

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

---

# E I G H T Y - E I G H T H L E G I S L A T U R E

---

---

**Legislative Document**

**No. 807**

---

---

H. P. 1665

House of Representatives, March 2, 1937.

Received under Joint Orders, referred to Committee on Judiciary. Sent up for concurrence and 1000 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mrs. Thurston of Bethel.

---

---

## STATE OF MAINE

---

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
THIRTY-SEVEN

---

### **AN ACT to Provide for a System of Civil Service in State Departments.**

---

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

**Sec. 1. Definition of terms.** (a) "Board" means the body which is composed of each member of the commission and each head of all departments as hereinafter defined.

(b) "Commission" means the state civil service commission.

(c) "Department heads" or "heads of departments" means the heads of the administrative and other departments of the state government; whenever, by virtue of any statute, a commission has been appointed, the entire membership thereof shall be deemed a department and act as a unit and not singly.

(d) "Veteran" means any person who has served in the army, navy or marine corps of the United States in time of war or insurrection and whose last discharge or release from active duty therein was an honorable one.

(e) "Employee" means any person holding a position subject to appointment by the board.

(f) "Classified service" means all offices and positions of trust and employment in the state service except those placed in the unclassified service by this act.

(g) "Roster" means whatever type of book, card, or other records which may be used which bear the names of persons qualified by examinations to fill positions in the classified service.

**Sec. 2. State civil service commission.** There is hereby created and established a state civil service commission. It shall be composed of 3 members, not more than 2 of whom shall be of the same political party. The state budget officer, appointed as provided in sub-section 3 of section 1 of Article II of chapter 216 of the public laws of 1931, shall be ex-officio member of the board, and its chairman. The 2 remaining members of the board shall be appointed by the governor with the advice and consent of the council. In the initial appointments of such members the governor shall designate 1 member for a term of 2 years and a 2nd member for a term of 4 years. The term of all subsequent appointive members of the board shall be 4 years and until their successors are appointed and qualified. Vacancies in the appointive membership of the board shall be filled within 60 days after the vacancy occurs by the governor with the advice and the consent of the council for the unexpired portion of the term.

**Sec. 3. Salaries and expenses of the commission.** The salaries of the commission shall be as follows: state budget officer, \$500; in addition to his other salary, and each other member, \$1,000. They also shall receive their actual expenses while in the performances of their duties.

**Sec. 4. Duties of the board.** The board shall act as the governing body in all matters pertaining to or affecting the several departments with regard to the provisions of this act; also to hear and decide all matters upon which appeals have been taken from the decision of the commission by any applicant, eligible person, or appointee.

**Sec. 5. Duties of the commission.** (1) The commission shall have the following powers and duties:

(a) To prescribe rules and regulations for the administration and enforcement of this act.

(b) To adopt such classification plan as may be needed to conform with the provisions of this act.

(c) To approve a compensation plan and rules for its administration.

(d) To make investigations either at the direction of the governor or the legislature, or upon the petition of an employee or a citizen, or of its own motion, concerning the enforcement and effect of this act; to enforce the observance of its provisions and the rules and regulations made thereunder.

- (e) To receive, review, and transmit to the governor its annual report.
- (f) To keep full and complete minutes of its proceedings, which shall be open to public inspection.

(2) The rules and regulations, the classification plan and the compensation plan provided for in (a), (b), and (c) of this section shall be in effect and have the force of law upon the approval of the governor and council.

(3) In the course of any investigation or hearing under the provisions of this act, each member of the commission shall have the power to administer oaths and to subpoena and require the attendance of witnesses and the production thereby of books, papers, public records and other documentary evidence pertinent to such investigation. In case of the refusal of any person to comply with any subpoena issued hereunder or to testify to any matter regarding which he may be lawfully interrogated, the superior court in any county on application of the commission may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

**Sec. 6. Classified service.** The classified service shall consist of all persons holding offices and employments now existing or hereafter created in the state service, except persons who are holding or shall hold offices and employments exempted by section 7 of this act.

Appointments to, and promotions in, the classified service shall be made according to merit and fitness, except that applicants must be citizens of the United States and must have had a legal residence in this state one year at least prior to their application to any position and the preference shall be given in appointments to: (1) veterans wherever reasonably feasible; (2) applicants who are the sole support of families; dismissal of appointees shall be made only by reason of inefficiency, insubordination or misconduct; no person shall be appointed, transferred, promoted, or reduced as an officer, clerk, or employee in the classified service in any manner or by any means other than those prescribed in this act and in the rules of the commission made in accordance with this act.

The classified service shall be divided into the following divisions:

- (1) The competitive division shall comprise all positions to which appointment is made upon the basis of open competitive examinations.
- (2) The non-competitive division shall comprise positions which are hereafter specified in sections 13 and 14 of this act.
- (3) The labor division shall comprise those permanent positions that can be filled satisfactorily by unskilled laborers. Appointments to positions

in this division shall be made upon certification from eligible lists prepared under rules of the board which shall take account of priority of application, location of work and the factor of convenience arising therefrom, and, whenever warranted, physical and related tests, except in case of temporary employment of unskilled labor, when it shall not be necessary to comply with these requirements. Such employees shall be hired by the department in need of such; but no discrimination shall be exercised in the hiring or discharge of unskilled laborers and any official or foreman who shall be found guilty by the commission of any discriminatory act in relation thereto by reason of political or religious affiliations shall be discharged forthwith from the service of the state.

(4) All present permanent employees who properly are within the purview of said classified service shall be considered as if appointed under such civil service as herein set forth and shall continue in their respective positions so long as they continue to show fitness for the work, meet all the requirements of efficiency and so long as there is need of the position which they fill except that they shall be eligible to promotion in the same manner and to the same extent as other employees in the classified service.

**Sec. 7. Unclassified service.** The unclassified service comprises positions held by officers and employees who are:

- (1) Chosen by popular election or appointed to fill an elective office.
- (2) Officers who, under the constitution or statutes, are chosen by the legislature.
- (3) Heads of departments and member of boards and commissions required by law to be appointed by the governor with or by the advice and consent of the council.
- (4) Officers and employees in the judicial service of the state.
- (5) Officers and employees of the senate and house of representatives of the legislature of the state of Maine.
- (6) Officers and enlisted men in the national guard and naval militia of the state.
- (7) The private secretary, assistant secretary and stenographers in the governor's office.
- (8) Officers and employees in the state police department.
- (9) Officers and employees in the fish and game department.
- (10) Day laborers.

**Sec. 8. Preparation of roster.** (1) The commission shall prepare for each class of positions in the classified service a roster of persons eligible for employment therein. Each roster shall consist of a list of all the

persons who have shown by competitive tests, as hereinbefore provided, that they possess the qualifications which entitle them to be considered eligible for appointment to any position in the class for which the roster is to be prepared, and of employees who have resigned or been dismissed, laid off, or granted leaves of absence and whose names have been restored to the roster in accordance with the provisions of this act.

(2) The names of all persons attaining the minimum final earned ratings established by the commission in advance of the giving of the test shall be placed upon the roster in order of their ratings. However, the names of persons who have indicated in writing to the commission that they are unwilling to accept appointment or who have been certified for appointment 3 times and not appointed may, at the discretion of the commission be dropped from the roster. Any person who has twice waived appointment may, at the discretion of the commission, be placed at the foot of the roster. Any person who shall procure the signing of a waiver by an eligible by fraud, misrepresentation, duress, or promise shall be guilty of a misdemeanor.

(3) Whenever an employee is laid off because of shortage of funds, or curtailment of service, or for any other reason beyond his control, his name shall be placed at the head of the same roster from which he was originally appointed.

(4) In the case of employees who have been granted leaves of absence, they shall be restored to the appropriate roster with due consideration for their previous position on that roster and the provisions of section 16 of this act.

(5) The commission shall ascertain the duties of all positions in service and establish classifications therefor. This plan shall include appropriate titles and for each class shall specify the duties, responsibilities, education, and other qualifications together with the probable lines of promotion. This plan shall be so set up that all positions substantially similar shall be in the same class and the same salary range shall apply with equity to all positions in the class.

**Sec. 9. Compensation plan.** The commission shall set up a plan of compensation for each class of position in the classified service, minimum and maximum salary rates, and such intermediate rates as are deemed desirable.

The set-up shall be calculated to make effective the maximum rates at the end of 5 years' service; such employees in the classified service as have been in service of the state for a term of 5 years when this act shall

take effect, shall be deemed eligible to receive and shall receive thereafter, the maximum wage as aforesaid set up by the commission.

When the compensation plan has become effective, it shall constitute the official schedule of salaries for all classes of positions in the classified service. No position shall be assigned a salary greater than the maximum or less than the minimum rates fixed in the compensation plan; salaries or compensation paid to persons holding such positions shall not be paid unless they conform to the adopted compensation plan.

**Sec. 10. Positions in the classified service.** Vacancies in the classified service shall be filled by original appointment, promotion, transfer, reinstatement, or demotion in pursuance of rules and regulations established by the commission. All original appointments shall be on a probationary basis for not more than 6 months during which probationary period any such appointee may be released by the commission at any time.

**Sec. 11. Examinations.** Examinations shall be held at such time and at such places as may be deemed expedient by the commission; the commission shall publish for 2 consecutive weeks, the last publication to be at least 7 days prior to the date of the examination, a public notice giving the time and place of such examination, in 4 newspapers, to wit: the state paper, a newspaper published in Portland, a newspaper published in Lewiston, and a newspaper published in Bangor.

The type, scope, of such examination shall be discretionary with the commission, except that it shall be practical and relate to matters which will fairly test the capacity and fitness of the applicant; if, in the opinion of the commission, physical qualifications are desirable for any particular position, it may order physical examinations or require certificates to determine the same.

No question in the application or in the examination shall relate to the political, or religious opinions or affiliations of any applicant; and no appointment to a position shall be effected by the political or religious affiliation of the applicant, and no discrimination shall be made on account of sex or race.

Each person who has taken the examination shall be notified in writing the results thereof, and as to his standing upon the eligible roster within 30 days from the completion of such examination.

**Sec. 12. Records of the commission.** Records of the proceedings of the commission, all recommendations of applicants and all applications and examination papers shall be kept on file. Said records and files shall be open

to public inspection at all times. No applications, recommendations or examination papers need be preserved for a longer period than 3 years.

**Sec. 13. Provisional appointments.** A provisional appointment may be made to fill a temporary position for a definite period of not more than 3 months; at the expiration of this period the appointment may be continued for 1 more period, but not to exceed 3 months; such appointment shall be void if not exercised within 2 months from its date.

The acceptance of a provisionary appointment shall not affect the eligibility of the appointee for a permanent position.

**Sec. 14. Emergency appointments.** In case of an emergency, where the public business would suffer from delay in filling position in the manner provided by this act, the commission may make an emergency appointment, which shall continue for a period not exceeding 10 days. No re-employment or further employment shall be allowed at the end of such period except by the consent of the board.

**Sec. 15. Transfers.** Any person whose name is on the roster for permanent employment and actually employed for 1 year at least, including probationary period, in any classified service may be transferred to another position with or without examination, as determined by the commission; provided, however, that the person so transferred must, at the time of such transfer, possess the qualifications required for an original appointment to the new position.

**Sec. 16. Rules.** Rules for reappointment, reinstatement, promotion, demotion, leave of absence, resignation and vacation shall be promulgated by the commission.

**Sec. 17. Pensions.** Whoever has been in the service of the state for 25 years at least, at his option, may retire from service to the state and shall receive from the state, during life, a pension of a sum equal to  $\frac{1}{2}$  of the average salary or wage he was receiving for the 5 years next previous to his retirement, which pension shall be payable monthly.

**Sec. 18. Appropriation.** The sum of \$7,500 shall be, and hereby is, appropriated to be paid out of the general fund for each of the 2 years next following to pay the expenses of the administration of the provisions of this act.

**Sec. 19. Repeal.** All acts and parts of acts inconsistent herewith are hereby repealed.