

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 1980 to June 19, 1981

AND AT THE

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

1981

CHAPTER 289

H. P. 1395 — L. D. 1566

AN ACT to Revise the State Personnel System.

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

Sec. 1. 5 MRSA § 551-A is enacted to read:

§ 551-A. Purpose

Every employee of the Department of Personnel and any other affected state agency shall act to assure that the provisions of the Personnel Law are carried out in an open, fair and expeditious manner, with the objective of hiring and retaining the best person for a position as quickly as possible. To this end, all state agencies shall take steps to speed up handling of matters subject to, and to reduce and simplify the procedures and paperwork required by, the Personnel Law.

Sec. 2. 5 MRSA § 556, as last amended by PL 1979, c. 127, § 30, is repealed and the following enacted in its place:

§ 556. Citizenship

Employees holding technical or professional positions involving formulation, execution or review of broad public policy shall be citizens of the United States of America. This requirement may be waived by the commissioner on an individual basis when there exist compelling reasons for the waiver.

Sec. 3. 5 MRSA § 557, as last amended by PL 1979, c. 541, Pt. A, § 26, is repealed and the following enacted in its place:

§ 557. Compulsory consideration of experience

No application for a position in State Government may be rejected solely because the applicant lacks educational qualifications. Acceptable equivalent combinations of appropriate experience, including verifiable uncompensated experience, or education may be substituted for formal educational qualifications, except where the educational qualifications are reflected in necessary registrations such as to practice law, medicine or engineering or where the educational requirements are set as standards by federal agencies making grants-in-aid or otherwise contributing to state programs. The commissioner shall by rule adopt standards and procedures to assure implementation of this paragraph.

Sec. 4. 5 MRSA § 591, as amended by PL 1975, c. 771, § 53, is repealed and the following enacted in its place:

§ 591. Membership; term; compensation

The State Personnel Board, as established, shall be composed of 5 members with experience in personnel management or labor relations. No more than 3 members of the board may be of the same political party. No member may be a state employee.

Each member shall be appointed by the Governor subject to review by the Joint Standing Committee on State Government and to confirmation by the Legislature.

One member of the board shall be designated by the Governor as chairman. Except as otherwise provided by law, each member shall be appointed for a term of 4 years and until his successor has been appointed and qualified. Any vacancy shall be filled for the unexpired portion of the term by the Governor, subject to review by the Joint Standing Committee on State Government and to confirmation by the Legislature.

The members of the board shall receive \$50 a day for the time actually spent in the discharge of their duties and shall receive their necessary expenses.

Sec. 5. 5 MRS § 592, as last repealed and replaced by PL 1977, c. 78, § 12, is amended by adding at the end a new paragraph to read:

The board shall serve as an appeal board for state employees, pursuant to chapter 63.

Sec. 6. 5 MRS § 631, first ¶, 2nd sentence, as repealed and replaced by PL 1979, c. 127, § 31, is amended to read:

~~After consultation with the Personnel Board, the~~ The Governor shall appoint, subject to review by the Joint Standing Committee on State Government and to confirmation by the Legislature, the Commissioner of Personnel who shall serve ~~a term coterminous with that at the pleasure of the Governor or until his successor has been appointed and qualified.~~

Sec. 7. 5 MRS § 631, sub-§ 7, as amended by PL 1975, c. 766, § 4, is further amended to read:

7. Organization and decentralization. To organize the department and separate it into such divisions and along such functional lines as the commissioner may deem most efficient and ~~may to~~ decentralize the functions of personnel management among the various departments and agencies of the State **consistent with the requirements of section 551-A and as he deems deemed** in the best interest of efficient administration, and to perform those functions which are not decentralized.

Sec. 8. 5 MRS § 642 is enacted to read:

§ 642. Employee Suggestion System

1. **Purpose.** The Employee Suggestion System is established to authorize that cash or honorary awards be made to state employees whose adopted suggestions will result in substantial savings or improvement in state operations.

2. **Employee Suggestion System Board.** The Employee Suggestion System Board shall be composed of the Commissioner of Finance and Administration, the Commissioner of Personnel and one other commissioner of a state department to be appointed by the Governor.

The Commissioner of Personnel shall be responsible for administering the program, and shall assign one capable, highly-experienced employee of the department to manage the program on a day-to-day basis. That employee may also have assignments not related to this program.

The board shall elect a chairman and shall adopt rules governing the proceedings, including criteria for making awards. The board shall approve each award made.

No later than March 1st of each year, the board shall submit to the joint standing committee having jurisdiction over State Government a report of its activities for the preceding calendar year, including information on the number and nature of suggestions received and awards made.

3. **Employee positions excluded.** In establishing criteria for making awards, the board may exclude certain levels of positions from participation in the program, but in no event may persons in positions enumerated in Title 2, section 6, or Title 5, section 711, be eligible to receive cash awards under the program.

4. **Maximum cash award.** The maximum cash award approved shall be limited to 10% of the first year's estimated savings, or \$2,000, whichever is less. An award shall not be made for any suggested savings of less than \$250. Any cash awards approved by the board shall be charged against the fund or funds to which estimated savings apply. If it is not possible to reasonably estimate the savings, the board may pay an initial amount and pay an additional amount at the end of the first year, or may pay the full amount at the end of the first year.

5. **Confidentiality.** The name of the suggestor shall be treated confidentially by the board and any other person handling a suggestion until a final decision is made by the Board, if requested by the suggestor.

6. **Assistance.** Any department or other organization of State Government shall provide whatever assistance the board requests for evaluating suggestions or other purposes.

7. **Administration.** Notwithstanding any other law, whenever an award is made from a fund, an equal amount shall be transferred from the same fund to a special revenue fund available to the Department of Personnel to be used to administer the program.

Sec. 9. 5 MRSA c. 63, first two lines, as enacted by PL 1967, c. 539, § 1, are repealed and the following enacted in its place:

CHAPTER 63

STATE EMPLOYEES APPEALS

Sec. 10. 5 MRSA § 751, first ¶, as repealed and replaced by PL 1975, c. 771, § 57, is repealed and the following enacted in its place:

The State Personnel Board shall administer this chapter. Whenever it so administers, it shall be an impartial board of arbitration.

Sec. 11. 26 MRSA § 979-A, sub-§ 5, as enacted by PL 1973, c. 774, is further amended by adding at the end the following:

The Governor's office, or its designee, the location of which within the organization of State Government shall be designated by the Governor, which shall be known as the Governor's Office of Employee Relations, may:

- A. Develop and execute employee relations' policies, objectives and strategies consistent with the overall objectives of the Governor;
- B. Conduct negotiations with certified and recognized bargaining agents under applicable statutes;
- C. Administer and interpret collective bargaining agreements, and coordinate and direct agency activities as necessary to promote consistent policies and practices;
- D. Represent the State in all bargaining unit determinations, elections, prohibited practice complaints and any other proceedings growing out of employee relations and collective bargaining activities;
- E. Coordinate the compilation of all data and information needed for the development and evaluation of employee relations' programs and in the conduct of negotiations;
- F. Coordinate the state's resources as needed to represent the State in negotiations, mediation, fact finding, arbitration and other proceedings; and
- G. Provide staff advice on employee relations to the various departments and agencies of State Government, including providing for necessary supervisory and managerial training.

All state departments and agencies shall provide such assistance, services and information as required by the Governor's office, or its designee, and shall take such administrative or other action as may be necessary to implement and

administer the provisions of any binding agreement between the State and employee organizations entered into under law.

Sec. 12. 26 MRSA § 979-K, last sentence, as enacted by PL 1973, c. 774, is amended to read:

If no such provision is contained in the collective bargaining agreement, the parties shall submit their differences for resolution by the State ~~Employees Appeals~~ **Personnel Board**.

Sec. 13. Transition provisions for State Personnel Board and State Employees Appeals Board. The terms of the members of the State Personnel Board and of the State Employees Appeals Board shall expire on December 31, 1981. The initial 5 appointments by the Governor to the State Personnel Board established January 1, 1982 shall be as follows: 2 members shall be appointed for 2 years; 2 members shall be appointed for 3 years; and one member shall be appointed for 4 years. Subsequent appointments shall be as provided in the Revised Statutes, Title 5, section 591.

Sec. 14. Transition provisions. All accrued expenditures, assets, liabilities, balances of appropriations transfers, revenues or other available funds of the State Employees Appeals Board shall be transferred to the Department of Personnel by the State Controller, upon the effective date of the merger of the State Employees Appeals Board with the State Personnel Board. All property of the State Employees Appeals Board shall similarly be transferred to the Department of Personnel at the time of the merger. The transfers shall be made upon the recommendation of the Commissioner of Personnel and the State Budget Officer and with the approval of the Governor.

Sec. 15. Effective date. Sections 4, 5, 9, 10, 13 and 14 of this Act shall take effect on January 1, 1982.

Effective September 18, 1981, unless otherwise indicated

CHAPTER 290

H. P. 411 — L. D. 450

AN ACT to Repeal the Double Affirmation Rule Under the Employment Security Law.

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

26 MRSA § 1194, sub-§ 11, ¶ B, as enacted by PL 1971, c. 538, § 34, is repealed.

Effective September 18, 1981