

MAINE STATE LEGISLATURE

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(New Draft of H.P. 1187, L.D. 1583)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document No. 1740

H.P. 1311 House of Representatives, June 8, 1983

Reported by the Majority from the Committee on State Government and printed under Joint Rule 2.

Original bill presented by Speaker Martin of Eagle Lake. Cosponsored by Senator Conley of Cumberland.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

**AN ACT Relating to Major Policy-influencing
Positions in Various State Agencies.**

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

Sec. 1. 5 MRSA §282, first ¶, as amended by PL 1977, c. 674, §3, is repealed and the following enacted in its place:

The commissioner may, with the approval of the Governor, appoint a deputy commissioner, who shall be the chief of one of the department bureaus and shall perform the duties of the commissioner during the commissioner's absence, in addition to his regular duties. The compensation and expense of the deputy commissioner shall be paid from any available funds appropriated for the use of the bureau of which he is chief. With the exception of the Director of Central Computer Services, the commissioner may appoint and

1 employ the bureau chiefs and the assistant to the
2 commissioner to be under his immediate supervision,
3 direction and control, and to serve at his pleasure
4 and perform such duties as he may prescribe, except
5 as otherwise provided by law.

6 Sec. 2. 5 MRSA §631, sub-§7, as amended by PL
7 1981, c. 289, §7, is further amended to read:

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

18 Sec. 3. 5 MRSA §631, sub-§8 is enacted to read:

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

25 Sec. 4. 5 MRSA §711, sub-§2, ¶A, as amended by
26 PL 1981, c. 708, §§1 to 3, is further amended to
27 read:

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

33 (1) Department of the Attorney General:

34 (a) Deputy Attorneys General; and

35 (b) Assistant Attorneys General-;

36 (1-A) Department of Agriculture, Food and
37 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; ; ~~and~~
- 12 (g) Assistant to the Commissioner for
13 Public Information;
- 14 (2) Department of Business Regulation:
- 15 (a) Superintendent, Bureau of Banking;
- 16 (b) Superintendent, Bureau of Consumer
17 Credit Protection; ~~and~~
- 18 (c) Superintendent, Bureau of Insur-
19 ance; ; ~~and~~
- 20 (d) Assistant to the Commissioner;
- 21 (3) Department of Conservation:
- 22 (a) Director, Administrative Services;
- 23 (b) Director, Planning and Program
24 Services;
- 25 (c) Director, Bureau of Forestry;
- 26 (d) Director, Maine Geological Survey;
- 27 (e) Executive Director, Maine Land Use
28 Regulation Commission;
- 29 (f) Director, Bureau of Parks and
30 Recreation;

- 1 (g) Director, Bureau of Public Lands;
2 and
- 3 (h) Forest Insect Manager, Bureau of
4 Forestry- ;
- 5 (i) Assistant to the Commissioner for
6 Public Information; and
- 7 (j) Assistant to the Commissioner;
- 8 (4) Department of Educational and Cultural
9 Services:
- 10 (a) Assistant to the Commissioner;
- 11 (b) Deputy Commissioner;
- 12 (c) Associate Commissioner, Bureau of
13 School Management;
- 14 (d) Associate Commissioner, Bureau of
15 Instruction; and
- 16 (e) Associate Commissioner, Bureau of
17 Vocational Education- ;
- 18 (f) Director, Planning and Management
19 Information; and
- 20 (g) Federal and State Education Pro-
21 gram Coordinator;
- 22 (4-A) Department of Environmental Protec-
23 tion:
- 24 (a) Deputy Commissioner; and
- 25 (b) Assistant to the Commissioner;
- 26 (5) Department of Finance and Administra-
27 tion:
- 28 (a) State Controller;
- 29 (b) State Purchasing Agent;

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

1 (9) Department of Inland Fisheries and
2 Wildlife:

3 (a) Deputy Commissioner; ;

4 (b) Game Warden Colonel;

5 (c) Assistant to the Commissioner for
6 Public Information; and

7 (d) Assistant to the Commissioner;

8 (10) Maine State Lottery Commission:

9 (a) Deputy Director; ;

10 (11) Department of Labor:

11 ~~(a) Director, Manpower Training Divi-~~
12 ~~sion;~~

13 (a-1) Director, Maine Job Training
14 Council;

15 (b) Director, Bureau of Labor Stan-
16 dards; and

17 (c) Executive Director, Maine Labor
18 Relations Board; ;

19 (d) Assistant to the Commissioner;

20 (e) Assistant to the Commissioner for
21 Public Information;

22 (f) Director, Planning and Program
23 Services;

24 (g) Executive Director, Bureau of
25 Employment Security;

26 (h) Executive Secretary, Maine Occupa-
27 tional Information Coordinating Commit-
28 tee;

29 (i) Executive Director, Office of
30 Maine CETA; and

- 1 (j) Executive Director, State Employ-
2 ment and Training Council;
- 3 (12) Department of Marine Resources:
- 4 (a) Deputy Commissioner; i
- 5 (b) Chief, Bureau of Marine Patrol;
6 and
- 7 (c) Assistant to the Commissioner;
- 8 (13) Department of Mental Health and Mental
9 Retardation:
- 10 (a) Associate Commissioner;
- 11 (b) Director, Bureau of Mental Health;
- 12 (c) Superintendent, Augusta Mental
13 Health Institute;
- 14 (d) Superintendent, Bangor Mental
15 Health Institute;
- 16 (e) Director, Bureau of Mental Retar-
17 dation;
- 18 (f) Superintendent, Pineland Center;
19 and
- 20 (g) Director, Bureau of Corrections; j
- 21 (14) Department of Defense and Veterans
22 Services:
- 23 (a) Deputy Adjutant General;
- 24 (b) Director, Bureau of Civil Emer-
25 gency Preparedness; and
- 26 (c) Director, Bureau of Veterans Ser-
27 vices; k
- 28 (15) Department of Public Safety:
- 29 (a) Chief, Bureau of State Police;

- 1 (b) Director, Bureau of Liquor
2 Enforcement;
- 3 (c) Director, Office of State Fire
4 Marshal; and
- 5 (d) Director, Maine Criminal Justice
6 Academy; i
- 7 (e) Assistant to the Commissioner for
8 Public Information;
- 9 (f) Assistant to the Commissioner; and
- 10 (g) Two Deputy Chiefs, State Police;
- 11 (16) Department of Secretary of State:
- 12 (a) Deputy Secretaries of State; and
- 13 (b) State Archivist; i
- 14 (17) Department of Transportation:
- 15 (a) Deputy Commissioners; and
- 16 (b) Chief Counsel, Bureau of Legal
17 Services; i
- 18 (c) Assistant to the Commissioner; and
- 19 (d) Assistant to the Commissioner for
20 Public Information; and
- 21 (18) Department of Personnel:
- 22 (a) Assistant to the Commissioner; and
- 23 (b) Director, Planning and Operations.

24 Sec. 5. 5 MRS §711, sub-§2, ¶B, as amended by
25 PL 1979, c. 127, §§32-A and 32-B, is repealed and the
26 following enacted in its place:

27 B. Except where a term is otherwise provided by
28 law, the legislatively designated appointing
29 authority of the department or agency in which a

1 major policy-influencing position is located may
2 appoint and remove persons to and from these
3 positions, provided that, if any position is sub-
4 ject to the Personnel Law on the effective date
5 of this paragraph, the incumbent of the position
6 or person on leave of absence from the position
7 on that day may retain his appointment subject to
8 the Personnel Law. Any person currently occu-
9 pying an unclassified position which is made a
10 major policy-influencing position on the effec-
11 tive date of this paragraph shall be subject to
12 the appropriate laws and policies pertaining to
13 the unclassified service. Any person permanently
14 appointed to a classified position who accepts an
15 appointment to a major policy-influencing posi-
16 tion, shall have the right, for 12 months subse-
17 quent to appointment to the major policy-influ-
18 encing position, to be restored to the classified
19 position from which he shall have been promoted
20 or to a position equivalent thereto in salary
21 grade in an agency, without impairment of his
22 personnel status or the loss of seniority,
23 retirement or other rights to which uninterrupted
24 service in the classified position would have
25 entitled him. If his service in that unclas-
26 sified supervisory position shall have been
27 terminated for cause, his right to be so restored
28 shall be determined by the Personnel Board.
29 During the 12-month period, the appointing
30 authority may temporarily appoint a person to the
31 position under the Personnel Law, provided that
32 funds are available for the appointment and that
33 it is consistent with the law.

34 Sec. 6. 5 MRSA §1727, first ¶, as enacted by PL
35 1971, c. 239, §2, is amended to read:

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

43 Sec. 7. 10 MRSA §8002, sub-§2, as repealed and
44 replaced by PL 1975, c. 767, §9, is repealed and the
45 following enacted in its place:

1 2. Personnel. Appoint an assistant to the com-
2 missioner to serve at his pleasure and transfer per-
3 sonnel within the department to insure efficient
4 utilization of department personnel;

5 Sec. 8. 12 MRSA §6022, sub-§3, as enacted by PL
6 1977, c. 661, §5, is amended to read:

7 3. Organization and personnel. The commissioner
8 shall organize the department into the administrative
9 units which he decides are necessary to carry out its
10 duties. The commissioner shall hire all necessary
11 employees of the department subject to the Personnel
12 Law, except as provided in section 6023, and shall
13 prescribe their duties- that persons in the following
14 positions shall be appointed by and serve at the
15 pleasure of the commissioner: Deputy Commissioner;
16 Chief, Bureau of Marine Patrol; and Assistant to the
17 Commissioner. The Chief of the Bureau of Marine
18 Patrol shall be appointed from among the patrol per-
19 sonnel of the bureau with the rank of sergeant or
20 higher. In the event that the Chief of the Bureau of
21 Marine Patrol is not reappointed, he shall have the
22 right to be restored to the classified position from
23 which he shall have been promoted or to a position
24 equivalent thereto in salary grade without impairment
25 of his personnel status or the loss of seniority,
26 retirement or other rights to which uninterrupted
27 service in the classified position would have enti-
28 tled him. If his service in the position of Chief of
29 the Bureau of Marine Patrol shall be terminated for
30 cause, his right to be so restored shall be deter-
31 mined by the Personnel Board.

32 Sec. 9. 12 MRSA §7034, sub-§2-A is enacted to
33 read:

34 2-A. Employment of personnel. The commissioner
35 shall employ, subject to the Personnel Law, such
36 employees as are necessary to carry out the duties of
37 his organization, except that persons in the follow-
38 ing positions shall be appointed by and serve at the
39 pleasure of the commissioner: Deputy Commissioner;
40 Game Warden Colonel; Assistant to the Commissioner;
41 and Assistant to the Commissioner for Public Informa-
42 tion.

1 The Game Warden Colonel shall be appointed from among
2 the game wardens of the department with the rank of
3 sergeant or higher. In the event that the Game
4 Warden Colonel is not reappointed, he shall have the
5 right to be restored to the classified position from
6 which he shall have been promoted or to a position
7 equivalent thereto in salary grade in an agency,
8 without impairment of his personnel status or the
9 loss of seniority, retirement or other rights to
10 which uninterrupted service in the classified posi-
11 tion would have entitled him. If his service in that
12 unclassified supervisory position shall have been
13 terminated for cause, his right to be so restored
14 shall be determined by the Personnel Board.

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

18 §203. Appointments

19 1. Commissioner's appointments. The commis-
20 sioner shall appoint the following officials who
21 shall serve at his pleasure:

22 A. Assistant to the Commissioner;

23 B. Deputy Commissioner;

24 C. Associate Commissioner, Bureau of School Man-
25 agement;

26 D. Associate Commissioner, Bureau of Instruc-
27 tion;

28 E. Associate Commissioner, Bureau of Vocational
29 Education;

30 F. Director, Planning and Management Informa-
31 tion; and

32 G. Federal and State Education Program Coordina-
33 tor.

34 Sec. 11. 23 MRSA §4206, sub-§4, as amended by PL
35 1977, c. 674, §22, is further amended to read:

1 4. Personnel. The commissioner may appoint such
2 deputies, directors, assistants, general counsel and
3 other officers and employees as may be needed for the
4 performance of his duties. These appointments shall
5 be subject to the Personnel Law, except for the fol-
6 lowing who shall serve at the pleasure of the commis-
7 sioner: Deputy Commissioners of Transportation and
8 the chief legal counsel ; Chief Counsel, Bureau of
9 Legal Services; Assistant to the Commissioner; and
10 Assistant to the Commissioner for Public Information.

11 Sec. 12. 25 MRSA §1501, 3rd ¶, as repealed and
12 replaced by PL 1975, c. 579, §3, is amended to read:

13 Subject to the approval of the Commissioner of
14 Public Safety, the chief may ~~designate a~~ appoint 2
15 commissioned officer officers of the State Police to
16 act as his ~~deputy~~ deputies and serve ~~in such capacity~~
17 a term coterminous with that of the chief, subject to
18 removal for cause at his pleasure. Subject to the
19 Personnel Law, the Chief of the State Police may
20 enlist suitable persons as members of the State
21 Police to enforce the law and employ such other
22 employees as may be necessary. The Chief of the State
23 Police shall make rules ~~and regulations~~, subject to
24 the approval of the Personnel Board, for the disci-
25 pline and control of the State Police. If a deputy
26 chief is removed or fails to be reappointed for any
27 reason other than malfeasance of office and, at that
28 time, does not have at least 20 years of service with
29 the State Police, he shall be reinstated at the com-
30 missioned rank held at the time of the appointment
31 with all the rights and privileges as provided by law
32 and personnel rules.

33 Sec. 13. 25 MRSA §2902, as amended by PL 1981,
34 c. 98, §§4 and 5, is further amended by adding at the
35 end a new paragraph to read:

36 Unless specified otherwise by statute, department
37 personnel shall be appointed subject to the Personnel
38 Law. Persons holding major policy-influencing posi-
39 tions under Title 5, section 711, subsection 2, para-
40 graph A, shall be appointed by and serve at the
41 pleasure of the commissioner, except as otherwise
42 provided by law.

1 Sec. 14. 26 MRSA §1082, sub-§1, as amended by PL
2 1981, c. 168, §11, is further amended to read:

3 1. Powers and duties of the commissioner. Except
4 as otherwise provided, it shall be the duty of the
5 Commissioner of Labor to administer this chapter
6 through an organization to be known as the Bureau of
7 Employment Security. The commissioner shall appoint
8 a Director of Employment Security to serve at his
9 pleasure. The commissioner ~~shall have the power and~~
10 ~~authority to~~ may employ such persons, make such
11 expenditures, require such reports, make such inves-
12 tigation and take such other actions as he deems
13 necessary or suitable to that end.

14 Sec. 15. 26 MRSA §1401, sub-§2, as repealed and
15 replaced by PL 1977, c. 674, §25, is repealed and
16 the following enacted in its place:

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

18 A. Assistant to the Commissioner;

19 B. Assistant to the Commissioner for Public
20 Information;

21 C. Director, Planning and Program Services;

22 D. Director, Bureau of Labor Standards;

23 E. Executive Director, Maine Labor Relations
24 Board;

25 F. Director, Bureau of Employment Security;

26 G. Director, Maine Job Training Council;

27 H. Executive Secretary, Maine Occupational
28 Information Coordinating Committee;

29 I. Executive Director, Office of Maine CETA; and

30 J. Executive Director, State Employment and
31 Training Council.

32 The commissioner may appoint, subject to the Person-
33 nel Law, such other personnel as may be necessary to

1 carry out the functions of the department. The com-
2 missioner may transfer personnel within the depart-
3 ment to insure the efficient utilization of depart-
4 ment personnel;

5 STATEMENT OF FACT

6 This new draft identifies 31 positions in State
7 Government as major policy-influencing positions. As
8 a result, these positions are made unclassified, and
9 the appointees serve at the pleasure of the appoint-
10 ing authority.

11 The positions affected by this bill are:

12 1. Department of Agriculture, Food and Rural
13 Resources:

14 A. Assistant to the Commissioner for Public
15 Information;

16 2. Department of Business Regulation:

17 A. Assistant to the Commissioner;

18 3. Department of Conservation:

19 A. Assistant to the Commissioner for Public
20 Information; and

21 B. Assistant to the Commissioner;

22 4. Department of Educational and Cultural Ser-
23 vices:

24 A. Director, Planning and Management Informa-
25 tion; and

26 B. Federal and State Education Program Coordina-
27 tor;

28 5. Department of Environmental Protection:

29 A. Deputy Commissioner; and

30 B. Assistant to the Commissioner;

- 1 6. Department of Finance and Administration:
- 2 A. Assistant to the Commissioner; and
- 3 B. Director, Risk Management;
- 4 7. Department of Inland Fisheries and Wildlife:
- 5 A. Game Warden Colonel;
- 6 B. Assistant to the Commissioner for Public
- 7 Information; and
- 8 C. Assistant to the Commissioner;
- 9 8. Department of Labor:
- 10 A. Director, Maine Job Training Council;
- 11 B. Assistant to the Commissioner;
- 12 C. Assistant to the Commissioner for Public
- 13 Information;
- 14 D. Director, Planning and Program Services;
- 15 E. Executive Director, Bureau of Employment
- 16 Security;
- 17 F. Executive Secretary, Maine Occupational
- 18 Information Coordinating Committee;
- 19 G. Executive Director, Office of Maine CETA; and
- 20 H. Executive Director, State Employment and
- 21 Training Council.
- 22 Some of these positions in the Department of
- 23 Labor are presently unclassified and the title of
- 24 the position is being amended or the position is
- 25 made subject to the pleasure of the appointing
- 26 authority;
- 27 9. Department of Marine Resources:
- 28 A. Chief, Bureau of Marine Patrol; and

