

MAINE STATE LEGISLATURE

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N I N E T Y - F I R S T L E G I S L A T U R E

Legislative Document

No. 744

H. P. 1244

House of Representatives, February 26, 1943.

Referred to Committee on Mercantile Affairs and Insurance. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Pierce of Bucksport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-THREE

AN ACT Creating a State Fire Marshal.

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

R. S., c. 35, §§ 48-57, amended. Sections 48 to 57 of chapter 35 of the revised statutes, as amended, are hereby repealed and the following enacted in place thereof:

‘Sec. 48. State fire marshal; appointment, duties. The governor is hereby authorized and empowered to appoint within 60 days after this act shall take effect and every 5 years thereafter, between the 15th day of January and the 1st day of February, by and with the advice and consent of the council, and also within 30 days after the occurrence of a vacancy in the office, a suitable person who shall be a citizen of this state, as state fire marshal, who shall give bond to the state of Maine in the penal sum of \$5,000, with not less than 2 sureties or by an approved bonding company conditioned for the faithful performance of the duties of his office, to be approved by the insurance commissioner, who shall devote his whole time to the duties of his office, and who shall hold office until his successor is appointed and qualified. The headquarters of such officer shall be at the state capitol. He may be removed for cause at any time by the governor

and council, and shall be entitled to a hearing before the council. He shall receive an annual salary of \$3,500.'

'Sec. 49. Deputies. The state fire marshal is hereby empowered to designate as deputy state fire marshals, the chiefs of organized fire departments. The duties of such deputies shall be to assist the state fire marshal. They shall serve without salary.'

'Sec. 50. Office assistants. The state fire marshal is hereby empowered to appoint such office assistants as may be necessary for the proper and efficient conduct of his office and shall fix their compensation, subject to approval by the governor and council.'

'Sec. 51. The state fire marshal, upon complaint, may inspect buildings; combustible or other dangerous matter may be removed. The state fire marshal, deputy state fire marshal or the fire inspector, upon the complaint of any person, or whenever he or they shall deem it necessary, may inspect or cause to be inspected all buildings and premises within their jurisdiction. Whenever any of said officers shall find any building or other structure which, for want of repairs, or by reason of age or dilapidated condition, or from any other cause, is especially liable to fire, and which is so situated as to endanger other property, and whenever such officer shall find in or around any building combustible or explosive matter, or inflammable or other conditions dangerous to the safety of such buildings, he shall order the same to be removed or remedied, and such order shall forthwith be complied with by the owner or occupant of such premises or buildings. Service of the notice upon the owner, occupant or other interested person shall be in person or by registered mail. If such order is made by any fire inspector, such owner or occupant may, within 24 hours, appeal to the state fire marshal who shall, within 10 days review such order and file his decision thereon, and his decision shall be final and shall be complied with within such time as may be fixed in said order or decision of the state fire marshal.'

'Sec. 52. Officer may repair or demolish buildings; special tax may be assessed against land for expenses. If any person fails to comply with the order of any officer under the preceding section, or with the decision of the state fire marshal on review, and within the time fixed, then such officer may cause such building or premises to be forthwith repaired, torn down, or demolished and such materials removed and all dangerous conditions remedied, as the case may be, at the expense of the town in which such property is situated; and if the owner thereof, within 30 days after notice in writing of the amount of such expense, fails, neglects, or refuses

to repay said town the expense thereby incurred, a special tax may be assessed by the assessors of taxes against the land on which said building was located for the amount of such expenses, and such amount shall be included in the next annual warrant to the collector of taxes of said town, for collection, and shall be collected in the same manner as state, county, and municipal taxes are collected.'

'Sec. 53. Municipal officers to investigate origin of fires; state fire marshal may direct investigation. When property is destroyed or damaged by fire the municipal officers in cities and towns shall immediately notify the state fire marshal of the same, and shall forthwith investigate the cause, circumstances, and origin of the fire, and especially examine whether it was the result of carelessness or of design. The state fire marshal may supervise and direct such investigation whenever he deems it expedient or necessary.'

'Sec. 54. Municipal officers to file statement of facts relating to cause of fire; record open to public. When the municipal officers have completed their investigation, which shall be within 1 week after the occurrence of the fire, they shall immediately file with the state fire marshal a written statement of all the facts relating to the cause, circumstances, and origin of the fire; the kind, value, and ownership of the property destroyed or damaged, and such other information as may be required by said state fire marshal. The state fire marshal shall make a record of all fires investigated under sections 53 to 61, inclusive, together with all facts, statistics, and circumstances connected therewith. Such record shall at all times be open to public inspection, and such portions of it as the insurance commissioner deems expedient shall be transcribed and forwarded to him 15 days from the 1st of January each year.'

'Sec. 55. State fire marshal may examine into cause and origin of all fires; to take testimony on oath; if evidence is sufficient to cause arrest of person accused. The state fire marshal may, whenever he deems it expedient or advisable, examine or cause to be examined the cause, circumstances, and origin of all fires occurring in the cities and towns within the state, of which he has knowledge, by which property is damaged or destroyed, and may specially examine and decide whether the same was the result of carelessness or design. The state fire marshal shall, when in his opinion said proceedings are necessary, take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matters as to which such examination is made, and may cause the same to be reduced to writing.

If he shall be of the opinion that the facts in relation to such fire indicate that a crime has been committed, he shall cause such person to be arrested and charged with the offense, and shall furnish to the proper county attorney all such evidence, together with the names of witnesses and all information obtained by him, including a copy of all pertinent and material testimony in the case.

Every fire insurance company or association which does business or collects premiums or assessments in the state shall pay to the department of insurance on the 1st day of May, annually, in addition to the taxes now imposed by law to be paid by such companies or association, $\frac{1}{2}$ of 1% of the gross direct premiums for fire risks written in the state during the preceding calendar year, less the amount of all direct return premiums thereon and all dividends paid to policyholders on direct fire premiums during said calendar year. Said funds shall be used solely to defray the expenses of such investigations and inspections and are hereby appropriated for such purposes.

Whenever there shall accumulate in the special fund created by this section a surplus sufficient to defray the expenses of such investigations and inspections for an ensuing period of 1 year, then, in the discretion of the insurance commissioner, the foregoing special tax for that year may be omitted.'

'Sec. 56. Witnesses may be compelled to attend hearing, and give testimony under oath; penalty for false swearing; state fire marshal may enter any building when fire is in progress; investigation may be private. The state fire marshal, deputy state fire marshal, and the municipal officers of cities and towns shall each have the powers of a trial justice for the purpose of summoning and compelling the attendance of witnesses before them or either of them, to testify in relation to any matter which is by the provisions of the 3 preceding sections a subject of inquiry and investigation, and may require the production of any book, paper or document deemed pertinent thereto by them or either of them. Said state fire marshal, deputy state fire marshal, and municipal officers may also administer oaths and affirmations to persons appearing as witnesses before them; and false swearing in any matter or proceeding aforesaid shall be deemed perjury and shall be punished as such. Said state fire marshal and his subordinates shall have authority, at all times of the day or night, in the performance of the duties imposed by this chapter, to enter upon and examine any building or premises where a fire is in progress or has occurred, and other buildings or premises adjoining or near the same. All investigations held by or

under the direction of said state fire marshal, deputy state fire marshal or the municipal officers may in their discretion be private, and persons other than those required to be present by the provisions hereof may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from one another and not allowed to communicate with one another until they have been examined.'

'Sec. 57. Insurance companies to report to commissioner adjustment of all losses. Every fire insurance company or association transacting business in the state shall report to the insurance commissioner, within 10 days after the adjustment of every loss, the amount of all policies issued by said company on the property destroyed or damaged, the amount paid or payable on account of such loss, and such other information relating to the matter as the commissioner may require.'

'Sec. 58. Maintenance of office. For the purpose of maintaining the office of the state fire marshal and paying the expenses incident thereto, the revenue provided for by section 55 received by the office of the insurance commissioner shall be set aside. The insurance commissioner shall deposit the money so received into the state treasury as a special fund for the maintenance of said office of state fire marshal and the expense incident thereto, any portion of said special fund remaining unexpended at the end of any fiscal year not needed for the maintenance and expenses of the office of state fire marshal shall be carried forward to the next fiscal year. The said state fire marshal shall keep on file in his office an itemized statement of all expenses incurred by his department and shall approve all vouchers issued therefor before the same are submitted to the state auditor for payment, which said vouchers shall be allowed and paid in the same manner as other claims against the state.'

'Sec. 59. Annual report. The state fire marshal shall submit annually, as early as consistent with full and accurate preparation, and not later than the 1st day of February in each year a detailed report of his official actions to the insurance commissioner, and there shall be included in the annual report of such insurance commissioner, such portion of the report of the said state fire marshal as shall be deemed desirable by such insurance commissioner.'

'Sec. 60. Municipal officers to keep record of returns. Municipal officers to keep record of returns. Municipal officers shall record or cause to be recorded, in a form provided by the state fire marshal, all returns made under the provisions of the 6 preceding sections.'

'Sec. 61. Penalty for neglect. Any city or town officer, or any insurance company neglecting or refusing to perform any duty required by the provisions of the 8 preceding sections shall be punished by a fine of not less than \$10, nor more than \$100 for each offense.'