

**Testimony of Tim Feeley, Deputy Legal Counsel, in Favor of L.D. 1206, *An Act Regarding the Terms of Office of the Director of the Maine State Museum Commission, the State Librarian and the Director of the Maine Arts Commission.* (Governor's Bill)**

April 13, 2021

Senator Rafferty, Representative Brennan and distinguished members of the Joint Standing Committee on Education and Cultural Affairs, I am Tim Feeley, Deputy Legal Counsel in the Office of the Governor and I am here today to testify in support of L.D. 1206, *An Act Regarding the Terms of Office of the Director of the Maine State Museum Commission, the State Librarian and the Director of the Maine Arts Commission.* The Governor thanks Senator Daughtry for her willingness to serve as legislative sponsor for this Governor's Bill.

This bill would amend the terms of office for a newly hired, not a current, director of the three cultural agencies to better align these terms with the terms of other state boards and commissions.

Last year the Executive Director of the Maine Arts Commission left the employment of the Arts Commission and the Governor was interested in who may fill the role of the next Director. A quick look at the statute shows the Governor appoints the Commission and the Commission hires the Director. This is not unusual or different than how many other boards and commissions hire a director, and this bill would not change that provision of law. However, what is unusual in the current statute is that the Director of the Arts Commission, the State Librarian and the Director of the Maine State Museum are hired for a term that is "subject to removal for cause." I could find only one other example in the Maine statutes of a director who served a similar term – the Director of the Maine EMS Board.

"Removal for cause" would be the kind of protection we would expect a position of the classified service to hold. An example of this would be most state employees. Generally a person in this situation enjoys a constitutionally protected property interest and may not be discharged from their employment without notice and hearing.

"Serves at the pleasure" of the hiring authority would be consistent with most unclassified positions. An unclassified position is where the appointing authority may appoint and remove persons to and from these positions at their pleasure. Examples of unclassified positions are Assistant Attorneys General, the Executive Director of the Human Rights Commission and the Executive Director of the Land Use Planning Commission, as well as the Governor's Commissioners and Deputy Commissioners.

Examples of other Boards that employ a director who "serves at the pleasure" of the Board are the Maine Dairy Promotion Board, the Maine Potato Board, the Efficiency Maine Trust, the Dental Practices Board, the Board of Licensure in Medicine, and the State House and Capitol Park Commission.

The Governor felt that this change was warranted at this time because of the opening at one of the Commissions, but we are not questioning the work of any current or past directors. We believe that these are important positions that can and do influence public policy in the state. We believe that by making this change we have the opportunity to make the Directors more accountable to the boards that oversee their work, and this will ultimately make the work of the Boards more impactful.

We urge you to support L.D. 1206 and I would be happy to try and answer any questions you may have.