

MAINE STATE LEGISLATURE

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N I N E T I E T H L E G I S L A T U R E

Legislative Document

No. 953

(Transmitted from the Revisor of Statutes under Joint Order)

S. P. 464

In Senate, February 20, 1941.

Taken from table on motion of Senator Laughlin of Cumberland and on further motion by Senator Laughlin, referred to Committee on Judiciary and sent down for concurrence. 650 copies ordered printed.

ROYDEN V. BROWN, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-ONE

AN ACT Creating the Department of Health.

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

TITLE I

Department of Health

Sec. 1. Organization of department. There is hereby created and established the department of health.

Sec. 2. Appointment; salary. The head of the department of health shall be the commissioner of health, who shall be appointed by the governor with the advice and consent of the council for a term of 3 years, and until his successor is duly appointed and qualified. Any vacancy shall be filled by an appointment for a like term in the same manner. He may employ such bureau chiefs, deputies, assistants, and employees as may be necessary to carry out the work of the department with the approval of the governor and council; and they shall be under the immediate supervision, direction and control of the commissioner. The compensation of the commissioner and his bureau chiefs shall be fixed by the governor and council.

Sec. 3. Distribution of functions. The commissioner shall have the

power to distribute the functions and duties outlined in this chapter among the various bureaus so as to integrate the work properly and to promote the most economical and efficient administration of the department.

Sec. 4. Duty of department. The department of health shall have authority and the duty of enforcing the provisions of this title, and all of the provisions of sections 14 to 187 of chapter 1 of the public laws of 1933 including the amendments to said sections, and the provisions of chapters 35, 37, 157, of the public laws of 1933, and chapters 83, 84, 109, 114, of the public laws of 1935, and chapters 149, 167, of the public laws of 1937, and chapters 126, 243, of the public laws of 1939 and shall have the authority and duty of making such rules and regulations as are necessary to carry out the provisions of this title and the above enumerated laws.

Sec. 5. Report of commissioner. The commissioner as soon as practicable after the close of the fiscal year which is indicated by an even number shall report to the governor and council the activities of the department during the biennial period just ended with such suggestions as to legislative action as he deems necessary or important.

Sec. 6. Attorney general to furnish legal assistance. The attorney general and the several county attorneys within their respective counties, when requested, shall furnish such legal assistance, counsel, or advice as the department may require in the discharge of its duties.

Sec. 7. Definitions. Wherever in this title and the laws enumerated in section 4 hereof the word "department" appears, it shall mean 'department of health'. Wherever in this title and the laws enumerated in section 4 hereof the word "commissioner" appears, it shall mean 'commissioner of health'.

Sec. 8. Penalties and jurisdiction. Whoever hinders, obstructs, or interferes with any officer, inspector or duly authorized agent of the department while in the performance of his duties shall be punished by a fine of not less than \$5 nor more than \$50, or by imprisonment for not less than 10 days nor more than 30 days. Whoever violates any order, rule or regulation of the department made for the protection of life or health under the provisions of law shall be punished by a fine of not less than \$10 nor more than \$100 for each offense. Whoever violates any provision of this chapter or wilfully fails, neglects, or refuses to perform any of the duties imposed upon him by the provisions of this chapter, shall be punished by a fine of not more than \$500, or by imprisonment for not more than 6 months, unless specific penalties are elsewhere provided for. Municipal

courts and trial justices shall have jurisdiction of all offenses under this section.

TITLE II

Department of Welfare

Sec. 1. Organization of department. There is hereby created and established the department of welfare.

The head of the department shall be the commissioner of welfare who shall be appointed by the governor with the advice and consent of the council to serve for 3 years, or during the pleasure of said governor and council. Any vacancy shall be filled by appointment as above for a like term. He may employ such bureau chiefs, deputies, assistants, and employees as may be necessary to carry out the work of the department with the approval of the governor and council; and they shall be under the immediate supervision, direction and control of the commissioner. The compensation of the commissioner and his bureau chiefs shall be fixed by the governor and council.

Sec. 2. Distribution of functions. The commissioner shall have the power to distribute the functions and duties outlined in this title among the various bureaus so as to integrate the work properly and to promote the most economical and efficient administration of the department.

Wherever in this title powers and duties are given to the department of welfare these may be and shall be assumed and carried out by such of the bureaus as the commissioner shall designate from time to time, and these powers and duties so delegated may in turn be delegated to subordinates by the said bureau directors with the approval of the commissioner.

Sec. 2-A. Duty of department. The department of welfare shall have authority and the duty of enforcing the provisions of this title and all of the provisions of sections 188 to 299, inclusive, of chapter 1 of the public laws of 1933, including the amendments to said sections and the provisions of chapters 146, 188 of the public laws of 1933, and of chapters 1, 35, 91, 116, 117, 141, 152, 182 of the public laws of 1935, and of chapters 5, 177, 210, 212, 215 of the public laws of 1937, and of chapters 141, 154, 225, 244, 246, 262, of the public laws of 1939.

Sec. 3. Definitions. Wherever in this title and the laws enumerated in section 2-A hereof the word "department" appears it shall mean the 'department of welfare', and the word "commissioner" shall mean 'commissioner of welfare'.

Sec. 4. Advisory council of welfare. There shall be an advisory council of welfare in connection with the department of welfare, which shall consist of 7 members, at least 2 of whom shall be members of the minority party and at least 1 of whom shall be a woman, and the commissioner of welfare serving ex officio. Six members shall be appointed by the governor and council for overlapping terms of 6 years each. The members of said council, other than the commissioner, shall serve without compensation, but they may be allowed actual and necessary expenses for attendance at all meetings. Said council shall hold regular meetings 4 times a year and at such other times as the commissioner may deem necessary.

Sec. 5. Powers and duties of advisory council of welfare. The advisory council of welfare shall have authority:

(1) To make such investigation of the social problems of the state, with the aid of the departmental staff, as the commissioner may request;

(2) To advise the commissioner with reference to the policy of the department and other matters falling within the jurisdiction of said department;

(3) To recommend to the commissioner the enactment of such laws as may be deemed necessary relative to the activities of the department;

(4) To make such rules and regulations as may be deemed necessary to carry out the intent of the public welfare laws of the state.

Sec. 6. Additional duties. In addition to the specified functions and duties of the department as outlined by the provisions of this title the department shall perform such other functions for the care, custody, treatment and relief of the sick, dependent, defective and delinquent as may be consistent with the general purposes therein defined and not otherwise contrary to law.

Sec. 7. Report of commissioner. The commissioner as soon as practicable after the close of the fiscal year which is indicated by an even number shall report to the governor and council the activities of the department during the biennial period just ended with such suggestions as to legislative action as he deems necessary or important.

Sec. 8. Rules and regulations of department. The department shall prepare such rules and regulations for the consideration of the advisory council of welfare as it shall think necessary and proper for the protection of life, welfare, and the successful operation of the welfare laws. The said rules and regulations shall be published in such manner as the department may direct.

Sec. 9. Attorney-general to furnish legal assistance. The attorney-general and the several county attorneys within their respective counties, when requested, shall furnish such legal assistance, counsel, or advice as the department may require in the discharge of its duties.

Sec. 10. Penalties and jurisdiction. Whoever hinders, obstructs, or interferes with any officer, inspector or duly authorized agent of the department while in the performance of his duties shall be punished by a fine of not less than \$5 nor more than \$50, or by imprisonment for not less than 10 days nor more than 30 days. Whoever violates any order, rule or regulation of the department or the advisory council made for the protection of welfare under the provisions of law shall be punished by a fine of not less than \$10 nor more than \$100 for each offense. Whoever violates any provision of this title or wilfully fails, neglects, or refuses to perform any of the duties imposed upon him by the provisions of this title, shall be punished by a fine of not more than \$500, or by imprisonment for not more than 6 months, unless specific penalties are elsewhere provided for. Municipal courts and trial justices shall have jurisdiction of all offenses under this section.

Sec. 11. Information upon request. The commissioner shall give to the governor or council or to the legislature or any committee thereof at any time upon their request information and advice with reference to any charitable or correctional institution about which he has information. The officers in charge of any institution of a charitable or correctional nature under the inspection of the department and local boards or committees having any powers or duties relative to the management of the same, and those who are in any way responsible for the administration of public funds used for the relief or maintenance of the poor, shall furnish to the department such information and statistics as may be demanded on such forms as the department may consider necessary to secure uniformity and accuracy in the statements.

Sec. 12. Charitable and benevolent institutions to submit itemized bills. No part of any appropriation made by the state for the care, treatment, support, or education of any person in any charitable or benevolent institution not wholly owned or controlled by the state shall be paid until duly itemized bills, showing the name of the person cared for, the date on which the service was rendered, and the rate charged therefor per day or week, shall have been filed with the state controller together with a certificate from the department that satisfactory evidence has been filed in its office by the institution furnishing the service that the persons receiving care

were in need of such treatment, support, or education; that they were not able to pay for the same; that the rates charged are not greater than those charged to the general public for the same service, and that the rates charged to those who are able to pay are not less than the cost of the service rendered.

Sec. 13. Persons receiving benefit not to be deemed paupers. No person shall be deemed a pauper by reason of having received the benefit of any funds, either state or municipal, which shall have been expended in his behalf under the provisions of the preceding section for care, support, medical or surgical treatment or education.

TITLE III

Sec. 1. Department of health and welfare, abolished. The department of health and welfare as heretofore established is hereby abolished. All the authority, and powers and duties of the said department shall be and hereby are transferred to the department of health and to the department of welfare as established in Title I and Title II of this act according to the provisions of this title.

Sec. 2. Transfer of authority. Whatever rights, powers, and duties shall have been vested in, or exercised by any officer, board, commission, department, or institution, or any deputy, inspector, or subordinate officer thereof, which are by this act transferred either in whole or in part to a department created by this act, shall be exercised by the department to which the same are hereby transferred and not otherwise; and every act done in the exercise of such rights, powers, and duties shall have the same legal effect as if done by the former officer, board, commission, department, institution, or any deputy, inspector, or subordinate officer thereof. Every person and corporation shall be subject to the same obligations and duties and shall have the same rights arising from the exercise of such rights, powers, and duties, as if such rights, powers, and duties were exercised by the officer, board, commission, department, or institution, or deputy, inspector, or subordinate officer thereof designated in the respective laws which are to be administered by the departments and bureaus created by this act.

Sec. 3. Transfer of obligations. Every person and corporation shall be subject to the same penalty or penalties, civil or criminal, for failure to perform any obligation or duty or for doing a prohibited act, as if such obligation or duty arose from or such act were prohibited in the exercise of such rights, powers, and duties by the officer, board, commission, depart-

ment, or institution, or a deputy, inspector, or subordinate officer thereof, designated in the respective laws that are to be administered by the departments created by this act. Every officer or employee shall for any offense be subject to the same penalty or penalties, civil or criminal, as are prescribed by law for the same offense committed by any officer or employee whose powers or duties devolve upon him or her in this act.

Sec. 4. Transfer of records and property. All books, records, papers, documents, property, real and personal, unexpended appropriations, and pending business in any way pertaining to the rights, powers, and duties so transferred to or vested in a department created by this act shall be delivered and transferred to the department succeeding to such rights, powers, and duties.

Sec. 5. Reports and notices. Wherever reports or notices are now required to be made or given, or papers or documents furnished, or served, for any reason, to or upon or by any officer, board, commission, department, institution, or deputy, inspector, or subordinate officer thereof, abolished by this act, the same shall be made, given, furnished, or served in the same manner to or upon or by the department upon which are devolved by this act the rights, powers, and duties now exercised or discharged by such officer, board, commission, department, institution, or deputy, inspector, or subordinate officer thereof, and every penalty for failure so to do shall continue in effect.

Sec. 6. Pending actions and proceedings. This act shall not effect any act done, ratified, or confirmed, or any right accrued or established, or any action or act commenced in a civil or criminal cause before this act takes effect, but such actions and proceedings may be prosecuted by the department having jurisdiction, under this act, of the subject matter to which such litigation or proceeding pertains.

Sec. 7. P. L., 1933, c. 1, §§ 1-13, repealed. Sections 1 to 13 of chapter 1 of the public laws of 1933, as amended, are hereby repealed.