

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1117

S. P. 375

In Senate, March 4, 1981

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

MAY M. ROSS, Secretary of the Senate

Presented by Senator Brown of Washington.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Amend the Personnel Law as it Relates to Certain Policy-making Positions.

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

Sec. 1. 5 MRSA § 282, 3rd sentence, as repealed and replaced by PL 1977, c. 674, § 3, is amended to read:

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

Sec. 2. 5 MRSA § 283, sub-§ 3 is amended to read:

3. Bureau of Public Improvements. Bureau of Public Improvements, the head of which shall be the State Director of Public Improvements appointed subject to the Personnel Law;

Sec. 3. 5 MRSA § 711, sub-§ 2, ¶ A, sub-¶ (1-A), as enacted by PL 1979, c. 731, § 1, is repealed and the following enacted in its place:

(1-A) Department of Agriculture, Food and Rural Resources:

(a) Deputy commissioners; and

(b) Associate Commissioner for Policy Development.

Sec. 4. 5 MRSA § 711, sub-§ 2, ¶ A, sub-¶ (3), as amended by PL 1979, c. 737, §§ 1 and 2, is further amended to read:

(3) 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; **and**
- ~~(f) Director, Bureau of Parks and Recreation;~~
- ~~(g) Director, Bureau of Public Lands; and~~
- (h) Forest Insect Manager, Bureau of Forestry.

Sec. 5. 5 MRSA § 711, sub-§ 2, ¶ A, sub-¶¶ (4), (5) and (6), as repealed and replaced by PL 1977, c. 674, § 6, are amended to read:

(4) Department of Educational and Cultural Services:

- (a) Assistant to the Commissioner; **and**
- (b) Deputy Commissioner.
- ~~(c) Associate Commissioner, Bureau of School Management;~~
- ~~(d) Associate Commissioner, Bureau of Instruction; and~~
- ~~(e) Associate Commissioner, Bureau of Vocational Education~~

(5) 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.

(6) Department of Human Services:

- (a) Deputy Commissioners; **and**
- ~~(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.

Sec. 6. 5 MRSA § 711, sub-§ 2, ¶ A, sub-¶ (15), as repealed and replaced by PL 1977, c. 674, § 6, is repealed.

Sec. 7. 7 MRSA § 5, as last amended by PL 1979, c. 731, § 9, is further amended to read:

§ 5. Deputies; associates

The commissioner may appoint and fix the compensation of such deputies and associates ~~and bureau directors~~ 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. These deputies and associates ~~and directors~~ shall hold office during the pleasure of the commissioner.

Sec. 8. 12 MRSA § 5013, sub-§§ 2, 3 and 4, as repealed and replaced by PL 1977, c. 674, § 14, are amended to read:

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, **subject to the Personnel Law;**

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, **subject to the Personnel Law;**

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, **subject to Personnel law; and**

Sec. 9. 12 MRSA § 5013, as last amended by PL 1977, c. 674, §§ 14 and 15, is further amended by adding before the last paragraph a new paragraph to read;

The commissioner may appoint a director of administrative services, subject to the Personnel Law.

Sec. 10. 12 MRSA § 5013, last ¶, first sentence, as amended by PL 1977, c. 360, § 22, is further amended to read:

Every person appointed as a bureau director ~~a director of administrative services~~ or director of planning and program services, or in another supervisory capacity in the department shall have experience and skill in the field of the functions of such position.

Sec. 11. 20 MRSA § 1-B, sub-§ 4, as amended by PL 1977, c. 674, § 16, is further amended to read:

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

Sec. 12. 20 MRSA § 1-B, sub-§ 5, last sentence, as enacted by PL 1977, c. 674, § 16, is amended to read:

All these persons shall be subject to the Personnel Law, except for persons in the following positions: Deputy Commissioner, Educational and Cultural Services; ~~and Assistant to the Commissioner; Associate Commissioner, Bureau of Instruction; and Associate Commissioner, Bureau of School Management.~~

Sec. 13. 22 MRSA § 1, 3rd ¶, 3rd sentence, as repealed and replaced by PL 1977, c. 674, § 18, is amended to read:

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.

Sec. 14. 22 MRSA § 1, last ¶, as repealed and replaced by PL 1977, c. 674, § 19, is repealed.

Sec. 15. 25 MRSA § 1501, first ¶, first sentence, as 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~~ **subject to the Personnel Law.**

Sec. 16. 25 MRSA § 2396, first ¶, 2nd sentence, as amended by PL 1975, c. 579, § 4, is further amended to read:

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

Sec. 17. 25 MRSA § 2804-A, first ¶, as enacted by PL 1975, c. 579, § 9, is repealed and the following enacted in its place:

The Commissioner of Public Safety shall appoint a director, subject to the Personnel Law, who shall be the administrator of the academy.

Sec. 18. 25 MRSA § 2902, first ¶, as repealed and replaced by PL 1975, c. 579, § 12, is repealed and the following enacted in its place:

The Commissioner of Public Safety shall organize the Department of Public Safety into the Maine Criminal Justice Academy and the bureaus below. The head of the academy and of each of the bureaus shall be appointed subject to the Personnel Law.

Sec. 19. Transition provisions. On the effective date of this Act, incumbents in the following positions in Title 5, section 711, shall be deemed appointed to those positions pursuant to the Personnel Law:

- 1-A. Department of Agriculture, Food and Rural Resources:
 - (a) Director, Bureau of Agricultural Production;
 - (b) Director, Bureau of Agricultural Marketing;
 - (c) Director, Bureau of Agricultural and Rural Resources;
 - (d) Director, Bureau of Public Services.
3. Department of Conservation:
 - (a) Director, Administrative Services;
 - (b) Director, Bureau of Forestry;
 - (c) Director, Bureau of Parks and Recreation;
 - (d) Director, Bureau of Public Lands; and
4. Department of Educational and Cultural Services:
 - (a) Associate Commissioner, Bureau of School Management;
 - (b) Associate Commissioner, Bureau of Instruction; and
 - (c) Associate Commissioner, Bureau of Vocational Education.
5. Department of Finance and Administration:
 - (a) Director, Bureau of Public Improvements;
6. Department of Human Services:
 - (a) Director, Bureau of Maine's Elderly;
 - (b) Director, Bureau of Resource Development;
 - (c) Director, Bureau of Health;
 - (d) Director, Bureau of Rehabilitation;
 - (e) Director, Bureau of Social Welfare; and
15. 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.

STATEMENT OF FACT

During the special session of the 108th Legislature, a bill was passed which removed a number of state employees from the classified civil service system. These positions were identified as having a major policy influence on state operations. Personnel affected by this action and employed as of the effective date were "grandfathered" forward in their positions for several years.

Many of these positions should be returned to the classified service, for any of several reasons.

1. They are not positions with a major influence on policy.
2. They are "line" rather than "staff" positions.
3. Although these are major policy influencing positions they should be classified for continuity, insulation from the political process and other reasons.

This bill classifies these positions. The positions and the relevant sections of this bill are:

1-A. Department of Agriculture, Food and Rural Resources:

- (a) Director, Bureau of Agricultural Production
- (b) Director, Bureau of Agricultural Marketing
- (c) Director, Bureau of Agricultural and Rural Resources
- (d) Director, Bureau of Public Services

3. Department of Conservation:

- (a) Director, Administrative Services
- (b) Director, Bureau of Forestry
- (c) Director, Bureau of Parks and Recreation

4. Department of Educational and Cultural Services:

- (a) Associate Commissioner, Bureau of School Management
- (b) Associate Commissioner, Bureau of Instructions
- (c) Associate Commissioner, Bureau of Vocational Education

5. Department of Finance and Administration:

- (a) Director, Bureau of Public Improvements

6. Department of Human Services:

- (a) Director, Bureau of Maine's Elderly
- (b) Director, Bureau of Resource Development

- (c) Director, Bureau of Health
 - (d) Director, Bureau of Rehabilitation
 - (e) Director, Bureau of Social Welfare
15. Department of Public Safety:
- (a) Chief, Bureau of State Police
 - (b) Director, Bureau of Liquor Enforcement
 - (c) Director, Office of State Fire Marshal
 - (d) Director, Maine Criminal Justice Academy