

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2172

H.P. 1539

House of Representatives, January 16, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27. Reference to the Committee on Appropriations and Financial Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative GWADOSKY of Fairfield.

Cosponsored by Representative POULIOT of Lewiston, Representative MORRISON of Bangor and Representative ALIBERTI of Lewiston.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

An Act to Reduce Administrative Costs of State Government and to Clarify Previous Legislative Reductions in State Government Administration.

(AFTER DEADLINE)

(EMERGENCY)

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2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4 Whereas, in Public Law 1991, chapter 622, the Legislature
6 eliminated funding for the position of Director of the Bureau of
Veterans' Services within the Department of Defense and Veterans'
8 Services as a means, in part, to address the fiscal year 1991-92
\$105,000,000 budget deficit; and

10 Whereas, that budget bill did not remove the references to
12 this position from the Maine Revised Statutes, which has created
some ambiguity in regard to this issue; and

14 Whereas, there is an estimated \$150,000,000 revenue
16 shortfall in the fiscal year 1992-93 budget, which must be
addressed immediately; and

18 Whereas, the public interest is best served when
20 administrative costs are cut to the greatest extent possible
before direct services are cut to Maine people; and

22 Whereas, it is urgent that cuts in the administrative costs
24 of State Government be identified as soon as possible in order to
balance the state budget; and

26 Whereas, in the judgment of the Legislature, these facts
28 create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
30 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

34 **Sec. 1. 2 MRSA §6, sub-§6,** as amended by PL 1989, c. 875, Pt.
36 E, §2, is further amended to read:

38 **6. Range 85.** The salaries of the following state officials
and employees shall-be are within salary range 85:

- 40 ~~Director of Veterans' Services;~~
42 Director of Civil Emergency Preparedness;
44 Members, Maine Unemployment Insurance Commission; and
46 Director of the Military Bureau.

48 **Sec. 2. 5 MRSA §952,** as amended by PL 1987, c. 634, §2, is
50 further amended to read:

2 **§952. Department of Defense and Veterans' Services**

4 **1. Major policy-influencing positions.** The following
6 positions are major policy-influencing positions within the
8 Department of Defense and Veterans' Services. Notwithstanding any
other provision of law, these positions and their successor
positions shall-be are subject to this chapter:

- 10 A. Director of the Military Bureau; and
12 B. Director, Maine Emergency Management Agency; ~~and.~~
14 C. ~~Director, Bureau of Veterans' Services.~~

16 **Sec. 3. 10 MRSA §1026-C, sub-§3**, as enacted by PL 1985, c.
18 344, §49, is amended to read:

20 **3. Mortgage eligibility.** The authority may insure mortgage
22 payments pursuant to this section provided that the borrower
shall-be is either:

- 24 A. One or more individuals who are residents of the State
26 and who have received from the Bureau Division of Veterans'
Services or any successor agency certifications that they
are veterans; or
28 B. A business organization in which at least 51% of the
controlling ownership is held by one or more individuals who
30 are residents of the State and who have received from the
Bureau Division of Veterans' Services or any successor
32 agency certifications that they are veterans.

34 **Sec. 4. 22 MRSA §4314, sub-§2**, as enacted by PL 1983, c. 577,
36 §1, is amended to read:

38 **2. Financial institutions.** A treasurer of any bank, trust
40 company, benefit association, insurance company, safe deposit
company or any corporation or association receiving deposits of
42 money, except national banks, shall, on request in writing signed
by the overseer of any municipality or its agents, or by the
Commissioner of Human Services or his the commissioner's agents
44 or by the ~~Director--of--the--Bureau--of--Veterans'--Services~~
Commissioner of Defense and Veterans' Services or his the
46 commissioner's agents, inform that overseer or the Department of
Human Services or the Bureau Division of Veterans' Services of
48 the amount deposited in the corporation or association to the
credit of the person named in the request, who is a charge upon
50 the municipality or the State, or who has applied for support to
the municipality or the State.

2 every opportunity for self-improvement through higher education
and are afforded proper recognition for their service and
4 sacrifice to the Nation.

6 **§502. Supervisor of the Division of Veterans' Services**

8 The ~~Director~~ Supervisor of the Division of Veterans'
Services, referred to in this chapter as the "supervisor," shall
10 be ~~appointed, as provided in section 4, and shall~~ supervise the
operation of the bureau division.

12 **Sec. 9. 37-B MRSA §503**, as amended by PL 1989, c. 502, Pt. A,
§139, is further amended to read:

14 **§503. Powers and duties**

16 The ~~director~~ supervisor has the following powers and duties.

18
20 1. **Employment of personnel.** The ~~director~~ supervisor may
employ, subject to the Civil Service Law, the personnel necessary
22 to administer this chapter. All full-time permanent employees,
except clerical employees, shall must be persons who served on
24 active duty in the United States Armed Forces during any
federally recognized period of conflict, as defined in section
504, subsection 4, paragraph A-1, subparagraph (3).

26
28 2. **Expenditures.** The ~~director~~ supervisor may make
expenditures approved by the Adjutant General which are necessary
30 to carry out this chapter.

32 3. **Agent.** The ~~director~~ supervisor shall act, upon request,
as the agent of any Maine resident who has a claim against the
34 United States for any compensation, pension, insurance, loan or
other benefit accruing as a result of any federal military
36 service and, in cooperation with all public and private agencies,
shall prosecute the claim without charge.

38 4. **Record.** The ~~director~~ supervisor shall maintain a
permanent record of all Maine residents who served in the armed
40 services after December 7, 1941.

42 ~~5. Rules. The director may, in accordance with the Maine
Administrative Procedure Act, Title 5, chapter 375, subchapter
44 II, adopt reasonable rules necessary to carry out this chapter,
provided that regulations pertaining to the management of the
46 Veterans' Memorial Cemetery are not rules within the meaning of
Title 5, section 8002, subsection 9.~~

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50 6. **Other duties.** The ~~director~~ supervisor shall perform
other duties required by this chapter.

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Sec. 10. 37-B MRSA §503-A is enacted to read:

§503-A. Rules

The Commissioner of Defense and Veterans' Services may, in accordance with Title 5, chapter 375, subchapter II, adopt reasonable rules necessary to carry out this chapter, provided that regulations pertaining to the management of the Veterans' Memorial Cemetery are not rules within the meaning of Title 5, section 8002, subsection 9.

Sec. 11. 37-B MRSA §504, sub-§1, as amended by PL 1987, c. 141, Pt. B, §35, is further amended to read:

1. **Land acquisition.** ~~The director~~ Commissioner of Defense and Veterans' Services may acquire by eminent domain in accordance with Title 35-A, chapter 65 and with approval of the Governor, or by purchase, gift or otherwise, real estate in fee simple, or any interest therein, for use as a Veterans' Memorial Cemetery. The land shall ~~may~~ not exceed 200 acres in area and shall ~~must~~ be located near the center of population of the State.

Sec. 12. 37-B MRSA §504, sub-§§2 and 3, as enacted by PL 1983, c. 460, §3, are amended to read:

2. **Superintendent.** ~~The director~~ Commissioner of Defense and Veterans' Services shall appoint a competent and trustworthy cemetery superintendent and shall arrange for personnel, material and equipment ~~which is~~ necessary for adequate maintenance of the cemetery. The superintendent shall ~~must~~ be an honorably discharged war veteran or a war veteran currently a member of the armed services in nonactive or reserve status.

3. **Monuments, buildings and markers.** ~~The director~~ Commissioner of Defense and Veterans' Services shall cause to be erected a suitable monument in the center of the cemetery.

A. The monument shall ~~must~~ be suited to the topography of the land and shall display, on suitable flag poles, the national emblem, and the state flag in accordance with the Flag Code.

B. The immediate area surrounding the monument shall ~~must~~ be prepared and reserved as a suitable place for commemorating Memorial Day and other appropriate observances. The remaining grounds shall ~~must~~ be laid out in a wheel-like pattern around the monument, expanding from the center as required. Suitable buildings may be erected

2 for purposes which the ~~director~~--deems Commissioner of
3 Defense and Veterans' Services determines necessary.

4 C. All grave markers shall must be flat-type granite, as
5 furnished by the United States Department of the Army,
6 Memorial Division, or flat-type granite facsimiles of a
7 marker. All boxes used for burial shall must be protected
8 with permanent vaults or grave liners. Stones and vaults
9 shall may not be provided at state expense.

10 **Sec. 13. 37-B MRSA §504, sub-§4, ¶B,** as repealed and replaced
11 by PL 1989, c. 669, §1, is amended to read:

12 B. ~~The Director of Veterans' Services~~ superintendent shall
13 allow the earth burial in the cemetery of any eligible
14 veteran who requests burial in the cemetery. ~~The director~~
15 superintendent shall allow the veteran the option of crypt
16 burial if crypt space exists. All burials must be without
17 charge.

18 **Sec. 14. 37-B MRSA §504, sub-§4, ¶C,** as amended by PL 1989, c.
19 669, §2, is further amended to read:

20 C. At the dependent's request, ~~the Director of Veterans'~~
21 Services superintendent shall allow an eligible dependent of
22 a veteran to be buried in the cemetery if, at the date of
23 the dependent's death, the veteran would be eligible for
24 burial. Dependents may be buried in the earth or placed in a
25 crypt adjacent to the veteran without charge, provided that:

26 (1) If the veteran dies first, the dependents specify
27 in writing their intention to be so buried;

28 (2) If the dependent dies first, the veteran specifies
29 in writing the intention to be buried in the cemetery;
30 or

31 (3) Eligible family members of ~~servicemen~~ members of
32 the armed services or veterans who are permanently
33 buried overseas, buried at sea, missing in action and
34 declared dead, or whose bodies are inaccessible for
35 other reasons, may be buried in this cemetery, provided
36 that the deceased ~~serviceman~~ member of the armed
37 services or veteran was eligible for the burial at the
38 time of death.

39 **Sec. 15. 37-B MRSA §504, sub-§5,** as enacted by PL 1991, c.
40 247, is amended to read:

5. Weekend visitation. The ~~direeter~~ superintendent shall
2 arrange visiting hours to provide public access to the cemetery
at least one Saturday or Sunday each month. Regularly scheduled
4 weekly visiting hours may be adjusted to provide for the weekend
hours.

6
8 Sec. 16. 37-B MRSA §505, sub-§1, ¶¶B to H, as enacted by PL
1983, c. 460, §3, are amended to read:

10 B. Application for financial assistance under this
subsection shall must be made to the bureau division on
12 forms provided by the bureau division. Application may be
made by the veteran or his that veteran's dependent or a
14 person recognized by the bureau division as entitled to act
on behalf of that person.

16 C. Eligibility for aid shall ~~be~~ is determined as follows.

18 (1) Financial assistance shall must be granted under
20 this subsection to a veteran who is:

22 (a) Single;

24 (b) A resident of the State; and

26 (c) In dire need.

28 (2) Financial assistance shall must be granted under
this subsection to a spouse, a child, a parent or the
30 parents of a veteran if that person is a resident and
in need.

32 (3) Financial assistance under this subsection shall
34 is not be forfeited because of temporary absence from
the State.

36 (4) The bureau division shall give preference to
38 applications where when the death or disability of the
veteran is due to military service or where when the
40 death or disability may be presumed to be due to
military service.

42 D. The bureau division shall require proof of the veteran's
44 disability and its effect on his the veteran's ability to
provide for himself the veteran and his the veteran's
46 dependents.

48 E. The bureau division shall determine the amount of
financial assistance ~~to be~~ allowed under this subsection.

2 In making that determination, the bureau division shall give
consideration to the following:

4 (1) The resources of the veteran and his the veteran's
6 dependents, including all other income and resources
available to provide the dependents with a reasonable
8 subsistence compatible with health and decency;

10 (2) Budgetary standards compiled by the bureau-which
division that reasonably reflect current costs of
12 average standards of living; and

14 (3) Other necessary expenditures and conditions
applicable in each case.

16 F. Financial assistance approved by the bureau division and
18 audited by the State Controller shall must be paid by the
Treasurer of State and may, in the discretion of the bureau
division, be paid to any person whom it may designate for
20 the benefit of eligible dependents.

22 G. The bureau division shall administer funds appropriated
for the purpose of carrying out this subsection and shall,
24 in accordance with the Maine Administrative Procedure Act,
Title 5, chapter 375, subchapter II, adopt rules necessary
26 to administer these funds.

28 H. Any person who is denied financial assistance under this
subsection or who is not satisfied with the amount allotted
30 to him that person by the bureau division may appeal to the
direetor Commissioner of Defense and Veterans' Services.
32 Each applicant for financial assistance shall must be
advised, at the time a decision on his the application is
34 made, of his the applicant's right of appeal and of the
method and time for making the appeal. The appellant shall
36 must be provided with reasonable notice and a fair hearing.
At the hearing, the direetor commissioner or a member of the
38 bureau division authorized by him the commissioner shall
hear all evidence pertinent to the matter at issue and
40 render a decision in the name of the direetor commissioner,
within a reasonable time after the hearing. On request of
42 the appellant, the direetor commissioner shall arrange for
the hearing to be recorded in writing or on tape. A copy of
44 the record shall must be provided to the appellant at his
the appellant's request and expense. An appeal to the
46 Superior Court may be had taken in accordance with the Maine
Administrative Procedure Act, Title 5, chapter 375,
48 subchapter VII.

2 **Sec. 17. 37-B MRSA §505, sub-§2, ¶¶B and D, as enacted by PL**
1983, c. 460, §3, are amended to read:

4 B. The bureau division shall pay to a spouse or child of a
6 veteran a maximum of \$300 per year toward the cost of higher
8 education during a period not exceeding 8 semesters of
10 attendance or 6 consecutive academic years from the date of
12 first entrance. The ~~director~~ supervisor may waive the
14 limitation of 6 consecutive academic years ~~where~~ when the
16 recipient's education has been interrupted by severe medical
 disability or illness making continued attendance
 impossible. These educational benefits shall must be used
 for the purpose of providing tuition, matriculation fees,
 board, room rent, books and supplies. Assistance under this
 subsection shall may not be paid to any eligible person
 receiving benefits under paragraph C.

18 D. Appropriations for the administration of this subsection
20 shall must be determined from the recommendation of the
22 ~~director~~ supervisor, who shall furnish estimates of the
 costs of carrying out this subsection in the same manner as
 for other appropriations allocated to the bureau division.

24 **Sec. 18. 37-B MRSA §505, sub-§4, ¶B, as enacted by PL 1989, c.**
547, §2, is amended to read:

26 B. The bureau division:

28 (1) Shall Must have a specific expertise on radiation
30 and toxic chemicals, particularly dioxin;

32 (2) Shall Must be knowledgeable of the specific
34 reasons for the Federal Government's policy regarding
 assistance to veterans relative to their exposure to
 radiation and toxic chemicals;

36 (3) Shall develop and present a response to federal
38 agencies concerning veterans and their exposure to
40 radiation and toxic chemicals and, in this regard, must
42 be knowledgeable of any actions being taken by other
 states, coordinate this State's response with any
 multi-state effort and, if there appears to be a lack
 of leadership, take a leadership role in such an effort;

44 (4) Shall actively seek out veterans who may have been
46 exposed to radiation and toxic chemicals and attempt to
48 involve them in available programs and act as an
 ombudsman for them;

2 (5) May develop and disseminate written materials on
atomic radiation and agent orange. A booklet shall
4 must include information on the following: the effect
of exposure on veterans and their children; services
6 available from the Veterans' Administration; how to
file claims and class action suits; and the names and
8 addresses of state, local and private agencies to which
veterans may go for assistance. In developing the
10 booklet, the bureau division shall follow the
recommendations of any commission or committee that has
studied agent orange and atomic radiation problems;

12 (6) May attend conferences that are necessary to carry
14 out the responsibilities in this paragraph; and

16 (7) Shall, in consultation with the Commission on
Vietnam and Atomic Veterans, develop 2 registries of
18 veterans residing in the State, one for Vietnam
veterans who report they were exposed to toxic
20 chemicals while serving in the armed services and one
for atomic veterans who report they were exposed to
22 radiation while serving in the armed services. To
develop the registries, the bureau division and the
24 commission shall collect the names from existing
registries and may contact other organizations, hold
26 public hearings or use other methods to collect the
names of veterans.

28 **Sec. 19. 37-B MRSA §506, sub-§§1 and 4, as enacted by PL 1983,**
30 **c. 460, §3, are amended to read:**

32 **1. Claimant or representative.** To the claimant personally,
as to matters concerning himself the claimant alone, where when,
34 in the ~~director's~~ supervisor's judgment, the disclosure would not
be injurious to the claimant's physical or mental health, or to
36 the claimant's duly appointed guardian or duly authorized
representative holding a power or appointment approved by the
38 ~~director~~ supervisor;

40 **4. Agencies engaged in health and welfare work.** To any
public or private agency engaged in health, welfare,
42 rehabilitation or child placement work, from whom a veteran or
his that veteran's dependents have requested services, where
44 when, in the ~~director's~~ supervisor's judgment, disclosure is
essential to the proper evaluation of the request.

46 **Sec. 20. 37-B MRSA §507, first ¶, as enacted by PL 1983, c.**
48 **460, §3, is amended to read:**

2 The bureau division may accept federal funds under any
federal law now in effect or hereafter enacted which that makes
4 these funds available to the states for:

6 **Sec. 21. 37-B MRSA §523**, as enacted by PL 1989, c. 547, §3,
is amended to read:

8 **§523. Membership**

10 The commission ~~shall consist~~ consists of 8 members, 6 of
whom shall must be appointed by the Governor, including 3 Vietnam
12 veterans, one atomic veteran, one veteran appointed from a list
of 3 veterans selected by the Maine Veterans' Coordinating
14 Committee and one person knowledgeable in conducting publicity
campaigns; the ~~Director of the Bureau~~ Supervisor of the Division
16 of Veterans' Services or a designee; and the Director of Disease
Control or a designee.

18 **Sec. 22. 37-B MRSA §527, sub-§§1 and 2**, as enacted by PL 1989,
20 c. 547, §3, are amended to read:

22 1. **Division of Veterans' Services; advice.** Advise the
Bureau Division of Veterans' Services on matters concerning
24 Vietnam and atomic veterans. This shall must include giving its
advice and consent on staff hired by the bureau division to
26 provide staff assistance to the commission under section 528;

28 2. **Registry of Vietnam and atomic veterans.** Assist the
Bureau Division of Veterans' Services in developing a registry of
30 Vietnam veterans and a registry of atomic veterans;

32 **Sec. 23. 37-B MRSA §528**, as enacted by PL 1989, c. 547, §3,
is amended to read:

34 **§528. Staff**

36 The Bureau Division of Veterans' Services shall provide
38 clerical and professional staff to assist the commission.

40 **Sec. 24. 37-B MRSA §603**, as amended by PL 1989, c. 503, Pt.
B, §172, is further amended to read:

42 **§603. Board of trustees**

44 The administration of the homes is vested in the Board of
46 Trustees of the Maine Veterans' Homes, as authorized by Title 5,
section 12004-G, subsection 34. The board ~~shall consist~~ consists
48 of 10 members, one of whom shall must be the ~~Director~~ Supervisor
of the Bureau Division of Veterans' Services, ex officio, who
50 shall serve without term. The Governor shall appoint the

2 remaining trustees, who shall must be honorably discharged war
3 veterans. One member shall must be appointed from and shall
4 represent each of the largest veterans' organizations, not
5 exceeding 5, which that are nationally chartered and have a
6 department in Maine. The remaining members shall must be
7 appointed at large and shall serve staggered 3-year terms. The
8 membership shall must be distributed across the State so that 3
9 reside in the southern part of the State, 3 in the central part
10 and 3 in the northern part. In the event of a vacancy, the a
11 successor shall must be appointed to complete the unexpired
12 term. Each trustee shall continue to hold office until a
13 successor is appointed and qualified.

14 **Sec. 25. Report to Joint Standing Committee on Appropriations and**
15 **Financial Affairs.** Each department and agency of State Government,
16 including independent agencies and institutions of higher
17 learning, shall prepare a plan that, at a minimum, reduces the
18 cost of administrative personnel by 10% in fiscal year 1991-92
19 and fiscal year 1992-93. The plan must state the total current
20 number of administrative and nonadministrative personnel and the
21 total amount of administrative salaries for the agency. In
22 addition, the plan must include a list of administrative and a
23 list of nonadministrative positions. With respect to each list,
24 the positions must be displayed by job classification, showing
25 the number of positions in each classification and the funding
26 source for each classification and position. The plan must
27 specifically detail each position to be abolished, reduced to a
28 part-time position or combined with another position. The plan
29 must describe how department or agency programs will be
30 administered and how the organization will be managed as a result
31 of the reduction in administrative personnel and salaries. The
32 plan must specify the amount of savings to be achieved, by
33 funding source, as a result of the reduction in administrative
34 personnel.

36 For the purpose of this section, "administrative personnel"
37 means employees whose primary functions involve: the management
38 or administration of a department, department units or department
39 programs; supervision of employees; policy development; policy
40 implementation; execution of nondirect service responsibilities;
41 and clerical or secretarial duties. The term "administrative
42 personnel" does not apply to employees, such as caseworkers,
43 motor vehicle registration employees, mental health workers and
44 prison guards, whose duties or responsibilities primarily involve
45 providing direct services to members of the public or clients of
46 the State or similar types of responsibilities.

48 Each organization subject to this section shall provide its
49 report no later than February 3, 1992 to the Joint Standing
50 Committee on Appropriations and Financial Affairs. The

committee shall review the agency reports and determine the amount of savings that can be incurred.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

STATEMENT OF FACT

This bill clarifies the Legislature's intent to abolish the position of Director of the Bureau of Veterans' Services. Public Law 1991, chapter 622, which deappropriated funds for this position, did not amend the Maine Revised Statutes to remove this position. This bill makes the necessary statutory changes to abolish the position and reallocate the responsibilities of the Director of the Bureau of Veterans' Services. The bureau is renamed the Division of Veterans' Services.

This bill also requires each department and agency of State Government, including independent agencies such as the University of Maine System, to prepare a plan that will reduce the costs of administrative personnel by a minimum of 10%. Each organization shall report its plan to the Joint Standing Committee on Appropriations and Financial Affairs no later than February 3, 1992.

In preparing this plan, state agencies shall identify the positions in each agency that are administrative positions and the positions that are not administrative. Administrative personnel are defined as employees whose primary functions are to manage or administer state agencies or agency units, administer state programs or supervise employees, or who do not provide direct services to the public or to clients of the State. Examples of employees who are not considered administrative personnel are caseworkers, motor vehicle registration employees, prison guards and mental health workers.

Following receipt of these plans, the Joint Standing Committee on Appropriations and Financial Affairs will determine the savings that can be realized by a 10% reduction in personnel costs.