

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1583

6
7 H.P. 1187

House of Representatives, May 9, 1983

8 Submitted by the Department of Personnel pursuant to Joint Rule 24.

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

10 EDWIN H. PERT, Clerk

Presented by Speaker Martin of Eagle Lake.

Cosponsor: Senator Conley of Cumberland.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT Relating to Major Policy-influencing
18 Positions In Various State Agencies.
19

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

22 Sec. 1. 5 MRSA §282, first ¶, as amended by PL
23 1977, c. 674, §3, is repealed and the following
24 enacted in its place:

25 The commissioner may, with the approval of the
26 Governor, appoint a deputy commissioner, who shall be
27 the chief of one of the department bureaus and shall
28 perform the duties of the commissioner during the
29 commissioner's absence, in addition to his regular
30 duties. The compensation and expense of the deputy
31 commissioner shall be paid from any available funds
32 appropriated for the use of the bureau of which he is
33 chief. The commissioner may appoint and employ the
34 bureau chiefs, the Assistant to the Commissioner and

1 the Director of Administrative Services to be under
2 his immediate supervision, direction and control, and
3 to serve at his pleasure and perform such duties as
4 he may prescribe, except as otherwise provided by
5 law.

6 Sec. 2. 5 MRSA §283, sub-§8, as enacted by PL
7 1975, c. 322, §1, is amended to read:

8 8. Bureau of Central Computer Services. Bureau
9 of Central Computer Services, the head of which shall
10 be the Director of Central Computer Services
11 ~~appointed subject to the Personnel Law.~~

12 Sec. 3. 5 MRSA §631, sub-§5, as repealed and
13 replaced by PL 1977, c. 694, §16, is further amended
14 to read:

15 5. Records. To keep a full and complete record
16 of adjudicatory proceedings, including hearings on
17 matters of classification, reclassification or allo-
18 cation, in accordance with the Maine Administrative
19 Procedure Act, sections 9059 and 9061, and to keep a
20 record of votes taken in rule-making proceedings in
21 accordance with the Maine Administrative Procedure
22 Act, section 8056 and to keep full and complete min-
23 utes of investigatory hearings. These records and
24 minutes shall be open to public inspection unless
25 otherwise provided by statute;

26 Sec. 4. 5 MRSA §631, sub-§6, as amended by PL
27 1977, c. 694, §17, is further amended to read:

28 6. Hearings. In the course of any investigations
29 under chapters 51 to 67, to hold hearings for the
30 purpose of gathering information. The hearings are
31 not adjudicatory proceedings under the Maine Adminis-
32 trative Procedure Act, chapter 375. In conjunction
33 with the hearings, he shall have the power to admin-
34 ister oaths and to subpoena and require the attend-
35 ance of witnesses and the production thereby of
36 books, papers, public records and other documentary
37 evidence pertinent to the investigation.

38 In case of the refusal of any person to comply with
39 any subpoena issued hereunder or to testify to any
40 matter regarding which he may be lawfully inter-

1 rogated, the Superior Court in any county on applica-
2 tion of the commissioner may issue an order requiring
3 such person to comply with such subpoena and to tes-
4 tify; and any failure to obey such order of the court
5 may be punished by the court as a contempt thereof;
6 and

7 Sec. 5. 5 MRSA §631, sub-§7, as amended by PL
8 1981, c. 289, §7, is further amended to read:

9 7. Organization and decentralization. To organ-
10 ize the department and separate it into such divi-
11 sions and along such functional lines as the commis-
12 sioner may deem most efficient and to decentralize
13 the functions of personnel management among the vari-
14 ous departments and agencies of the State consistent
15 with the requirements of section 551-A and deemed in
16 the best interest of efficient administration, and to
17 perform those functions which are not decentralized;
18 and

19 Sec. 6. 5 MRSA §631, sub-§8 is enacted to read:

20 8. Personnel. The commissioner may appoint a
21 Director of Planning and Operations and the Assistant
22 to the Commissioner to serve at his pleasure and may
23 employ, subject to the Personnel Law, such other
24 employees who may be necessary to carry out the work
25 of the department.

26 Sec. 7. 5 MRSA §711, sub-§2, ¶A, as amended by
27 PL 1981, c. 708, §§1 to 3, is further amended to
28 read:

29 A. The following positions in the following
30 departments are major policy-influencing posi-
31 tions. These positions and their successor posi-
32 tions shall be subject to this subsection, not-
33 withstanding any other provision of law:

34 (1) Department of the Attorney General:

35 (a) Deputy Attorneys General; and

36 (b) Assistant Attorneys General;

37 (1-A) Department of Agriculture, Food and
38 Rural Resources:

- 1 (a) Deputy Commissioners;
- 2 (b) Associate Commissioner for Policy
3 Development;
- 4 (c) Director, Bureau of Agricultural
5 Productions;
- 6 (d) Director, Bureau of Agricultural
7 Marketing;
- 8 (e) Director, Bureau of Agricultural
9 and Rural Resources; and
- 10 (f) Director, Bureau of Public Ser-
11 vices;
- 12 (g) Director, Administrative Services;
13 and
- 14 (h) Assistant to the Commissioner for
15 Public Information;

16 (2) Department of Business Regulation:

- 17 (a) Superintendent, Bureau of Banking;
- 18 (b) Superintendent, Bureau of Consumer
19 Credit Protection; and
- 20 (c) Superintendent, Bureau of Insur-
21 ance;
- 22 (d) Director, Administrative Services;
23 and
- 24 (e) Assistant to the Commissioner;

25 (3) Department of Conservation:

- 26 (a) Director, Administrative Services;
- 27 (b) Director, Planning and Program
28 Services;
- 29 (c) Director, Bureau of Forestry;

- 1 (d) Director, Maine Geological Survey;
- 2 (e) Executive Director, Maine Land Use
3 Regulation Commission;
- 4 (f) Director, Bureau of Parks and
5 Recreation;
- 6 (g) Director, Bureau of Public Lands;
7 **and**
- 8 (h) Forest Insect Manager, Bureau of
9 Forestry-;
- 10 (i) Assistant to the Commissioner for
11 Public Information; and
- 12 (j) Assistant to the Commissioner;
- 13 (4) Department of Educational and Cultural
14 Services:
- 15 (a) Assistant to the Commissioner;
- 16 (b) Deputy Commissioner;
- 17 (c) Associate Commissioner, Bureau of
18 School Management;
- 19 (d) Associate Commissioner, Bureau of
20 Instruction; **and**
- 21 (e) Associate Commissioner, Bureau of
22 Vocational Education-;
- 23 (f) Director, Division of Finance;
- 24 (g) Director, Planning and Management
25 Information;
- 26 (h) Federal and State Education Pro-
27 gram Coordinator;
- 28 (i) Director, Historic Preservation
29 Commission;
- 30 (j) Executive Director, Arts and
31 Humanities;

- 1 (k) Director, Museum Bureau;
- 2 (l) Director, State Librarian;
- 3 (m) Director, Energy Testing Labora-
4 tory of Maine;
- 5 (n) Director, Division of Post Second-
6 ary Vocational Education;
- 7 (o) Director, Division of School
8 Facilities;
- 9 (p) Director, Division of Adult Educa-
10 tion;
- 11 (q) Director, Division of Program Ser-
12 vices;
- 13 (r) Director, Division of Secondary
14 Vocational Education;
- 15 (s) Director, Division of Curriculum;
16 and
- 17 (t) Director, Special Education;
- 18 (5) Department of Finance and Administra-
19 tion:
- 20 (a) State Controller;
- 21 (b) State Purchasing Agent;
- 22 (c) State Tax Assessor;
- 23 (d) Director, Bureau of Public Improvement;
- 24 (e) Director, Bureau of Alcoholic Bev-
25 erages; and
- 26 (f) State Budget Officer;
- 27 (g) Director, Central Computer Ser-
28 vices;
- 29 (h) Director, Administrative Services;

- 1 (i) Assistant to the Commissioner; and
2 (j) Executive Secretary, Insurance
3 Advisory Board;
- 4 (6) Department of Human Services:
- 5 (a) Deputy Commissioners;
- 6 (b) Director, Bureau of Maine's
7 Elderly;
- 8 (c) Director, Bureau of Resource
9 Development;
- 10 (d) Director, Bureau of Health;
- 11 (e) Director, Bureau of Rehabilita-
12 tion;
- 13 (f) Director, Bureau of Income Mainte-
14 nance;
- 15 (g) Director, State Health Planning
16 and Development Agency; and
- 17 (h) Director, Bureau of Medical Ser-
18 vices-i
- 19 (7) Maine Human Rights Commission:
- 20 (a) Executive Director; and
- 21 (b) Chief Compliance Officer-i
- 22 ~~(8) Department of Indian Affairs-~~
- 23 ~~(a) Deputy Commissioner-~~
- 24 (9) Department of Inland Fisheries and
25 Wildlife:
- 26 (a) Deputy Commissioner-i
- 27 (10) Maine State Lottery Commission:
- 28 (a) Deputy Director-i

- 1 (11) Department of Labor:
- 2 ~~(a) Director, Manpower Training Divi-~~
3 ~~sion;~~
- 4 (a) Director, Maine Job Training Coun-
5 cil;
- 6 (b) Director, Bureau of Labor Stan-
7 dards; and
- 8 (c) Executive Director, Maine Labor
9 Relations Board;
- 10 (d) Assistant to the Commissioner;
- 11 (e) Assistant to the Commissioner for
12 Public Information;
- 13 (f) Director, Planning and Program
14 Services;
- 15 (g) Director, Administrative Services;
- 16 (h) Director, Bureau of Employment
17 Security;
- 18 (i) Director, Bureau of Employment and
19 Training;
- 20 (j) Director, Program Management;
- 21 (k) Director, Field Supervision CETA;
- 22 (l) Director, Operations CETA;
- 23 (m) Executive Secretary, Maine Occupa-
24 tional Information Coordinating Commit-
25 tee;
- 26 (n) Executive Director, Office of
27 Maine CETA; and
- 28 (o) Executive Director, State Employ-
29 ment and Training Council;
- 30 (12) Department of Marine Resources:

- 1 (a) Deputy Commissioner; i
- 2 (13) Department of Mental Health and Cor-
3 rections:
- 4 (a) Associate Commissioner;
- 5 (b) Director, Bureau of Mental Health;
- 6 (c) Superintendent, Augusta Mental
7 Health Institute;
- 8 (d) Superintendent, Bangor Mental
9 Health Institute;
- 10 (e) Director, Bureau of Mental Retar-
11 dation;
- 12 (f) Superintendent, Pineland Center;
13 and
- 14 (g) Director, Bureau of Corrections; i
- 15 (14) Department of Defense and Veterans
16 Services:
- 17 (a) Deputy Adjutant General;
- 18 (b) Director, Bureau of Civil Emer-
19 gency Preparedness; ~~and~~
- 20 (c) Director, Bureau of Veterans Ser-
21 vices; and
- 22 (d) Director, Administrative Services;
- 23 (15) Department of Public Safety:
- 24 (a) Chief, Bureau of State Police;
- 25 (b) Director, Bureau of Liquor
26 Enforcement;
- 27 (c) Director, Office of State Fire
28 Marshal; and
- 29 (d) Director, Maine Criminal Justice
30 Academy; i

- 1 (16) Department of Secretary of State:
2 (a) Deputy Secretaries of State; and
3 (b) State Archivist-;
- 4 (17) Department of Transportation:
5 (a) Deputy Commissioners; and
6 (b) Chief Counsel, Bureau of Legal
7 Services-;
- 8 (c) Director, Bureau of Finance and
9 Administration;
- 10 (d) Director, Bureau of Maintenance
11 and Operations;
- 12 (e) Director, Bureau of Planning;
- 13 (f) Director, Bureau of Project Devel-
14 opment;
- 15 (g) Director, Bureau of Transportation
16 Services;
- 17 (h) Director, Bureau of Construction;
- 18 (i) Director, Office of Policy and
19 Analysis;
- 20 (j) Assistant to the Commissioner; and
- 21 (k) Assistant to the Commissioner for
22 Public Information;
- 23 (18) Department of Personnel:
- 24 (a) Assistant to the Commissioner;
- 25 (b) Director, Planning and Operations;
26 and
- 27 (19) Attorneys:
- 28 (a) Staff attorneys generally in state
29 departments and agencies.

1 Sec. 8. 5 MRSA §711, sub-§2, ¶B, as amended by
2 PL 1979, c. 127, §§32-A and 32-B, is repealed and the
3 following enacted in its place:

4 B. Except where a term is otherwise provided by
5 law, the legislatively designated appointing
6 authority of the department or agency in which a
7 major policy-influencing position is located may
8 appoint and remove persons to and from these
9 positions, provided that, if any position is sub-
10 ject to the Personnel Law on the effective date
11 of this paragraph, the incumbent of the position
12 or person on leave of absence from the position
13 on that day may retain his appointment subject to
14 the Personnel Law until July 1, 1984.

15 Any person permanently appointed to a classified
16 position who accepts an appointment to a major
17 policy-influencing position, shall have the
18 right, for 12 months subsequent to appointment to
19 the major policy-influencing position, to be
20 restored to the classified position from which he
21 shall have been promoted or to a position equiva-
22 lent thereto in salary grade in an agency, with-
23 out impairment of his personnel status or the
24 loss of seniority, retirement or other rights to
25 which uninterrupted service in the classified
26 position would have entitled him. If his service
27 in that unclassified supervisory position shall
28 have been terminated for cause, his right to be
29 so restored shall be determined by the Personnel
30 Board. During the 12-month period, the appointing
31 authority shall have the right to temporarily
32 appoint a person to the position under the Per-
33 sonnel Law, provided that funds are available for
34 the appointment and that it is consistent with
35 the law.

36 Sec. 9. 5 MRSA §1727, first ¶, as enacted by PL
37 1971, c. 239, §2, is amended to read:

38 The board shall employ an executive secretary who
39 has a comprehensive knowledge of insurance practices
40 and principles and who shall administer the duties
41 imposed by this chapter, with the advice of the
42 board. The executive secretary shall be an employee
43 of the State and shall be ~~subject to the Personnel~~
44 ~~Law~~ serve at the pleasure of the board.

1 Sec. 10. 10 MRSA §8002, sub-§2, as repealed and
2 replaced by PL 1975, c. 767, §9, is repealed and the
3 following enacted in its place:

4 2. Personnel. Appoint an Assistant to the Com-
5 missioner and a Director of Administrative Services
6 to serve at his pleasure and transfer personnel
7 within the department to insure efficient utilization
8 of department personnel;

9 Sec. 11. 20-A MRSA §203, as enacted by PL 1981,
10 c. 693, §§5 and 8, is repealed and the following
11 enacted in its place:

12 §203. Appointments

13 1. Commissioner's appointments. The commis-
14 sioner shall appoint the following officials who
15 shall serve at his pleasure:

16 A. Assistant to the Commissioner;

17 B. Deputy Commissioner;

18 C. Associate Commissioner, Bureau of School Man-
19 agement;

20 D. Associate Commissioner, Bureau of Instruc-
21 tion;

22 E. Associate Commissioner, Bureau of Vocational
23 Education;

24 F. Director, State Librarian;

25 G. Director, Division of Finance;

26 H. Director, Planning and Management Informa-
27 tion;

28 I. Federal and State Education Program Coordina-
29 tor;

30 J. Director, Energy Testing Laboratory of Maine;

31 K. Director, Division of Post Secondary Voca-
32 tional Education;

- 1 L. Director, Division of School Facilities;
2 M. Director, Division of Adult Education;
3 N. Director, Division of Program Services;
4 O. Director, Division of Secondary Vocational
5 Education;
6 P. Director, Division of Curriculum; and
7 Q. Director, Special Education.

8 2. Other appointments. The following other
9 appointments shall be made as set out in this subsec-
10 tion.

11 A. The Director of the State Museum Bureau shall
12 be qualified by training or by experience in
13 museum work. With the approval of the commis-
14 sioner, the director shall be appointed by and
15 serve at the pleasure of the Maine State Museum
16 Commission.

17 B. The Executive Director of the Arts and
18 Humanities Bureau shall be qualified by training
19 or experience. With the approval of the commis-
20 sioner, the director shall be appointed by and
21 serve at the pleasure of the Maine State Commis-
22 sion on the Arts and the Humanities.

23 C. The Director of the Maine Historic Preser-
24 vation Commission shall be qualified by special
25 training or experience in the field of historic
26 preservation. With the approval of the commis-
27 sioner, the director shall be appointed by and
28 serve at the pleasure of the Maine Historic
29 Preservation Commission.

30 Sec. 12. 23 MRSA §4206, sub-§4, as amended by PL
31 1977, c. 674, §22, is further amended to read:

32 4. Personnel. The commissioner may appoint such
33 deputies, directors, assistants, general counsel and
34 other officers and employees as may be needed for the
35 performance of his duties. These appointments shall
36 be subject to the Personnel Law, except for the fol-

1 lowing who shall serve at the pleasure of the commis-
2 sioner: Deputy Commissioners of Transportation and
3 the chief legal counsel; Chief Counsel, Bureau of
4 Legal Services; Director, Bureau of Finance and
5 Administration; Director, Bureau of Transportation
6 Services; Director, Bureau of Planning; Director,
7 Bureau of Project Development; Director, Bureau of
8 Management and Operations; Director, Bureau of Con-
9 struction; Director, Office of Policy and Analysis;
10 Assistant to the Commissioner; and Assistant to the
11 Commissioner for Public Information.

12 Sec. 13. 26 MRSA §1082, sub-§1, as amended by PL
13 1981, c. 168, §11, is further amended to read:

14 1. Powers and duties of the commissioner. Except
15 as otherwise provided, it shall be the duty of the
16 Commissioner of Labor to administer this chapter
17 through an organization to be known as the Bureau of
18 Employment Security. The commissioner shall appoint
19 a Director of Employment Security to serve at his
20 pleasure. The commissioner shall have the power and
21 authority to may employ such persons, make such
22 expenditures, require such reports, make such inves-
23 tigations and take such other actions as he deems
24 necessary or suitable to that end.

25 Sec. 14. 26 MRSA §1401, sub-§2, as repealed and
26 replaced by 1977, c. 674, §25, is repealed and the
27 following enacted in its place:

28 2. Personnel. Appoint to serve at his pleasure:

29 A. Assistant to the Commissioner;

30 B. Assistant to the Commissioner for Public
31 Information;

32 C. Director, Planning and Program Services;

33 D. Director, Administrative Services;

34 E. Director, Bureau of Labor Standards;

35 F. Executive Director, Maine Labor Relations
36 Board;

- 1 G. Director, Bureau of Employment Security;
2 H. Director, Bureau of Employment and Training;
3 I. Director, Program Management;
4 J. Director, Field Supervision CETA;
5 K. Director, Operations CETA;
6 L. Director, Maine Job Training Council;
7 M. Executive Secretary, Maine Occupational
8 Information Coordinating Committee;
9 N. Executive Director, Office of Maine CETA; and
10 O. Executive Director, State Employment and
11 Training Council.

12 The commissioner may appoint, subject to the Person-
13 nel Law, such other personnel as may be necessary to
14 carry out the functions of the department. The com-
15 missioner may transfer personnel within the depart-
16 ment to insure the efficient utilization of depart-
17 ment personnel;

18 Sec. 15. 27 MRSA §505, sub-§1, as enacted by PL
19 1979, c. 21, is repealed and the following enacted in
20 its place:

21 1. Director, Maine Historic Preservation Commis-
22 sion. The Director of the Maine Historic Preser-
23 vation Commission shall be qualified by special
24 training or experience in the field of historic
25 preservation. With the approval of the commissioner,
26 the director shall be appointed by and serve at the
27 pleasure of the Maine Historic Preservation Commis-
28 sion.

29 Sec. 16. 37-A MRSA §1, sub-§2, as enacted by PL
30 1975, c. 771, §403-A, is amended to read:

31 2. Military Bureau. The Deputy Adjutant General
32 shall be the Director of the Military Bureau and
33 shall serve at the pleasure of the Adjutant General.

1 Nine positions in the Department of Transporta-
2 tion are made appointive. Two of these are the com-
3 missioner's support staff and 7 others represent the
4 major administrative, planning and program units in
5 the department. Six of these positions were recom-
6 mended to be appointive by the 1977 State Government
7 Committee study.

8 The bill also provides that persons functioning
9 as attorneys in state departments and agencies will
10 be appointive, as are attorneys in the Office of the
11 Attorney General. An attorney has extraordinary
12 authority in his representational role, and this
13 authority will be most responsively exercised if it
14 is not insulated by the civil service process.
15 Approximately 29 attorneys are affected, including,
16 but not limited to, attorneys in the Department of
17 Transportation, the Public Utilities Commission, the
18 Maine Human Rights Commission, the Workers' Compensa-
19 tion Commission, the State Claims Board and the Maine
20 Labor Relations Board.

21 Section 4 of the bill indicates the positions
22 that are appointive.

23 Section 5 provides that the incumbent of a posi-
24 tion that is made appointive may retain his appoint-
25 ment subject to the Personnel Law until July 1, 1984.
26 Existing law provides that a classified employee
27 appointed to a major policy-influencing position may
28 return to his former position or a position of equal
29 grade up to 12 months after his promotion.

30 The remaining sections conform current statutes
31 to the changes in sections 1 to 7.

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