

TITLE 1: GOVERNMENT
DIVISION 2: EXECUTIVE BRANCH

§ 2831. Department Established.

There is hereby established a Department of Labor which shall have at its head a Secretary of Labor.

Source: Executive Order 94-3, § 301(a); amended by Executive Order 03-01, § 101.

Commission Comment: Executive Order 94-3, the “Second Reorganization Plan of 1994” (effective August 23, 1994), reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions.

Specifically, Executive Order 94-3 created a Department of Labor and Immigration and transferred the then existing Division of Labor and the Division of Employment Services under the Department of Commerce and Labor, among other changes, to the newly created department. See 1 CMC § 2471 et seq. Subsequently, Executive Order 03-01 transferred immigration functions from the Department of Labor and Immigration to the Office of the Attorney General and renamed the Department of Labor and Immigration to the Department of Labor. See 1 CMC §§ 2831 and 2171.

According to Executive Order 94-3, § 301:

. . . .

PART 3. THE DEPARTMENTS

Transfers, abolishments, creations, and changes in functions and duties relating to the major departments, not otherwise provided for, are hereby effected as set forth in this part.

Section 301. Department of Labor and Immigration.

(a) **Department Established.** There is hereby established a Department of Labor and Immigration which shall have at its head a Secretary of Labor and Immigration.

(b) **Labor and Employment Services.**

(1) The Division of Labor and the Division of Employment Services are transferred from the Department of Commerce to the Department of Labor and Immigration. The Secretary of Labor and Immigration shall strengthen the Division of Employment Services to increase its ability to encourage and locate private sector employment for Commonwealth residents. The Secretary shall coordinate the functions of the two offices such that the availability of resident workers known to the Division of Employment Services is considered by the Division of Labor before non-resident worker certificates are issued.

(2) The functions of the Secretary of Commerce under Chapter 2 [of] 4 CMC, Division 9 [4 CMC § 9211 et seq.], relating to minimum wages and hours, are transferred to the Secretary of Labor and Immigration.

(3) The Wage and Salary Review Board is abolished and its records, property, facilities, equipment, and supplies transferred to the Department of Labor and Immigration.

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(4) The State Job Training Coordination Council/Private Industry Council and the JTPA office are allocated to the Department of Labor and Immigration for purposes of administration and coordination.

(5) Pursuant to paragraph (2) of 3 CMC § 4424(a), the Secretary of Labor and Immigration shall by regulation increase to not less than \$200 the annual fee for the processing of the initial application and for each annual renewal of a non-resident worker certificate, provided that the additional funds collected as a result of such increase shall be covered into the General Fund. On October 1, 1994, any funds remaining in the Commonwealth Non-resident Worker Fee Fund or in any account established pursuant to paragraph (1) of such subsection, shall be covered into the General Fund, may be reprogrammed by the Governor, and shall remain available for obligation until expended. The Governor may transmit to the Legislature revised budget estimates for Fiscal Year 1995 as necessary to conform to the provisions of this paragraph.

(c) Immigration.

(1) The Office of Immigration and Naturalization is re-designated the Immigration Service and is transferred to the Department of Labor and Immigration as a division of that department. The Immigration Service shall have at its head a Director of Immigration, who shall have all the powers assigned by law to the Immigration and Naturalization Officer, except any power transferred pursuant to Section 201 of this plan. The position of Immigration and Naturalization Officer is abolished.

(2) All functions of the Attorney General relating to immigration and naturalization, are transferred to the Secretary of Labor and Immigration except:

- (A) any function transferred pursuant to Section 201 of this plan,
- (B) the hearing of immigration appeals as provided in 3 CMC § 4336(d), and
- (C) the constitutional function of legal representation.

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The full text of Executive Order 94-3 is set forth in the Commission comment to 1 CMC § 2001.

Executive Order 03-01, the Department of Labor and Immigration Reorganization Plan of 2003” (signed March 10, 2003; effective May 9, 2003), reorganized the Department of Labor and Immigration and transferred immigration functions to the Office of the Attorney General. *See* 2 CMC § 2171 et seq. According to Executive Order 03-01:

Section 101. Office of Attorney General: Division of Immigration.

(a) ...

(b) ...

(c) The Labor and Immigration Identification Data System Office within the Division of Immigration, Department of Labor and Immigration is transferred to the Office of the Governor for

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organizational purposes but shall continue to provide critical resource data to the Department of Labor and Immigration.

(d) The Department of Labor and Immigration shall be renamed the Department of Labor to be headed by a Secretary who shall be appointed by, and serve at the pleasure of, the Governor with advice and consent of the Senate. The Department of Labor shall consist of the Division of Labor, Division of Employment Services and Training, and Administrative Hearing Office. Each division shall be headed by a Director who shall be appointed by, and serve at the pleasure of, the Secretary. The Administrative Hearing Office shall be headed by a Hearing Office Administrator, who shall be appointed by, and serve at the pleasure of, the Secretary. These three positions shall be exempt from the civil service system pursuant to PL 13-1.

Section 201. Transfer of Records, Property and Personnel.

(a) As used in this section, “agency” shall mean any office or program of the Division of Immigration, Department of Labor and Immigration, whose duties and functions are transferred to a gaining agency by this Executive Order. As used in this section, “gaining agency” shall mean the Office of the Attorney General and the Office of the Governor to which an agency or any of its functions are transferred by this Executive Order.

(b) All records and property including office equipment and supplies in the various agencies including all records and property used primarily in the administration of any function transferred by this plan, and all the personnel used in the administration of such agencies and functions are hereby transferred to the gaining agencies for use in the administration of the agencies and functions transferred by this Executive Order.

Section 202. Transfer of Funds.

So much of the unexpended balances of appropriations, allocations, allotments, or other funds available for the use of any agency in the exercise of any function transferred by this plan, or for the use of the head of any department or other agency in the exercise of any function so transferred, as the Special Assistant for Management and Budget with the approval of the Governor shall determine, shall be transferred to the gaining agency for use in connection with the exercise of the function so transferred. In the transfer of such funds, an amount may be included for the liquidation of obligations incurred prior to the transfer. The Governor may reprogram any portion of such balances not so transferred.

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Section 204. Effective Date.

In accordance with Article III, Section 15 of the Commonwealth Constitution, this plan shall become effective sixty days after submission to the Legislature, unless specifically modified or disapproved by a majority of the members of each house of the Legislature.