

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
SENATE  
108TH LEGISLATURE  
SECOND REGULAR SESSION

CONFERENCE COMMITTEE AMENDMENT "A" to H.P. 2051, L.D. 2111,  
Bill, "AN ACT to Establish and Apply a Policy on the Classification  
of Major Policy-influencing Positions Below the Head of State  
Department and Agencies."

Amend the Bill in section 6 in that part designated "§711."  
in subsection 2, paragraph A, subparagraph (5), by striking out  
all of divisions (c) to (g) and relettering divisions (h) to (j)  
to be divisions (c) to (e)

Further amend the bill by inserting after section 15-A the  
following:

'Sec. 15-B. 20 MRSA §1-A,3rd sentence, as amended by  
PL 1977, c. 78, §121, is further amended to read:  
The department shall consist of a Commissioner of Educational and  
Cultural Services, hereafter in this Title called "commissioner,"  
who shall be appointed by the Governor ~~after-consultation-with~~  
from a list of<sup>3</sup>candidates prepared by the State Board of Education  
as established and subject to review by the Joint Standing Com-  
mittee on Education and to confirmation by the Legislature to  
serve at the pleasure of the Governor.'

Further amend the Bill by striking out all of section 16 and inserting in its place the following:

'Sec. 16. 20 MRSA §1-B, sub-§§ 4 and 5, as enacted by PL 1971, c. 610, §3, are amended to read:

4. Bureau of Vocational Education. The Bureau of Vocational Education which shall be under the direction of a ~~director~~ an associate commissioner 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 these persons shall be subject to the Personnel Law, except for persons in the following positions: Deputy commissioner, Educational and Cultural Services; Assistant to the Commissioner; Associate Commissioner, Bureau of Instruction; and Associate Commissioner, Bureau of School Management.'

Further amend the bill by striking out all of section 28.

Further amend the bill by striking out all of sections 31 and 32 and inserting in their place the following:

'Sec. 31. 34 MRSA §1, as last amended by PL 1977, c. 59, §5, is repealed and the following enacted in its place:

§1. Administration; personnel

The Department of Mental Health and Corrections, as heretofore established, hereinafter in this Title called the "department," shall have general supervision, management and control of the research and planning, grounds, buildings and property, officers,

employees, patients and inmates of all of the following state institutions: The hospitals for the mentally ill, Pineland Center, the State Prison, the Maine Correctional Center, the Maine Youth Center, the Military and Naval Children's Home and any other charitable and correctional state institutions which may be created from time to time.

The department shall be under the control and supervision of a Commissioner of Mental Health and Corrections, hereinafter in this Title called the "commissioner," who shall be appointed by the Governor, subject to review by the Joint Standing Committee on Health and Institutional Services and to confirmation by the Legislature, to serve at the pleasure of the Governor. Any vacancy shall be filled by similar appointment. The commissioner shall be a person experienced in human services' administration or who has had other satisfactory experience in the direction of work of a comparable nature. The commissioner may appoint, subject to the Personnel Law and except as may otherwise be provided, any employees who may be necessary.

The commissioner shall have the power to appoint associate commissioners and bureau and institutional heads as shall be necessary for the proper performance of the duties of the department.

The commissioner shall appoint and set the salaries for the associate commissioners and for the Warden of the Maine State Prison. The warden shall be appointed subject to the Personnel Law. The appointments shall be for indeterminate terms and until successors are appointed and qualified or during the pleasure of the commissioner. The commissioner shall appoint an associate

> commissioner for program and an associate commissioner for administration to assist in carrying out the responsibilities of the department. The associate commissioner for program shall be a person with training and experience in the planning and administration of human services. The associate commissioner for administration shall be a person with training and experience in general management.

The bureau directors and heads of the several institutions within the department shall report directly to the commissioner. Each institutional head shall be experienced in the management of the particular type of institution to which he is assigned.

Notwithstanding any other provisions of law, the commissioner may delegate any employee of the department to serve as the acting head of any bureau or any institution of the department for a period not to exceed 180 days in the event of a vacancy in a bureau or institution. Service as the acting head of a bureau or institution shall be considered as temporary additional duty for the individual so delegated.

In the event of a vacancy in the office of the commission or during his absence or disability, the associate commissioner for program shall perform those duties and have the same powers as provided by law for the commissioner. In the event of

vacancy in both the office of commissioner and the office of the associate commissioner for program, or during the absence or inability of both officials, the associate commissioner for administration shall perform those duties and have the same powers as provided by law for the commissioner.

The department shall be charged with the enforcement of all laws concerning the aforesaid institutions, except in those cases where specific duties are given elsewhere.

Wherever in this Title powers and duties are given to the department, these may be and shall be assumed and carried out by those of the associate commissioners, bureau directors or institutional heads who the commissioner may designate from time to time, and these powers and duties may in turn be delegated by those officers with the approval of the commissioner.

When the death of any patient or inmate in any institution under the control of the department is not clearly the result of natural causes, an examination and inquest shall be held as in other cases, and the superintendent or department shall cause a medical examiner to be immediately notified for that purpose.

The department is authorized and empowered to accept for the State any federal funds appropriated under federal law relating to mental health, mental illness or mental retardation or the juvenile offender, and to do those acts which are necessary for the purpose of carrying out that federal law; and to accept from any other agency of government, individual, group or corporation

any funds which may be available in carrying out the provisions contained herein. The department is authorized to apply for and receive federal funds under the Housing Act of 1954, Public Law 560, Title 7.

Further amend the Bill by renumbering the sections to read consecutively.

Statement of Fact

This amendment makes 2 major changes in the bill.

1. The method of appointing the Commissioner of Educational and Cultural Services is changed to provide that the Governor shall appoint the commissioner from a list of 3 submitted by the State Board of Education.

2. The current methods of appointment are retained for the administrative heads of the State Library, State Museum and Commissions on the Arts and Humanities and Historic Preservation.

In addition, the amendment corrects errors and omissions as follows.

1. The position of associate commissioner, Bureau of Administrative Services, in the Department of Educational and Cultural Services, is deleted from the bill, since this position no longer exists.

2. All of Title 34, section 1 is repealed and replaced to clarify conflicts resulting from enactment by the public laws of 1975, chapters 755, 756 and 777, all of which enact slightly different versions of the second and subsequent paragraphs of that section. The amendment to that section proposed in this amendment retains 2 key features of L.D. 2111 as referred to the

Conference Committee:

A. The Commissioner of Mental Health and Corrections may appoint his deputy commissioners and the ~~warden~~ of the State Prison without the approval of the Governor; and

B. The Warden of the State Prison is made a classified position.

Reported by the Committee of Conference.

Reproduced and distributed pursuant to Senate Rule 11-A.

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