

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 171

S. P. 86

In Senate, January 24, 1979

Referred to the Committee on State Government. Sent down for concurrence and ordered printed.

Presented by Senator O'Leary of Oxford.

MAY M..ROSS, Secretary of the Senate.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Abolish the Legislative Council.

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

Sec. 1. 3 MRSA § 151, 4th ¶, last sentence, as enacted by PL 1977. c. 291, is amended to read:

Notwithstanding the provisions of section 165, subsection 7, the Legislature ~~or the Legislative Council during any time when the Legislature is not in session~~ may grant to any joint standing committee reviewing a nomination any of the powers set out in section 165, subsection 7.

Sec. 2. 3 MRSA c. 7, 2nd line is repealed and the following enacted in its place:

LEGISLATIVE ADMINISTRATION AND AGENCIES

Sec. 3. 3 MRSA §§ 161 and 162, as amended, are repealed.

Sec. 4. 3 MRSA § 162-A is enacted to read:

§ 162-A. Appointment of directors and officers

The Legislature, by joint order, shall appoint a Legislative Administrative Director, a Director of Legislative Research, a Finance Officer, a Constituent Services Officer and a State Law Librarian; each of whom shall be chosen without reference to party affiliations and solely on the grounds of fitness to perform the

duties of his office; and each shall be appointed for a term of 7 years from the date of his appointment and until his successor has been appointed and qualified.

Sec. 5. 3 MRSA § 163, sub-§ 1, last sentence, as repealed and replaced by PL 1973, c. 590, § 5, is amended to read:

A perpetual inventory of all legislative property shall be maintained ~~under the supervision of the Legislative Council~~ and an accounting thereof shall be made to the Legislature upon its request.

Sec. 6. 3 MRSA § 163, sub-§ 2, as repealed and replaced by PL 1973, c. 590, § 5, is amended to read:

2. Coordination. To coordinate, subject to the control of the ~~council~~ **Legislature**, the activities of the officers of the Director of Legislative Research, the Legislative Finance Officer, the Constituent Service Officer, the State Law Librarian, the Senate Clerk, the House Clerk and such other legislative agencies and offices as may be created by the Legislature;

Sec. 7. 3 MRSA § 163, sub-§§ 3 and 4, as repealed and replaced by PL 1973, c. 590, § 5, are amended to read:

3. Vehicle for requests. To act as a vehicle through which the several agencies, departments and offices of the Legislature may report ~~to the council~~ their budget requests, personnel and supply requirements and to assist the ~~council~~ **Legislature** in the orderly disposition of these requests;

4. Policy implementation. To be responsible for implementing policy resulting from decisions of the ~~council~~ **Legislature**;

Sec. 8. 3 MRSA § 163, sub-§5, as repealed and replaced by PL 1973, c. 590, § 5, is repealed.

Sec. 9. 3 MRSA § 163, sub-§§ 6 and 7, as repealed and replaced by PL 1973, c. 590, § 5, are amended to read:

6. Staff assistants. To appoint staff assistants to the Legislature, ~~with the consent of the council~~ who shall be chosen without reference to party affiliations and solely on the basis of fitness to perform the duties to be assigned to them; **and**

7. Other duties. To undertake such other duties as are assigned by the ~~council~~ **Legislature**.

Sec. 10. 3 MRSA § 164, sub-§ 2, as amended by PL 1973, c. 788, § 4, is further amended to read:

2. Reports. Prepare reports setting forth the political, social and economic effects of legislation enacted, or proposed to be enacted, in this State or elsewhere, when so directed ~~by the Legislative Council~~ or by either or both branches of the Legislature;

Sec. 11. 3 MRSA § 164, sub-§§ 11 and 12, as amended, are repealed.

Sec. 12. 3 MRSA § 164, as last amended by PL 1973, c. 788, § 4, is further amended by inserting at the end the following new paragraphs:

The offices of the director shall be kept open during the time provided for other state offices, and when the Legislature is in session at such hours, day and night, as are most convenient for Legislators.

The director shall appoint, with the approval of the Legislature, an assistant director for a term of 7 years from the date of his appointment and until his successor has been appointed and qualified, such technical assistants and, subject to the Personnel Law, such clerical assistants as may be necessary to carry out this chapter.

Sec. 13. 3 MRSA § 165, sub-§ 2, as enacted by PL 1973, c. 590, § 8, is amended to read:

2. Information and reports provided. To assist the Legislature in the proper performance of its constitutional functions by providing its members with impartial and accurate information and reports concerning the legislative problems which are assigned by the ~~Legislative Council~~ **Legislature** which information may be obtained by independent studies or by cooperation with and information from similar agencies in other states as to the practice of other states in dealing with similar problems;

Sec. 14. 3 MRSA § 166, first ¶, as enacted by PL 1973, c. 590, § 9, is amended to read:

The Legislative Administrative Director shall, under the control of the ~~Legislative Council~~ **Legislature**, assign the staff assistants to assist the joint standing or select committees, to work as director by the committee chairmen, and to such other legislative tasks as the ~~Legislative Council~~ **Legislature** and the Administrative Director may deem appropriate.

Sec. 15. 3 MRSA § 167, sub-§ 4, as enacted by PL 1973, c. 590, § 10, is amended to read:

4. Reports. To report in such manner as shall be directed by the ~~Legislative Council~~ **Legislature** as to any matters which may be of assistance to ~~the committee or~~ the Legislature in forming an independent judgment in the determination of any fiscal matters.

Sec. 16. 3 MRSA § 167, next to last ¶, as amended by P&SL 1973, c. 220, § 5, is further amended to read:

The **Legislative** Finance Officer shall appoint, with the approval of the ~~Legislative Council~~ **Legislature**, an assistant finance officer to assist the Finance Officer in carrying out his duties. He shall be chosen without reference to party affiliation and solely on the grounds of fitness to perform the duties of his office for a term of 7 years from the date of his appointment and until his successor has been appointed and qualified.

Sec. 17. 3 MRSA § 168, as last amended by PL 1977, c. 564, § 11-A, is repealed and the following enacted in its place:

§ 168. Staff assistants to legislative leadership

The President of the Senate, the Majority and Minority Floor Leaders of the Senate, the Speaker of the House of Representatives, and the Majority and Minority Floor Leaders of the House of Representatives shall each have the authority to appoint, at his discretion, a personal staff assistant, or more than one assistant if their aggregate salary does not exceed that of the single personal staff assistant, when the Legislature is in session. The Legislature shall determine the salaries of the staff assistants.

Sec. 18. 3 MRSA § 169, as enacted by PL 1973, c. 590, § 12, is repealed and the following enacted in its place:

§ 169. Constituent Service Officer; functions and duties

The Constituent Service Officer shall perform the following functions and duties:

1. **Factual information.** Collect such factual information as may be directed by the Legislature or by any member of the Legislature to the extent possible;
2. **Constituent service.** Receive, from any member of the Legislature or from any legislative committee, any inquiry or complaint concerning services which may or may not be provided by any governmental unit within the State. This inquiry or complaint shall be investigated, processed and answered in accordance with procedures which may be established by the Legislature; and
3. **Continuation.** Serve as the continuing presence of the Legislature in Augusta during the time when the Legislature is not in session.

Additional duties may be assigned to the Constituent Service Officer by the Legislature. The Constituent Service Officer may employ research associates and secretarial assistance, subject to the Personnel Law and the Legislature, if necessary to carry out this chapter.

Sec. 19. 3 MRSA § 174, last ¶, as repealed and replaced by PL 1975, c. 770, § 10, is amended to read:

The State Law Librarian shall appoint, with the approval of the ~~Legislative Council~~ **Legislature**, a deputy law librarian for a term of 7 years from the date of his appointment and until his successor has been appointed and qualified, and employ, subject to the Personnel Law, such assistants as may be necessary to carry out this subchapter.

Sec. 20. 3 MRSA § 224, 2nd and last sentences, as enacted by PL 1977, c. 605, § 1, are amended to read:

The director shall be paid a salary fixed by the ~~Legislative Council~~ **Legislature** from sums available under section 226.

He shall report to and be subject to the direction of the ~~Legislative Council~~ **Legislature**.

Sec. 21. 3 MRSA § 402, sub-§ 4, last sentence, as repealed and replaced by PL 1977, c. 78, § 2, is repealed and the following enacted in its place:

“Investigating committee” shall not include the Commission on Governmental Ethics and Election Practices when it exercises the authority granted under Title 1, chapter 25.

Sec. 22. 3 MRSA § 509, as enacted by PL 1977, c. 554, § 1, is amended to read:
§ 509. Rules

The ~~Legislative Council~~ **Legislative Administrative Director** shall be responsible for and shall, subject to the approval of the Legislature, issue rules necessary for the efficient administration of this chapter.

Sec. 23. Application. Any person who, on the day before the effective date of this Act, holds the office of Legislative Administrative Director, Director of Legislative Research, Assistant Director of Legislative Research, Legislative Finance Officer, Assistant Legislative Finance Officer, Law and Legislative Reference Librarian, Deputy Law and Legislative Reference Librarian or Coordinator of the Office of Legislative Assistants shall continue to hold that office for the duration of his original appointment.

All appointments, mandates and directives of the Legislative Council shall remain in effect until modified by the Legislature through joint order, but the reporting body for any of those mandates or directives shall be the Legislature.

Sec. 24. Rules and regulations. The Legislative Administrative Director shall, within 30 days after the effective date of this Act, present to the Legislature, for adoption, modification or rejection, a revision of all rules and regulations pertaining to the Legislative Council. This revision shall accomplish the changes set forth by this Act and shall carry out the intention of this Act.

Sec. 25. Accounts. All accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in any account, or subdivision of an account, of any legislative office or agency formerly under the direction of the Legislative Council shall continue in that office or agency unless changed by the Legislature. All accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in any account, or subdivision of an account, of the Legislative Council shall revert to the Legislative Fund to be reallocated as necessary by the Legislative Administrative Director, with the approval of the Legislature.

STATEMENT OF FACT

This bill abolishes the Legislative Council and places its authority in the hands of the Legislature.

In the years since its inception in 1973, the Legislative Council has unfortunately tended to attract power and make decisions which rightfully belong to the Legislature as a whole. This tendency is not the result of those serving on the council, as the council's membership has undergone many changes since its establishment, but rather of the system which the council embodies.

The theories of centralized authority, combined with extensive delegation of power to staff, which the executive branch of government uses to achieve efficiency and effectiveness, are, under Maine legislative tradition, inappropriate for the legislative branch. The Legislature's task is not to swiftly carry out the law, but rather to carefully form legislative policy after a craftsmanlike consideration of all reasonable points of view. This careful deliberation requires decentralization of authority among all the members of the Legislature, not concentration of authority in legislative leaders.

Indeed it might well be argued that the ideals of efficiency which the Legislative Council system was supposed to further have not been realized. Since 1973, the legislative sessions have lengthened, the bulk of legislation has increased and the Legislature has, time and time again, undertaken studies whose unheeded results have merely been added to the long shelf of unread legislative publications.

The important matters of legislative hearings, legislative schedules, legislative studies and delegation of legislative authority to staff should be matters understood by all members of the Legislature and agreed to by a majority of those members and should not be matters deliberated upon and decided by a few.

It is time for a reconsideration of both the Legislative Council and of the ideals which it represents; it is time for a return to the historic legislative ideals of openness, full discussion and decision by the majority.