

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

No. 1379

S. P. 435

In Senate, March 12, 1973

On Motion of Senator Hichens of York, referred to the Committee on State Government. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator MacLeod of Penobscot by request.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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**AN ACT Creating the Commission for the Blind and Visually Handicapped.**

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

Sec. 1. R. S., T. 22-A, additional. The Revised Statutes are amended by adding a new Title to be numbered 22-A, to read as follows:

**TITLE 22-A**

**CHAPTER I**

**COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED**

§ 101. Commission; appointment; term

There is created the Commission for the Blind and Visually Impaired. The commission shall consist of 5 members, of whom 2 shall be blind and visually-impaired. The Governor shall, with the advice and consent of the Executive Council, appoint the members of the commission for terms of 4 years. The initial appointments shall be as follows: Two for terms of 4 years, 2 for terms of 3 years and one for a term of 2 years. All vacancies shall be filled for the unexpired portion of the term only. The members of the commission shall elect one of its members as chairman for a term of 2 years or until his successor has been elected. The chairman shall preside at the meetings of the commission. Regular meetings are to be held on the first Monday following the first Tuesday of each month. Special meetings may be held at the call of the chairman or a majority of the commission. The commission shall appoint a director and such other employees as it deems necessary, subject to the Personnel Law, none of whom shall be a member of the commission, and shall prescribe the duties of such appointees. The members of the com-

mission shall receive no salary but shall be allowed the usual state expenses and \$25 per day for each meeting held.

§ 102. Commission; powers and duties

The commission shall:

1. Services. Provide or cooperate with other public agencies in providing a program of services for the blind and visually impaired, including the prevention of blindness, the locating of the blind and visually impaired, medical service for eye conditions, vocational guidance and training of the blind and visually impaired, the placement of the blind and visually impaired in employment, assistance to the blind and visually impaired in marketing the products of home industries, the instruction of the adult blind and visually impaired in their homes and other social services to the blind and visually impaired.

2. Policies. Promulgate such policies as may be necessary to carry out this Title;

3. Moneys. Apply for, receive and expend moneys from all governmental agencies, both State and Federal; and accept gifts, grants, donations, devises and bequests made for providing services to the blind and visually impaired;

4. Report. Submit to the Governor and publish an annual report showing the total amount of money disbursed, the total number of the blind and visually impaired who receive services and such other information as may be deemed advisable;

5. Register. Maintain a complete register of the blind and visually impaired, which shall also include the conditions, cause of loss of sight, capacity for educational and industrial training of each, and other pertinent facts;

6. Information. Maintain bureaus of information and industrial aid to assist the blind and visually impaired in finding employment and to teach them industries which may be followed in their homes, or elsewhere, and to assist them in whatever manner may seem advisable to the commission in disposing of the products of their industry;

7. Inquiries. Make inquiries concerning the cause of loss of sight, learn what proportion of these cases are preventable and inaugurate and cooperate with other state agencies and private industry in any measures to prevent loss or diminution of sight;

8. Instructors. Establish, equip, maintain and employ qualified instructors in a center for vocational, industrial and other training. The center shall provide for orientation and adjustment for the blind and visually impaired. Training in such centers shall be limited to persons deemed eligible for rehabilitation by the commission.

9. Concession stands. Supervise and control all concession stands established and operated formerly by the State Department of Health and Welfare and all concession stands established by the commission;

10. —contracts. Have the authority to enter into contracts with owners of private property for the purpose of installing concession stands which shall be under the control of the commission;

11. —other duties. The officer, board or other authority in charge of any building or property of the State or of any county or municipality shall:

A. Adopt such policies and take such actions as may be necessary to assure that the blind and visually impaired licensed by the commission will be given preference in establishment and operation of vending facilities on property under their jurisdiction;

B. Cooperate with the commission in surveys of properties and buildings under their control in order to find suitable locations for the operation of vending facilities by the blind and visually impaired, and after it has been determined that such a facility may be properly and satisfactorily operated by the blind and visually impaired, shall cooperate with the commission in the installation of such vending facility;

C. For the purpose of achieving and protecting the preference of the blind and visually impaired persons in the operation of vending facilities as contemplated by this chapter, arrange for the assignment of the income derived from vending machines located within reasonable proximity to and in direct competition with a vending facility for which authority has been granted pursuant to this chapter, to the vending facility operator or operators affected. If a vending machine vends articles of a type authorized for vending pursuant to this chapter, and is so located that it attracts customers who would otherwise patronize the vending facility, such machine will be considered to be in reasonable proximity to and in direct competition with the vending facility operated by the blind and visually impaired;

D. No less than 30 days prior to the reactivation or licensing for the operation of any vending operation, inform the commission of such contemplated action;

E. Inform the commission of any location where such vending facilities are planned or might be operated in or about other public buildings or properties as may now or thereafter come within the jurisdiction of any department, agency or authority of the State or of any county or municipality.

12. Regulations.

A. Prescribe regulations governing:

- (1) Maintenance of a roster of eligible blind and visually impaired persons and issuance of licenses;
- (2) Right, title to and interest in vending facility equipment and stock;
- (3) Civil rights.

B. Prescribe such other regulations as may be necessary to carry out the purposes of this chapter;

C. Conduct surveys to find locations where vending facilities may be properly and satisfactorily operated by the blind and visually impaired and shall establish vending facilities as it deems appropriate;

D. Provide such management and supervisory services as are deemed necessary to assure that each such vending facility will be operated in the most effective and productive manner possible;

E. Provide plans and specifications for proposed vending facilities and equipment to the appropriate officer, board or authority for approval prior to installation;

F. Take any such other action as may be deemed necessary or appropriate to carry out the purposes of this chapter.

13. Space. To accentuate further the purposes of this chapter when new construction, remodeling, leasing, acquisition or improvement of public buildings or properties is authorized, the agency directing such construction, remodeling, leasing, acquisition or improvement, shall, when the size of the building or properties warrants, make available suitable space and facilities for vending facilities, to be operated therein by the blind and visually impaired licensed by the commission pursuant to this chapter.

14. Portable buildings. If a suitable location is available for a vending facility which requires the construction of a portable building, the commission may construct such a building and may have the use of such land to construct said building.

15. License fees, etc. No license fee, rental or other charge shall be demanded, assessed, exacted, required or received for the granting of authority to the blind and visually impaired licensed by the commission to operate a vending facility pursuant to this chapter.

16. Application. This chapter shall not apply nor authorize the installation of vending facilities in any building wholly used by any correctional or mental institution or by any educational institution of any type supported in whole or in part from public funds, unless such educational institution is of university, college, junior college grade or is a vocational technical institute.

17. Continuation of facility. In buildings and properties where a vending facility exists, the present operator shall not be removed, except for cause and after a hearing as provided in section 110. If such operator ceases to operate such vending facility or if any existing lease expires, the authority to continue such facility shall remain with the persons now responsible for such vending facility.

18. Loss of sight programs. Establish, supervise and render totally operative and effective, prevention of loss of sight programs using such facilities in the State as the commission may deem necessary including a mobile ophthalmological laboratory and office.

#### § 103. Definitions

As used in sections 101 to 110, unless the context otherwise indicates, the following words shall have the following meanings.

1. Blind person. "Blind and visually impaired person" or "the blind and visually impaired" means a person or persons having not more than 20/200 visual acuity after correction or vision so defective in other ways as to prevent the performance of ordinary activities for which eye sight is essential.

2. Director. "Director" means the Director of the Commission for the Blind and Visually Impaired.

3. Jurisdiction. "Jurisdiction" means the control of the maintenance, operation and protection of public buildings and property of the State or of any county or municipality.

4. Licensing agency. "Licensing agency" means the Commission for the Blind and Visually Impaired which is the state agency designated by the Vocational Rehabilitation Administration in the United States Department of Health, Education and Welfare to issue licenses to the blind and visually impaired for the operation of vending facilities.

5. Operator. "Operator" means the individual blind and visually impaired person duly licensed by the Commission for the Blind and Visually Impaired who personally operates the vending facility.

6. Public building. "Public building or property" means any building or land owned, leased or occupied by any department, agency or authority of the State or any county or municipality.

7. Vending facility. "Vending facility" means restaurant, cafeteria, snack bar, vending machines for food and beverages and goods and services customarily offered in connection with any of the foregoing.

#### § 104. Eye examinations; payment by commission

The commission shall designate the procedure to be followed and shall establish a register of optometrists and ophthalmologists from which the applicant may select one to conduct a competent medical examination for determining the extent of his visual acuity. The commission shall pay for such examination. Any recipient of services shall submit to reexamination when required to do so and shall furnish any information required by the commission. The commission may arrange for the examination of the eyes of the blind or visually impaired and may secure and pay for medical and surgical treatment for such persons whenever in the judgment of an ophthalmologist the eyes of such person may be benefited thereby.

#### § 105. Eye examinations; reports to commission

Whenever, upon examination by an ophthalmologist or optometrist, any person is found to be a blind and visually impaired person, such examining ophthalmologist or optometrist shall, within 30 days, report the results of the examination to the commission.

#### § 106. Education of blind and visually impaired children

In order that parents or guardians of the blind and visually impaired may have a choice in the education of such children, the commission may employ

qualified itinerant teachers to assist teachers in public or private schools who are responsible for the teaching of the blind and visually impaired. The itinerant teacher shall assist the public or private school teacher by providing methods and materials for teaching such students. The State Department of Educational and Cultural Services shall report to the commission the schools teaching the blind and visually impaired. All principals or heads of private schools shall report to the commission the names of the blind and visually impaired in attendance.

§ 107. Education of blind children

Upon the request, and with the approval, of the parents or guardians, the department may send such blind and visually impaired children as it may deem fit subjects for education for any length of time in the discretion of the department but not beyond the time when said child has reached its 21st birthday, to any school considered by the department to be qualified to provide suitable education for the blind and visually impaired child. In the exercise of the discretionary power conferred by this section, no distinction shall be made on account of the wealth or poverty of the parents or guardians of such children. The sums necessary for the support and instruction of such pupils in such school, including all travelling expenses of such pupils may be paid by the State. Nothing contained in this chapter shall be held to prevent the commission from securing whole or partial payment of such sums from the parents or guardians of such pupils or from local school systems. Nothing contained in this chapter shall be held to prevent the voluntary payment of the whole or any part of such sums by the parents or guardians of such pupils.

§ 108. Appropriations not to lapse

Any sums appropriated by the Legislature for treatment and training of the blind and visually impaired shall be kept by the Treasurer of State in a fund for the treatment and training of the blind and visually impaired and shall be used to carry out the particular purpose assigned to it. Such money shall not lapse from year to year but shall be a continuing account.

§ 109. Applicants for aid to the blind

The commission shall be furnished a copy of applications for public assistance filed with the Department of Health and Welfare where the loss of vision is the primary reason for filing an application for assistance. Copies of applications for "aid to the blind" and budgetary allowances shall be furnished in writing to the commission within 60 days of filing.

§ 110. Hearing; appeals

Every person aggrieved by an action of any employee of the commission shall be granted, upon request, a hearing before a hearing officer assigned by the commission. The hearing officer shall have authority to conduct hearings, to issue subpoenas requiring the attendance of witnesses and the production of records and other documents, to administer oaths and to take testimony. An appeal may be taken from the decision of the hearing officer

to the commission. The commission shall hold a hearing on the matter which shall be attended by at least 3 members. An appeal may be taken from the decision of the commission to the Superior Court of the county where the appellant resides and the matter shall be heard de novo. The appellant shall, within 10 days after notice of the decision of the commission, serve a copy of a complaint upon the chairman of the commission, stating grounds upon which the appeal is founded and file such complaint with the clerk of court to which such appeal is taken. Such appeal shall act as a supersedeas until it is finally determined. The clerk of courts shall place the case upon the docket for immediate hearing.

**Sec. 2.** R. S., T. 22, §§ 3501 to 3512, repealed. Section 3501, section 3502, as amended, section 3503, as enacted by chapter 232 of the public laws of 1967, and sections 3504 to 3512, as enacted by chapter 88 of the public laws of 1971, of Title 22 of the Revised Statutes, are repealed.

**Sec. 3.** Wherever in the statutes the words "Division of Eye Care" are used they shall mean the "Commission for the Blind and Visually Impaired."

**Sec. 4. Transfer of powers.** The powers, duties, facilities, personnel and equipment of the Division for the Blind and Eye Care and Special Services of the State Department of Health and Welfare including the distribution of talking book machines, vocational rehabilitation and other special services for the blind and visually impaired, except those duties and responsibilities surrounding the administration of the State-Federal Program of Aid to the Blind, shall devolve upon the Commission for the Blind and Visually Impaired.

**Sec. 5. Appropriation.** The balance of all funds appropriated to the Department of Health and Welfare, Division of Eye Care and Special Services to the Blind, as defined in Title 22, section 3505, including funds for personal services, shall be transferred to the commission on or before January 1, 1974.

**Sec. 6. Effective date.** This Act shall take effect 90 days after the recess of the Legislature for the purpose of transferring of records, personnel and funds from the Department of Health and Welfare, appointing of commission members and such other matters as may be necessary to effectively and efficiently start operation of the commission on January 1, 1974.

#### STATEMENT OF FACT

This bill transfers services for the blind and visually impaired from the Department of Health and Welfare to a new Commission for the Blind and Visually Impaired. Much of the work of the Department of Health and Welfare will be carried on by the Commission but with added powers and duties to give greater service to the blind and visually impaired.

The transfer of appropriations, personnel and equipment from the Department of Health and Welfare to the Commission necessitates no additional appropriation.



