

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 729

H. P. 671

House of Representatives, March 9, 1977

Reported by Mr. Stubbs from the Committee on State Government pursuant to H. P. 1776 and printed under Joint Rules No. 17.

EDWIN H. PERT, Clerk

Filed by the Joint Standing Committee on State Government, under Joint Rule 17, pursuant to House Paper 1776.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Establish and Apply a Policy on the Classification of Major Policy-influencing Positions Below the Head of State Department and Agencies.

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

Sec. 1. 5 MRSA § 81, 1st ¶, as last amended by PL 1975, c. 771, § 31, is further amended by adding after the first sentence the following new sentence:

The Secretary of State shall appoint a State Archivist, subject to the Personnel Law, and deputy secretaries of state who shall serve at the pleasure of the secretary.

Sec. 2. 5 MRSA § 93, 2nd sentence, as enacted by PL 1973, c. 625, § 16, is repealed and the following enacted in its place:

He shall hold office at the pleasure of the Secretary of State.

Sec. 2-A. 5 MRSA § 93, last ¶, as enacted by PL 1973, c. 625, § 16, is repealed as follows:

~~This section shall not affect the term of the person holding office as State Archivist on October 1, 1969.~~

Sec. 3. 5 MRSA § 121, 3rd ¶, 1st sentence, is repealed and the following enacted in its place:

The Treasurer of State shall designate a "deputy treasurer of state" to serve at the pleasure of the Treasurer of State.

Sec. 4. 5 MRSA § 242, 1st ¶, 2nd sentence, is repealed and the following enacted in its place:

It shall have such auditors, assistants, investigators and employees as the State Auditor may require, but they shall be subject to the Personnel Law, except for the deputy state auditor who shall be appointed by and serve at the pleasure of the State Auditor.

Sec. 5. 5 MRSA § 242-B, sub-§ 1, 1st ¶, 2nd and 3rd sentences, as enacted by PL 1973, c. 792, § 3, are repealed and the following enacted in their place:

The director of that division shall be appointed subject to Personnel Law and shall have had not less than 2 years of experience as a professional accountant or auditor.

Sec. 6. 5 MRSA § 282, 1st ¶, 3rd sentence, as repealed and replaced by PL 1971, c. 615, § 2, and as amended by PL 1975, c. 771, § 51-A, is repealed and the following enacted in its place:

The commissioner may appoint and employ such bureau chiefs, except the Director of Central Computer Services.

Sec. 7. 5 MRSA § 283, sub-§ 4, as amended by PL 1975, c. 771, § 51-B, is repealed and the following enacted in its place:

4. Bureau of Purchases. Bureau of Purchases, the head of which shall be the State Purchasing Agent, who shall be appointed by the commissioner.

Sec. 7-A. 5 MRSA § 678, 1st ¶, as last amended by PL 1973, c. 390, § 4, is further amended by adding at the end the following new sentence:

This paragraph shall not apply to an employee appointed to a major policy-influencing position listed in section 711, subsection 2, paragraph B.

Sec. 8. 5 MRSA § 711, as last amended by PL 1975, c. 777, § 7, is repealed and the following enacted in its place:

§ 711. Unclassified service

The unclassified service comprises positions held by officers and employees as follows.

1. Officers and employees. Certain elective, legislative, executive, judicial and other officers and employees as follows:

A. Elective officers, chosen by popular election or appointed to fill an elective office;

B. Officers who, under the Constitution or statutes, are chosen by the Legislature;

C. Heads of departments and members of boards and commissions required by law to be appointed by the Governor, some bureau directors, and the secretary of the Public Utilities Commission;

D. Officers and employees in the judicial service of the State;

E. Officers and employees of the Senate and House of Representatives of the Legislature;

- F. Officers and enlisted men in the National Guard and Naval Militia of the State;
- G. Employees working in the Governor's office and at the Blaine Mansion;
- H. Officers and employees of the unorganized territory school system and the teachers and principals of the school systems in state vocational schools and state institutions; and
- I. Deputies, assistants, staff attorneys, research assistants, and the secretary to the Attorney General of the Attorney General's Department.

2. Major policy-influencing positions.

A. In the departments and agencies of State Government, officers and employees in positions in the first and 2nd organizational levels below the department of agency head frequently are able to substantially influence policy. Because of such ability, and consistent with subsection 1 which exempts other policy-making and policy-influencing positions, there is a presumption that such positions should be exempt from the Personnel Law; that is, they should be unclassified so that they are able to be more responsive to the public. The determinations of whether such positions do influence policy and whether they will be unclassified shall be done through the legislative process, and if it is determined that they shall be unclassified then such determination shall be recorded in the statutes.

The determination of whether a position influences policy shall be made separately for each position, taking account of appropriate factors which may include the size and nature of the budget and the number and type of personnel supervised; the salary and organizational placement of such position; the extent to which the position is permitted to exercise discretion in making decisions; the nature and extent of the positions' relationship to the public and to other elected and appointed positions; and implications for continuity and quality of programs and for personnel policies.

The determination of whether a position found to be policy-influencing should be unclassified shall also be made separately for each position, taking account of appropriate factors which shall include whether the position is required to be classified as a condition of receiving grants-in-aid and whether the position should have the protection of the Personnel Law due to the sensitivity of functions it performs or for other reasons.

Because of the importance of these positions, it is the policy of the State that they be made as available as possible to citizens from private and other public employment. To facilitate such availability, the State shall make available fringe benefits that are exactly comparable to fringe benefits available to persons under the Personnel Law.

B. The following positions in the following departments are major policy-influencing positions. Such positions and their successor positions shall be subject to this subsection, notwithstanding any other provision of law:

Department of Agriculture:

Director, Animal Industry Division;
 Director, Animal Welfare Division;
 Director, Inspections Division;
 Director, Markets Division;
 Director, Plant Industry Division; and
 Director, Promotions Division.

Department of the Attorney General:

Deputy Attorneys General; and
 Assistant Attorneys General.

Department of Audit:

Deputy State Auditor.

Baxter State Park Authority:

Director, Baxter State Park; and
 Supervisor, Baxter State Park.

Department of Business Regulation:

Superintendent, Bureau of Banks and Banking;
 Superintendent, Bureau of Consumer Protection;
 Superintendent, Bureau of Insurance;
 Director of Real Estate; and
 Director, Licensing Division.

Department of Conservation:

Director, Bureau of Forestry;
 Director, Bureau of Geology;
 Executive Director, Land Use Regulation Commission;
 Director, Bureau of Parks and Recreation; and
 Director, Bureau of Public Lands.

Department of Educational and Cultural Services:

Deputy Commissioner;
 State Librarian;
 Director, State Museum;
 Executive Director, Arts and Humanities;
 Director, Planning and Management Information;
 Director, Federal Programs;
 Director, Division of Finance;
 Associate Commissioner, Bureau of School Management;
 Associate Commissioner, Bureau of Instruction; and
 Director, Bureau of Vocational Education.

Department of Environmental Protection:

Chief, Bureau of Air Quality Control;
 Director, Bureau of Land Quality Control; and
 Director, Bureau of Water Quality Control.

Department of Finance and Administration:

State Controller ;
State Purchasing Agent ;
State Tax Assessor ;
Director, Bureau of Public Improvements ;
Director, Bureau of Alcoholic Beverages ; and
State Budget Officer.

Department of Human Services :

Deputy Commissioners ;
Director, Bureau of Maine's Elderly ;
Director, Bureau of Resource Development ;
Director, Bureau of Health ;
Director, Bureau of Rehabilitation ;
Director, Bureau of Social Welfare ; and
Director, Comprehensive Health Planning.

Human Rights Commission :

Executive Director.

Department of Indian Affairs :

Deputy Commissioner.

Department of Inland Fisheries and Wildlife :

Deputy Commissioner ;
Director, Bureau of Watercraft Registration and Safety ;
Chief Game Warden ;
Director, Safety and Snowmobile Registration ;
Chief, Engineering Division ;
Director, Information and Education Division ;
Chief, Planning and Coordination Division ;
Chief, Realty Division ;
Chief, Game Research and Management Division ; and
Superintendent, Fish Hatchery Division.

Maine State Lottery Commission :

Deputy Director.

Department of Manpower Affairs :

Director, Manpower Adjudication Division ;
Division Director, Manpower Affairs ;
Director, Manpower Affairs Administrative Services ;
Director, Manpower Research ;
Director, Manpower Training Division ; and
Director, Bureau of Labor.

Department of Marine Resources :

Deputy Commissioner ;
Chief Coastal Warden ; and
Director, Division of Marine Research.

Department of Mental Health and Corrections :

Associate Commissioners ;
Director, Bureau of Mental Health ;
Superintendent, Augusta Mental Health Institute ;
Superintendent, Bangor Mental Health Institute ;
Director, Bureau of Mental Retardation ;
Superintendent, Pineland Center ;
Director, Bureau of Corrections ;
Superintendent, Maine Youth Center ;
Superintendent, Maine Correctional Center ;
Warden, Maine State Prison ; and
Director, Probation and Parole.

Department of Defense and Veterans Services :

Deputy Adjutant General ;
Director, Bureau of Civil Emergency Preparedness ; and
Director, Bureau of Veterans Services.

Department of Public Safety :

Chief, Bureau of State Police ;
Director, Bureau of Liquor Enforcement ;
Director, Office of State Fire Marshal ; and
Director, Maine Criminal Justice Academy.

Department of Secretary of State :

Deputy Secretaries of State ; and
State Archivist.

Department of Transportation :

Deputy Commissioners ;
Director, Bureau of Administrative Services ;
Director, Bureau of Planning ;
Chief Counsel, Bureau of Legal Services ;
Director, Bureau of Safety ;
Director, Bureau of Aeronautics ;
Director, Bureau of Waterways ; and
Director, Bureau of Highways.

Department of Treasury :

Deputy Treasurer of State

C. Except as otherwise provided by law, the head of the department or agency in which a major policy-influencing position is located shall have the power to appoint and remove persons to and from such positions on or after January 1, 1978, provided that if any position is subject to the Personnel Law on December 31, 1977, then the incumbent of such position on December 31, 1977 may:

- (1) Retain his appointment subject to the Personnel Law until January 1, 1982 ; or
- (2) If the incumbent is appointed for a term, retain the position until the earlier of either the expiration of the term or January 1, 1982.

Any person permanently appointed to a classified position who accepts an appointment to a major policy-influencing position after December 31, 1977, shall have the right, for 6 months subsequent to appointment to such major policy-influencing position, to be restored to the classified position from which he shall have been promoted or to a position equivalent thereto in salary grade in an agency, without impairment of his personnel status or the loss of seniority, retirement or other rights to which uninterrupted service in the classified position would have entitled him. Provided, that if his service in such unclassified supervisory position shall have been terminated for cause, his right to be so restored shall be determined by the Personnel Board. During such 6-month period, the appointing authority shall have the right to temporarily appoint a person to such position under the Personnel Law, provided that funds are available for such appointment and that it is consistent with the law.

D. Beginning with the effective date of this law, all persons incumbering major policy-influencing positions shall be entitled to the following:

(1) Exactly the same participation in and accrual and use of all fringe benefits available to persons appointed at the next closest pay range to positions under the Personnel Law; such fringe benefits shall include vacation, sick and administrative leave, health and life insurance and retirement; and

(2) Exactly the same transfer of all fringe benefits rights to and from employment under the Personnel Law as if such transfer were between 2 positions under the Personnel Law.

3. Other officers and employees. Other officers and employees as elsewhere provided by statute or regulation which is consistent with this section.

Sec. 9. 5 MRSA § 3304, sub-§ 1, as amended by PL 1973, c. 679, is repealed and the following enacted in its place:

1. Director. The executive head of the State Planning Office shall be the director and shall be appointed by the Governor to serve at the pleasure of the Governor. The director shall be paid a salary fixed by the Governor.

Sec. 10. 5 MRSA § 5004, sub-§ 1, as repealed and replaced by PL 1975, c. 587, § 1, and amended by PL 1975, c. 771, § 90, is repealed and the following enacted in its place:

1. Appointment. The Governor shall appoint a full-time Director of the Office of Energy Resources. The director shall serve at the pleasure of the Governor and until his successor is appointed and qualified. The director shall be paid a salary fixed by the Governor.

Sec. 11. 7 MRSA § 1, next to the last sentence, as repealed and replaced by PL 1975, c. 771, § 96, is amended to read:

The commissioner may ~~with the approval of the Governor~~ appoint a deputy commissioner of agriculture, who shall be the chief of one of the bureaus in the Department of Agriculture, and shall perform the duties of the commissioner during his absence, in addition to his duties as chief of a bureau.

Sec. 12. 7 MRSA § 5, as amended by PL 1975, c. 771, § 97, is further amended to read:

§ 5. Deputies

The commissioner may ~~with the approval of the Governor~~ appoint and fix the compensation of a chief deputy and such other deputies as in his judgment are required to assist him, and to enable him to carry out all laws, the execution of which is entrusted to him. The chief deputy ~~shall hold office during good behavior~~ and such other deputies shall hold office during the pleasure of the commissioner. Their compensation and expenses shall be paid from any funds appropriated for the use of the commissioner in the execution of said laws.

Sec. 13. 8 MRSA § 354, sub-§ 1, ¶ B, as enacted by PL 1973, c. 570, § 1, is repealed and the following enacted in its place:

B. Act as the chief administrative officer, having general charge of the office and records and to employ such personnel as may be necessary to fulfill the purposes of this chapter. Such personnel shall be employed with the approval of the commission and subject to the Personnel Law, except for the deputy director who shall be appointed by and serve at the pleasure of the director;

Sec. 14. 10 MRSA § 8003, sub-§ 1, as enacted by PL 1975, c. 767, § 9, is amended to read:

1. Licensing division. There is created a Central Licensing Division, hereinafter called the "licensing division," which shall constitute a division of the Department of Business Regulation. The Commissioner of Business Regulation shall ~~employ~~ appoint a Director of the Central Licensing Division, who shall serve at the commissioner's pleasure, and shall employ other such clerical and technical assistants as are necessary to discharge the licensing and administrative duties imposed by this section and shall outline their duties and fix their compensation, subject to the Personnel Law.

Sec. 15. 12 MRSA § 904, as amended by PL 1965, c. 226, § 19, is repealed and the following enacted in its place:

§ 904. Agents and representatives

The Baxter State Park Authority shall appoint agents or representatives to carry out this subchapter. All agents or representatives shall be appointed and hold office under the rules of the Personnel Law, except for the director and supervisor of the State park. They shall be sworn to the faithful discharge of their duties and a certificate thereof shall be returned and filed in the office of the chairman of the authority. They may be allowed actual necessary expenses of travel.

Sec. 16. 12 MRSA § 1951, as last amended by PL 1975, c. 771, § 142, is repealed and the following enacted in its place:

§ 1951. Appointment; deputy

The Commissioner of Inland Fisheries and Wildlife shall be appointed by the Governor, subject to review by the Joint Standing Committee on Fisher-

ies and Wildlife, and to confirmation by the Legislature, and shall serve during the pleasure of the Governor. The commissioner shall appoint, to serve at his pleasure, persons to the following positions: Deputy Commissioner of Inland Fisheries and Wildlife; Chief Game Warden; Chief, Engineering Division; Director, Information and Education Division; Chief, Planning and Coordination Division; Chief, Realty Division; Chief, Game Research and Management Division; Chief, Fishing Research and Management Division; Superintendent, Fish Hatchery Division; Director, Bureau of Watercraft Registration and Safety; and Director, Safety and Snowmobile Registration. The commissioner shall make a report to the Governor on or before the 31st day of December of each year for the year ending June 30th prior thereto.

The commissioner shall receive all necessary traveling expenses.

Sec. 17. 12 MRSA § 3451, 3rd ¶, as repealed and replaced by PL 1973, c. 513, § 3, is repealed and the following enacted in its place:

The commissioner shall organize the department into such bureaus, divisions or other administrative units as he deems necessary to carry out the duties of the department. The commissioner shall designate a deputy commissioner to serve as commissioner in the absence or disability of the commissioner or in the case of vacancy in the office of commissioner. The commissioner shall appoint persons to serve at his pleasure to the following positions: Deputy Commissioner; Chief Coastal Warden; and Director, Division of Marine Research.

Sec. 18. 12 MRSA § 3502, sub-§ 4, is repealed and the following enacted in its place:

4. Commissioner to hire employees; employee's duties. The commissioner shall hire all necessary employees of the department, subject to the Personnel Law, except as provided in section 3451.

Sec. 19. 12 MRSA § 3651, sub-§ 1, ¶ A, is repealed and the following enacted in its place:

A. Any person appointed a coastal warden shall first qualify under the written code of operation prepared by the commissioner, and approved by the State Personnel Board appointed under Title 5, chapters 51 to 61, except as provided in section 3451.

Sec. 20. 12 MRSA § 5013, as last amended by PL 1975, c. 521, § 2, is repealed and the following enacted in its place:

§ 5013. Department organization

The Department of Conservation shall be composed of the Land Use Regulation Commission and bureaus as follows:

1. Land Use Regulation Commission. The Maine Land Use Regulation Commission as established by chapter 206-A, which shall be under the direction and supervision of a director who shall be qualified by experience in planning and administration consistent with section 681. The director shall be appointed by, and serve at the pleasure of, the commissioner.

2. **Bureau of Forestry.** The Bureau of Forestry, which shall be under the direction and supervision of a director, who shall be qualified by training, experience and skill in forestry. The director shall be appointed by, and serve at the pleasure of, the commissioner.

3. **Bureau of Parks and Recreation.** The Bureau of Parks and Recreation, which shall be under the direction and supervision of a director. The director shall be appointed by, and serve at the pleasure of, the commissioner.

4. **Bureau of Public Lands.** The Bureau of Public Lands, which shall be under the direction and supervision of a director. The director shall be appointed by, and serve at the pleasure of, the commissioner.

5. **Bureau of Geology.** The Bureau of Geology shall consist of the Maine Mining Bureau as established by Title 10, section 2101 and the Division of Science, Technology and Mineral Resources as established by section 531. The Bureau of Geology shall be under the direction and supervision of a director who shall be appointed by, and serve at the pleasure of, the commissioner.

Every person appointed as a bureau director or in another supervisory capacity in the department shall have experience and skill in the field of the functions of that position.

Sec. 21. 15 MRSA § 2712, 3rd ¶, as last repealed and replaced by PL 1975, c. 756, § 6, is amended by adding after the first sentence, the following new sentence:

The superintendent shall be appointed by, and serve at the pleasure of, the commissioner.

Sec. 22. 20 MRSA § 1-B, as enacted by PL 1971, c. 610, § 3, and as amended by PL 1975, c. 711, §§ 167 and 168, is further amended to read:

§ 1-B. Department; organization

The Department of Educational and Cultural Services shall be composed of the following bureaus:

1. **State Museum Bureau.** The State Museum Bureau shall be under the direction of a director who shall be qualified by training or by experience in museum work and shall be appointed by, and serve at the pleasure of, the ~~Maine State Museum Commission~~ with the approval of the commissioner ~~to serve for an indefinite term, subject to removal for cause.~~ The compensation of the director shall be fixed by the Governor; ~~and~~

2. **Arts and Humanities Bureau.** The Arts and Humanities Bureau which shall be under the direction of a director who shall be qualified by training or by experience and shall be appointed by, and serve at the pleasure of, the ~~Maine State Commission on the Arts and the Humanities~~ with the approval of the commissioner ~~to serve for an indefinite term, subject to removal for cause.~~ The compensation of the director shall be fixed by the Governor ~~and Council; and~~

3. **Maine State Library Bureau.** The Maine State Library Bureau, which shall be known as the Maine State Library and which shall be under the

direction of a director who shall be qualified by training or by experience in library work and who shall be known as the State Librarian, appointed by, **and serving at the pleasure of**, the commissioner ~~with the advice and consent of the Governor to serve for an indefinite term, subject to removal for cause.~~ The compensation of the director shall be fixed by the Governor; ~~and~~

4. **Bureau of Vocational Education.** The Bureau of Vocational Education which shall be under the direction of a director appointed by, **and serving at the pleasure of**, the commissioner ~~subject to the Personnel Law~~; and

5. **Other.** Such other bureaus as the commissioner deems necessary to fulfill the duties of the department, each of which shall be under the direction of a person appointed by the commissioner, ~~subject to the Personnel Law~~ to serve at the pleasure of the commissioner. **All such persons shall be subject to the Personnel Law, except for persons in the following positions: Deputy Commissioner, Educational and Cultural Services; Associate Commissioner, Bureau of Instruction; Associate Commissioner, Bureau of School Management; Director, Planning and Management Information; Director, Federal Programs; and Director, Division of Finance.**

Sec. 23. 20 MRSA § 102, 1st ¶, 2nd sentence, as repealed and replaced by PL 1971, c. 610, § 7, is repealed and the following enacted in its place:

The commissioner is authorized to hire whatever personnel he deems necessary to fulfill the duties of the department. Such personnel shall be subject to the Personnel Law, except as provided in section 1-B, subsection 5.

Sec. 24. 22 MRSA § 1, 3rd ¶, as last amended by PL 1975, c. 755, § 4, is repealed and the following enacted in its place:

The commissioner may employ such bureau and division heads, deputies, assistants and employees as may be necessary to carry out the work of the department. All personnel of the department shall be under the immediate supervision, direction and control of the commissioner. Such personnel shall be employed subject to the Personnel Law, except the: Deputy Commissioners; Director, Bureau of Resource Development; Director, Bureau of Maine's Elderly; Director, Bureau of Health; Director Bureau of Rehabilitation; Director, Bureau of Social Welfare; and Director, State Comprehensive Health Planning Agency. Deputy commissioners shall be appointed by the commissioner and shall serve at the pleasure of the commissioner.

Sec. 24-A. 22 MRSA § 1, 4th ¶, as last amended by PL 1975, c. 771, § 209, is repealed and the following enacted in its place:

The Director, Bureau of Resource Development and the Director, Bureau of Maine's Elderly, shall be appointed by the commissioner, after consultation with the Maine Committee on Aging and the Maine Human Services Council. Each of these directors shall be appointed and serve in the unclassified service at the pleasure of the commissioner. Any vacancy in each of these positions shall be filled by appointment as in this paragraph for a like term.

Sec. 25. 22 MRSA § 3173, 1st ¶, as enacted by PL 1973, c. 790, § 2, is amended to read:

The department is authorized to administer programs of aid, medical or remedial care and services for medically indigent persons. It is empowered to employ ~~subject to the Personnel Law~~ such assistants as may be necessary to carry out this program and to coordinate their work with that of the other work of the department. ~~Such assistants shall be subject to the Personnel Law, except for the Director, Bureau of Social Welfare.~~

Sec. 26. 22 MRSA § 4702, 3rd ¶, as last repealed and replaced by PL 1965, c. 340, § 1, is amended to read:

The commissioner may employ ~~subject to the Personnel Law~~ the necessary assistance to carry out the duties and responsibilities of the Department of Indian Affairs. ~~All such employees shall be subject to the Personnel Law, except for the Deputy Commissioner of Indian Affairs.~~

Sec. 27. 23 MRSA § 4206, sub-§ 4, as amended by PL 1973, c. 186, § 2, is further amended to read:

4. **Personnel.** The commissioner may ~~subject to the Personnel Law~~ appoint such deputies, directors, assistants, general counsel and other officers and employees as may be needed for the performance of his duties. ~~Such appointments shall be subject to the Personnel Law, except for directors of the following organizational units who shall serve at the pleasure of the commissioner: Deputy Commissioners of Transportation; and the Directors of the Bureau of Administrative Services, Bureau of Transportation Planning and Services; Bureau of Aeronautics, Bureau of Highways, Bureau of Waterways, Bureau of Legal Affairs and Bureau of Safety.~~

Sec. 28. 25 MRSA § 1501, 1st ¶, as last amended by PL 1975, c. 771, § 261, is amended to read:

The Commissioner of Public Safety, with the advice and consent of the Governor and subject to review by the Joint Standing Committee on State Government and to confirmation by the Legislature, 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 impeachment or by the Governor on the address of both branches of the Legislature~~

Sec. 29. 25 MRSA § 2396, 1st ¶, 2nd sentence, as last amended by PL 1975, c. 579, § 4, is further amended to read:

The Commissioner of Public Safety shall appoint, as State Fire Marshal a person experienced in fire prevention work, who may be removed ~~for cause~~ by the commissioner.

Sec. 30. 25 MRSA § 2804-A, 1st ¶, as enacted by PL 1975, c. 579, § 9, is amended to read:

The Commissioner of Public Safety, with the ~~approval~~ **advice** 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 commis-

sioner 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~~ shall serve at the pleasure of the commissioner.

Sec. 31. 26 MRSA § 41, as last amended by PL 1975, c. 771, § 269, is repealed and the following enacted in its place:

§ 41. Director; personnel; salaries; expenses

A Bureau of Labor within the Department of Manpower Affairs, as heretofore established and hereinafter in this Title called the "bureau," shall be maintained under the direction of an officer whose title shall be Director of the Bureau of Labor and state factory inspector, hereinafter in this Title, except in chapter 13, called the "director." He shall be appointed by the Commissioner of Manpower Affairs and shall hold office at the pleasure of the commissioner. He shall have an office in the State Capitol. He shall appoint, subject to the Personnel Law, such employees as may be necessary and a deputy who shall be clerk of the bureau and deputy state factory inspector.

Sec. 32. 26 MRSA § 795, 4th sentence, as enacted by PL 1969, c. 478, § 1, is repealed and the following enacted in its place:

The Governor shall appoint a full-time executive secretary who shall serve at the pleasure of the Governor, and designate the duties and responsibilities of the position.

Sec. 33. 26 MRSA § 968, sub-§ 2, as last amended by PL 1975, c. 771, § 282, is further amended to read:

2. **Executive Director.** An Executive Director of the Maine Labor Relations Board shall be appointed by the board to serve at their will and pleasure. The person so appointed shall be ~~trained in the law and~~ experienced in the field of labor relations. He shall perform the duties designated by statute and such other duties as shall from time to time be assigned to him by the board. He shall serve as secretary of the board and shall maintain a record of all proceedings before the board. The executive director shall receive such salary as shall be fixed by the Governor. No board member shall shall serve as executive director.

Sec. 34. 26 MRSA § 1401, sub-§ 2, as enacted by PL 1971, c. 620, § 12, is repealed and the following enacted in its place:

2. **Personnel.** Appoint to serve at his pleasure, provided such appointments are consistent with the law, persons to serve as directors or executive directors of the following organizations: Manpower Adjudication, Manpower Affairs, Manpower Affairs Administrative Services, Manpower Research, Manpower Training and Labor; transfer personnel within the department to insure the efficient utilization of department personnel subject to the Personnel Law;

Sec. 35. 28 MRSA § 57, 1st ¶, as enacted by PL 1975, c. 741, § 4, is repealed and the following enacted in its place:

The Commissioner of Finance and Administration shall appoint a Director of the Bureau of Alcoholic Beverages who shall serve at the pleasure of the commissioner. The salary of the director shall be fixed by the Governor.

Sec. 36. 32 MRSA § 4051-A, 4th ¶, 1st sentence, as last repealed and replaced by PL 1975, c. 767, § 51, is repealed and the following enacted in its place:

The director shall be appointed by, and serve at the pleasure of, the Commissioner of Business Regulation.

Sec. 37. 34 MRSA § 1, 4th ¶, 1st sentence, as enacted by PL 1975, c. 777, § 11, is amended to read:

The commissioner ~~subject to the approval of the Governor~~ shall appoint and set the salaries for the associate commissioners and for the Warden of the Maine State Prison.

Sec. 38. 34 MRSA § 526, 1st sentence, as repealed and replaced by PL 1975, c. 755, § 8, is amended to read:

The commissioner shall, with the advice of the Correctional Advisory Commission, appoint and set the salary ~~subject to the approval of the Governor and Council~~ for a Director of Corrections who shall be a person with training and experience in correctional administration or who has had satisfactory experience in the direction of work of a comparable nature.

Sec. 39. 34 MRSA § 551, is amended by adding after the first sentence, the following new sentence:

He shall be appointed by the commissioner for an indeterminate term and until a successor is appointed and qualified or during the pleasure of the commissioner.

Sec. 40. 34 MRSA § 1591, 2nd ¶ as repealed and replaced by PL 1969, c. 319, § 3, is amended to read:

The Division of Probation and Parole shall be under the direction of the Director of Probation and Parole, in this chapter called the "director," who shall be appointed by ~~the Director of Corrections, subject to the Personnel Law~~ and serve at the pleasure of, the commissioner.

Sec. 41. 34 MRSA § 2002, as repealed and replaced by PL 1975, c. 755, § 9, is amended to read:

§ 2002. Director; duties

The commissioner shall, with the advice of the Committee on Mental Health, appoint and set the salary ~~subject to the approval of the Governor and Council~~ for a Director of Mental Health who shall be a person with training and experience in mental health program administration or who has had satisfactory experience in the direction of work of a comparable nature. The appointment shall be for an indeterminate term and until a successor is appointed and qualified or during the pleasure of the commissioner. It shall

be the duty of the Director of Mental Health to carry out the purposes of the bureau.

Sec. 42. 34 MRSA § 2062, as repealed and replaced by PL 1975, c. 755, § 10, is amended to read:

§ 2062. Director; duties

The commissioner shall, with the advice of the Committee on the Problems of the Mentally Retarded, appoint and set the salary ~~subject to the approval of the Governor and Council~~ for a Director of Mental Retardation who shall be a person with training and experience in mental retardation program administration or who has had satisfactory experience in the direction of work of a comparable nature. The appointment shall be for an indeterminate term and until a successor is appointed and qualified or during the pleasure of the commissioner. It shall be the duty of the Director of Mental Retardation to carry out the purposes of the bureau.

Sec. 43. 34 MRSA § 2102, first 3 sentences, as amended by PL 1973, c. 326, § 1, are repealed and the following enacted in their place:

The head of each hospital shall be called the superintendent. The commissioner shall, with the advice of the Advisory Committee on Mental Health, appoint and set salaries for the superintendent of each hospital. The appointments shall be at the pleasure of the commissioner.

Sec. 44. 34 MRSA § 2151, 2nd ¶, first 3 sentences, as last amended by PL 1973, c. 326, § 2, are repealed and the following enacted in their place:

The head of the Pineland Center shall be called the superintendent. The commissioner shall, with the advice of the Committee on Problems of the Mentally Retarded, appoint and set the salary for the Superintendent of the Pineland Center. The appointment shall be at the pleasure of the commissioner.

Sec. 45. 37-A MRSA § 1, sub-§§ 3 and 4, as enacted by PL 1975, c. 771, § 403-A, are amended to read:

3. **Bureau of Civil Emergency Preparedness.** The Bureau of Civil Emergency Preparedness shall have a director, who shall be appointed by the Adjutant General ~~with the advice and consent of the Governor~~. The director shall serve at the pleasure of the Adjutant General and shall not hold any other state office for compensation.

4. **Bureau of Veterans Services.** The Bureau of Veterans Services shall have a director, who shall be appointed by the Adjutant General ~~with the advice and consent of the Governor~~. The director shall be a war veteran and a person qualified by experience, training and a demonstrated interest in veterans services. The director shall serve at the pleasure of the Adjutant General and shall not hold any other state office for compensation.

Sec. 46. 38 MRSA § 342, sub-§ 2, as enacted by PL 1971, c. 618, § 8, is repealed and the following enacted in its place:

2. He may employ such personnel and prescribe the duties of such employees, including bureau directors, as he deems necessary, to fulfill the duties of the department and of the Board of Environmental Protection. Such personnel shall be subject to the Personnel Law, except for the bureau directors.

Sec. 47. Transmittal provisions. Any person who, on December 31, 1977, is an incumbent in a position not subject to the Personnel Law, which position is made subject to the Personnel Law by this Act, shall by this Act:

1. Be considered appointed under the Personnel Law to such position on January 1, 1978, without having to satisfy any other requirements; and 2. Have the right to transfer under such appointment, all accrued fringe benefits, including vacation and sick leave, health and life insurance and retirement, exactly as if such transfer were between 2 positions under the Personnel Law.

STATEMENT OF FACT

The purpose of this bill is to establish and apply a policy on classification under the Personnel Law for major policy-influencing positions below the level of department head in Maine State Government departments and agencies. The bill is the result of a study by the Committee on State Government of the 107th Legislature, pursuant to H. P. 1776. Copies of the study may be obtained in the committee's office.

Section 8 of the bill sets out the policy for such positions, as follows:

1. Determining whether such positions should be unclassified is an appropriate Legislative function;
2. Because they are able to influence State policy, there is a presumption that these positions should be unclassified, but each position should be evaluated separately according to reasonable criteria, examples of which are listed in the bill;
3. To the extent possible, appointment and removal of persons in these positions should be at the pleasure of the department head, with currently classified incumbents and incumbents serving terms "grandfathered" in the position for 4 years; persons in classified positions who are promoted to unclassified policy positions are given rights to return to the classified position for 6 months; and
4. Incumbents of such positions are entitled to the same fringe benefits as persons in positions with comparable pay ranges in the classified service.

Recommendations on whether to unclassify are made for all such positions.

The remaining sections of the bill conform the current statutes to the recommendations of section 8.