

MAINE STATE LEGISLATURE

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STATE OF CALIFORNIA

PARTIAL REPORT

OF THE

Committee on Administrative Code

Created by Resolve

L. D. No. 1226

TO

Special Session 89th Legislature

October 21, 1940

Printed by Order of the Senate

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To the Members of the Eighty-ninth Legislature in Special Session:

Since the submission of its last report the Committee has employed Charles P. Nelson of Augusta, Maine, as counsel. The Committee has met at stated intervals in Augusta to review and discuss factual reports submitted by counsel and to interrogate witnesses. By joint order at the last session under date of July 24, 1940, specific recommendations of the Joint Special Legislative Investigating Committee were referred to this Committee for study and preparation of such bills as might be necessary to effectuate those recommendations. Such bills were to be reported at this legislative session or at the next regular legislative session. The Committee has devoted much time to a study of these recommendations and, at this time, submits the report embodied in the two next following subheadings.

Progress Report

(1) **Highway department reorganization; powers and duties of governor and council in connection therewith.** The Committee has made a study of the highway laws of the State as to composition of the commission and its powers and duties. As a basis for comparison it has conducted a de-

tailed inquiry into the laws of other states including those recently reorganized. It has made similar studies with regard to administrative divisions within highway departments including the fields of highway accounting and purchasing. Recommendations made by members of the department in the interest of efficiency and economy have been received and thoroughly considered. The Committee has thoroughly canvassed the power of the governor and council with relation to the highway department both in theory and in practice. Detailed revision of several sections of the highway law is indicated. The problem of the relation of the council to the highway department cannot be answered intelligently until an analysis is made of the functions of the council with relation to the entire state organization. This analysis the Committee proposes to make. For the reasons stated no recommendations are made at this time. A full report will be submitted at the next regular session of the legislature.

(2) **Independent audit at the end of each fiscal year.** The Committee is engaged in a study of the laws of other states with regard to post audits. Investigation discloses that Rhode Island is the only state that now has a provision for an audit by outside accountants. That state has no independent department of post audit within the state government such as that existing in Maine. Other states with a department such as ours have either created legislative audit committees to review and analyze the auditor's report or have no provision for further check on the auditor. The problem is how to properly safeguard state funds without going too far in creating expensive, duplicating functions. Because of the problems involved, the Committee proposes to devote further time to a study of this recommendation and to report thereon at the next regular session of the legislature.

(3) **Separate department of Motor Vehicles Registration.** Time has not permitted the Committee to thoroughly consider this recommendation. A study thereof will be made and a report filed at the next regular session of the legislature.

Legislation Inexpedient

(1) **Relating to the abolishing of the office of Supervisor of Motor Vehicles.** This is not a statutory office. It was created under an order of the governor and council as an administrative division of the bureau of purchases. The office ceased to exist with the resignation of the last incumbent. This Committee concurs in the opinion of the Legislative Investigating Committee that this office is useless and unnecessary and for the foregoing reasons feels that legislation is superflous.

(2) **Relating to the Office of Superintendent of Public Buildings.** The position of assistant superintendent of public buildings is another administrative position without express statutory authorization. The present incumbent took office under a council order of May 17, 1933. This again is a matter which cannot be handled expediently by legislation. This Committee concurs in the opinion of the Legislative Investigating Committee that this position is unnecessary and that the duties thereof should be performed by the Superintendent of Public Buildings.

The recommendation was also made by the Joint Special Legislative Investigating Committee that the superintendent of public buildings be given a definite tenure of office and divorced from purely political change. Under our present law the superintendent serves at the will of the governor and council. Tenure of office is usually granted by statutory enactment only to an officer of considerable importance whose duties require him to be to some extent independent of the Executive. This Committee is of opinion that this is not a position of that type. Abolishing the office of assistant superintendent should make it necessary that a man competent and experienced be appointed as superintendent. Purely political appointments are not usually made to offices that have real duties to perform. A competent man would probably be retained even with a change in administration. No legislation is therefore recommended.

Legislation Recommended

Under the provisions of L. D. 1226, resolve creating this Committee, it was authorized "to recommend such changes in the statutes relating to the administrative code and providing for the operation of the other departments of the state as may be necessary to improve administration of the affairs of the state of Maine; and shall draft and present with its report such amendments." Pursuant to this authorization, your Committee herewith reports on recommended changes and presents herewith bills designed to effectuate those recommendations. In considering the scope of its recommendations to this Special Session, the Committee has realized that legislative time is of great importance and therefore presents only such measures as it feels should be passed by this legislature to become effective as law in due course after adjournment. The specific recommendations of the Committee follow:

(1) **An Act Relating to Payment of Accounts to the State.** Under our present statutory law no general provision is made allowing the proper state officials to withhold funds due from the State to an individual, corporation, or town when that individual, corporation, or town is in turn

indebted to the State. Such right is given in two isolated cases in the highway laws, involving the collection from towns of amounts expended by the State for snow removal on winter routes, (R. S. Ch. 28, Sec. 57) and the collection from towns and counties of proportionate shares for bridge construction (R. S. Ch. 28, Sec. 65). We are aware of no reason why this right should not be granted in the many other situations in which it could be effectively used by the State. Under such a provision amounts by law coming due to a town could be reduced by the amount that town might be indebted to the State for state taxes, highway payments, and old age pension contributions. Such a provision would greatly facilitate collection by the State and do away with a great deal of unnecessary paper work. It is believed that in most instances such a provision would be equally beneficial to the towns. Under the suggested law the power to thus set-off accounts is made a discretionary one. Where hardship may result it need not be exercised. A similar right was granted to cities and towns by this legislature in 1939 (P. L. 1939, Ch. 60).

(2) **An Act Relating to Payment of State Officers and Employees.** Under the present provisions of the code (P. L. 1931, Ch. 216, Art. II, Sec. 16) state officers and employees are to be paid twice each calendar month "except as the commissioner of finance may specify." Under this provision the practice of paying weekly, effective before the passage of the code, has been continued in every instance save the judiciary, the highway commission and normal school teachers who are paid monthly and fish and game and fire wardens, who are paid twice a month. In a few other isolated cases of minor importance payment is not made weekly. The Committee is satisfied from the evidence presented to it that payment fortnightly as provided in the suggested bill would result in an annual saving to the State in labor and materials of approximately eight thousand dollars (\$8,000), would free the central control machines now used two days a week on payrolls for use on valuable statistical data and would relieve the controller's office of much unnecessary paper work. Other state governmental agencies and the federal government pay their employees on such a basis. The Committee is convinced that no hardship would result to state employees. Exception is duly made in the law to provide for temporary or seasonal employees who may require weekly payments for the reason that they have no regular income.

(3) **An Act Relating to the Duties of the Treasurer of State.** At the last session of this legislature, the Committee submitted a bill creating a bureau of the treasury as a companion bill to a resolve amending the Constitution to remove the office of treasurer from its provisions. That bill was not

considered because of failure of the resolve. The bill provided that the treasurer keep record of and promptly collect all taxes and accounts due the State. The Committee at that time reported as follows: "We recommend that lists of all items of income accruing to the State be certified to the treasurer by the various departments and state agencies in which they may originate, and that to the duties now imposed upon the treasurer by law, there be added those of receiving and keeping a record of all such items and of promptly and diligently collecting them. By such a system there can be found in one office a fairly comprehensive picture of the financial condition of the State at all times." The Committee is of opinion that such a central collection agency can and should be set up in the office of the treasurer of state.

(4) **An Act Creating a Legislative Research Committee.** The Committee has conducted a comprehensive study of a legislative organization to be called a "legislative research committee" as it exists in other states under various designations. Such committees now exist in the following states having been established in the year indicated in each case, Kansas (1933), Virginia (1936), Kentucky (1936), Connecticut (1937), Nebraska (1937), Illinois (1937), Maryland (1939), and Rhode Island (1939). In each case the committee is made up of a given number of legislators from each house appointed during each regular session, their term to cease with the convening of the next regular session. In each case the committee is authorized to hire competent research assistants and must make a full report to each member of the legislature at least 30 days before the next regular session, thus serving as a permanent recess committee to study legislative problems, with a personnel which changes with each legislature. The function of the practical legislators on such committee is to outline a program for research in questions of major legislative importance. The function of the research staff is to furnish a comprehensive analysis of such questions including all pertinent facts and alternative solutions. These in turn are presented to the legislature for its final decision on the choice of a solution.

The legislative research committee is designed to meet the need of legislatures in these days of crowded sessions, for a source of factual information which is under their own control and direction and upon which they can fully rely. It was intended to end the legislature's necessary dependence, in the hurried days of a session, upon administrative officials or special interest lobbies. It is further designed to enable legislators, through the medium of factual reports issued by it, to keep in touch continuously with problems of government rather than for a short period of months

every two years. Reports of such a council submitted to all members well in advance of any session, are designed to eliminate legislative congestion by concentrating attention on the facts and possible solutions of major issues and by informing newly-elected members on such issues.

The Committee has considered carefully the laws and experience of Kansas which has a legislative council tried in the fires of several legislative sessions. It has corresponded at some length with the council in that state. From the evidence thus gathered the Committee is convinced that the establishment of such an organization in this State, adequately supported by the legislature, would serve all the purposes above outlined and thus meet a genuine need. The experience in Kansas definitely shows that such an organization does accomplish the purpose for which it was created. Some skepticism at its inception has given way to its acceptance by the legislature of that state as genuinely helpful to the legislative process as shown by the increasing percentage of council recommendations favorably considered at successive sessions of the legislature. This is also shown by similar figures in Virginia and Kentucky.

This Committee is convinced that the establishment of such a legislative organization in this state would meet a real need for an agency of, by and for the legislature to supply it with factual information. It would, further, serve to keep the legislature in constant touch with administrative methods and problems and help to expedite legislative procedure. The Committee therefore recommends the establishment of such a committee.

We have prepared and present herewith the bills necessary to carry out these recommendations.

Respectfully submitted,

Augusta, Maine
October 21, 1940.

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Committee on Administrative Code