

MAINE STATE LEGISLATURE

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NEW DRAFT

E I G H T Y - S I X T H L E G I S L A T U R E

Legislative Document

No. 1020

H. P. 1698

House of Representatives, March 23, 1933.

Reported by Mr. Richardson from Committee on Pensions and laid on table to be printed under Joint Rules. 1,000 copies ordered printed.

HARVEY R. PEASE, Clerk.

New Draft of H. P. 1010, L. D. 354.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED THIRTY-THREE

AN ACT to Provide for Old Age Pensions.

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

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

Sec. 2. Local old age pension boards authorized. Cities, towns, and plantations are hereby authorized to create local old age pension boards. The overseers or board of overseers of the poor shall serve ex officio as the local old age pension board, unless the city by ordinance, or the town or plantation by vote upon warrant shall provide specially for a local old age pension board. Cities by ordinance, and towns and plantations by vote upon warrant may unite for the purpose of maintaining a local old age pension board.

Sec. 3. Local boards to pass on applications; appeals. Whenever an application is made to the local old age pension board for an old age pension the local board directly or through an agent shall promptly make an investigation, and, after hearing the applicant if he so requests, shall

pass upon the application and if it approves the application shall determine the amount of the old age pension to be allowed and make a record of its decision. If the applicant is dissatisfied with the award of the local board he may appeal within 30 days to the department of health and welfare, which shall decide the questions at issue.

Sec. 4. May compel testimony. The local boards and the department of health and welfare shall have the power to issue subpoenas for witnesses and compel their attendance and the production of papers and writings by punishment for contempt in case of wilful failure, neglect or refusal, may examine witnesses under oath and may adjudicate on such alleged improper conduct in like cases and with like effect as in cases of arbitration.

Sec. 5. Old age pensions provided for. Subject to the qualifications and restrictions contained in this act, every person residing in this state shall be entitled to a pension in old age. The amount of the pension shall be the amount which, when added to the income of the applicant from all other sources, will be necessary to make the total income of an applicant not in excess of \$1 a day, or such additional sum in the case of persons who are ill as may be necessary to provide for the applicant adequate and decent maintenance and care.

Sec. 6. Requisites for pension. An old age pension shall be granted only to an applicant who

(a) Is 65 years of age or more.

(b) Has no property or property which, including household furniture, totals less than \$300, provided, however, that the value of a house owned by the applicant or by the applicant jointly with his spouse, and used exclusively by the applicant and his family for a dwelling shall not be considered in reckoning the amount of property.

(c) Has resided in the city or town for a year preceding his application and has resided continuously in the state for 15 years preceding the date of application, provided, however, that continuous residence in the state shall not be deemed to have been interrupted by periods of absence of less than a year, totaling less than 3 years; or has resided in the state a total of 25 years, at least 5 of which have immediately preceded the application, provided, however, that absence in the service of the state or of the United States shall not be deemed to interrupt residence in the state.

(d) Is not at the time of making application an inmate of any prison, jail, insane asylum, or any public reform or correctional institution, or during the period of 10 years immediately preceding such application has not been in prison for 4 months or more for an offense for which he was sentenced without option of a fine.

(e) Has not during the 15 years preceding the date of application, if a husband, deserted his wife, or without just cause failed to support her or his children under 15 years of age; if a wife, deserted her husband, or failed without just cause to support such of her children under 15 years of age as she was bound to support.

(f) Has not within 2 years preceding such an application been a professional tramp or beggar.

(g) Has no spouse able to support him.

(h) Has no children able to support him.

(i) Is a citizen of the United States.

Sec. 7. Disqualification of applicant. Any applicant for an old age pension who deprives himself directly or indirectly of any property for the purpose of qualifying for an old age pension shall forfeit all right to receive an old age pension under this act.

Sec. 8. How income of applicant shall be determined. For the purpose of determining the amount of old age pension under this act, the income of the applicant shall be taken to be his income for the 12 months preceding the date of application unless evidence is submitted and a finding made that the probable income for the succeeding 12 months will be a different amount.

Sec. 9. Claims against estate of pensioned person. On the death of a person receiving a pension under this act the total amount paid to him in pensions, together with simple interest at 5%, shall be allowed as a claim upon the estate by the court having jurisdiction to settle the estate and $\frac{1}{2}$ thereof shall be paid into the treasury of the city, town, or plantation and $\frac{1}{2}$ into the treasury of the state.

Sec. 10. Attachments against pensioned person's property. If the local old age pension board deems it necessary to protect the interest of the city, town, plantation or the state, it may from time to time file attachments with the register of deeds against the property of a recipient of an old age pension for the amount of old age pensions paid under this act.

Sec. 11. Change of status of pensioned person. If the recipient of an old age pension or his spouse becomes possessed of any property or income in excess of the amount allowed by this act, it shall be his duty immediately to notify the local board of such fact, and it may upon inquiry revoke or reduce the pension; any excess pension paid shall be returned and be recoverable as a debt; $\frac{2}{3}$ s of the amount returned or recovered shall be payable to the state and $\frac{1}{3}$ to the city, town or plantation.

If any recipient shall suffer a reduction in his property or income below the amount which he was expected by the local board to hold or receive he may apply to the local board for an increase in the pension and if they be-

lieve upon investigation that the reduction is likely to be permanent, they shall grant an increase in the amount of the pension.

Sec. 12. Penalty for drunkenness of pensioned person. Any recipient of an old age pension who is convicted of drunkenness may be disqualified for receiving or continuing to receive an old age pension for a period of 3 months after the date of his conviction if the court so directs.

Sec. 13. Recovery from estate of pensioned person, if property value has been misrepresented. If on the death of a recipient it is found that he was possessed of property or income in excess of the amount specified by this act, double the amount of the pension in excess of that to which he was entitled may be recovered by the local board from his estate and $\frac{1}{3}$ thereof shall be paid into the treasury of the city, town, or plantation, and $\frac{2}{3}$ s into the treasury of the state.

Sec. 14. Funeral expenses of pensioned person. On the death of a recipient, reasonable funeral expenses not exceeding \$100 shall be paid by the local board if the estate of the deceased is insufficient to pay the same.

Sec. 15. Pension may be paid to a guardian. If the recipient of a pension is, on the testimony of reputable citizens, found by the local board to be incapable of taking care of himself or his money, the board after due investigation, may direct the instalments of the pension to be paid to any responsible person or corporation for his benefit.

Sec. 16. Inalienability of pension. All rights to a pension 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 creditors.

Sec. 17. Procedure if fraud is suspected by local board. If at any time the local board has reason to believe that the pension has been improperly obtained, it shall cause special inquiry to be made immediately and may suspend payment of any installment pending the inquiry. If on inquiry it appears that the pension was improperly obtained, the grant of a pension shall be cancelled by the local board; and the amount of a pension in excess of the lawful amount with interest at 5% shall be recoverable; but if the pension was properly obtained the suspended payment shall be payable.

Sec. 18. 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) A pension to which he is not entitled.
- (b) A larger pension than that to which he is entitled, or
- (c) Payment of any forfeited instalment of a pension; and any person who 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 old age

pension board shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$500 or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

Sec. 19. General penalty. Any person who violates any 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 1 year, or by both such fine and imprisonment. If a recipient of a pension is convicted of an offense under this section the local board may cancel the pension.

Sec. 20. Suspension or forfeiture of pension. If a recipient is convicted of any crime or offense, and punished by imprisonment, no payment shall be made during the period of imprisonment. In such cases, the pension may be declared forfeited in the discretion of the local board or by the decree of the court.

Sec. 21. Supervision and reports. The department of health and welfare shall supervise the work done and the amount of old age pensions granted under the provisions of this act by the local old age pension boards, to the end that aged persons may receive suitable and dignified maintenance and care, and that uniformity of treatment of the aged may prevail throughout the state. For these purposes they may visit and investigate the recipients of old age pensions, and shall have access to all records or other data kept by the local old age pension boards.

The local old age pension boards shall make full and complete reports to the said department, giving the number of persons granted pensions under this act, the amount of pensions granted to each, the number and amount of funeral allowances paid under this act, and the amount of money recovered under sections 9, 11, 13, and 17 of this act. The said department shall have the power to make reasonable rules and regulations concerning the keeping of records and the making of reports by the local old age pension boards.

The said department shall include in its annual report a separate statement of the work done and the money spent under this act, including a tabulation of the information received from the local old age pension boards.

Sec. 22. Limitations of act. All pensions granted under this act shall be deemed to be granted and to be held subject to the provisions of any amending or repealing act that may hereafter be passed, and no recipient shall have any claim for compensation, or otherwise, by reason of his pension being affected in any way by such amending or repealing act.

Sec. 23. State to pay $\frac{1}{2}$ of pensions. The state shall reimburse cities, towns and plantations to the extent of $\frac{1}{2}$ the amounts paid out for old age

pensions and funeral expense under the provisions of this act, provided that the city, town or plantation involved has reported as provided by the rules and regulations of the department of health and welfare.

Sec. 24. Saving clause. The unconstitutionality of any section or provision of this act shall not invalidate the remainder of the act.

Sec. 25. Effective date of act. This act shall not become operative until the governor and council can find ways and means to raise or arrange for the finances necessary to carry out the provisions of this bill and to report thereon to the 87th legislature.