



125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 189

H.P. 166

House of Representatives, January 27, 2011

**An Act To Achieve Cost Savings by Eliminating Deputy
Commissioner Positions throughout State Government**

(EMERGENCY)

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative COTTA of China.
Cosponsored by Senator SAVIELLO of Franklin and
Representatives: FITTS of Pittsfield, KNIGHT of Livermore Falls, WEAVER of York.

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

3 **Whereas,** in light of the current fiscal condition of the State, different methods of
4 achieving savings must be examined and implemented as soon as possible; and

5 **Whereas,** this legislation achieves savings by the elimination of certain positions in
6 State Government; and

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

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

12 **Sec. 1. 2 MRSA §6, sub-§2,** as amended by PL 2007, c. 539, Pt. N, §1 and
13 affected by c. 695, Pt. A, §47, is further amended to read:

14 **2. Range 90.** The salaries of the following state officials and employees are within
15 salary range 90:

16 Superintendent of Financial Institutions;

17 Superintendent of Consumer Credit Protection;

18 State Tax Assessor;

19 Superintendent of Insurance;

20 Executive Director of the Maine Consumer Choice Health Plan;

21 ~~Deputy Commissioner, Department of Administrative and Financial Services;~~

22 Associate Commissioner for Adult Services, Department of Corrections;

23 Associate Commissioner for Juvenile Services, Department of Corrections;

24 Public Advocate;

25 ~~Deputy Commissioner, Department of Health and Human Services;~~

26 Chief Information Officer;

27 Associate Commissioner for Legislative and Program Services, Department of
28 Corrections; and

29 Chief of the State Police.

30 **Sec. 2. 2 MRSA §6, sub-§4,** as repealed and replaced by PL 2007, c. 695, Pt. A,
31 §5 and affected by §47, is amended to read:

32 **4. Range 88.** The salaries of the following state officials and employees are within
33 salary range 88:

1 Director, Bureau of Air Quality;
2 Director, Bureau of Land and Water Quality;
3 Director, Bureau of Remediation and Waste Management;
4 ~~Deputy Commissioner, Environmental Protection;~~
5 Director, Office of Licensing and Registration;
6 Administrator, Office of Securities; and
7 Deputy Chief of the State Police.

8 **Sec. 3. 2 MRSA §6, sub-§6**, as amended by PL 2005, c. 405, Pt. D, §4, is further
9 amended to read:

10 **6. Range 85.** The salaries of the following state officials and employees are within
11 salary range 85:

12 Director of the Maine Emergency Management Agency;
13 Members, Maine Unemployment Insurance Commission;
14 ~~Deputy Commissioner of the Department of Defense, Veterans and Emergency~~
15 ~~Management;~~
16 Director of the Bureau of Maine Veterans' Services; and
17 Executive Analyst, Board of Environmental Protection.

18 **Sec. 4. 2 MRSA §6, sub-§11**, as amended by PL 2007, c. 539, Pt. N, §2, is
19 repealed.

20 **Sec. 5. 5 MRSA §1**, as amended by PL 1975, c. 771, §23, is further amended to
21 read:

22 **§1. Appointment of temporary officials; removal; salary**

23 In order to provide for the uninterrupted and orderly functioning of any agency,
24 board, commission or department of the State Government during a vacancy in the office
25 of the appointive or elective head thereof and whenever there is no state official, deputy,
26 assistant or other state employee duly authorized by law to exercise the powers and
27 perform the duties of ~~such~~ the appointive or elective head during ~~such~~ a vacancy, the
28 Governor is empowered to appoint a temporary ~~deputy~~ acting commissioner to exercise
29 the powers and perform the duties of the appointive or elective head of ~~such~~ an office
30 during ~~such~~ a vacancy. The term of office of ~~such~~ a temporary ~~deputy~~ acting
31 commissioner so appointed ~~shall be~~ is at the pleasure of the Governor and ~~shall~~ may not
32 extend beyond the date of qualification of a successor to the office of appointive or
33 elective head of ~~such~~ the agency, board, commission or department or 60 days from the
34 date of ~~his~~ appointment as temporary acting commissioner, whichever ~~shall~~ first occur
35 occurs. The term of office of ~~such~~ a temporary ~~deputy~~ acting commissioner so appointed
36 to an office to which appointments are by law subject to confirmation by the Legislature
37 ~~shall be~~ is at the pleasure of the Governor and ~~shall~~ may not extend beyond the date of

1 qualification of a successor appointed to ~~such~~ the office or 6 months from the date of
2 appointment, whichever ~~shall~~ first ~~occur~~ occurs. ~~Such~~ A temporary ~~deputy~~ acting
3 commissioner ~~shall~~ is not be eligible for reappointment. ~~Such~~ A temporary ~~deputy~~ acting
4 commissioner ~~shall~~ must be appointed from the personnel of the agency, board,
5 commission or department in which ~~such~~ the vacancy occurs.

6 During the term of ~~such~~ appointment, the temporary ~~deputy~~ acting commissioner
7 ~~shall~~ must be paid a salary to be determined by the Governor but not to exceed that
8 received by the appointive or elective head at the termination of ~~his~~ the appointive or
9 elective head's services with the State Government.

10 ~~In the event an employee in the classified service of the State Government is~~
11 ~~appointed as a temporary deputy commissioner he shall, during the term of his~~
12 ~~appointment as temporary deputy commissioner, retain all of the rights and all of the~~
13 ~~retirement benefits to which he may be entitled as a classified employee of the State~~
14 ~~Government.~~

15 An employee in the classified service of the State Government who is appointed as
16 temporary acting commissioner retains, during that employee's tenure as temporary
17 acting commissioner, all of the rights and all of the retirement benefits that employee is
18 entitled to as a classified employee of the State Government.

19 **Sec. 6. 5 MRSA §282, first ¶**, as amended by PL 2003, c. 673, Pt. C, §1, is
20 further amended to read:

21 ~~The commissioner may, with the approval of the Governor, appoint a deputy~~
22 ~~commissioner, who is the chief of one of the department bureaus and shall perform the~~
23 ~~duties of the commissioner during the commissioner's absence, in addition to the deputy~~
24 ~~commissioner's regular duties. The compensation and expense of the deputy~~
25 ~~commissioner is paid from any available funds appropriated for the use of the bureau of~~
26 ~~which the deputy commissioner is chief. The commissioner may appoint and employ the~~
27 ~~bureau chiefs and the assistant to the commissioner to be under the commissioner's~~
28 ~~immediate supervision, direction and control, and to serve at the commissioner's pleasure~~
29 ~~and perform such duties as the commissioner may prescribe, except as otherwise~~
30 ~~provided by law. In addition, the commissioner may appoint an associate commissioner~~
31 ~~for administrative services who is not subject to the Civil Service Law and who serves at~~
32 ~~the pleasure of the commissioner.~~

33 **Sec. 7. 5 MRSA §282, 2nd ¶**, as amended by PL 1985, c. 785, Pt. B, §14, is
34 further amended to read:

35 The commissioner may employ such other ~~deputies~~, division heads, assistants and
36 employees as may be necessary, subject to the Civil Service Law. In addition, the
37 commissioner may employ a Director of Compliance to carry out departmental
38 responsibilities related to: ~~labor~~ labor relations and labor contract compliance; human
39 rights and affirmative action compliance; and, audit guidelines and other 3rd-party
40 compliance requirements. The Director of Compliance ~~shall serve~~ serves at the pleasure
41 of the commissioner.

1 **Sec. 8. 5 MRSA §282, 3rd ¶** is amended to read:

2 In the event of a vacancy in the office of the commissioner because of death,
3 resignation, removal from office or other cause, the various bureau chiefs, ~~deputies~~ and
4 assistants ~~shall~~ continue in office and shall perform such duties as have been prescribed
5 or assigned to them, until ~~said~~ the vacancy has been filled by the appointment and
6 qualification of a new commissioner.

7 **Sec. 9. 5 MRSA §933, sub-§1, ¶A**, as amended by PL 2005, c. 337, §1 and
8 affected by §4, is repealed.

9 **Sec. 10. 5 MRSA §934-A**, as amended by PL 2005, c. 425, §1, is repealed.

10 **Sec. 11. 5 MRSA §935, sub-§1, ¶B**, as repealed and replaced by PL 1983, c.
11 862, §12, is repealed.

12 **Sec. 12. 5 MRSA §937, sub-§1, ¶A**, as amended by PL 2007, c. 1, Pt. D, §1, is
13 repealed.

14 **Sec. 13. 5 MRSA §938, sub-§1-A, ¶A**, as enacted by PL 1995, c. 560, Pt. E, §2,
15 is repealed.

16 **Sec. 14. 5 MRSA §942, sub-§1, ¶A**, as enacted by PL 1983, c. 729, §4, is
17 repealed.

18 **Sec. 15. 5 MRSA §943, sub-§1, ¶F-1**, as repealed and replaced by PL 2005, c. 3,
19 Pt. O, §1, is repealed.

20 **Sec. 16. 5 MRSA §945, sub-§1, ¶A**, as amended by PL 2005, c. 519, Pt. S, §1, is
21 repealed.

22 **Sec. 17. 5 MRSA §947-B, sub-§1, ¶F**, as enacted by PL 1991, c. 780, Pt. Y, §37,
23 is repealed.

24 **Sec. 18. 5 MRSA §951, sub-§1, ¶A**, as enacted by PL 1983, c. 729, §4, is
25 repealed.

26 **Sec. 19. 5 MRSA §952, sub-§1, ¶A**, as amended by PL 1997, c. 643, Pt. Q, §4, is
27 repealed.

28 **Sec. 20. 5 MRSA §13058, sub-§1**, as amended by PL 2005, c. 425, §4, is further
29 amended to read:

30 **1. Employ and remove staff.** The commissioner shall employ and remove staff of
31 the department. ~~Persons employed in major policy influencing positions, as defined in~~
32 ~~section 934 A, and professional~~ Professional staff whose positions were formerly located
33 in the State Development Office serve at the pleasure of the commissioner. The office
34 directors serve at the pleasure of the commissioner.

1 A. All professional positions that are unclassified positions and members of
2 bargaining units and are transferred to the department from units of State
3 Government other than the State Development Office retain their current status,
4 including their rights as members of bargaining units. The position responsible for
5 the administration of the tax incentive programs and classified, clerical and other
6 nonprofessional staff must be hired pursuant to the Civil Service Law for classified
7 state employees.

8 B. The commissioner may employ or engage such outside technical or professional
9 consultants as may be necessary or appropriate to assist the office in carrying out its
10 functions and may enter into contracts with other boards, commissions, departments
11 and divisions of the State, with the University of Maine System or with private
12 entities to assist the commissioner in carrying out the commissioner's duties under
13 this chapter.

14 **Sec. 21. 5 MRSA §17710, sub-§2**, as amended by PL 1987, c. 739, §§22 and 48,
15 is further amended to read:

16 **2. Commissioner.** A commissioner ~~or deputy commissioner~~ of the Department of
17 Marine Resources may elect to contribute as a member or have pick-up contributions
18 made by the employer under section 17701, rather than under this section, by filing a
19 written copy of the election of choice with the board.

20 **Sec. 22. 5 MRSA §17851, sub-§7**, as amended by PL 1987, c. 739, §§26 and 48,
21 is further amended to read:

22 **7. Marine Resources commissioner.** A commissioner ~~or deputy commissioner~~ of
23 the Department of Marine Resources qualifies for a service retirement benefit if ~~he~~ the
24 commissioner:

- 25 A. Qualifies under subsection 6; and
- 26 B. Contributed or had pick-up contributions made by the employer as a law
27 enforcement officer under section 17710, subsection 1.

28 **Sec. 23. 7 MRSA §5**, as amended by PL 1997, c. 643, Pt. NN, §3, is repealed.

29 **Sec. 24. 12 MRSA §5012, 2nd ¶**, as amended by PL 2009, c. 213, Pt. L, §2, is
30 further amended to read:

31 The commissioner has the power to appoint ~~a deputy commissioner~~ and bureau heads
32 and other staff of the department, subject to the Civil Service Law, and prescribe their
33 duties as necessary for the proper performance of the duties of the department.

34 **Sec. 25. 12 MRSA §5012, 3rd ¶**, as amended by PL 2009, c. 213, Pt. L, §3, is
35 further amended to read:

36 The ~~deputy commissioner~~ and bureau heads serve at the pleasure of the
37 commissioner, except that dismissal of the Executive Director of the Maine Land Use
38 Regulation Commission requires the consent of a majority of the members of that
39 commission.

1 **Sec. 26. 12 MRSA §6022, sub-§3**, as amended by PL 1989, c. 348, §3, is further
2 amended to read:

3 **3. Organization and personnel.** The commissioner shall organize the department
4 into the administrative units ~~which~~ that the commissioner decides are necessary to carry
5 out its duties. The commissioner shall hire all necessary employees of the department
6 subject to the Civil Service Law, except that persons in the following positions ~~shall be~~
7 are appointed by and serve at the pleasure of the commissioner: ~~Deputy Commissioner;~~
8 Chief, Bureau of Marine Patrol; and Assistant to the Commissioner for Public
9 Information. The Chief of the Bureau of Marine Patrol ~~shall~~ must be appointed from
10 among the patrol personnel of the bureau with the rank of sergeant or higher. In the event
11 that the Chief of the Bureau of Marine Patrol is not reappointed, that person ~~shall have~~
12 has the right to be restored to the classified position from which that person ~~shall have~~
13 been was promoted or to a position equivalent ~~thereto~~ in salary grade without impairment
14 of that person's personnel status or the loss of seniority, retirement or other rights to
15 which uninterrupted service in the classified position would have entitled that person. If
16 that person's service in the position of Chief of the Bureau of Marine Patrol ~~shall be~~ is
17 terminated for cause, that person's right to be so restored ~~shall~~ must be determined by the
18 State Civil Service Appeals Board.

19 **Sec. 27. 12 MRSA §6023**, as amended by PL 1979, c. 541, Pt. B, §73, is further
20 amended to read:

21 **§6023. Delegation of duties**

22 ~~The commissioner shall designate a deputy commissioner, who shall serve at the~~
23 ~~pleasure of the commissioner. The deputy commissioner shall be responsible, under the~~
24 ~~direction of the commissioner, for the administration and enforcement of the marine~~
25 ~~resources' laws and shall have all the powers of a marine patrol officer. He shall serve as~~
26 ~~the commissioner in the commissioner's absence or disability or if the office of the~~
27 ~~commissioner becomes vacant. The commissioner may appoint an appropriate~~
28 ~~administrative officer in the department to perform the functions of the commissioner if~~
29 ~~both the commissioner and deputy commissioner are~~ is disabled or absent.

30 **Sec. 28. 12 MRSA §6072, sub-§1**, as amended by PL 2003, c. 247, §2, is further
31 amended to read:

32 **1. Authority.** The commissioner may lease areas in, on and under the coastal waters,
33 including the public lands beneath those waters and portions of the intertidal zone, for
34 scientific research or for aquaculture of marine organisms. The commissioner may grant a
35 lease to any person. Except as provided in this Part, the commissioner's power to lease
36 lands under this section is exclusive. ~~For the purposes of this section, the deputy~~
37 ~~commissioner may serve in the place of the commissioner. For the purposes of this~~
38 ~~section, the commissioner or the deputy commissioner serving in the place of the~~
39 ~~commissioner~~ may authorize in writing qualified professional department staff to sign
40 lease documents.

41 **Sec. 29. 12 MRSA §6072-A, sub-§1**, as amended by PL 2003, c. 247, §9, is
42 further amended to read:

1 **1. Authority.** The commissioner may issue a limited-purpose lease for areas in, on
2 and under the coastal waters, including the public lands beneath those waters and portions
3 of the intertidal zone, for commercial aquaculture research and development or for
4 scientific research. The commissioner ~~or the deputy commissioner acting on the~~
5 ~~commissioner's behalf~~ may authorize in writing qualified professional department staff to
6 issue a final decision and sign a lease document on an application for a limited-purpose
7 lease. A decision issued by department staff pursuant to this subsection is a final agency
8 action with respect to that lease application.

9 **Sec. 30. 12 MRSA §6174, sub-§2,** as amended by PL 2003, c. 248, §3, is further
10 amended to read:

11 **2. Proof of rules.** A certified copy of a rule is admissible in court to prove the rule
12 and is prima facie evidence that the rule was properly adopted. A rule must be personally
13 certified by the commissioner, ~~deputy commissioner~~ or Chief of the Bureau of Marine
14 Patrol and must be accompanied by a signed statement that it was in force on the date of
15 the alleged violation. The certified copy is admissible in evidence on the testimony of a
16 marine patrol officer that the patrol officer received the certified rule after requesting it by
17 telephone or otherwise from the department. No further foundation is necessary for the
18 admission of the certified copy.

19 **Sec. 31. 12 MRSA §6205,** as amended by PL 1979, c. 541, Pt. B, §73, is further
20 amended to read:

21 **§6205. Certificate as evidence**

22 A certificate of the commissioner, ~~deputy commissioner~~ or Chief of the Bureau of
23 Marine Patrol stating what the records of the department show ~~shall be~~ is admissible as
24 evidence in all courts as proof of the department records. A certificate stating that the
25 records do not show that a person held a license ~~shall be~~ is prima facie evidence that the
26 person did not hold the license on the date specified in the certificate. The certified copy
27 ~~shall be~~ is admissible in evidence on the testimony of a an officer that ~~he~~ the officer
28 received the certificate after requesting it by telephone or otherwise from the department.
29 No further foundation ~~shall be~~ is necessary for the admission of the certificate.

30 **Sec. 32. 12 MRSA §6372, sub-§3, ¶E,** as enacted by PL 1977, c. 661, §5, is
31 amended to read:

32 E. Presiding officer, Title 5, section 9062, subsections 3 and 4, except the presiding
33 officer ~~shall~~ must be the commissioner ~~or deputy commissioner~~.

34 **Sec. 33. 12 MRSA §10051, 2nd ¶,** as repealed and replaced by PL 2009, c. 652,
35 Pt. A, §13, is further amended to read:

36 The department consists of the Commissioner of Inland Fisheries and Wildlife, a
37 ~~deputy commissioner~~, the Division of Licensing, Registration and Engineering, the
38 Bureau of Resource Management and the Bureau of Warden Service. The department
39 also includes the Advisory Board for the Licensing of Guides and whatever state agencies

1 that are designated. The department is under the control and supervision of the
2 commissioner.

3 **Sec. 34. 12 MRSA §10052, first ¶**, as amended by PL 2009, c. 340, §2, is further
4 amended to read:

5 The Division of Licensing, Registration and Engineering is established within the
6 Department of Inland Fisheries and Wildlife. The division is equal in organizational level
7 and status with other major organizational units within the department or its successors.
8 The division is administered by a director who is immediately responsible to the ~~deputy~~
9 commissioner. The director possesses full authority and responsibility for administering
10 all the powers and duties of the division, subject to the direction of the commissioner and
11 except as otherwise provided by statute. The responsibilities of the division include, but
12 are not limited to:

13 **Sec. 35. 12 MRSA §10053, first ¶**, as enacted by PL 2003, c. 414, Pt. A, §2 and
14 affected by c. 614, §9, is amended to read:

15 The Bureau of Resource Management is established within the Department of Inland
16 Fisheries and Wildlife. The bureau is equal in organizational level and status with other
17 major organizational units within the department or its successors. The bureau is
18 administered by a director who is immediately responsible to the ~~deputy~~ commissioner.
19 The director possesses full authority and responsibility for administering all the powers
20 and duties of the bureau, subject to the direction of the commissioner and except as
21 otherwise provided by statute. The responsibilities of the bureau include, but are not
22 limited to:

23 **Sec. 36. 12 MRSA §10054, first ¶**, as enacted by PL 2003, c. 414, Pt. A, §2 and
24 affected by c. 614, §9, is amended to read:

25 The Bureau of Warden Service is established within the Department of Inland
26 Fisheries and Wildlife. It is equal in organizational level and status with other major
27 organizational units within the department or its successors. The bureau is administered
28 by a director who is immediately responsible to the ~~deputy~~ commissioner. The director is
29 the Game Warden Colonel and is employed pursuant to section 10103, subsection 3 and
30 Title 5, chapter 59, which are applicable to this position. The director possesses full
31 authority and responsibility for administering all the powers and duties of the bureau,
32 subject to the direction of the commissioner and except as otherwise provided by statute.
33 The responsibilities of the bureau include, but are not limited to:

34 **Sec. 37. 12 MRSA §10103, sub-§1**, as enacted by PL 2003, c. 414, Pt. A, §2 and
35 affected by c. 614, §9, is amended to read:

36 **1. Delegation of duties.** ~~The commissioner shall appoint, to serve at the~~
37 ~~commissioner's pleasure, the Deputy Commissioner of Inland Fisheries and Wildlife, who~~
38 ~~must be qualified by training and experience in fisheries and wildlife management or~~
39 ~~conservation law enforcement. Under the commissioner's direction, the deputy~~
40 ~~commissioner assists in the administration of the department. The deputy commissioner~~
41 ~~serves as the commissioner if the commissioner is disabled or absent or if the office of the~~

1 ~~commissioner becomes vacant.~~ The commissioner may appoint an appropriate
2 administrative officer in the department to perform the functions of the commissioner if
3 ~~both the commissioner and deputy commissioner are~~ is disabled or absent.

4 **Sec. 38. 12 MRSA §10103, sub-§3**, as enacted by PL 2003, c. 414, Pt. A, §2 and
5 affected by c. 614, §9, is amended to read:

6 **3. Employment of personnel.** The commissioner shall employ, subject to the Civil
7 Service Law, such employees as are necessary to carry out the duties of the department,
8 except that persons in the following positions are appointed by and serve at the pleasure
9 of the commissioner: ~~deputy commissioner~~; Game Warden Colonel; and Assistant to the
10 Commissioner for Public Information.

11 The Game Warden Colonel is appointed from among the game wardens of the
12 department. In the event that the Game Warden Colonel is not reappointed, the Game
13 Warden Colonel has the right to be restored to the classified position from which the
14 Game Warden Colonel was promoted or to a position equivalent in salary grade in an
15 agency, without impairment of personnel status or the loss of seniority, retirement or
16 other rights to which uninterrupted service in the classified position would have entitled
17 the Game Warden Colonel. If service in that unclassified supervisory position is
18 terminated for cause, the right to be restored to that position must be determined by the
19 State Civil Service Appeals Board.

20 **Sec. 39. 20-A MRSA §203, sub-§1, ¶A**, as amended by PL 2009, c. 571, Pt. W,
21 §1, is repealed.

22 **Sec. 40. 22 MRSA §2054, sub-§1**, as amended by PL 1993, c. 390, §10 and PL
23 2001, c. 44, §11 and affected by §14 and amended by PL 2003, c. 689, Pt. B, §7, is
24 further amended to read:

25 **1. Authority.** The Maine Health and Higher Educational Facilities Authority,
26 established by Title 5, chapter 379, is constituted a public body corporate and politic and
27 an instrumentality of the State, and the exercise by the authority of the powers conferred
28 by this chapter is deemed and held to be the performance of an essential public function.
29 The authority consists of 12 members, one of whom must be the Superintendent of
30 Financial Institutions, ex officio; one of whom must be the Commissioner of Health and
31 Human Services, ex officio; one of whom must be the Commissioner of Education, ex
32 officio; one of whom must be the Treasurer of State, ex officio; and 8 of whom must be
33 residents of the State appointed by the Governor. Not more than 4 of the appointed
34 members may be members of the same political party. Three of the appointed members
35 must be trustees, directors, officers or employees of health care facilities and one of these
36 appointed members must be a person having a favorable reputation for skill, knowledge
37 and experience in state and municipal finance, either as a partner, officer or employee of
38 an investment banking firm that originates and purchases state and municipal securities,
39 or as an officer or employee of an insurance company or bank whose duties relate to the
40 purchase of state and municipal securities as an investment and to the management and
41 control of a state and municipal securities portfolio. Of the 3 members first appointed
42 who are trustees, directors, officers or employees of hospitals, one shall serve for 2 years,
43 one for 3 years and one for 4 years. Of the 5 remaining members initially appointed, one

1 shall serve for one year, one for 2 years, one for 3 years, one for 4 years and one for 5
2 years. For the 2 members whose terms expire in 1980 and 1981, the Governor shall
3 appoint as successors, for terms of 5 years each, persons who are trustees, members of a
4 corporation or board of governors, officers or employees of institutions for higher
5 education. Annually, the Governor shall appoint, for a term of 5 years, a successor to the
6 member whose term expires. Members shall continue in office until their successors have
7 been appointed and qualified. The Governor shall fill any vacancy for the unexpired
8 terms. A member of the authority is eligible for reappointment. Any non-ex officio
9 member of the authority may be removed by the Governor, after hearing, for misfeasance,
10 malfeasance or willful neglect of duty. Each member of the authority before entering
11 upon the member's duties must take and subscribe the oath or affirmation required by the
12 Constitution of Maine, Article IX. A record of each such oath must be filed in the office
13 of the Secretary of State. The Superintendent of Financial Institutions, the Treasurer of
14 State, the Commissioner of Health and Human Services and the Commissioner of
15 Education may designate ~~their deputies~~ any member of their staffs to represent them with
16 full authority and power to act and vote in their behalf or, in the case of the
17 Superintendent of Financial Institutions, the Commissioner of Health and Human
18 Services and the Commissioner of Education, ~~any member of their staffs~~ to represent
19 them as members at meetings of the authority with full power to act and, in the case of
20 the Superintendent of Financial Institutions, the Commissioner of Health and Human
21 Services and the Commissioner of Education, to vote in their behalf.

22 **Sec. 41. 22-A MRSA §204, sub-§2**, as enacted by PL 2003, c. 689, Pt. A, §1, is
23 amended to read:

24 **2. Vacancy.** A vacancy in the office of the commissioner must be filled as follows.

25 A. Any vacancy of the commissioner's position must be filled in accordance with
26 Title 5, section 1.

27 ~~B. The commissioner shall appoint one of the department's deputy commissioners to~~
28 ~~perform the duties of the commissioner, in addition to the duties of that deputy~~
29 ~~commissioner, during the commissioner's temporary absence or disability.~~

30 **Sec. 42. 22-A MRSA §205, sub-§4**, as amended by PL 2007, c. 539, Pt. N, §44,
31 is further amended to read:

32 **4. Appointments.** All ~~deputy commissioners, all~~ office directors, the regional
33 systems integration directors and the superintendents of any state institutions are
34 appointed by the commissioner and serve at the pleasure of the commissioner.

35 ~~Deputy commissioners and office~~ Office directors appointed pursuant to this subsection
36 must have educational qualifications and professional experience directly related to the
37 functions of and services provided by the relevant ~~unit or~~ office.

38 **Sec. 43. 22-A MRSA §207, sub-§2**, as enacted by PL 2007, c. 539, Pt. N, §46, is
39 amended to read:

40 **2. Appointments of employees.** The commissioner's powers to appoint ~~any deputy~~
41 ~~commissioner and other~~ employees are as set out in this subsection.

1 A. The commissioner may appoint, subject to the Civil Service Law and except as
2 otherwise provided, any employees who may be necessary.

3 ~~B. The commissioner may appoint and set the salaries for one or more deputy~~
4 ~~commissioners to assist in carrying out the responsibilities of the department. Each~~
5 ~~appointment must be for an indeterminate term and until a successor is appointed and~~
6 ~~qualified or at the pleasure of the commissioner.~~

7 C. The commissioner, with the approval of the Governor, may employ and set the
8 salaries up to the maximum adjusted pay grade for clinical director positions. Clinical
9 director positions are excluded from the definition of state employee under Title 26,
10 section 979-A, subsection 6 and are not subject to the Civil Service Law. Employees
11 in that classification hired after July 1, 1989 serve at the pleasure of the commissioner
12 and must, as a condition of continued employment, maintain clinical privileges to
13 practice medicine as determined by the respective medical staff and the
14 superintendent of the facility.

15 D. Employees in the classification of clinical director may elect to retain current
16 bargaining unit and civil service status. Employees so grandfathered retain salary and
17 benefit entitlements provided for in current pay schedules and collective bargaining
18 agreements.

19 **Sec. 44. 22-A MRSA §207, sub-§3**, as enacted by PL 2007, c. 539, Pt. N, §46, is
20 amended to read:

21 **3. Delegation.** The commissioner's delegation powers are as set out in this
22 subsection.

23 A. The commissioner may delegate powers and duties given under this Title to ~~any~~
24 ~~deputy commissioner~~ and chief administrative officers of state institutions.

25 B. The commissioner may empower ~~any deputy commissioner~~ and chief
26 administrative officers of state institutions to delegate further powers and duties
27 delegated to them by the commissioner.

28 **Sec. 45. 23 MRSA §4206, sub-§4**, as amended by PL 1985, c. 785, Pt. B, §105,
29 is further amended to read:

30 **4. Personnel.** The commissioner may appoint such ~~deputies~~, directors, assistants,
31 general counsel and other officers and employees as may be needed for the performance
32 of his the commissioner's duties. These appointments ~~shall be~~ are subject to the Civil
33 Service Law, except for the following who ~~shall~~ serve at the pleasure of the
34 commissioner: ~~Deputy Commissioners of Transportation;~~ Chief Counsel, Bureau of Legal
35 Services; Assistant to the Commissioner; and Assistant to the Commissioner for Public
36 Information.

37 **Sec. 46. 23 MRSA §4206, sub-§7**, as enacted by PL 1971, c. 593, §16, is
38 amended to read:

1 **7. Delegation.** The commissioner may delegate to ~~deputies,~~ directors, assistants and
2 other officers and employees of the department ~~such of his~~ those duties as ~~he deems the~~
3 commissioner determines appropriate.

4 **Sec. 47. 25 MRSA §2804-H,** as amended by PL 2001, c. 559, Pt. EE, §2, is
5 further amended to read:

6 **§2804-H. Continuing certification**

7 If the commissioner ~~or deputy commissioner~~ is a law enforcement officer who is
8 certified under sections 2804-B and 2804-C, the officer's certification does not lapse
9 during the period the officer serves as commissioner ~~or deputy commissioner~~.

10 **Sec. 48. 26 MRSA §1401-B, sub-§1, ¶B,** as amended by PL 2007, c. 1, Pt. D,
11 §4, is further amended to read:

12 B. The commissioner shall appoint to serve at the commissioner's pleasure:

13 (2) Assistant to the Commissioner for Public Affairs;

14 ~~(3) Deputy Commissioner;~~

15 (4) Director, Bureau of Labor Standards;

16 (5) Beginning April 15, 1996, Executive Director, Bureau of Employment
17 Services;

18 (6) Executive Director, Office of Operations; and

19 (7) Director, Bureau of Rehabilitation Services.

20 **Sec. 49. 36 MRSA §4308,** as amended by PL 1997, c. 511, §17, is further
21 amended to read:

22 **§4308. Inspection**

23 The State Tax Assessor or the assessor's duly authorized agents have authority to
24 enter any place of business of any processor or shipper or any car, boat, truck or other
25 conveyance in which wild blueberries are to be transported and to inspect any books or
26 records of any processor or shipper, or any premises where wild blueberries are stored,
27 handled, transported or merchandised, for the purpose of determining what wild
28 blueberries are taxable under this chapter or for the purpose of determining the truth or
29 falsity of any statement or return made by any processor or shipper, and the State Tax
30 Assessor may delegate that power to the Commissioner of Agriculture, Food and Rural
31 Resources, or the commissioner's ~~deputies,~~ agents or employees.

32 **Sec. 50. 37-B MRSA §5,** as enacted by PL 1997, c. 643, Pt. Q, §6, is repealed.

33 **Sec. 51. 38 MRSA §342, sub-§5-A,** as amended by PL 1995, c. 560, Pt. E, §4, is
34 further amended to read:

35 **5-A. Designation of directors.** The commissioner may employ, to serve at ~~his~~ the
36 commissioner's pleasure, ~~the following:~~

1
2
3
4
5
6
7

~~A. A deputy commissioner;~~

C. Directors as defined in Title 5, section 938, subsection 1-A.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect July 1, 2011.

SUMMARY

This bill eliminates, by the end of fiscal year 2010-11, all deputy commissioner positions in State Government.