

# MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 2141

6  
7 S.P. 800

In Senate, February 28, 1984

8 Submitted by the Department of Personnel pursuant to Joint Rule 24.  
9 Referred to the Committee on State Government. Sent down for  
concurrence and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate  
Presented by Senator Conley of Cumberland.

Cosponsors: Speaker Martin of Eagle Lake and Representative Paradis of  
Augusta.

11  
12 STATE OF MAINE  
13

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

17 AN ACT Relating to Major  
18 Policy-influencing Positions in the Department  
19 of Human Services, Department of Mental Health  
20 and Mental Retardation, Department of Corrections  
21 and the Public Utilities Commission.  
22

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

25 Sec. 1. 2 MRSA §6-A, sub-§3, as amended by PL  
26 1983, c. 344, §1, is further amended to read:

27 3. Other employees. The salaries of the follow-  
28 ing employees shall be ~~at~~ within salary range 887  
29 step 6:

30 A. General counsel;

31 B. Director of finance;

32 C. ~~Secretary~~ Executive Director; and

1 D. Director of technical analysis.

2 Sec. 2. 2 MRSA §6-A, sub-§4, as enacted by PL  
3 1981, c. 452, §3, is repealed.

4 Sec. 3. 5 MRSA §711, sub-§2, ¶A, as amended by  
5 PL 1983, c. 349, §2; c. 480, §3; c. 489, §4; and c.  
6 566, §1, is repealed and the following enacted in its  
7 place:

8 A. The following positions in the following de-  
9 partments are major policy-influencing positions.  
10 These positions and their successor positions  
11 shall be subject to this subsection, notwith-  
12 standing any other provision of law:

13 (1) Department of the Attorney General:

14 (a) Deputy Attorneys General; and

15 (b) Assistant Attorneys General;

16 (1-A) Department of Agriculture, Food and  
17 Rural Resources:

18 (a) Deputy Commissioners;

19 (b) Associate Commissioner for Policy  
20 Development;

21 (c) Director, Bureau of Agricultural  
22 Productions;

23 (d) Director, Bureau of Agricultural  
24 Marketing;

25 (e) Director, Bureau of Agricultural  
26 and Rural Resources;

27 (f) Director, Bureau of Public Ser-  
28 vices; and

29 (g) Assistant to the Commissioner for  
30 Public Information;

31 (2) Department of Business, Occupational  
32 and Professional Regulation:

- 1                   (a) Superintendent, Bureau of Banking;  
2                   (b) Superintendent, Bureau of Consumer  
3                   Credit Protection;  
4                   (c) Superintendent, Bureau of Insur-  
5                   ance; and  
6                   (d) Assistant to the Commissioner;  
7                   (3) Department of Conservation:  
8                   (a) Director, Administrative Services;  
9                   (b) Director, Planning and Program  
10                   Services;  
11                   (c) Director, Bureau of Forestry;  
12                   (d) Director, Maine Geological Survey;  
13                   (e) Executive Director, Maine Land Use  
14                   Regulation Commission;  
15                   (f) Director, Bureau of Parks and  
16                   Recreation;  
17                   (g) Director, Bureau of Public Lands;  
18                   (h) Forest Insect Manager, Bureau of  
19                   Forestry;  
20                   (i) Assistant to the Commissioner for  
21                   Public Information; and  
22                   (j) Assistant to the Commissioner;  
23                   (4) Department of Educational and Cultural  
24                   Services:  
25                   (a) Assistant to the Commissioner;  
26                   (b) Deputy Commissioner;  
27                   (c) Associate Commissioner, Bureau of  
28                   School Management;

1                   (d) Associate Commissioner, Bureau of  
2                   Instruction;

3                   (e) Associate Commissioner, Bureau of  
4                   Vocational Education;

5                   (f) Director, Planning and Management  
6                   Information; and

7                   (g) Federal and State Education Pro-  
8                   gram Coordinator;

9                   (4-A) Department of Environmental Protec-  
10                   tion:

11                   (a) Deputy Commissioner; and

12                   (b) Assistant to the Commissioner;

13                   (5) Department of Finance and Administra-  
14                   tion:

15                   (a) State Controller;

16                   (b) State Purchasing Agent;

17                   (c) State Tax Assessor;

18                   (d) Director, Bureau of Public Im-  
19                   provements;

20                   (e) Director, Bureau of Alcoholic Bev-  
21                   erages;

22                   (f) State Budget Officer;

23                   (g) Assistant to the Commissioner; and

24                   (h) Director, Risk Management;

25                   (6) Department of Human Services:

26                   (a) Deputy Commissioners;

27                   (b) Director, Bureau of Maine's Elder-  
28                   ly;

- 1                   (c) Director, Bureau of Social Ser-  
2                   vices;
- 3                   (d) Director, Bureau of Health;
- 4                   (e) Director, Bureau of Rehabilita-  
5                   tion;
- 6                   (f) Director, Bureau of Income Mainte-  
7                   nance;
- 8                   (g) Director, State Health Planning  
9                   and Development Agency;
- 10                  (h) Director, Bureau of Medical Ser-  
11                  vices; and
- 12                  (i) Assistant Deputy Commissioners;
- 13                  (7) Maine Human Rights Commission:
- 14                   (a) Executive Director; and
- 15                   (b) Chief Compliance Officer;
- 16                  (8) Department of Inland Fisheries and  
17                  Wildlife:
- 18                   (a) Deputy Commissioner;
- 19                   (b) Game Warden Colonel;
- 20                   (c) Assistant to the Commissioner for  
21                   Public Information; and
- 22                   (d) Assistant to the Commissioner;
- 23                  (9) Maine State Lottery Commission:
- 24                   (a) Deputy Director;
- 25                  (10) Department of Labor:
- 26                   (a) Director, Maine Job Training Coun-  
27                   cil;
- 28                   (b) Director, Bureau of Labor Stan-  
29                   dards;

- 1                   (c) Executive Director, Maine Labor  
2                   Relations Board;
- 3                   (d) Assistant to the Commissioner;
- 4                   (e) Assistant to the Commissioner for  
5                   Public Information;
- 6                   (f) Director, Planning and Program  
7                   Services;
- 8                   (g) Executive Director, Bureau of Em-  
9                   ployment Security;
- 10                  (h) Executive Secretary, Maine Occupa-  
11                  tional Information Coordinating Commit-  
12                  tee;
- 13                  (i) Executive Director, Bureau of Em-  
14                  ployment Training Programs; and
- 15                  (j) Director, Maine Job Training Coun-  
16                  cil;
- 17                  (11) Department of Marine Resources:
- 18                   (a) Deputy Commissioner;
- 19                   (b) Chief, Bureau of Marine Patrol;  
20                   and
- 21                   (c) Assistant to the Commissioner;
- 22                  (12) Department of Mental Health and Mental  
23                  Retardation:
- 24                   (a) Associate Commissioners;
- 25                   (b) Director, Bureau of Mental Health;
- 26                   (c) Superintendent, Augusta Mental  
27                   Health Institute;
- 28                   (d) Superintendent, Bangor Mental  
29                   Health Institute;
- 30                   (e) Director, Bureau of Mental Retar-  
31                   dation;

- 1                   (f) Superintendent, Pineland Center;  
2                   (g) Children's Services Executive Di-  
3                   rector;  
4                   (h) Director, Mental Retardation Fa-  
5                   cility;  
6                   (i) Director, Elizabeth Levinson Cen-  
7                   ter;  
8                   (j) Superintendent, Military and Naval  
9                   Children's Home;  
10                  (k) Assistant to the Commissioner;  
11                  (l) Assistant to the Commissioner for  
12                  Public Information; and  
13                  (m) Clinical Directors;  
14                  (12-A) Department of Corrections:  
15                  (a) Associate Commissioners;  
16                  (b) Director, Correctional Programs;  
17                  (c) Superintendents, Correctional In-  
18                  stitutes;  
19                  (d) Director, Probation and Parole;  
20                  (e) Prison Warden; and  
21                  (f) Assistant to the Commissioner;  
22                  (13) Department of Defense and Veterans'  
23                  Services:  
24                  (a) Deputy Adjutant General;  
25                  (b) Director, Bureau of Civil Emergen-  
26                  cy Preparedness; and  
27                  (c) Director, Bureau of Veterans' Ser-  
28                  vices;



1                   (14) Department of Public Safety:

2                   (a) Chief, Bureau of State Police;

3                   (b) Director, Bureau of Liquor En-  
4                   forcement;

5                   (c) Director, Office of State Fire  
6                   Marshal;

7                   (d) Director, Maine Criminal Justice  
8                   Academy;

9                   (e) Assistant to the Commissioner for  
10                   Public Information;

11                   (f) Assistant to the Commissioner; and

12                   (g) Two Deputy Chiefs, State Police;

13                   (15) Department of Secretary of State:

14                   (a) Deputy Secretaries of State; and

15                   (b) State Archivist;

16                   (16) Department of Transportation:

17                   (a) Deputy Commissioners;

18                   (b) Chief Counsel, Bureau of Legal  
19                   Services;

20                   (c) Assistant to the Commissioner; and

21                   (d) Assistant to the Commissioner for  
22                   Public Information; and

23                   (17) Department of Personnel:

24                   (a) Assistant to the Commissioner; and

25                   (b) Director, Planning and Operations.

26                   (18) Public Utilities Commission:

27                   (a) General Counsel Public Utilities  
28                   Commission;

- 1                    (b) Director of Finance;  
2                    (c) Executive Director; and  
3                    (d) Director of Technical Analysis.

4            Sec. 4. 22 MRSA §1, 3rd ¶, as amended by PL  
5 1981, c. 10, §1, is further amended to read:

6            The commissioner may employ any bureau and divi-  
7 sion heads, deputies, assistants and employees who  
8 may be necessary to carry out the work of the depart-  
9 ment. All personnel of the department shall be under  
10 the immediate supervision, direction and control of  
11 the commissioner. These personnel shall be employed  
12 subject to the Personnel Law, except the: Deputy  
13 Commissioners; Director, Bureau of Social Services;  
14 Director, Bureau of Maine's Elderly; Director, Bureau  
15 of Health; Director, Bureau of Rehabilitation; Direc-  
16 tor, Bureau of Income Maintenance; and Director,  
17 State Health Planning and Development Agency; Direc-  
18 tor, Bureau of Medical Services; and Assistant Deputy  
19 Commissioners. ~~Deputy commissioners shall be ap-~~  
20 ~~pointed by the commissioner and shall serve at the~~  
21 ~~pleasure of the commissioner.~~

22            Sec. 5. 34-A MRSA §1403, sub-§2, ¶C is enacted  
23 to read:

24            C. The commissioner shall appoint the following  
25 officials to serve at his pleasure:

- 26                    (1) Associate Commissioners;  
27                    (2) Assistant to the Commissioner;  
28                    (3) Director, Correctional Programs;  
29                    (4) Superintendents, Correctional Insti-  
30                    tutes;  
31                    (5) Director, Probation and Parole; and  
32                    (6) Prison Warden.

33            Sec. 6. 34-B MRSA §1204, sub-§2, ¶C is enacted  
34 to read:

1           C. The commissioner shall appoint the following  
2           officials to serve at his pleasure:

3                   (1) Associate Commissioners;

4                   (2) Director, Bureau of Mental Health;

5                   (3) Superintendent, Augusta Mental Health  
6                   Institute;

7                   (4) Superintendent, Bangor Mental Health  
8                   Institute;

9                   (5) Director, Bureau of Mental Retardation;

10                   (6) Superintendent, Pineland Center;

11                   (7) Children's Services, Executive Direc-  
12                   tor;

13                   (8) Director, Mental Retardation Facility;

14                   (9) Director, Elizabeth Levinson Center;

15                   (10) Superintendent, Military and Naval  
16                   Children's Home;

17                   (11) Assistant to the Commissioner;

18                   (12) Assistant to the Commissioner for Pub-  
19                   lic Information; and

20                   (13) Clinical directors.

21           Sec. 7. 35 MRSA §1, as amended by PL 1983, c.  
22           344, §2, is further amended to read:

23           §1. Members; terms; vacancies; seal; clerks; office  
24           and equipment; salary; expenses

25           The Public Utilities Commission, as heretofore  
26           established, shall consist of 3 members appointed by  
27           the Governor, subject to review by the legislative  
28           committee having jurisdiction over public utilities  
29           and to confirmation by the Legislature from time to  
30           time upon the expiration of the terms of the several  
31           members, for terms of 6 years and all 3 members of

1 the commission shall devote full time to their du-  
2 ties. Each term shall end on March 31st of the 6th  
3 year of the term. A commissioner may continue to  
4 serve beyond the end of his term until a duly quali-  
5 fied successor is appointed. Any vacancy occurring  
6 in said commission shall be filled by appointment for  
7 the unexpired portion of the term in which such va-  
8 cancy occurs. One member of the commission shall be  
9 designated by the Governor as chairman. The commis-  
10 sion shall adopt and have a seal and be provided with  
11 an office at the State House in which its records  
12 shall be kept. The commission shall appoint a  
13 secretary an executive director, a director of fi-  
14 nance and a director of technical analysis. The di-  
15 rector of technical analysis shall have a bachelor's  
16 degree in an appropriate field and 4 years' experi-  
17 ence in engineering, or shall be registered as a pro-  
18 fessional engineer. It shall appoint, with the ap-  
19 proval of the Attorney General, a general counsel. It  
20 shall appoint, subject to the Personnel Law, an as-  
21 sistant secretary to the executive director. The  
22 secretary shall keep a full and minute record of the  
23 proceedings of the commission which shall be open to  
24 public inspection at all times. The assistant secre-  
25 tary shall assist the secretary in the performance of  
26 his duties, and in the absence of the secretary shall  
27 have the same powers as the secretary. The secretary  
28 executive director shall have authority to certify to  
29 all official acts of the commission, administer  
30 oaths, issue subpoenas and issue all processes, no-  
31 tices, orders or other documents necessary to the  
32 performance of the duties of the commission. The com-  
33 mission shall have custody and control of all  
34 records, maps and papers pertaining to the offices of  
35 the former Board of Railroad Commissioners and the  
36 former State Water Storage Commission.

37 The salaries of the other subordinate officials and  
38 employees of that commission, other than those of the  
39 general counsel, the secretary executive director,  
40 the director of finance and the director of technical  
41 analysis, shall be subject to the Personnel Law. The  
42 general counsel, the executive director, the director  
43 of finance and the director of technical analysis  
44 shall serve at the pleasure of the commission and  
45 their salaries shall be set by the commission within  
46 the range established by Title 2, section 6-A. The

1 commissioners and all employees shall receive actual  
2 expenses when traveling on official business.

3         **Sec. 8. Transitional provisions.** Consistent  
4 with the Revised Statutes, Title 5, section 711, sub-  
5 section 2, paragraph B, as amended by Public Law  
6 1983, c. 489, section 5, for any position affected by  
7 this Act and subject to the Personnel Law on the ef-  
8 fective date of this Act, the incumbent in the posi-  
9 tion or a person on leave of absence from the posi-  
10 tion shall retain his appointment subject to the Per-  
11 sonnel Law.

12                                 STATEMENT OF FACT

13         The 107th and 108th Legislatures conducted a  
14 broad review of policy-influencing positions, provid-  
15 ing that a number of them should be appointive, that  
16 is, unclassified, subject to appointment and removal  
17 by the appointing authority.

18         The First Regular Session of the 111th Legisla-  
19 ture enacted Public Law 1983, chapter 489, which  
20 dealt with various state agencies. This bill contin-  
21 ues the efforts of earlier Legislatures by identify-  
22 ing major policy-influencing positions in the Depart-  
23 ments of Human Services, Mental Health and Mental Re-  
24 tardation, Corrections and the Public Utilities Com-  
25 mission.

26         Section 1 allows the Public Utilities Commission  
27 to set the salary of the major policy-influencing em-  
28 ployees within Range 88. Those salaries are currently  
29 frozen at Step C of Range 88.

30         Section 3 of the bill provides additional ap-  
31 pointive positions as Assistant Deputy Commissioners  
32 in the Department of Human Services. This section  
33 provides the following positions in the Department of  
34 Mental Health and Mental Retardation be established  
35 as major policy-influencing positions: Children's  
36 Services Executive Director; Director, Mental Retar-  
37 dation Facility; Director, Elizabeth Levinson Center;  
38 Superintendent, Military and Naval Children's Home;  
39 Assistant to the Commissioner; Assistant to the Com-

1 commissioner for Public Information; and Clinical Direc-  
2 tors.

3 Section 3 further provides that the following po-  
4 sitions in the Department of Corrections be estab-  
5 lished as major policy-influencing positions: As-  
6 sociate Commissioners; Director, Correctional Pro-  
7 grams; Superintendents, Correctional Institutes; Di-  
8 rector, Probation and Parole; Prison Warden; and As-  
9 sistant to the Commissioner.

10 Additionally, section 3 clarifies that the posi-  
11 tions of General Counsel, Director of Finance, Execu-  
12 tive Director and Director of Technical Analysis are  
13 major policy-influencing positions subject to the ap-  
14 pointment and removal by the Public Utilities Commis-  
15 sion.

16 Sections 4, 5, 6 and 7 conform current statutes  
17 to the changes in sections 1 and 3.

18 Section 8 establishes the transitional provisions  
19 which allow that present incumbents in classified po-  
20 sitions as a result of this bill shall retain their  
21 appointments subject to the Personnel Law.

22

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