

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

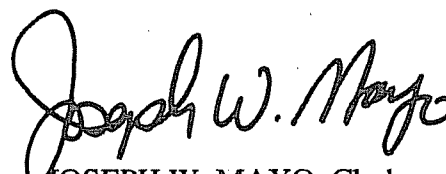
No. 1472

H.P. 1094

House of Representatives, May 7, 1993

An Act to Reorganize State Government.

Reference to the Committee on State and Local Government suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative CARROLL of Gray.
Cosponsored by Representatives: CASHMAN of Old Town, DAGGETT of Augusta,
FITZPATRICK of Durham, GRAY of Sedgwick, JOSEPH of Waterville, MARTIN of Eagle
Lake, Senator: DUTREMBLE of York.

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

PART A

Sec. A-1. Department of Fisheries and Wildlife. The Department of Fisheries and Wildlife is created within State Government, effective April 1, 1994. The following departments and all bureaus and divisions within those departments are combined to form the Department of Fisheries and Wildlife:

1. The Department of Marine Resources; and
2. The Department of Inland Fisheries and Wildlife.

Sec. A-2. Department organization. The Department of Fisheries and Wildlife is organized into 3 divisions: fisheries, wildlife and enforcement. The department is managed by one commissioner and a deputy commissioner who shall oversee the finances of the department.

Sec. A-3. Department of Fisheries and Wildlife; transition. On the effective date of this Act, the Governor may appoint a senior staff member of the existing Department of Marine Resources or the Department of Inland Fisheries and Wildlife to serve as the interim Commissioner of Fisheries and Wildlife until such time as a new commissioner is appointed and confirmed.

Effective April 1, 1994, the commissioner may appoint a deputy commissioner to assist in the administration of the department. The deputy commissioner serves at the pleasure of the commissioner. The position authority and personal services funding for the deputy commissioner are transferred from an existing position in the Department of Marine Resources or the Department of Inland Fisheries and Wildlife.

All duties and responsibilities related to the new department that were duties and responsibilities of the Commissioner of Marine Resources and the Commissioner of Inland Fisheries and Wildlife become the duties and responsibilities of the Commissioner of Fisheries and Wildlife, effective April 1, 1994. The Commissioner of Inland Fisheries and Wildlife and the Commissioner of Marine Resources shall jointly develop and submit to the Second Regular Session of the 116th Legislature by January 15, 1994 a detailed plan showing the recommended appropriation and position adjustments in fiscal year 1993-94 and fiscal year 1994-95 to the General Fund departmentwide accounts established to identify the savings from the formation of the Department of Fisheries and Wildlife. The detailed plan must also include the necessary statutory and unallocated language and appropriation, allocation and position adjustments to make the

2 Department of Fisheries and Wildlife effective July 1, 1994 for
operational, budgetary, accounting and human resources purposes.

4 **PART B**

6 **Sec. B-1. Department of Natural Resources.** The Department of
Natural Resources is created within State Government, effective
8 April 1, 1994. The following departments, bureaus, divisions and
programs are combined to form the Department of Natural
10 Resources, effective April 1, 1994:

- 12 1. The Department of Agriculture, Food and Rural Resources;
- 14 2. The Department of Conservation;
- 16 3. The Department of Environmental Protection;
- 18 4. All programs administered by the State Planning Office
20 within the Executive Department related to natural resource
planning and management including administration of all federal
22 grants in these areas currently received by the office.

24 **Sec. B-2. Department organization.** The Department of Natural
Resources is organized into the following policy areas to provide
for the most effective and efficient program delivery:

- 26 1. The Office of the Commissioner of Natural Resources.
28 The Office of the Commissioner of Natural Resources shall provide
departmental planning, policy direction and public education
30 functions;
- 32 2. The Bureau of Enforcement;
- 34 3. The Bureau of Production; and
- 36 4. The Bureau of Preservation.

38 **Sec. B-3. Department of Natural Resources; transition.** On the
effective date of this Act, the Governor may appoint a senior
40 staff member of the existing Department of Conservation, the
Department of Agriculture, Food and Rural Resources or the
42 Department of Environmental Protection to serve as the
Commissioner of Natural Resources until such time as a new
44 commissioner is appointed and confirmed.

46 Effective April 1, 1994, the commissioner may appoint a
deputy commissioner to assist in the administration of the
48 department. The deputy commissioner serves at the pleasure of
the commissioner. The position authority and personal services
50 funding for the deputy commissioner are transferred from an
existing position in the Department of Conservation, the

2 Department of Agriculture, Food and Rural Resources or the
3 Department of Environmental Protection.

4 All duties and responsibilities related to the new
5 department that were duties and responsibilities of the
6 Commissioner of Conservation, the Commissioner of Agriculture,
7 Food and Rural Resources, the Commissioner of Environmental
8 Protection and the State Planning Office, as described in section
9 1 of this Part, become the duties and responsibilities of the
10 Commissioner of Natural Resources, effective April 1, 1994. The
11 Commissioner of Natural Resources shall chair a transitional
12 committee consisting of the Commissioner of Conservation, the
13 Commissioner of Agriculture, Food and Rural Resources and the
14 Commissioner of Environmental Protection. No later than January
15 15, 1994, the Commissioner of Natural Resources shall develop, in
16 consultation with the transitional committee, and submit to the
17 Second Regular Session of the 116th Legislature a detailed plan
18 showing the recommended appropriation and position adjustments in
19 fiscal year 1993-94 and fiscal year 1994-95 to the General Fund
20 departmentwide accounts established to identify the savings from
21 the formation of the Department of Natural Resources. The
22 detailed plan must also include the necessary statutory and
23 unallocated language and appropriation, allocation and position
24 adjustments to make the Department of Natural Resources effective
25 July 1, 1994 for operational, budgetary, accounting and human
26 resources purposes.

28 PART C

30 **Sec. C-1. Department of Public Safety and Veterans' Affairs.** The
31 Department of Public Safety and Veterans' Affairs is created
32 within State Government, effective April 1, 1994. The following
33 departments and all bureaus and divisions within those
34 departments are combined to form the Department of Public Safety
35 and Veterans' Affairs:

- 36 1. The Department of Public Safety; and
- 37 2. The Department of Defense and Veterans' Services.

40 **Sec. C-2. Department organization.** The Department of Public
41 Safety and Veterans' Affairs is managed by one commissioner and a
42 deputy commissioner who shall oversee the finances of the
43 department.
44

46 **Sec. C-3. Department of Public Safety and Veterans' Affairs;
47 transition.** On the effective date of this Act, the Governor may
48 appoint a senior staff member of the existing Department of
49 Public Safety or the Department of Defense and Veterans' Services
50 to serve as the interim Commissioner of Public Safety and
51 Veterans' Affairs until such time as a new commissioner is
52 appointed and confirmed.

2 Effective April 1, 1994, the commissioner may appoint a
4 deputy commissioner to assist in the administration of the
6 department. The deputy commissioner serves at the pleasure of
8 the commissioner. The position authority and personal services
funding for the deputy commissioner are transferred from an
existing position in the Department of Public Safety or the
Department of Defense and Veterans' Services.

10 All duties and responsibilities related to the new
12 department that were duties and responsibilities of the
14 Commissioner of Public Safety and the Commissioner of Defense and
16 Veterans' Services become the duties and responsibilities of the
18 Commissioner of Public Safety and Veterans' Affairs, effective
20 April 1, 1994. The Commissioner of Public Safety and the
22 Commissioner of Defense and Veterans' Services shall jointly
24 develop and submit no later than January 15, 1994 to the Second
26 Regular Session of the 116th Legislature a detailed plan showing
28 the recommended appropriation and position adjustments in fiscal
30 year 1993-94 and fiscal year 1994-95 to the General Fund
departmentwide accounts established to identify the savings from
the formation of the Department of Public Safety and Veterans'
Affairs. The detailed plan must also include the necessary
statutory and unallocated language and appropriation, allocation
and position adjustments to make the Department of Public Safety
and Veterans' Affairs effective July 1, 1994 for operational,
budgetary, accounting and human resources purposes.

PART D

30 **Sec. D-1. Maine Waste Management Agency abolished;**
32 **responsibilities reallocated.** Effective April 1, 1994, the Maine
34 Waste Management Agency is abolished and its functions and
responsibilities are reallocated as follows:

36 1. All responsibilities of the Maine Waste Management
38 Agency, Office of Planning and the Office of Siting and Disposal
40 Operations are transferred to the Department of Environmental
Protection; and

42 2. All responsibilities of the Maine Waste Management
44 Agency, Office of Waste Reduction and Recycling are transferred
to the Department of Economic and Community Development.

46 **Sec. D-2. Maine Waste Management Agency; transition.** No later
48 than January 15, 1994, the Commissioner of Environmental
50 Protection and the Commissioner of Economic and Community
52 Development shall jointly develop and submit to the Second
Regular Session of the 116th Legislature a detailed plan showing
the recommended appropriation and position adjustments in fiscal
year 1993-94 and fiscal year 1994-95 to the General Fund
departmentwide accounts established to identify the savings from

2 the abolition of the Maine Waste Management Agency and the
3 reallocation of its responsibilities. The detailed plan must
4 also include the necessary statutory and unallocated language and
5 appropriation, allocation and position adjustments to make the
6 abolition and reallocation effective July 1, 1994 for
operational, budgetary, accounting and human resources purposes.

8

PART E

10 **Sec. E-1. Division of Alcohol and Drug Education Services;**
11 **responsibilities reallocated.** Effective April 1, 1994, the Department
12 of Education, Division of Alcohol and Drug Education Services is
13 abolished and its functions and responsibilities are reallocated
14 to the Executive Department, Office of Substance Abuse to the
extent that is permitted by federal law.

16

17 **Sec. E-2. Division of Alcohol and Education Services; transition.** No
18 later than January 15, 1994, the Commissioner of Education and
19 the Director of the Office of Substance Abuse shall jointly
20 develop and submit to the Second Regular Session of the 116th
21 Legislature a detailed plan showing the recommended appropriation
22 and position adjustments in fiscal year 1993-94 and fiscal year
23 1994-95 to the General Fund departmentwide accounts established
24 to identify the savings from the abolition of the Division of
25 Alcohol and Education Services and the reallocation of its
26 responsibilities. The detailed plan must also include any
27 necessary federal waivers, statutory and unallocated language and
28 appropriation, allocation and position adjustments to make the
29 abolition and reallocation effective July 1, 1994 for
30 operational, budgetary, accounting and human resources purposes.

32

PART F

34

Sec. F-1. 5 MRSA §12004-L, sub-§7 is enacted to read:

36

37	<u>7. Maine Drug</u>	<u>Not</u>	<u>25 MRSA §1524</u>
38	<u>Enforcement Advisory</u>	<u>Authorized</u>	
39	<u>Board</u>		

40

Sec. F-2. 25 MRSA c. 192 is enacted to read:

42

CHAPTER 192

44

DRUG ENFORCEMENT ACT OF 1993

46

§1521. Short title

48

This chapter may be known and cited as the "Drug Enforcement
50 Act of 1993."

50

52

§1522. Definitions

2 As used in this chapter, unless the context otherwise
4 indicates, the following terms have the following meanings.

6 1. Board. "Board" means the Maine Drug Enforcement
8 Advisory Board.

10 2. Chief. "Chief" means the Chief of the State Police.

12 3. Commissioner. "Commissioner" means the Commissioner of
14 Public Safety.

16 4. Deputy chief. "Deputy chief" means the law enforcement
18 officer appointed by the Chief of the State Police to head the
20 Division of Drug Enforcement pursuant to section 1526.

22 5. Division. "Division" means the Division of Drug
24 Enforcement within the Department of Public Safety, established
26 in section 1525.

28 6. Drug. "Drug" means scheduled drugs, controlled
30 substances or illegal drugs as defined by Title 17-A, chapter 45
32 or federal law.

34 **§1523. Policy**

36 The Legislature finds that the distribution of drugs into,
38 out of and within the State presents an unprecedented threat to
40 the health and safety of this State. To meet this threat, this
42 chapter is enacted to develop a statewide drug enforcement
44 program and strategy based on principles of integration and
46 unification at all levels of law enforcement, including federal,
48 state, county and municipal levels and prosecutorial as well as
50 investigative agencies.

52 **§1524. Maine Drug Enforcement Advisory Board**

54 1. Board established. In order to develop, coordinate and
56 carry out a statewide drug enforcement program and strategy,
58 there is established the Maine Drug Enforcement Advisory Board.

60 2. Membership and appointments. Membership on the board is
62 as follows:

64 A. Three representatives appointed by the Governor with the
66 advice of the Maine Chiefs of Police Association;

68 B. One representative appointed by the Governor with the
70 advice of the Maine Sheriffs' Association;

72 C. One representative appointed by the Governor with the
74 advice of the several district attorneys;

2 D. Two investigative agents, pursuant to section 1526,
4 subsection 4, appointed by the Governor with the advice of
the investigative agents' colleagues;

6 E. One supervisor, pursuant to section 1526, subsection 3,
8 appointed by the Governor with the advice of the
supervisor's colleagues;

10 F. One state law enforcement officer appointed by the
12 Governor with the advice of the Chief of the State Police;

14 G. The Commissioner of Corrections;

16 H. The Attorney General;

18 I. The Chief of the State Police;

20 J. A representative of the United States Attorney for the
District of Maine appointed by the Governor; and

22 K. Two citizens, one of whom has experience with drug
24 treatment and education programs, appointed by the Governor.

The Attorney General, the Chief of the State Police and the
26 Commissioner of Corrections serve for the duration of their terms
28 in these same positions. The remaining 12 members serve terms of
30 3 years, except that initially, 3 members appointed by the
32 Governor and one citizen representative are appointed for terms
of one year, 3 members appointed by the Governor and one citizen
representative are appointed for terms of 2 years and the
remaining 4 members are appointed for terms of 3 years.

34 3. Authority. The board shall provide advice and
36 consultation to the chief and the commissioner for the drug law
enforcement effort within the State. This effort must include
38 the integration and coordination of investigative and
prosecutorial functions in the State with respect to drug law
40 enforcement. The board shall also make recommendations to the
Legislature as it determines to be appropriate for the
42 implementation of an effective drug law enforcement program. The
board, in addition to these responsibilities, shall provide
44 advice to the chief and the commissioner regarding the
integration of law enforcement officers from county, municipal
and all state law enforcement agencies into the division.

46 **§1525. Division of Drug Enforcement**

48 1. Division established. The chief, with the advice of the
50 board, shall establish and operate the Division of Drug
Enforcement. The division consists of regional investigative

2 task forces as required for effective drug law enforcement
3 throughout the State.

4 2. Investigative component. The investigative component of
5 each task force is composed of law enforcement officers drawn
6 from municipal, county and state law enforcement agencies, who,
7 during the period that they serve in the task force are subject
8 to the following:

10 A. They must be placed on a temporary assignment by their
11 employing law enforcement agencies and in the nonclassified
12 positions within the division as established;

14 B. Division investigative personnel are not state employees
15 for the purposes of Title 26, chapter 9-B; and

16 C. Division investigative personnel shall act in accordance
17 with the rules, policies and procedures established by the
18 chief.

20 In determining the number, areas of responsibility and
21 investigative complement of these task forces, the chief shall
22 take into account geography, population, the need for service and
23 the advice provided by the board.

26 §1526. Personnel

28 1. Deputy chief. The division is managed by a deputy chief
29 who reports to the chief. The deputy chief must be an
30 experienced law enforcement officer. The deputy chief is
31 selected by the chief in consultation with the board and the
32 commissioner. The deputy chief serves at the pleasure of the
33 chief.

34 2. Regional commanders. There are 2 regional commanders
35 within the division who may exercise any powers the deputy chief
36 may delegate. The regional commanders are subject to the
37 following:

40 A. A regional commander must be an experienced law
41 enforcement officer appointed by the deputy chief with the
42 concurrence of the chief and serves at the pleasure of the
43 deputy chief;

44 B. The appointment of a regional commander may not be
45 dependent upon the parent law enforcement agency, if any, of
46 the person selected;

48 C. A regional commander is compensated from the budget of
49 the division in a manner equivalent to that of a lieutenant
50 in the State Police, with respect to both regular and
51 overtime compensation. If the person selected is currently
52

2 an employee of any state, county or local law enforcement
3 agency, the person must be placed on a temporary assignment
4 by the person's employing agency;

5 D. A regional commander shall report directly to the deputy
6 chief, notwithstanding any existing command structure of the
7 person's employing agency; and

8 E. Notwithstanding any other provision of law, the person
9 retains and continues to accrue seniority and retirement
10 rights and benefits within the person's employing agency for
11 the time in which the person serves as regional commander.

12
13 **3. Task force investigative supervisors.** Each task force
14 is supervised by a task force investigative supervisor. A
15 supervisor must be an experienced law enforcement officer
16 appointed by the deputy chief with the concurrence of the chief,
17 and serves at the pleasure of the deputy chief. The supervisor
18 is subject to the following:

19 A. The appointment of a supervisor may not be dependent
20 upon the parent law enforcement agency, if any, of the
21 person selected;

22
23 B. A supervisor is compensated from the budget of the
24 division in a manner equivalent to that of a sergeant
25 assigned to the drug unit of the State Police, with respect
26 to both regular and overtime compensation. If the person
27 selected is currently an employee of any state, county or
28 local law enforcement agency, the person must be placed on a
29 temporary assignment by the person's employing agency;

30
31 C. A supervisor shall report directly to the regional
32 commander, notwithstanding any existing command structure of
33 the person's employing agency; and

34
35 D. Notwithstanding any other provision of law, the person
36 retains and continues to accrue seniority and retirement
37 rights and benefits within the person's employing agency for
38 the time that the person serves as supervisor.

39
40 **4. Task force investigative agents.** The investigative
41 complement of each task force is composed of task force
42 investigative agents. Agents are subject to the following:

43 A. An agent may be selected from municipal, county and
44 state law enforcement agencies within the State and other
45 state agencies, as long as the prospective agent is
46 certified pursuant to section 2803-A, subsection 1 or may be
47 another experienced law enforcement officer, as long as each
48 is certified pursuant to section 2803-A, subsection 1;
49
50
51
52

2 B. An agent must be selected and appointed at the
4 discretion of the deputy chief, with the concurrence of the
6 chief, from among those persons nominated by the chief
administrative officer of a prospective agent's employing
agency and other experienced law enforcement officers who
apply;

8 C. A contractual agent serves a tour of duty with the
10 agency for a period not to exceed 3 years after which time
12 the contracting agent must return to the employing agency.
14 The chief may grant a contractual agent a one-time extension
of the tour of duty with the agency not to exceed one year
in length, with the approval of the deputy chief, the
contractual agent, the contractual agent's employing agency
and the board;

16 D. An agent is entitled to receive compensation paid from
18 the budget of the division, equivalent to that of a
20 detective in the State Police, with respect to both regular
22 and overtime compensation with the additional credit given
24 to seniority based upon law enforcement experience. If the
26 person selected as an agent is currently an employee of any
municipal, county or state law enforcement agency, or any
other state agency, the person must be placed on a temporary
assignment by the person's employing agency.
Notwithstanding any other provisions of law, the person
retains and continues to accrue seniority and retirement
rights and benefits within the person's employing agency for
the time that the person serves as an agent;

30 E. An agent shall report directly to the task force
32 supervisor, notwithstanding any existing command structure
34 of the person's employing agency; and

36 F. Any person employed as a senior agent or special agent
38 investigator within the State Police may be temporarily
assigned to the division. During that temporary assignment,
the State Police retains the positions of senior agent and
special agent investigator.

40 **5. Task force attorneys.** The Attorney General, the United
42 States Attorney for the District of Maine and the respective
44 district attorneys may assign as many of their assistants and
special assistants as they determine to be appropriate to each of
the task forces or to the division generally. The attorneys must
be available to the officers for purposes of ongoing consultation
and advice on the propriety and legal consequences of methods of
investigation and are responsible for coordinating, with the
regional commanders and supervisors, the prosecutorial and
investigative priorities of the task forces in conformity with
the policies, practices and procedures of the division.

2
3 **§1527. Authority of division officers**

4 The deputy chief, regional commanders, supervisors and
5 agents are vested at the discretion of the chief with the
6 following:

7 1. Authority to arrest. The authority throughout the State
8 to arrest pursuant to Title 17-A, section 15;

9
10 2. Investigate and prosecute. The same powers and duties
11 throughout the several counties of the State as sheriffs have in
12 their respective counties to serve criminal process, to
13 investigate and prosecute violators of any law of this State and
14 to arrest without warrant and detain persons found violating or
15 attempting to violate any other penal law of the State until a
16 warrant can be obtained. They have the same rights as sheriffs
17 to require aid in executing the duties of their office; and

18
19 3. Civil process. The same powers and duties throughout
20 the several counties of the State as sheriffs have in their
21 respective counties to serve civil process in all matters
22 relating to investigations or violations of Title 17-A, chapter
23 45 or actions arising under or initiated pursuant to Title 15,
24 chapter 517.

25 **§1528. Compensation; State Police personnel**

26
27 Notwithstanding any other provision in this chapter, State
28 Police officers, senior agents and special investigative agents
29 who are temporarily assigned to the division continue to be paid
30 from the budget of the Bureau of State Police, except that any
31 additional compensation arising from the temporary assignment
32 must be paid from the budget of the division.

33
34 The chief shall establish and operate within the division
35 such regional investigative task forces as the chief determines,
36 in consultation with the board, are required for effective drug
37 law enforcement throughout the State.

38
39 **§1529. Authority of the chief**

40
41 1. Rules adopted. The chief shall, with the advice of the
42 board, adopt rules, practices and policies respecting the
43 administration of the division. The rules, practices and
44 policies of the division must be in conformity with state law and
45 must accomplish the goal of an integrated drug enforcement
46 effort. These rules, practices and policies may include:

47
48 A. The qualifications, hiring, term of service and
49 disciplinary standards for supervisors and agents;
50

2 B. Protection as to financial and employment security for
4 any law enforcement officer selected as an official of the
6 division with respect to the person's current position;

8 C. Standard operating procedures for the division;

10 D. Procurement procedures; or

12 E. Procedures for dissemination of records.

14 2. Grants and property. The chief may accept grants and
16 property decreed forfeit by any court of competent jurisdiction.

18 3. Contracts or agreements. The chief may enter into
20 contracts and agreements with municipal, county and state law
22 enforcement agencies to accomplish the goal of the division and
24 carry out the rules, policies and practices of the division.

26 **§1530. Confidentiality**

28 Notwithstanding any other provisions of law, all meetings of
30 the board are subject to Title 1, sections 401 to 410, except
32 that those meetings may be held in executive session to discuss
34 any case investigations or any disciplinary actions.

36 **§1531. Prosecution protocol**

38 The Attorney General and the 8 district attorneys shall
40 establish a statewide drug prosecution protocol, which must
42 include statewide goals, uniform prosecutorial standards,
44 practices and policies and specific criteria by which drug cases
46 are referred to state or federal court for prosecution. The
48 views and opinions of the United States Attorney for the District
50 of Maine, as well as representatives from the division and drug
52 investigative units at the municipal level must be considered in
the development of the drug prosecutorial protocol.

Sec. F-3. 25 MRSA c. 353, as amended, is repealed.

STATEMENT OF FACT

Part A of the bill creates a new Department of Fisheries and Wildlife by combining the Department of Marine Resources and the Department of Inland Fisheries and Wildlife. The new department will have 3 divisions: fisheries, wildlife and enforcement.

Part B of the bill creates a new Department of Natural Resources by combining the Department of Agriculture, Food and Rural Resources, the Department of Conservation, the Department of Environmental Protection and all programs administered by the State Planning Office related to natural resource planning and

2 management. The department will be organized into 4 bureaus: the
3 Office of the Commissioner, the Bureau of Enforcement, the Bureau
4 of Production and the Bureau of Preservation.

6 Part C of the bill merges the Department of Public Safety
7 and the Department of Defense and Veterans' Services into a new
8 Department of Public Safety and the Department of Veterans'
9 Affairs.

10 Part D of the bill eliminates the Maine Solid Waste
11 Management Agency. Its functions are reallocated to the
12 Department of Environmental Protection, except for waste
13 reduction and recycling which are transferred to Department of
14 Economic and Community Development.

16 Part E of the bill eliminates the drug education functions
17 in the Department of Education and places them in the Office of
18 Substance Abuse.

20 Part F of the bill restructures the Maine Drug Enforcement
21 Agency and makes it a division of the State Police.
22