

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 1846

House of Representatives, February 5, 1970
Reported by the Committee on Judiciary. Printed under House Rule No. 33.
BERTHA W. JOHNSON, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
AND SEVENTY

COMMITTEE AMENDMENT "A" to H. P. 1412, L. D. 1779.

COMMITTEE AMENDMENT "A" to H. P. 1412, L. D. 1779, Bill, "AN ACT to Correct Errors and Inconsistencies in the Public Laws."

Amend said Bill by inserting after section 4, a new section 4-A, to read as follows: (same in L. D.)

'Sec. 4-A. R. S., T. 5, § 1121, sub-§ 1, ¶ A, amended. The 2nd sentence of paragraph A of subsection 1 of section 1121 of Title 5 of the Revised Statutes is amended to read as follows:

Any member not in service may retire at age 60 or thereafter on a service retirement allowance upon written application to the board of trustees setting forth at what time he desires to be retired, provided he has at least 10 years of creditable service or 5 full terms as a Legislator, any part of which service must have been rendered when he was, or could have been under then existing law, a contributing member to any publicly supported contributory retirement system sponsored by the State of Maine, provided further at the effective date of the retirement allowance, his contributions are on deposit in the Members' Contribution Fund.'

Further amend said Bill by inserting after section 5, a new section 5-A, to read as follows:

'Sec. 5-A. R. S., T. 5, § 2401, sub-§ 5, repealed and replaced. Subsection 5 of section 2401 of Title 5 of the Revised Statutes, as enacted by chapter 516 of the public laws of 1969, is repealed and the following enacted in place thereof:

5. **Disqualification of Administrative Hearing Commissioner.** Whenever the Administrative Hearing Commissioner determines that he has a personal interest or a financial interest, directly or indirectly, in a case which is before him, he shall disqualify himself from hearing an individual case.

The Administrative Hearing Commissioner shall give written notice of same to the parties to the action and shall file a copy of the notice in the docket of the case.

The moving party shall, within 10 days thereafter, commence an action by filing or refileing his complaint in the District Court. Jurisdiction is granted to the District Court to hear and determine such matters and to enter such rulings and orders as the nature of the case may require. The case shall be heard in the District Court in accordance with the provisions of the Administrative Code and the District Court Judge hearing the case shall render a written decision thereon. The court reporter from the Office of the Administrative Hearing Commissioner shall transcribe the testimony as in cases before the commissioner. An aggrieved party may appeal from the decision of the District Court Judge to the Superior Court as is provided in the Administrative Code, chapters 301 to 307.'

Further amend said Bill by inserting after section 5-A, a new section 5-B, to read as follows:

'**Sec. 5-B. Effective date.** Section 5-A of this Act shall become effective 91 days after adjournment of the Legislature.'

Further amend said Bill by inserting after section 11, a new section, as follows:

'**Sec. 11-A. R. S., T. 12, § 514, amended.** The first paragraph of section 514 of Title 12 of the Revised Statutes, as repealed and replaced by section 13 of chapter 226 of the public laws of 1965, is amended to read as follows:

The commissioner may take the following action on state lands specified in section 504 and on other lands specified herein under the direction of the Governor and Council and on such terms as they direct:'

Further amend said Bill by inserting after section 18, the following:

'**Sec. 18-A. R. S., T. 14, § 3552, amended.** The first sentence of the last paragraph of section 3552 of Title 14 of the Revised Statutes, as enacted by chapter 432 of the public laws of 1969, is amended to read as follows:

The sheriff or jailor having ~~such imprisoned debtor~~ in his custody a debtor imprisoned under either this section or section 3505 shall, upon the convening of the next session of the nearest District Court, cause the debtor to be taken to the court for examination and hearing and an examination of all process by the judge who shall administer the oath as provided in section 3711, and discharge the debtor if upon such examination and hearing he is entitled thereto, in accordance with the provisions of chapter 505.

Sec. 18-B. R. S., T. 14, § 3552, amended. The last paragraph of section 3552 of Title 14 of the Revised Statutes, as enacted by chapter 432 of the public laws of 1969, is repealed.

Sec. 18-C. R. S., T. 14, § 3554, additional. Title 14 of the Revised Statutes is amended by adding a new section 3554, to read as follows:

§ 3554. Hearing

A sheriff or jailor having an imprisoned debtor in his custody by virtue of process issued pursuant to sections 3505 or 3552 shall immediately upon convening of the next regular session of the nearest District Court notify the Judge of the District Court that he has such imprisoned debtor in his custody and request the judge to hold an examination and hearing to determine whether the oath as provided in section 3711 should be administered and whether the debtor should be discharged. The judge shall forthwith set a time and place for such examination and hearing, which hearing shall be held not later than the next regular session of said court after the notice and request of the sheriff or jailor.

The judge shall immediately give such notice of the hearing as he deems appropriate to the disclosure commissioner who issued the process by which the debtor was imprisoned and to the creditor in order that they may attend the hearing and be heard. Upon receiving such notice the disclosure commissioner shall be required to immediately transmit to the judge issuing such notice certified copies of all process which he has in his possession with reference to the matter, including, but not limited to, copies of the original petition, subpoena and return of service, together with copies of any docket entries which he may have made.

After examination and hearing and an examination of all process, the judge shall administer the oath provided in section 3711 and shall discharge the debtor, if upon such examination and hearing he is entitled thereto. If, after such examination and hearing the judge shall determine that the process is proper and that there is no entitlement to the oath on the part of the debtor, he shall be remanded for imprisonment under the existing commitment.'

Further amend said Bill by inserting after section 20, the following:

'Sec. 20-A. R. S., T. 17, § 3758, amended. Section 3758 of Title 17 of the Revised Statutes is amended to read as follows:

§ 3758. Undesirable persons generally

All rogues, vagabonds and idle persons going about in any town in the county begging; persons using any subtle craft, jugglery or unlawful games or plays, or for the sake of gain pretending to have knowledge in physiognomy, palmistry, to tell destinies or fortunes, or to discover lost or stolen goods, common pipers, fiddlers, runaways, drunkards, nightwalkers, railers, brawlers and pilferers; persons wanton or lascivious in speech or behavior, or neglecting their callings or employments, misspending what they earn and not providing for the support of themselves and their families; ~~all idle~~

~~and disorderly persons having no visible means of support, neglecting all lawful calling or employment; and all idle and disorderly persons who neglect all lawful calling or employment and misspend their time by frequenting disorderly houses, houses of ill fame or gaming houses may, on complaint under oath before the District Court in the division where he is a resident, be committed to jail or to the house of correction in the town where the person belongs or is found, for a term of not more than 90 days.'~~

Further amend said Bill by inserting after section 22, the following:

'**Sec. 22-A. R. S., T. 18, § 3652, amended.** Section 3652 of Title 18 of the Revised Statutes is amended to read as follows:

§ 3652. Settlements to be approved by court

No settlement of any action brought in behalf of an infant by next friend or defended on his behalf by guardian or guardian ad litem shall be valid unless approved by the court in which the action is pending, ~~or to which the writ is returnable~~ or affirmed by an entry or judgment. ~~If no action has been commenced, an infant by next friend may apply to any court in which an action based on the claim of the infant could have been commenced for an order approving the settlement of any such claim. An order approving such a settlement shall have the effect of a judgment. The court may make all necessary orders for protecting the interests of the infant and may require the guardian ad litem or next friend to give bond to truly account for all money received in behalf of the infant. When the court in which such action is pending or to which it is returnable is in vacation, the judge of that court, or, if the action is pending in or returnable to the Superior Court, any Justice of the Superior Court, shall have the power to approve a settlement of said action and to make all necessary orders for protecting the interests of the infant and may require the giving of a bond as provided~~

Sec. 22-B. R. S., T. 19, § 282, repealed and replaced. Section 282 of Title 19 of the Revised Statutes, as enacted by section 2 of chapter 325 of the public laws of 1967 and amended by chapter 392 of the public laws of 1969, is repealed and the following enacted in place thereof:

§ 282. Security

Upon motion of the plaintiff the court at any time before or after judgment may require the alleged or adjudicated father to give bond or other security for the payment of any judgment which exists or may exist in the future.'

Further amend said Bill by inserting after section 60, the following:

'**Sec. 60-A. R. S., T. 29, § 537, amended.** Section 537 of Title 29 of the Revised Statutes, as amended by section 2 of chapter 303 of the public laws of 1965 and by chapter 59 of the public laws of 1969, is further amended by adding at the end, a new paragraph, as follows:

Any unlicensed person while learning to operate a motorcycle shall not carry any passenger on said motorcycle who is not licensed as a motorcycle operator.'

Further amend said Bill by inserting after section 62, the following:

'Sec. 62-A. R. S., T. 30, § 958, amended. Section 958 of Title 30 of the Revised Statutes, as last amended by chapter 518 of the public laws of 1969, is further amended to read as follows:

§ 958. Full-time deputies in all counties; compensation

The sheriffs of all counties shall respectively appoint full-time deputy sheriffs, who shall serve at the pleasure of said respective sheriffs and whose special duty shall be to enforce the criminal laws in said counties and who shall receive as compensation therefor the sum of \$16 per day and such additional pay as the respective county commissioners may approve, to be paid from the respective county treasuries, together with such incidental expenses as may be necessary for the proper enforcement of said laws; bills for which shall be audited as provided in Title 15, section 1902. Such full-time deputy sheriffs shall not receive more than \$112 and chief deputies shall not receive more than \$119 in the aggregate for any one week, except that ~~this limitation~~ **these limitations** shall not apply to Androscoggin County, Cumberland County and York County.

Sec. 62-B. Effective date. Section 62-A of this Act shall become effective 91 days after adjournment of the Legislature.'

Further amend said Bill by inserting after section 63, a new section, as follows (same in L. D.):

'Sec. 63-A. R. S., T. 30, § 1201, amended. The first sentence of section 1201 of Title 30 of the Revised Statutes, as amended by chapter 68 of the public laws of 1969, is further amended to read as follows:

The county commissioners of Aroostook County are authorized, on behalf of the inhabitants of Connor and Silver Ridge Townships, of **Township 14, R. 6, Township 15, R. 6, Township 16, R. 6**, Township 17, R. 4 and Township 17, R. 5, and the county commissioners of Franklin County are authorized, on behalf of Township 3, R. 2, BKPWKR (Jerusalem), Township 4, R. 2, BKPWKR (Sugarloaf Township) and the Townships of Salem and Freeman, and the county commissioners of Hancock County are authorized, on behalf of the inhabitants of Township 8, S.D., and the county commissioners of Piscataquis County are authorized, on behalf of the inhabitants of Medford and Orneville Townships, and the county commissioners of Oxford County are authorized on behalf of the inhabitants of Albany and Milton Townships, and the county commissioners of Penobscot County are authorized, on behalf of the inhabitants of Argyle and Kingman Townships and the county commissioners of Somerset County are authorized on behalf of the inhabitants of Rockwood Township to enter into contracts on such terms as they deem fit with one or more persons, associations or municipalities, or to take such other steps as they deem advisable, to provide fire protection, other than forest fire protection, for the Townships of Connor, Silver Ridge, **Township 14, R. 6, Township 15, R. 6, Township 16, R. 6**, Township 17, R. 4, Township 17, R. 5, Township 3, R. 2 (Jerusalem), Township 4, R. 2 (Sugarloaf Township),

Township 8, S. D., Salem, Freeman, Medford, Orneville, Albany, Milton, Argyle, Kingman and Rockwood.'

Further amend said Bill by inserting after section 65-B, 2 new sections as follows (same in L. D.):

'Sec. 65-C. R. S., T. 32, § 62, sub-§ 3, amended. The last sentence of subsection 3 of section 62 of Title 32 of the Revised Statutes, as enacted by chapter 359 of the public laws of 1969, is amended to read as follows:

For emergency cases one trained licensed individual or physician, or an osteopathic physician or a registered nurse or licensed practical nurse must be present in the vehicle either as a driver or attendant.

Sec. 65-D. R. S., T. 32, § 63, sub-§ 7, amended. The first sentence of subsection 7 of section 63 of Title 32 of the Revised Statutes, as enacted by chapter 359 of the public laws of 1969, is repealed and the following enacted in placed thereof:

The board shall issue a temporary permit by waiver to any person who meets the standards of good character and suitability as promulgated by the board and who has served as nursing home administrator during all of the calendar year immediately preceding the calendar year in which the requirements prescribed in sections 1902 (a) (29) and 1908 of Title XIX of the Social Security Act are first met by the State; provided, however, that such temporary permit shall be issued for a period of time not to exceed one year and may be renewed for an additional period of time not to exceed one year, except that all such temporary permits shall expire no later than June 30, 1972.'

Further amend said Bill by inserting after section 70 the following new section:

'Sec. 70-A. R. S., T. 32, § 3981, sub-§ 3, amended. Subsection 3 of section 3981 of Title 32 of the Revised Statutes, as enacted by section 1 of chapter 344 of the public laws of 1967, is amended to read as follows:

3. Age. Who has attained the age of ~~21~~ 20 years, and'

Further amend said Bill by adding at the end the following sections:

'Sec. 84. P. & S. L., 1907, c. 433, § 10, amended. The 7th sentence from the end of section 10 of chapter 433 of the private and special laws of 1907 is amended to read as follows:

At said first meeting the trustees so elected shall determine by lot the term of office of each trustee so that one trustee shall retire each year and whenever the term of office of a trustee expires his successor shall be elected by a plurality vote by the city which elected him and upon nomination made as herein provided for the first election of trustees, and for the purpose of such election, a special election shall be called and held on the fourth ~~Monday~~ Tuesday of May in each year in the city wherein such trustee is to be elected, the same to be called in the manner hereinbefore provided for the first election of trustees.

Sec. 85. P. & S. L., 1969, c. 125, § 4, amended. The first sentence of the 2nd paragraph of section 4 of chapter 125 of the private and special laws of 1969, is amended to read as follows:

For an area including more than one municipality, the trustee or trustees from such area shall be elected by a plurality vote of the legal voters of all of the municipalities constituting such area voting at elections to be specially called and held in each municipality on the 4th ~~Monday~~ **Tuesday** of May of each year, commencing on the first such ~~Monday~~ **Tuesday** occurring at least 60 days after the time for withdrawal under section 16 of chapter 95 of the private and special laws of 1969 has expired.

Sec. 86. P. & S. L., 1939, c. 8, Art. V, § 2, amended. Section 2 of article V of chapter 8 of the private and special laws of 1939, as amended, is further amended by adding a new paragraph to read as follows:

Notwithstanding the foregoing, the publication of an ordinance to be enacted pursuant to the Revised Statutes, Title 30, section 2154, as same may be amended, to revise and codify ordinances may be by ordinance title and chapter titles only.'

Further amend said Bill by adding at the end, the following:

'Sec. 87. R. S., T. 5, § 304, amended. Section 304 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 458 of the public laws of 1967, is amended to read as follows:

§ 304. Approval of construction projects

No construction projects shall be initiated in the Capitol Area for the development of state buildings and grounds following the adoption of the plan by the Legislature without the approval of **the Legislative Research Committee** and the commission of the proposals and plans for such projects.'

Further amend said Bill by striking out all of sections 11, 24, 28, 33, 34, 45, 61, 64, 65, 65-A, 65-B, 66, 67, 75, 76 and 78.

Further amend said Bill by renumbering sections of the Bill to read consecutively.