

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 219

S. P. 95

In Senate, February 1, 1977

Referred to Committee on Education. Sent down for concurrence and 2,000 ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Curtis of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

**AN ACT to Reorganize the System of Public Post-secondary Education
in Maine.**

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

Sec. 1. 5 MRSA § 43, 2nd ¶, last sentence, as repealed and replaced by PL 1975, c. 436, § 3, is amended to read:

The Legislative branch, through the Legislative Council, and the Judicial branch, through the Chief Justice of the Supreme Judicial Court ~~the University of Maine and the Maine Maritime Academy~~ and the public institutions of post-secondary education specified in the private and special laws of 1865, chapter 532, section 1-B, may also submit reports of these branches of State Government for the previous fiscal year.

Sec. 2. 5 MRSA § 43, 3rd ¶, as repealed and replaced by PL 1975, c. 436, § 3, is amended to read:

The Governor shall immediately cause such reports to be edited with regard to content, arrangement and brevity, except that the constitutional officers elected by the Legislature, the Legislative Council and the Chief Justice and the ~~University of Maine and the Maine Maritime Academy~~ institutions specified in the private and special laws of 1865, chapter 532, section 1-B, shall approve any editing of their respective reports.

Sec. 3. 5 MRSA § 45, as amended by PL 1975, c. 436, § 4, is further amended to read:

§ 45. Discontinuation of duplicate reports

Notwithstanding any other provision of law, the Governor may discontinue the publication of any other annual or biennial report which duplicates the report material provided for in section 43, except for reports of the constitutional officers elected by the Legislature, and reports of the legislative and judicial branches of government ~~the University of Maine and the Maine Maritime Academy~~ and the public institutions of post-secondary education specified in the private and special laws of 1865, chapter 532, section 1-B. He may order the publication of an expanded departmental report, in standard format, in a limited quantity for record purposes.

Sec. 4. 20 MRSA § 76, 1st ¶, as enacted by PL 1975, c. 601, § 1, is amended to read:

PECOM shall be comprised of ~~16~~ 19 members drawn from the following groups:

Sec. 5. 20 MRSA § 76, sub-§§ 1 and 2, as enacted by PL 1975, c. 601, § 1, are repealed and the following enacted in their place:

1. Representatives of public boards and advisory councils. Ten members of PECOM shall be members of principal public governing and administrative boards concerned with post-secondary education in Maine and the Maine Advisory Council on Vocational Education. The number of positions on PECOM assigned to members from each body shall be as follows:

- A. One position for a member of the board of trustees of each of the public institutions of post-secondary education specified in the private and special laws of 1865, chapter 532, section 1-B;
- B. One position for a member of the State Board of Education;
- C. One position for a member of the Maine Delegation of the New England Board of Higher Education. This member shall not, at the time of appointment to or during any time of membership of the Post-secondary Education Commission, be the Commissioner of Educational and Cultural Services or an administrative officer or member of the governing board of a public, private non-profit or proprietary post-secondary educational institution in Maine; and
- D. One position for a member of the Maine Advisory Council on Vocational Education.

The representatives of the board of trustees of each institution referred to in paragraph A, the State Board of Education, the Maine delegation to the New England Board of Higher Education and the Maine Advisory Council on Vocational Education shall be selected in accordance with the procedures of the respective body.

The terms of members from the boards of trustees of the institutions referred to in paragraph A shall be for 4 years, except that the initial terms of representatives of the boards of trustees of both the University of Maine and the University of Southern Maine will be for 2 years and the initial terms of representatives of the boards of trustees of both the University of Maine at Au-

gusta and the University of Maine at Farmington shall be for 3 years. The term of the member of the State Board of Education shall be for 4 years, except that the initial term shall be for 2 years. The term of the member of the New England Board of Higher Education shall be for 4 years. The term of the member from the Maine Advisory Council on Vocational Education shall be for 4 years, except that the initial term shall be for 3 years.

There shall be no limitation on the number of terms a person may serve in one of the positions on PECOM assigned to these bodies, except at the time of expiration of a person's membership on the board of trustees of any institution referred to in paragraph A, the State Board of Education, the Maine delegation to the New England Board of Higher Education or the Maine Advisory Council on Vocational Education, that person shall be ineligible to be appointed to or to continue to serve as a member of PECOM.

If prior to the expiration of a term, a vacancy occurs with respect to one of the positions on PECOM assigned to bodies as set forth above, that vacancy shall be filled for a period of the unexpired term by, and from the membership of, the body to which that position is assigned.

2. The Commissioner of Educational and Cultural Services. The Commissioner of Educational and Cultural Services shall serve as an ex officio member of PECOM.

Sec. 6. P&SL 1865, c. 532, § 1-A, as enacted by P&SL 1967, c. 229, § 1 and as amended by P&SL 1969, c. 238, is repealed and the following enacted in its place:

Sec. 1-A. Establishment; purposes. Eight separate public institutions of post-secondary education are recognized as established and maintained in the State of Maine. The purposes of these separate institutions include:

1. Diversified, quality system. To promote a diversified, high-quality system of public post-secondary education in Maine;
2. Responsiveness to needs. To enhance the responsiveness of the system of public post-secondary education to the needs of Maine's citizens; and
3. Academic freedom. To ensure that the faculty members of each public institution enjoy the academic freedoms traditionally accorded institutions of higher education in teaching, research and expression of opinions.

Sec. 7. P&SL 1865, c. 532, §§ 1-B and 1-C are enacted to read:

Sec. 1-B. Names and locations of campuses. The 8 public institutions of post-secondary education shall be named and located as follows:

1. Augusta. The University of Maine at Augusta, shall be maintained at the site in Kennebec County formerly known as the University of Maine at Augusta.

2. Presque Isle. The University of Maine at Presque Isle shall be maintained at the site in Aroostook County formerly known as the University of Maine at Presque Isle.

3. Fort Kent. The University of Maine at Fort Kent shall be maintained at the site in Aroostook County formerly known as the University of Maine at Fort Kent.

4. Farmington. The University of Maine at Farmington shall be maintained at the site in Franklin County formerly known as the University of Maine at Farmington.

5. Machias. The University of Maine at Machias shall be maintained at the site in Washington County formerly known as the University of Maine at Machias.

6. Orono. The University of Maine at Orono shall be maintained at the sites in Penobscot County formerly known as the University of Maine at Orono.

7. Portland-Gorham. The University of Southern Maine shall be maintained at the sites in Cumberland County formerly known as the University of Maine at Portland-Gorham.

8. Maine Maritime Academy. The Maine Maritime Academy shall be maintained in Castine in Hancock County.

The above institutions may participate in the administration of continuing education and cooperative education programs.

Sec. 1-C. Aid for agricultural and mechanical college. All Acts of the Legislature of Maine giving assent to Acts of the Congress of the United States of America providing aid for the benefit of agriculture and mechanical arts and for agriculture extension and experimental work, shall, unless heretofore repealed, remain in force and apply to the University of Maine at Orono. The revenue arising from such Acts of Congress shall continue to be made available to the University of Maine for its use in accordance with the provisions of such Acts.

Sec. 8. P&SL 1865, c. 532, § 2, is repealed.

Sec. 9. P&SL 1865, c. 532, § 3, is amended to read:

Sec. 3. Governor; process against the trustees in corporate capacity, when authorized; decree of court; any individual trustee, complaint against may be instituted; decree of court on such complaint. The Governor ~~and council~~ shall at all times have the power, by ~~themselves~~ himself, or such committee as ~~they~~ he shall appoint to examine into the affairs of ~~the college~~ any public institution of post-secondary education and the doings of the trustees, and to inspect all their records and accounts, and the buildings and premises occupied by ~~the college~~ each institution. Whenever the Governor ~~and council~~ shall have reason to believe that the trustees are exercising or attempting to exercise any unlawful powers, or unlawfully omitting to perform any legal duty, ~~they~~ he may direct the Attorney General to institute process against the trustees in their corporate capacity, in the nature of a complaint in equity before the Supreme Judicial Court, in the county in which the ~~college~~ institution may be established, and the court after notice shall hear and determine the same, by

summary proceeding in term time, or by any judge in vacation, and may make any suitable decree, restraining the trustees from performing or continuing the unlawful acts complained of, or requiring them to perform whatever is unlawfully omitted, and may enforce such decrees. In like manner a complaint may be instituted against any individual trustee, and be heard in the county where he resides, alleging against him any cause deemed by the Governor and council sufficient to disqualify him for the trust; and if in the judgment of the court such allegation shall be sustained, a decree shall be made removing such trustee from office, and his place shall be thereby vacated.

Sec. 10. P&SL 1865, c. 532, § 4, as last amended by PL 1975, c. 771, § 426, is repealed and the following enacted in its place:

Sec. 4. Boards of trustees; members; terms; expenses; meetings; officers.

1. Separate boards established. Each public institution of post-secondary education shall be governed by a board of 15 trustees. All trustees shall be voting members of their respective boards.

2. Appointed members. Each board shall include 12 members appointed by the Governor, subject to review by the Joint Standing Committee on Education and to confirmation by the Legislature.

A. Length of terms. The initial terms of the appointed members shall be as follows:

- (1) 3 persons shall serve for 1 year.
- (2) 3 persons shall serve for 2 years.
- (3) 3 persons shall serve for 3 years.
- (4) 3 persons shall serve for 4 years.

Subsequent terms shall be fixed at 4 years. Each member shall serve for the term for which he has been appointed and until his successor is appointed and qualified.

B. Vacancies. Any vacancy shall be filled by the Governor, subject to review by the Joint Standing Committee on Education and to confirmation by the Legislature.

C. Reappointments. Each board member shall be eligible for reappointment only once, except that any member appointed to fill a vacancy where the unexpired balance of the term is 2 years or less, shall be eligible for reappointment for 2 full 4-year terms.

D. Compatibility with state offices. Membership on the board shall not be incompatible with any other state office.

3. Presidents. Each board shall also include as a member the president of the respective institution.

4. Faculty members. Each board shall also include a faculty member, who shall be a teaching, research or cooperative extension service member of

the faculty of his particular institution of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his institution. The faculty member shall serve for a term of 2 years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of such board if he ceases being a member of the faculty of the institution. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

5. **Student member.** Each board shall also include a student member who shall be the president of the student body of the institution on whose board of trustees he is to serve. If there is no president of the student body, or if the president of the student body is not a full-time student who maintains permanent residency in the State of Maine, a special election shall be held for the students to elect a trustee who is a full-time student and who does maintain permanent residency in this State.

6. **Expenses.** Each trustee shall serve without pay, but shall receive actual traveling and other expenses incurred in the performance of official duties, to be paid from the treasury of the institution for which he is a trustee.

7. **Meetings.** Each board of trustees shall meet quarterly at the particular institution or at such other place as is agreed on. Upon the written request of the president of the institution or of 5 members of the board, the chairman of the board shall call a special meeting at a place designated by him, and the board may at such special meeting transact any business that it may transact at a regular meeting. A majority of the members of the board shall constitute a quorum for the transaction of business, but no appropriation of money nor any contract that requires an appropriation or disbursement of money shall be made, and no person shall be employed or dismissed, unless a majority of all the members of the board vote for it.

8. **Transition and commencement of terms.** The terms of office of the trustees selected under subsections 2, 3, 4 and 5 shall commence 30 days after the effective date of this Act, at which time the terms of all current trustees shall terminate. The Governor shall appoint each current trustee to be a trustee of one of the institutions specified in section 1-B in the manner prescribed in subsection 2.

9. **Election of officers.** The trustees of each board shall annually elect one of their members to be chairman. They shall appoint a clerk and treasurer, both of whom shall be sworn, and who shall hold their offices at the pleasure of the trustees. The clerk shall record all proceedings of the board. The treasurer shall be required to give suitable bond and to renew the same whenever the trustees shall require.

Sec. 11. P&SL 1865, c. 532, § 4-A, as enacted by P&SL 1967, c. 229, § 3, is repealed and the following enacted in its place:

Sec. 4-A. Board of trustees; powers and duties.

1. **General powers.** The government of each institution is vested in its respective board. Each board, when its members have been appointed and

qualified, shall constitute a body corporate, with the usual corporate powers, and with all immunities, rights, privileges and franchises usually attaching to the governing bodies of educational institutions. Each board may:

- A. Receive grants of money and expend the same for the use and benefit of its respective institution;
- B. Authorize contracts, the terms of which shall not exceed 50 years, with the State of Maine, or any department or agency thereof, or any city, town, district or other public instrumentality, on such terms and conditions as the board shall approve for furnishing to the particular institution water and sewer services;
- C. Adopt bylaws, rules and regulations for the government of its members, officers, agents and employees, and enforce obedience to these rules;
- D. Require such reports from the president, officers, faculty and employees as it deems necessary and proper from time to time;
- E. Determine the number of divisions, departments, bureaus, offices and agencies needed for the successful conduct of the affairs of its respective institution; and
- F. Grant diplomas and confer degrees upon the recommendation of the president and faculty.

2. Appointment and removal of president, faculty and employees. Each board may appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the following paragraph.

Each board may remove the president of its respective institution, and upon the recommendation of the president may remove any faculty member or employee, but no president, faculty member or other employee shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president, faculty member or other employee shall not be removed until after 10 days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him to make defense before the board by counsel, or otherwise, and to introduce testimony which shall be heard and determined by the board.

3. Control of employment, tenure and official relations of employees. Anything in any statute of Maine to the contrary notwithstanding, the power over and control of appointments, qualifications, salaries and compensation payable out of the General Fund or otherwise, promotions and official relations of all employees of all of the institutions shall be under the exclusive jurisdiction of the respective governing board of each institution.

4. Acquisition and sale of property. Each board may, on such terms as it regards best for the particular institution, purchase or lease land for the purpose of securing the erection of buildings, and may receive, by any legal mode of conveyance, purchase and hold property of any description that the board deems necessary for the purposes of the institution, and may build and con-

struct improvements for these purposes and hold or sell the same. Each board may sell and convey any real estate, buildings or equipment owned by it, but the proceeds arising from the sale must be reinvested in other real estate, buildings and equipment for the use of the particular institution.

Sec. 12. P&SL 1865, c. 532, § 4-B, as enacted by P&SL 1967, c. 229, § 3, and as last amended by P&SL 1969, c. 238, § 3, is repealed.

Sec. 13. P&SL 1865, c. 532, § 4-C, as enacted by P&SL 1967, c. 229, § 3, and as amended by P&SL 1973, c. 84, is repealed.

Sec. 14. P&SL 1865, c. 532, § 5, first sentence, is amended to read:

The trustees of the **University of Maine at Orono**, in their corporate capacity, may take and hold in addition to the income, which they shall receive, through the State from the endowment made by Congress, such other real and personal property as may be granted or devised to them for the purpose of promoting the objects of this Act.

Sec. 15. P&SL 1865, c. 532, § 8, 1st and last sentences, are amended to read:

The trustees of the **University of Maine at Orono** shall appoint such directors, professors, lecturers and teachers in the ~~college~~ **university**, and employ such other persons therein from time to time, as the means at their command may permit for the accomplishment of the objects enumerated and described in the 4th section of the Act of Congress.

But no student shall be admitted into or continued in the ~~college~~ **university**, nor shall any person be employed in any office or service, who is not of good moral character and pure life.

Sec. 16. P&SL 1865, c. 532, § 8-A, 1st ¶ and 1st sentence of 2nd ¶, as enacted by PL 1971, c. 544, § 142, are amended to read:

The trustees of ~~the University of Maine~~ **each public institution of post-secondary education** may appoint persons to act as policemen who shall, within the limits of the property owned by or under the control of the ~~university~~ **particular institution** possess all of the powers of policemen in criminal cases.

The trustees of **each institution** may make rules and regulations for the control, movement and parking of vehicles within the limits of the property owned by or under the control of the ~~university~~ **institution**.

Sec. 17. P&SL 1865, c. 532, § 9, is amended to read:

Sec. 9. Instruction required to be given. In addition to the instruction which is to be given by classes, textbooks, lectures and apparatus, in such branches of learning as are related to agriculture and the mechanic arts, the trustees of the **University of Maine at Orono** shall provide as fully as may be for practical experiments and demonstrations of scientific principles and rules. ~~They shall encourage, and for due proportions of time, at different seasons of the year, and with reference to other exercises, require all the students to engage in actual labor upon the lands and in the workshops with which the~~

college may be furnished, and shall provide suitable oversight and direction in such labor, so that they may become habituated to skillful and productive industry

Sec. 18. P&SL 1865, c. 532, § 11, is repealed and the following enacted in its place:

Sec. 11. Other studies to be taught. Such other studies are to be taught, within the limitations of the Act of Congress, as both the facilities and the periods of instruction of the University of Maine at Orono will permit.

Sec. 19. P&SL 1865, c. 532, § 14, is amended to read:

Sec. 14. Duty of trustees and teachers. It shall be the duty of the trustees, directors and teachers of the college each public institution of post-secondary education to impress on the minds of the students, the principles of morality and justice and a sacred regard to truth; love to their country; humanity and universal benevolence; sobriety, industry and frugality, chastity, moderation and temperance, and all other virtues which are the ornaments of human society; and among other means to promote these ends, and to secure the best personal improvement of the students, the trustees shall provide, as fully as may be practicable, that the internal organization of the college each institution shall be on the plan of one or more well regulated households and families, so that the students may be brought into relations of domestic intimacy and confidence with their teachers.

Sec. 20. P&SL 1865, c. 532, § 15, is amended to read:

Sec. 15. Admission of students, how regulated as to locality. If at any time, the number of students applying for admission to any public institution of post-secondary education shall be greater than the means of the trustees will enable them to receive, they shall the trustees may make regulations for the number to be admitted having reference to the proportions of population in the several senatorial districts in the state, and equalize the admissions according to such proportions as nearly as may be.

Sec. 21. P&SL 1865, c. 532, § 16 is repealed.

Sec. 22. P&SL 1865, c. 532, § 17, 1st sentence, is amended to read:

The treasurer of the college University of Maine at Orono shall make as often as once in 6 months, a detailed report of all receipts and expenditures, and the trustees shall cause the same to be verified by full inspection and settlement of all his accounts and shall transmit a copy of the same, as verified by them to the Governor and Council.

Sec. 23. P&SL 1865, c. 532, § 18 is repealed and the following enacted in its place:

Sec. 18. Rights of the Legislature reserved. The Legislature shall have the right to grant any further powers, to alter, limit or restrain any of the powers vested in the trustees of the public institutions of post-secondary education.

Sec. 24. Transitional provisions.

1. Assets and liabilities. Thirty days after the effective date of this Act all of the assets, tangible or intangible, real, personal and mixed, of or used in connection with, the consolidated University of Maine, except such as are in trust or are subject to limitations purporting to restrict their transferability or assignability, shall be transferred and assigned to the various public institutions of post-secondary education specified in the private and special laws of 1865, chapter 532, section 1-B.

All assets under the supervision of the respective presidents of the above institutions on the effective date of this Act shall remain held by the respective institutions. All assets in Penobscot County held by the consolidated university on the effective date of this Act shall be transferred to the University of Maine in Orono.

The Attorney General is authorized and empowered to execute in the name of the State any documents necessary to effect the above transfers. The Attorney General is directed to institute any court actions necessary to effectuate the transfer of properties held in trust or subject to any limitations purporting to affect their transferability.

2. Subcommittee formed. A subcommittee on the Joint Standing Committee on Education shall be established to recommend an equitable transfer of properties, assets and liabilities from the consolidated university system to the individual public institutions created by this Act and to help resolve disagreements among any of these institutions about such transfers. The subcommittee shall also study and make recommendations about the following areas:

A. Ensuring that the rights and benefits of all employees of the public institutions are protected; and

B. Resolving possible statutory conflicts resulting from the enactment of this Act.

The subcommittee shall submit a report, along with its recommendations, to the 108th Legislature by no later than January 31, 1978.

Sec. 25. Effective date. This Act shall become effective July 1, 1979, except that subsection 2 of section 24 of this Act shall take effect 90 days after the adjournment of the First Regular Session of the 108th Legislature.

STATEMENT OF FACT

The purpose of this bill (see section 6) is to set up a separate board of trustees for each of the following public post-secondary institutions: The University of Maine at Augusta; the University of Maine at Farmington; the University of Maine at Fort Kent; the University of Maine at Machias; the University of Maine at Orono; the University of Southern Maine at Portland-Gorham; the University of Maine at Presque Isle and the Maine Maritime Academy.

Section 10 of the bill specifies that each board will consist of 15 trustees, including 12 members appointed by the Governor, subject to review by the Joint Standing Committee on Education and to confirmation by the Legislature; the president of the respective institution; a member of the faculty of the respective institution, elected by secret ballot by all faculty members of the institution; and the president of the student body of the respective institution. The powers of the separate boards under this bill are the same as the powers held by the present trustees of the University of Maine.

Sections 8, 10 and 21 repeal sections of the law which contain references to the chancellor's office, the administrative council and the existing board of trustees.

Section 4 of the bill increases the membership on the Post-secondary Education Commission to include one member of the board of trustees of each of the public institutions of post-secondary education.

Sections 1, 2, 3, 9, 14, 15, 16, 17, 18, 19, 20 and 22 of this bill contain technical changes, the need for which has resulted from the reorganization of the university system.

The effective date of this bill is July 1, 1979. Within 30 days of this date any transfers of assets from one institution to another are to have occurred.

The bill directs a subcommittee of the Joint Standing Committee on Education to recommend to the Legislature an equitable transfer of properties, assets and liabilities by no later than January 31, 1978. In addition, the subcommittee is charged with the responsibilities of ensuring that the rights and benefits of all employees affected are protected and of resolving possible statutory conflicts.