

MAINE STATE LEGISLATURE

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New Draft of H. P. 671, L. D. 729
SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2111

H. P. 2051

House of Representatives, January 26, 1978

Reported by Mr. Curran from the Committee on State Government. Printed under Joint Rules No. 17.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

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, as last amended by PL 1975, c. 771, § 31, is further amended by adding after the 2nd sentence a new sentence to read:

The Secretary of State may appoint deputy secretaries of state who shall serve at the pleasure of the Secretary of State.

Sec. 2. 5 MRSA § 93, as amended by PL 1975, c. 771, § 33, is repealed and the following enacted in its place:

§ 93. State Archivist

The Secretary of State shall appoint a State Archivist subject to review by the Joint Standing Committee on State Government and to confirmation by the Legislature. He shall be chosen without reference to party affiliation and solely on the ground of professional competence to perform the duties of his office. He shall hold office for a term of 6 years from the date of his appointment and until his

successor has been appointed and qualified. The compensation of the State Archivist shall be fixed by the Governor.

This section shall not affect the term of the person holding office as State Archivist on October 1, 1977.

Sec. 3. 5 MRSA § 282, 1st ¶, 3rd sentence, as repealed and replaced by PL 1971, c. 615, § 2, and as amended by PL 1975, c. 771, § 51-A, is repealed and the following enacted in its place: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

Sec. 4. 5 MRSA § 283, sub-§ 4, as amended by PL 1975, c. 771, § 51-B, is repealed and the following enacted in its place: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. 5. 5 MRSA § 678, 1st ¶, as last amended by PL 1977, c. 564, § 26, 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.

Sec. 6. 5 MRSA § 711, as last amended by PL 1977, c. 564, §§ 27-28, 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 employers 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. The following positions in the following departments are major policy-influencing positions. These positions and their successor positions shall be subject to this subsection, notwithstanding any other provisions of law:

(1) Department of the Attorney General:

(a) Deputy Attorneys General; and

(b) Assistant Attorneys General.

(2) Baxter State Park Authority:

(a) Director, Baxter State Park.

(3) Department of Business Regulation:

(a) Superintendent, Bureau of Banks and Banking;

(b) Superintendent, Bureau of Consumer Protection;

(c) Superintendent, Bureau of Insurance; and

(d) Director of Real Estate.

(4) Department of Conservation:

(a) Director, Administrative Services;

(b) Director, Planning and Program Services;

(c) Director, Bureau of Forestry;

(d) Director, Maine Geological Survey;

(e) Executive Director, Land Use Regulation Commission;

(f) Director, Bureau of Parks and Recreation; and

(g) Director, Bureau of Public Lands.

(5) Department of Educational and Cultural Services:

- (a) Assistant to the Commissioner;**
- (b) Deputy Commissioner;**
- (c) State Librarian;**
- (d) Director, State Museum;**
- (e) Executive Director, Arts and Humanities;**
- (f) Director, Historic Preservation;**
- (g) Associate Commissioner, Bureau of Administrative Services;**
- (h) Associate Commissioner, Bureau of School Management;**
- (i) Associate Commissioner, Bureau of Instruction; and**
- (j) Associate Commissioner, Bureau of Vocational Education.**

(6) Department of Finance and Administration:

- (a) State Controller;**
- (b) State Purchasing Agent;**
- (c) State Tax Assessor;**
- (d) Director, Bureau of Public Improvements;**
- (e) Director, Bureau of Alcoholic Beverages; and**
- (f) State Budget Officer.**

(7) Department of Human Services:

- (a) Deputy Commissioners;**
- (b) Director, Bureau of Maine's Elderly;**
- (c) Director, Bureau of Resource Development;**
- (d) Director, Bureau of Health;**
- (e) Director, Bureau of Rehabilitation;**
- (f) Director, Bureau of Social Welfare; and**
- (g) Director, State Health Planning and Development Agency.**

(8) Human Rights Commission:

- (a) Executive Director; and**

- (b) Chief Compliance Officer.
- (9) Department of Indian Affairs:

 - (a) Deputy Commissioner.
- (10) Department of Inland Fisheries and Wildlife:

 - (a) Deputy Commissioner.
- (11) Maine State Lottery Commission:

 - (a) Deputy Director.
- (12) Department of Manpower Affairs:

 - (a) Director, Manpower Adjudication Division;
 - (b) Division Director, Manpower Affairs;
 - (c) Director, Manpower Affairs Administrative Services;
 - (d) Director, Manpower Research;
 - (e) Director, Manpower Training Division;
 - (f) Director, Bureau of Labor; and
 - (g) Executive Director, Maine Labor Relations Board.
- (13) Department of Marine Resources:

 - (a) Deputy Commissioner.
- (14) Department of Mental Health and Corrections:

 - (a) Associate Commission;
 - (b) Director, Bureau of Mental Health;
 - (c) Superintendent, Augusta Mental Health Institute;
 - (d) Superintendent, Bangor Mental Health Institute;
 - (e) Director, Bureau of Mental Retardation;
 - (f) Superintendent, Pineland Center; and
 - (g) Director, Bureau of Corrections.
- (15) Department of Defense and Veterans Services:

 - (a) Deputy Adjutant General;
 - (b) Director, Bureau of Civil Emergency Preparedness; and

(c) Director, Bureau of Veterans Services.

(16) Department of Public Safety:

(a) Chief, Bureau of State Police;

(b) Director, Bureau of Liquor Enforcement;

(c) Director, Office of State Fire Marshal; and

(d) Director, Maine Criminal Justice Academy.

(17) Department of Secretary of State:

(a) Deputy Secretaries of State; and

(b) State Archivist.

(18) Department of Transportation:

(a) Deputy Commissioners; and

(b) Chief Counsel, Bureau of Legal Services.

B. 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 these positions on or after January 1, 1979, provided that if any position is subject to the Personnel Law on December 31, 1978, then the incumbent of the position or person on leave of absence from the position on December 31, 1978, may:

(1) Retain his appointment subject to the Personnel Law until January 1, 1983; 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, 1983.

Any person permanently appointed to a classified position who accepts an appointment to a major policy-influencing position after December 31, 1978, shall have the right, for 12 months subsequent to appointment to the 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. If his service in that unclassified supervisory position shall have been terminated for cause, his right to be so restored shall be determined by the Personnel Board. During the 12-month period, the appointing authority shall have the right to temporarily appoint a person to the position under the Personnel Law, provided that funds are available for the appointment and that it is consistent with the law.

C. 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; the fringe benefits shall include vacation, sick and administration 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 the 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. 7. 5 MRSA § 3304, sub-§ 1, as last amended by PL 1977, c. 78, § 21, 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. 8. 5 MRSA § 4566, sub-§ 3, as enacted by PL 1971, c. 501, § 1, is repealed and the following enacted in its place:

3. Personnel. To appoint a full-time executive secretary and chief compliance officer to the commission and determine their remuneration; and to appoint, subject to the Personnel Law, other personnel including, but not limited to, investigators, attorneys and secretaries, as it shall deem necessary to effectuate the purposes of this Act.

Sec. 9. 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. 10. 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. The 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. 11. 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 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. 12. 12 MRSA § 1951, as last amended by PL 1977, c. 78, § 48, 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 Fisheries 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, a Deputy Commissioner of Inland Fisheries and Wildlife. 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. 13. 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 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 deputy commissioner shall serve at the pleasure of the commissioner.

Sec. 14. 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. 15. 12 MRSA § 5013, sub-§§ 2-4, as amended by PL 1973, c. 788, § 53, are repealed and the following enacted in their place:

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; and

Sec. 15-A. 12 MRSA § 5013, sub-§ 5, as repealed and replaced by PL 1977, c. 360, § 21, is repealed and the following enacted in its place:

5. **Maine Geological Survey.** The Maine Geological Survey shall be under the direction and supervision of a director who shall be appointed by, and serve at the pleasure of, the commissioner.

Sec. 16. 20 MRSA § 1-B, as last amended by PL 1977, c. 78, §§ 122 and 123 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 the commissioner with the advice and consent of a majority of the Maine State Museum Commission ~~with the approval of the commissioner to serve for an indefinite term~~, subject to removal for cause by the commissioner with the advice and consent of a majority of the Maine State Museum Commission. The compensation of the director shall be fixed by the ~~Governor~~ commissioner with the advice and consent of a majority of the Maine State Museum Commission; 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 the commissioner with the advice and consent of a majority 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~~ by the commissioner with the advice and consent of a majority of the Maine State Commission on the Arts and Humanities. The compensation of the director shall be fixed by the ~~Governor~~ commissioner with the advice and consent of a majority of the Maine State Commission on the Arts and Humanities; 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~~ 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 fulfil 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; Associate Commissioner, Bureau of Special Resources; and Associate Commissioner, Bureau of Administrative Services.

Sec. 17. 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. These personnel shall be subject to the Personnel Law, except as provided in section 1-B, subsection 5.

Sec. 18. 22 MRSA § 1, 3rd ¶, as last amended by PL 1977, c. 78, § 145, is repealed and the following enacted in its place:

The commissioner may employ any bureau and division heads, deputies, assistants and employees who 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. These personnel shall be employed subject to the Personnel Law, except the: Deputy Commissioner; 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 Health Planning and Development Agency. Deputy commissioners shall be appointed by the commissioner and shall serve at the pleasure of the commissioner.

Sec. 19. 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. 20. 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. These assistants shall be subject to the Personnel Law, except for the Director, Bureau of Social Welfare.

Sec. 21. 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 of these employees shall be subject to the Personnel Law, except for the Deputy Commissioner of Indian Affairs.

Sec. 22. 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. **These appointments shall be subject to the Personnel Law, except for the following who shall serve at the pleasure of the commissioner: Deputy Commissioners of Transportation and the Chief Legal Counsel.**

Sec. 23. 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. 24. 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. 25. 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. 26. 26 MRSA § 968, sub-§ 2, as last amended by PL 1975, c. 771, § 282, is further amended to read:

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 serve as executive director.

Sec. 27. 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 these 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 and Manpower Training and Labor; transfer personnel within the department to insure the efficient utilization of department personnel subject to the Personnel Law;

Sec. 28. 27 MRSA § 505, as last amended by PL 1975, c. 771, § 296, is repealed and the following enacted in its place:

§ 505. Director

The commissioner, with the advice and consent of a majority of the Maine Historic Preservation Commission, may appoint a director who shall be qualified by special training or experience in the field of historic preservation. He may be removed by the commissioner, with the advice and consent of a majority of the

Maine Historic Preservation Commission. Compensation of the director shall be established by the commissioner, with the advice and consent of a majority of the Maine Historic Preservation Commission. The powers and duties of the director shall be prescribed by the commission.

Sec. 29. 28 MRSA § 57, 1st ¶, as enacted by PL 1975, c. 741, § 4, is amended to read:

The Commissioner of Finance and Administration, with the advice and consent of a majority of the State Liquor Commission, shall appoint a Director of the Bureau of Alcoholic Beverages whose term of office shall be continuous, subject only to removal ~~for cause~~ by a majority of the commission and the Commissioner of Finance and Administration. The salary of the director shall be fixed by the ~~Governor~~ Commissioner of Finance and Administration with the advice and consent of a majority of the State Liquor Commission.

Sec. 30. 32 MRSA § 4051-A, last ¶, first sentence, as repealed and replaced by PL 1975, c. 767, § 51, is repealed and the following enacted in its place:

The Commissioner of Business Regulation, with the advice and consent of a majority of the Real Estate Commission, shall appoint a Director of the Real Estate Commission whose term of office shall be continuous, subject only to removal by a majority of the commission and the Commissioner of Business Regulation. The salary of the director shall be fixed by the Commissioner of Business Regulation with the advice and consent of a majority of the Real Estate Commission.

Sec. 31. 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. 32. 34 MRSA § 1, 4th ¶, as last amended by PL 1975, c. 777, § 11, is further amended by inserting after the first sentence a new sentence to read:

The warden shall be appointed subject to the Personnel Law.

Sec. 33. 34 MRSA § 526, 1st sentence, as amended by PL 1977, c. 78, § 191, is further 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. 34. 34 MRSA § 2002, as last amended by PL 1977, c. 564, § 130, is further 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. 35. 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. 36. 37-A MRSA § 1, sub-§§ 3 and 4, as enacted by 1975, 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. 37. **Transitional provisions.** Any person who, on December 31, 1978, 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 the position on January 1, 1979, without having to satisfy any other requirements; and 2. Have the right to transfer under the appointment, all accrued fringe benefits, including vacation and sick leave, health and life insurance and retirement, exactly as if the transfer were between 2 positions under the Personnel Law.

STATEMENT OF FACT

The purpose of this bill is to 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. This bill is a committee new draft of L. D. 729 which was 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).

The policy for the positions as set out in the study and as applied in this bill are as follows.

1. In the departments and agencies of State Government, employees in positions in the first and 2nd organizational levels below the department or agency head frequently are able to substantially influence policy. Because of this ability, there is a presumption that these 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 these positions do influence policy and whether they will be unclassified should be done through the legislative process, and if it is determined that they shall be unclassified, then the determination should be recorded in the statutes.

The determination of whether a position influences policy should be made separately for each positions, 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 the 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 positions found to be policy-influencing should be unclassified shall also be made seperately 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, they should be made as available as possible to citizens from private and other public employment. To facilitate the availability, the bill provides for fringe benefits that are exactly comparable to fringe benefits available to persons under the Personnel Law.

2. 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 12 months.

Recommendations are made in this bill on whether to unclassify for all these positions.