

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 422

S. P. 167

In Senate, January 30, 1973

Referred to Committee on Appropriations and Financial Affairs. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Conley of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

**AN ACT Relating to Payment of Patients at Certain State Institutions as
Employees under Fair Labor Standards Act.**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, under the 1966 amendments to the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., employees at state hospitals come within the wage and hour provisions of such act; and

Whereas, the United States Labor Department has under consideration at the present time a complete evaluation of the employment status of all patients at the Augusta State Hospital, Bangor State Hospital and Pineland Hospital and Training Center with a view toward determination of individual entitlement to compensation as "employees" under the Fair Labor Standards Act; and

Whereas, preliminary determinations indicate individual patient entitlement to compensation under the Act to the extent that an accurate determination can be made as to the approximate sum needed to permit state compliance with the Fair Labor Standards Act upon completion of the evaluation presently in process in the United States Department of Labor; and

Whereas, completion of such evaluation may occur at any time; and

Whereas, it is vitally necessary that funds be appropriated to permit compliance with the requirements of the Fair Labor Standards Act upon completion of the evaluation cited above; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. R. S., T. 34, § 11, additional. Title 34 of the Revised Statutes is amended by adding a new section 11, to read as follows:

§ 11. Employment of patients, payment

Any person committed or otherwise admitted to the Augusta State Hospital, Bangor State Hospital or Pineland Hospital and Training Center, who in the performance of work at any such institution comes within the definition of "employee" under Title 29, U.S.C. § 201 et seq., "The Fair Labor Standards Act," and any regulations promulgated thereunder by the Secretary of the United States Department of Labor, shall be paid by the employing institution for such work in accordance with the wage and hour provisions of said "Fair Labor Standards Act" and regulations promulgated thereunder. Any such person performing work for which payment is made under this section, in the performance of such work shall be considered a state employee for the purpose of workmen's compensation, but for no other purpose.

Any work performed by any person committed or otherwise admitted to any of the above institutions shall be undertaken voluntarily.

Sec. 2. Appropriation. There is appropriated to the Department of Mental Health and Corrections from the General Fund the sum of \$750,000 to carry out the purpose of this Act. The breakdown shall be as follows:

	1972-73	1973-74	1974-75
MENTAL HEALTH AND CORRECTIONS, DEPARTMENT OF			
All Other	\$150,000	\$300,000	\$300,000

Authority is hereby given to the Department of Mental Health and Corrections to pay compensation within the intent of this Act upon determination of individual entitlement thereto retroactively to January 1, 1973.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The Statement of Fact is contained within the emergency preamble to this Act.