

MAINE STATE LEGISLATURE

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SPECIAL SESSION

EIGHTY-EIGHTH LEGISLATURE

Legislative Document

No. 1078

H. P. 1903

House of Representatives, Oct. 27, 1937.

Presented by Mr. Hill of So. Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

**AN ACT to Provide for Old Age Assistance; to Guarantee a Minimum
Educational Program and to Provide Revenue Therefor.**

Emergency preamble. Whereas, the rejection by the people on referendum of the Old Age Assistance Act passed at the regular session of the 88th legislature resulted in the complete repeal of legislation providing funds for the payment of old age assistance in the state; and

Whereas, the failure of the state to enact legislation for the assistance of its aged inhabitants has resulted in a loss of revenue which would have otherwise been contributed by the Federal Government for this purpose; and

Whereas, failure to enact some legislation will result in hardship and suffering to many deserving and destitute people in this state; and

Whereas, in the judgment of the legislature these facts create an emergency within the meaning of section 16 of Article XXXI of the constitution of Maine, and require the following legislation as immediately necessary for the preservation of public peace, health and safety; now, therefore:

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

TITLE I

Sec. 1. P. & S. L., 1937, c. 15, § 5, amended. Section 5 of chapter 15 of the private and special laws of 1937 is hereby amended to read as follows:

Sec. 5. Disposition of monies collected. All money received by the state liquor commission under this act shall be forthwith turned over to the state treasurer and be credited to an account entitled ~~1937 deficiency account on the books of the state controller.~~ The balance, of said account, if any, on June 30, 1939, shall be credited to the general funds of the state. From such money so turned over to the state treasurer beginning on June 30, 1938, there shall be credited the sum of \$495,345.79 annually to and including June 30, 1941, to the account entitled "1937 deficiency account" on the books of the state controller. All other money so turned over to the state treasurer shall remain in the general funds of the state.'

Sec. 2. P. & S. L., 1937, c. 15, § 8, amended. Section 8 of chapter 15 of the private and special laws of 1937 is hereby amended to read as follows:

Sec. 8. Limitations. This act shall not be effective after June 30, ~~1939~~ 1941.'

Sec. 3. P. L., 1937, c. 245, § 1, amended. Section 1 of chapter 245 of the public laws of 1937 is hereby amended to read as follows:

Sec. 1. Tax imposed. A tax of ~~\$2.08~~ \$2.20 is hereby assessed on each gallon of spirits as defined in section 4 of chapter 300 of the public laws of 1933, and at a like rate for any other quantity or for the fractional part of a gallon sold by or through the state liquor commission in accordance with the provisions of said chapter 300 of the public laws of 1933, as amended, and a tax of 50 cents is hereby assessed on each gallon of wine as defined in section 4 of chapter 300 of the public laws of 1933, and at a like rate for any other quantity or for the fractional part of a gallon sold by or through the state liquor commission in accordance with the provisions of said chapter 300 of the public laws of 1933, as amended.'

Sec. 4. Sum to be expended for old age assistance. A sum not exceeding \$600,000 for the fiscal year ending June 30, 1938, and a sum not exceeding \$1,700,000 for the fiscal year ending June 30, 1939, shall be expended for old age assistance in accordance with the provisions of Title II of this act and to pay the expenses of the administration thereof.

Sec. 5. Sum to be expended for educational program. A sum not in excess of \$200,000 for each of the fiscal years ending June 30, 1938, and June 30, 1939, shall be expended to guarantee a minimum educational program in accordance with the provisions of Title III of this act.

Sec. 6. Provisions may be suspended. If at any time the grant available to the state of Maine under the provisions of the Social Security Act

of the United States relating to Old Age Assistance shall cease to be available to match funds provided under this act and to be distributed under the provisions of Title II hereof, the governor shall forthwith publicly so proclaim, and upon the date of such proclamation the provisions of Title II of this act shall be suspended.

TITLE II

Sec. 1. Department of health and welfare to administer old age assistance. The department of health and welfare shall administer the carrying out and enforcement of the provisions of law relating to old age assistance. It is hereby empowered to employ such assistants as may be necessary to carry out the provisions of this act, subject to the approval of the governor and council, and to coordinate their work with that of the other social welfare work of the department.

Sec. 2. Definition. The word "department" wherever hereinafter used shall be construed to mean the department of health and welfare.

Sec. 3. Old age assistance provided for. Subject to the qualifications and restrictions contained in this act, every person residing in this state shall be entitled to assistance in old age. The amount of assistance which any person shall receive shall be determined on a budgetary basis with due regard to the conditions existing in each case and in accordance with the rules and regulations made by the department. This assistance shall be sufficient, when added to all other income and support of the recipient, to provide such person with a reasonable subsistence compatible with decency and health, but not exceeding \$30 per month. No person receiving assistance under this act shall be deemed a pauper.

Sec. 4. Requisites for assistance. Old age assistance shall be granted only to an applicant who

- (a) Is 65 years of age or more;
- (b) Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health;
- (c) Has resided in the state for 5 or more years within the 9 years immediately preceding application for assistance and has resided therein continuously for 1 year immediately preceding the application;
- (d) Is not an inmate of and is not being maintained by any municipal, state, or national institution; but an inmate of such an institution may file application for assistance under this act, and any allowance made thereon shall take effect and be paid upon his ceasing to be an inmate of such institution;

- (e) Has no spouse able to support him;
- (f) Has no child or children able to support him.

Sec. 4-A. Old age assistance commission appointed. The governor, with the advice and consent of the council, shall appoint in the department of health and welfare a commission to be known as the "Old Age Assistance Commission" to be composed of 3 residents of the state, who shall be appointed 1 for a one year term, 1 for a two year term and 1 for a three year term, or during the pleasure of the governor and council, and thereafter for terms of 3 years, or during the pleasure of the governor and council. Vacancies occurring because of death, resignation or any other cause shall be filled by appointment of the governor with the advice and consent of the council for the balance of the unexpired term or during the pleasure of the governor and council, and the governor shall designate at the time of appointment one of said members to serve as chairman of said commission. The compensation of said commission shall be determined by the governor and council.

The commission shall have an office in the department of health and welfare at Augusta and shall be furnished quarters and such clerical assistance as may be necessary for the work of the commission. Said commission shall examine and pass upon all applications for old age assistance, and if it is satisfied that the applicant is eligible for such assistance and entitled thereto under the provisions of Title II of this act, it shall so certify, and no old age assistance shall be granted or paid to any applicant until the application therefor has been so examined and approved.

Said commission shall also have authority to order discontinuation of old age assistance in any case in which it appears that the recipient is no longer eligible for such assistance.

Sec. 5. Change of status of person assisted. If the recipient of old age assistance or his spouse becomes possessed of any property or any income in addition to the amount stated in his application, it shall be his duty immediately to notify the department of such fact.

Sec. 6. Penalty for felony by person assisted. Any recipient of old age assistance who is convicted of a felony shall be disqualified from receiving old age assistance.

Sec. 7. Funeral expenses of person assisted. On the death of a recipient, reasonable funeral expenses not exceeding \$100 shall be paid by the state if the estate of the deceased is insufficient to pay the same.

Sec. 8. Assistance may be paid to a guardian or conservator. If the

recipient of assistance is, on the testimony of reputable citizens, found by the department to be incapable of taking care of himself or his money, the department after due investigation, may pay the same to a legally appointed guardian or conservator for his benefit.

Sec. 9. Inalienability of assistance. All rights to assistance shall be absolutely inalienable by any assignment, sale, execution, pledge or otherwise, and shall not pass, in case of insolvency or bankruptcy, to any trustee, assignee or creditor.

Sec. 10. Disqualification of applicant. Any applicant for old age assistance who divests himself directly or indirectly of any property for the purpose of qualifying for such assistance shall forfeit all right to receive old age assistance under this act.

Sec. 11. Claims against estate of person assisted. Upon the death of a beneficiary, the state shall have a claim against his estate, enforceable in the probate court, for all amounts paid to him under the provisions of this act. Such claim shall have priority over all unsecured claims against such estate, except (1) administrative expenses, including probate fees and taxes, and (2) expenses of the last sickness and burial expenses. The attorney general shall collect any claim which the state may have hereunder against such estate. Provided, that no such claim shall be enforced against any real estate while it is occupied as a home by the surviving spouse of the beneficiary if such spouse is eligible for old age assistance under the provisions of this act or will reach the age of eligibility within five years of the time of death of the beneficiary and does not marry again. If the state participates in federal funds for the purpose of this act, one-half of the net amount collected from the estate of the beneficiary, with respect to old age assistance furnished him, shall be promptly paid by the treasurer of state to the United States as required by the laws of the United States.

Sec. 12. Penalty for fraud. Any person who by means of a wilfully false statement or representation or by impersonation or other fraudulent devices obtains or attempts to obtain, or aids or abets any person to obtain

(a) Assistance to which he is not entitled;

(b) A larger assistance than that to which he is entitled;

(c) Payment of any forfeited instalment of assistance; and any person who knowingly buys or aids or abets in buying or in any way disposing of the property of a recipient in such a way as to constitute a fraud upon the department shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$500 or by imprison-

ment for not more than 11 months, or by both such fine and imprisonment.

Sec. 13. General penalty. Any person who violates any of the provisions of this act for which no penalty is specifically provided shall be punished by a fine of not more than \$500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. If a recipient of assistance is convicted of an offense under this section, the department may cancel the assistance.

Sec. 14. Right of appeal. Any person who is denied assistance or who is not satisfied with the amount of assistance allotted to him, or is aggrieved by a decision of the department made under any provision of this act, shall have the right of appeal to the old age assistance commission provided for by section 4-A of this title, and said commission shall provide the appellant with an opportunity for a fair hearing. Said commission shall hear all evidence pertinent to the matter at issue and render a decision within a reasonable period from the date of the hearing.

Sec. 15. Administration. All monies made available under this act shall be expended under the direction of the department, and the department is empowered to direct the expenditure therefrom of such sums as may be necessary for the purposes of administration. All assistance granted under this act shall be paid monthly by the state.

Sec. 16. Acceptance of provisions of federal law. The department is hereby authorized subject to the approval of the governor and council to

(a) Apply for federal assistance under the provisions of Title I of the Federal Social Security Act (Public No. 271, 74th Congress) and acts additional thereto or amendatory thereof; and to comply with such conditions, not inconsistent with the provisions of this act, as may be required for such assistance.

(b) Make such reports in such form and containing such information as the federal government may from time to time require, and comply with such provisions as the federal government may from time to time find necessary to assure the correctness and verification of such reports.

Sec. 17. Federal grants. The treasurer of state shall be the appropriate fiscal officer of the state to receive federal grants on account of old age assistance and administration thereof, as contemplated by Title I of the Federal Social Security Act, and the state controller shall authorize expenditures therefrom as approved by the department.

Sec. 18. Appropriation. For the purpose of carrying out the provisions

of Title II of this act, there is hereby appropriated from the funds of the state the sum of \$600,000 for the fiscal year ending June 30, 1938 and the sum of \$1,700,000 for the fiscal year ending June 30, 1939.

Sec. 19. Saving clause. The unconstitutionality of any section or provision of this title shall not invalidate the remainder of the title.

Sec. 20. P. L., 1933, c. 267, repealed. Chapter 267 of the public laws of 1933 is hereby repealed.

TITLE III

Additional appropriation to school equalization fund. The sum of \$200,000 annually is hereby appropriated to be added to and become a part of the school equalization fund created by section 205 of chapter 19 of the revised statutes, said sum together with the sum of \$125,000 appropriated to said funds by said section 205 of chapter 19 of the revised statutes to be apportioned and distributed in the manner and for the purposes provided for by section 210 of said chapter 19 of the revised statutes.

Emergency clause. In view of the emergency set forth in the preamble, this act shall take effect when approved.