

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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Legislative Document

No. 1055

H. P. 804

House of Representatives, March 16, 1977

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

EDWIN H. PERT, Clerk

Presented by Mr. Tyndale of Kennebunkport.

Cosponsor: Mr. Cote of Lewiston.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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**AN ACT to Clarify the Organization of Cultural Boards and Commissions  
within the Department of Educational and Cultural Services.**

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

Sec. 1. 2 MRSA § 6, sub-§ 4, 5th and 6th ¶¶, as repealed and replaced by PL 1973, c. 509, § 2, are repealed as follows:

~~Director, Arts and Humanities Bureau;~~

~~Director, State Museum Bureau;~~

Sec. 2. 2 MRSA § 6, sub-§ 6, 5th ¶, as repealed and replaced by PL 1973, c. 509, § 2, is repealed as follows:

~~State Librarian;~~

Sec. 3. 2 MRSA § 6, sub-§ 9, 2nd ¶, as repealed and replaced by PL 1973, c. 509, § 2, is repealed as follows:

~~Executive Director, Historic Preservation Commission;~~

Sec. 4. 20 MRSA § 1-B, as enacted by PL 1971, c. 610, § 3 and as amended, is repealed and the following enacted in its place:

§ 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 appointed by the commissioner with salary set under the Personnel Law, and who shall serve at the pleasure of the commissioner;

2. **Arts and Humanities Bureau.** The Arts and Humanities Bureau shall be under the direction of a director who shall be appointed by the commissioner, with salary set under the Personnel Law, and who shall serve at the pleasure of the commissioner;

3. **Maine State Library Bureau.** The Maine State Library Bureau, known as the Maine State Library, shall be under the direction of a director who shall be known as the State Librarian, who shall be appointed by the commissioner, with salary set under the Personnel Law and who shall serve at the pleasure of the commissioner;

4. **Maine Historic Preservation Bureau.** The Maine Historic Preservation Bureau shall be under the direction of a director who shall be appointed by the commissioner, with salary set under the Personnel Law and who shall serve at the pleasure of the commissioner;

5. **Vocational Education Bureau.** The Vocational Education Bureau shall be under the direction of a director who shall be appointed by the commissioner, with salary set under the Personnel Law and who shall serve at the pleasure of the commissioner; and

6. **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 director who shall be appointed by the commissioner, with salary set under the Personnel Law and who shall serve at the pleasure of the commissioner.

Sec. 5. 20 MRSA § 102, 2nd ¶, as enacted by PL 1971, c. 610, § 7, is repealed as follows:

~~The commissioner does not have authority to exercise or to interfere with the exercise of any discretionary authority granted to the Maine Museum Commission and the Maine Arts and Humanities Commission~~

Sec. 6. 27 MRSA § 1, first ¶, as last amended by PL 1975, c. 771, § 290, is repealed and the following enacted in its place:

The Maine State Library shall be under the management and supervision of a State Librarian, as heretofore appointed, who shall make such rules and regulations as are necessary for the proper management of the library and the safety of its contents subject to the approval of the Commissioner of Educational and Cultural Services.

Sec. 7. 27 MRSA § 38, first sentence, as last amended by PL 1975, c. 771, § 291, is further amended to read:

The State Librarian, with the approval of the ~~Governor~~ **Commissioner of Educational and Cultural Services**, may make any regulations necessary to enable the State to comply with any law of the United States, heretofore or hereafter enacted, intended to promote public library services.

Sec. 8. 27 MRSA § 82, as enacted by PL 1965, c. 502, § 1, is repealed and the following enacted in its place :

§ 82. **Maine State Museum Commission**

There shall be created within the Department of Educational and Cultural Services a museum commission which shall be designated as the Maine State Museum Commission. It shall consist of 15 members, appointed by the Governor, who are especially qualified and interested in the several fields of museum activity.

The term of each appointed member shall be 6 years or until his successor is appointed and qualified. Of the members first appointed, 5 shall be for 2 years, 5 for 4 years and 5 for 6 years. Subsequent appointments shall be for the full term of 6 years. No member shall serve more than 2 successive terms. In the case of a vacancy other than the expiration of a term, the appointment of a successor shall be made by the Governor for the balance of the term.

The commission shall meet at least 4 times a year. It shall elect a chairman for a term of 2 years and shall adopt and may amend bylaws for its internal organization and operation. The director shall serve as secretary to the commission. The members of the commission shall serve without compensation, but shall be reimbursed for expenses incurred in the performances of their duties.

Sec. 9. 27 MRSA § 83, as enacted by PL 1965, c. 502, § 1, is repealed and the following enacted in its place :

§ 83. **Museum functions**

The Maine State Museum Commission shall :

1. **Appointment of a director.** Give advice and make recommendations to the Commissioner of Educational and Cultural Services with regard to the appointment of the director ;

2. **Policies.** Give advice and make recommendations to the Commissioner of Educational and Cultural Services with regard to the policies and operations of the Maine State Museum necessary for the administration of this chapter ;

3. **Review.** Act, on written request of an interested party, as an appeals board concerning decisions of the Commissioner of Educational and Cultural Services regarding the items in subsection 2 ; and

4. **Recommendations.** Give advice and make recommendations to the Commissioner of Educational and Cultural Services for such legislation as may be necessary to improve the functioning of the Maine State Museum.

Sec. 10. 27 MRSA § 85, as last amended by PL 1971, c. 610, § 16, is repealed and the following enacted in its place :

§ 85. **Duties**

The State Museum Bureau shall be under the management and supervision of a director, as heretofore appointed, who shall make rules and

regulations for the professional management of the museum and the safety of its contents, subject to the approval of the Commissioner of Educational and Cultural Services. The director may employ, subject to the Personnel Law and the approval of the Commissioner of Educational and Cultural Services, such assistants as the business of the office may require.

Sec. 11. 27 MRSA §§ 85-A and 85-B are enacted to read:

§ 85-A. Duties

The Museum Director shall, with the approval of the Commissioner of Educational and Cultural Services:

1. Museum seal. Adopt a seal for use in the official business of the museum;
2. Rules and regulations. Set reasonable rules and regulations as are necessary to effectuate the purposes of this chapter;
3. Acceptance of gifts and bequests. Accept gifts, bequests and endowments for purposes consistent with the purposes of this chapter. Any funds, if given as an endowment, shall be invested by the Treasurer of State according to the laws governing the investment of trust funds. All gifts, bequests and proceeds of endowment funds shall be used solely to carry out the purposes for which they were made;
4. Publication. Publish museum materials, reports, bulletins and other publications which will promote the purposes of this chapter;
5. Collection. Institute and maintain a program of systematic collection in the several fields of museum activity with particular emphasis on those fields relating to the State;
6. Preservation and restoration. Preserve, identify, catalogue, document and safeguard the collection of the museum;
7. Research and publications. Carry on research to increase knowledge in the several fields of museum activity and to provide interpretive and information services, including the dissemination and recording of information gathered through research;
8. Information. Provide reference services to individuals and to local historical, natural history, scientific and other groups and societies interested in museum activities;
9. Exhibitions. Exhibit the collections of the museum, including permanent and temporary exhibits and to provide a loan service for films, artifacts, specimens and other exhibits of the museum to such persons, groups and schools and under such terms and conditions as determined by the director; and
10. Services. Provide ancillary museum services such as operation of a museum library, consultation concerning museum activities, sale of publications, provision of speakers, participation in special events and any other activities which will promote the effectiveness of the museum.

**§ 85-B. Annual report**

The Museum Director shall report to the Commissioner of Educational and Cultural Services annually the receipts and expenditures on account of the museum, the number of acquisitions during the preceding year, specifying those obtained by purchase, donation and exchange and shall make in such report suggestions in relation to the improvement of the museum.

Sec. 12. 27 MRSA §§ 87 and 88, as amended, are repealed and the following enacted in their place:

**§ 87. Assistance from other state agencies**

The heads of the various state departments, agencies and institutions are authorized to consult with the Maine State Museum upon request concerning any aspect of museum operations being directed to the Commissioner of Educational and Cultural Services.

**§ 88. Compliance with federal law**

The Museum Director, with the approval of the Commissioner of Educational and Cultural Services, may make any regulation necessary to enable the State to comply with any law of the United States, heretofore or hereafter enacted, intended to promote public museum services. The Treasurer of State shall be custodian of any money that may be allotted by the Federal Government for programs related to the purposes of the museum.

Sec. 13. 27 MRSA § 401, as enacted by PL 1965, c. 499, § 1, is amended to read:

**§ 401. Maine State Commission on the Arts and the Humanities**

There ~~is~~ shall be created ~~and established~~ within the Department of Educational and Cultural Services a state commission, ~~to be known~~ which shall be designated as the "Maine State Commission on the Arts and the Humanities." ~~to consist of not less than~~ It shall consist of 15 ~~not more than 22~~ members, broadly representative of all artistic and cultural fields, ~~to be~~ appointed by the Governor from among citizens of Maine who are widely known for their competence and experience in connection with these fields. In making such appointments, due consideration shall be given to the recommendations made by representative civic, educational and professional associations and groups concerned with or engaged in artistic and cultural fields generally.

Sec. 13A. 27 MRSA § 402, as enacted by PL 1965, c. 499, § 1, is repealed and the following enacted in its place:

**§ 402. Membership**

The term of office of each appointed member shall be 3 years, or until his successor is appointed and qualified. Of the members first appointed, 5 shall be appointed for terms of one year, 5 for 2 years and 5 for 3 years. Subsequent appointments shall be for the term of 3 years. No members shall serve more than 2 successive terms. The Governor shall designate a chairman and a vice chairman from the members of the commission, who

shall serve as such at the pleasure of the Governor. The chairman shall be the presiding officer of the commission. In the case of a vacancy other than the expiration of a term, the appointment of a successor shall be made by the Governor for the balance of the term. The commission shall meet at least 4 times a year. The director shall serve as secretary of the commission. The members of the commission shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties.

Sec. 14. 27 MRSA §§ 403-A and 403-B are enacted to read:

§ 403-A. Appointment of a director

The commission may give advice and make recommendations to the Commissioner of Educational and Cultural Services with regard to the appointment of the director.

§ 403-B. Duties

The Arts and the Humanities Bureau shall be under the management and supervision of a director, who shall make rules and regulations, subject to the approval of the Commissioner of Educational and Cultural Services, for the proper management of the bureau. The director may employ, subject to the Personnel Law and the approval of the commissioner, such assistants as the business of the office may require.

Sec. 15. 27 MRSA §§ 404 to 407, as enacted by PL 1965, c. 499, § 1 and as amended, are repealed and the following enacted in their place:

§ 404. Duties

The commission shall give advice and make recommendations to the Commissioner of Educational and Cultural Services with regard to:

1. Encouragement. The steps which may be necessary and appropriate to encourage and stimulate public interest and participation in the cultural heritage and programs of our State and to expand the state cultural resources;

2. Freedom. The steps which may be necessary to encourage and assist freedom of artistic expression essential for the well-being of the arts; and

3. Surveys. The surveys which may be deemed advisable of public and private institutions engaged within the State in artistic and cultural activities, including, but not limited to, music, theatre, dance, painting, sculpture, architecture, literature, history and allied studies and pursuits, and the appropriate methods of encouraging participation in and appreciation of the foregoing to meet the legitimate needs and aspirations of persons in all parts of the State.

§ 405. Contracts

The director is authorized, subject to the approval of the Commissioner of Educational and Cultural Services, to enter into contracts, within the limit of funds available therefor, with individuals or organizations and institutions

for services furthering the educational objectives of this chapter; to enter into contracts, within the limit of funds available therefor, with local and regional associations for cooperative endeavors furthering the educational objectives of this chapter; to accept gifts, contributions and bequests of funds from individuals, foundations, corporations and other organizations or institutions for the purpose of furthering the educational objectives of this chapter; to make and sign any agreement and to do and perform any acts that may be necessary to carry out the purposes of this chapter. The director may request and shall receive from any department, division, board, bureau, commission or agency of the State such assistance and data as will enable him to carry out this chapter.

#### § 406. Compliance with federal law

The director, with the approval of the Commissioner of Educational and Cultural Services, may make any regulation necessary to enable the State to comply with any law of the United States, heretofore or hereafter enacted, intended to promote the arts and humanities. The Treasurer of State shall be custodian of any money that may be allotted by the Federal Government for programs related to the purposes of the arts and humanities.

#### § 407. Reports

The director shall report to the Commissioner of Educational and Cultural Services annually the receipts and expenditures on account of the arts and humanities, the number of acquisitions during the preceding year, specifying those obtained by purchase, donation and exchange and shall make in such report suggestions in relation to the improvement of the Arts and the Humanities Bureau.

Sec. 16. 27 MRSA §§ 502 to 510, as enacted by PL 1971, c. 536, § 1 and as amended, are repealed and the following enacted in their place:

#### § 502. Maine Historic Preservation Commission

There shall be created within the Department of Educational and Cultural Services a commission which shall be designated as the "Maine Historic Preservation Commission." It shall consist of 11 members made up as follows: The Commissioner or a representative of the Department of Transportation, and the Commissioner or a representative of the Department of Conservation, to serve ex officio, 9 representatives from among the citizens of Maine, one of whom shall be elected chairman, who are known for their competence, experience and interest in this field, including at least one pre-historic archeologist, one historic archeologist, one historian, one architectural historian and one architect, to be appointed by the Governor. In making such appointments, due consideration shall be given to the recommendations made by the representative professional, civic and educational associations and groups concerned with or engaged in the field of historic preservation.

#### § 503. Membership

The term of office of each appointed member shall be 5 years or until his successor is appointed and qualified. Of the members first appointed, 3 shall



be for 2 years, 3 for 4 years and 3 for 5 years. Subsequent appointments shall be for the term of 5 years. No member shall serve more than 2 successive terms. In the case of a vacancy, other than the expiration of a term, the appointment of a successor shall be appointed by the Governor for the balance of the term. The commission shall meet at least 4 times a year. It shall adopt and may amend bylaws for its internal organization and operation. The director shall serve as secretary to the commission. The members of the commission shall serve without compensation, but shall be reimbursed for expenses incurred in the performance of their duties.

#### § 504. Duties

The commission shall give advice and make recommendations to the Commissioner of Educational and Cultural Services with regard to:

1. Administration. The steps which are necessary and relevant to encourage and stimulate public interest and participation in the historic, architectural and archeological heritage of our State, to provide liaison between the State and Federal Governments and public or private agencies or organizations interested in and participating in the field of historic preservation; and

2. Programs. The steps which are necessary to administer the program of the National Historic Preservation Act of 1966, and other private and governmental programs within the purposes of this chapter.

#### § 505. Director

1. Appointment. The Maine Historic Preservation Commission may give advice and make recommendations to the Commissioner of Educational and Cultural Services with regard to the appointment of the director. The director shall be the State Historic Preservation Officer.

##### 2. Duties.

A. The Maine Historic Preservation Bureau shall be under the management and supervision of a director who shall make rules and regulations for the proper management of the bureau subject to the approval of the Commissioner of Educational and Cultural Services.

B. The director may employ, subject to the personnel laws and the approval of the commissioner, such assistants as the business of the office may require.

C. The director shall prepare a state register of historic places.

D. The director shall, subject to the approval of the commissioner, accept gifts, devises, bequests and endowments for purposes consistent with the purposes of this chapter. Any funds given as an endowment shall be invested by the Treasurer of State according to the laws governing investment of trust funds. All gifts, devises, bequests and proceeds of endowment funds shall be used solely to carry out the purposes for which they were made.

**§ 506. Hearings; contracts**

The commission may, with the approval of the Commissioner of Educational and Cultural Services, hold public and private hearings related to the field of historic preservation. The director may, with the approval of the commissioner, enter into contracts, within the limit of funds available therefor, with individuals or organizations and institutions for services furthering the objectives of this chapter; to enter into contracts, within the limit of funds available therefor, with public or private, local or regional organizations or associations for cooperative endeavors furthering the objective of this chapter. The director may make recommendations to the commissioner regarding the acceptance of gifts, contributions, devises and bequests of funds and objects from individuals, foundations, corporations and other organizations, and institutional or governmental bodies for the purpose of furthering the objectives of this chapter. The director shall recommend to the commissioner to sign any agreements and to perform any acts that may be necessary to carry out the purposes of this chapter.

**§ 507. Assistance from other state agencies**

The director may, with the approval of the commissioner, request and shall receive from any department, division, board, bureau, commission or agency of the State such assistance and data as will enable him to properly carry out this chapter.

**§ 508. Recommendations**

The director, with the approval of the commissioner, shall make recommendations and give assistance to private and governmental bodies as consistent with the purposes of this chapter.

**§ 509. Compliance with federal law**

The director, with the approval of the commissioner, may adopt any regulation necessary to enable the State to comply with any law of the United States, heretofore or hereafter enacted, intended to promote public historic preservation services. The Treasurer of State shall be custodian of any money that may be allotted by the Federal Government for programs related to the purposes of the Maine Historic Preservation Bureau.

**§ 510. Annual report**

The Historic Preservation Director shall report to the commissioner annually the receipts and expenditures on account of the bureau, the number of acquisitions during the preceding year, specifying those obtained by purchases, donation and exchange and shall make in such report suggestions in relation to the improvement of the Maine Historic Preservation Bureau.

**STATEMENT OF FACT**

The purpose of this bill is to standardize several procedures relating to the administration of those cultural bureaus presently assigned to the De-

partment of Educational and Cultural Services. The bill would provide for a common method of appointment of bureau heads by the commissioner subject to the advice of the respective cultural commissions. Also proposed are standard limitations as to the size and defined policy-making functions of the cultural commissions.