by the Joint Standing Committee on Business Legislation and to confirmation by the Legislature, and subject to Title 3, section 153.

Further amend said Bill in section 142 by striking out in the last 2 lines (same in L.D.) the underlined words "shall serve during the pleasure of the Governor" and inserting in place thereof the following underlined words: 'subject to Title 3, section 153'

Further amend said Bill in section 156 by striking out in the 9th and 10th lines (8th and 9th lines in L.D.) the following ← → words and punctuation "at the pleasure of the Governor; and the" and inserting in place thereof the following: 'subject to Title 3, section 15. and-the The'

Further amend said Amendment by inserting after that paragraph which starts "Further amend said Bill by striking out all of section 163-A" the following:

'Further amend said Bill in section 166 by striking out in the last 2 lines (same in L.D.) the underlined words "at the pleasure of the Governor" and inserting in place thereof the following underlined words: 'subject to Title 3, section 153'

Further amend said Bill in section 207 by striking out in the last line (same in L.D.) the underlined words "at the pleasure of the Governor" and inserting in place thereof the following underlined words: 'subject to Title 3, section 153'

Further amend said Amendment by inserting after the 2nd paragraph of section 236-A ← → the following 5 paragraphs:

'Further amend said Bill in section 257 by striking out in the 9th and 10th line (8th line in L.D.) the underlined words "at the pleasure of the Governor" and inserting in place thereof the following underlined words: 'subject to Title 3, section 153'

Further amend said Bill in section 268 by striking out in the 4th and 5th lines from the end (4th line from the end in L.D.) the underlined words "at the pleasure of the Governor" and inserting in place thereof the following underlined words: 'subject to Title 3, section 153'

Further amend said Bill by striking out all of section 289 and inserting in place thereof the following:

'Sec. 289. 26 MRSA §1401, 1st ¶, as repealed and replaced by P.L. 1971, c.620, §12, and as amended by P.L. 1973, c.537, §30, is repealed and the following enacted in place thereof:

The Department of Manpower Affairs, as heretofore established, is 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. The department shall consist of a Commissioner of Manpower Affairs and the following as heretofore created and established: The Employment Security Commission, the Bureau of Labor, the Maine Manpower Advisory Committee, the Cooperative Area Manpower Planning System and the Manpower Development Training Program. The Commissioner shall be appointed by the Governor, subject to review by the Joint Standing Committee on Labor and to confirmation by the Legislature, and shall hold office subject to the provisions of Title 3, section 153.'

Further amend said Amendment by inserting after that part designated "§552." of section 14 the following:

Further amend said Bill in section 376 by striking out in the last line (same in L.D.) the underlined words "at the pleasure of the Governor" and inserting in place thereof the following underlined words: 'subject to Title 3, section 153'

Further amend said Amendment by striking out in the last line (same in L.D.) in that part designated "§341." of section 418 the underlined words "serve at the pleasure of the Governor" and inserting in place thereof the following underlined words: 'hold office subject to Title 3, section 153'

Statement of Fact

The purpose of the amendment is to change the powers of dismissal of the commissioners of the major departments which the bill grants to the Governor. Under the bill, these commissioners serve at the Governor's pleasure and can be summarily dismissed. The amendment provides that, within the first year of their appointment, the Governor must seek legislative approval of the dismissal of one of these commissioners. Thereafter, after the one-year period, these commissioners would serve at the Governor's pleasure.

Filed by Mrs. Kany of Waterville.

Reproduced and distributed under the direction of the Clerk of the House.
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