

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

FIRST SPECIAL SESSION

NINETY - SECOND LEGISLATURE

Legislative Document

No. 1195

H. P. 1488

House of Representatives, July 9, 1946

Referred to Committees on Military Affairs and Appropriations and Financial Affairs jointly. Sent up for concurrence and 1,500 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Allen of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SIX

AN ACT Creating the Department of Veterans Affairs.

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

Sec. 1. R. S., c. 22-A, additional. The revised statutes are hereby amended by adding thereto a new chapter to be numbered 22-A, to read as follows :

'CHAPTER 22-A.

DEPARTMENT OF VETERANS' AFFAIRS.

Sections 1- 5 Departmental Organization.

Sections 6- 9 Pensions to Certain Veterans and Their Dependents.

Sections 10-18 Support of Dependents of Veterans of World War I and World War II.

Departmental Organization

Sec. 1. Department of veterans' affairs; commissioner, qualifications, appointment and salary; personnel. There is hereby created and established a department of veterans' affairs, hereinafter in this chapter called the "department." The department shall be under the control and super-

vision of a commissioner of veterans' affairs, hereinafter in this chapter called the "commissioner."

The commissioner shall be a war veteran and a person qualified by experience, training and demonstrated interest in veterans' affairs.

The commissioner shall be appointed by the governor, with the advice and consent of the council, to serve for a term of 4 years and until his successor is appointed and qualified. Any vacancy shall be filled by appointment for a like term. The commissioner shall receive such salary as shall be fixed by the governor and council.

The commissioner may employ, subject to the provisions of the personnel law, the necessary assistance to carry out the purposes and provisions of this chapter. All employees of the department, with the exception of the clerical personnel, shall be war veterans.

Sec. 2. Rules promulgated; existing rules to govern. The commissioner is authorized to adopt such reasonable rules and regulations as are necessary to carry out the purposes and provisions of this chapter. Until modified or repealed by the commissioner, all orders, rules and regulations and permits or other privileges issued or granted with respect to any function consolidated hereunder, and in effect at the time of such consolidation, shall continue in effect to the same extent as if such consolidation had not occurred.

Sec. 3. Duties of commissioner. The commissioner shall:

I. Act upon request as the agent of any resident of the state having a claim against the United States for a pension, bounty or back pay arising out of or by reason of any war or any federal military or naval service and prosecute such claims without charge.

II. Cooperate with all national, state, county, municipal and private agencies in securing to veterans and their dependents the benefits provided by national, state and county laws, municipal ordinances, or public and private social agencies.

III. Cooperate with United States governmental agencies providing compensation, pensions, insurance or other benefits provided by federal law, by supplementing the benefits prescribed therein, when the state law so permits.

IV. Perform all the present duties of the director of veterans' affairs.

V. Perform the duties as are set forth under the provisions of this chapter.

Sec. 4. Annual report. The commissioner shall make a written report of the activities of the department, together with his recommendations, to the governor annually and at such other times as the governor may request.

Sec. 5. Files and records confidential. The contents of, and all files, records, reports, papers and documents pertaining to any claim for the benefits under the provisions of sections 1 to 18, inclusive, whether pending or adjudicated, shall be deemed confidential and privileged and no disclosure thereof shall be made without the consent in writing of the claimant who has not been adjudicated incompetent, except as follows:

I. To said claimant personally, his duly appointed guardian, or his duly authorized representative holding a power of appointment approved by the commissioner; and as to matters concerning himself alone, when, in the judgment of the commissioner, such disclosure would not be injurious to the physical or mental health of the claimant.

II. To the representatives of veterans' organizations holding power of appointment from the claimant, recognized by the United States government, when such representatives have been duly certified as such by the state department of any such veterans' organizations in the state of Maine.

III. In any court in this state which has jurisdiction of the parties to, and subject matter of, an action or proceeding therein pending, as found by said court, when required to be produced by the process of such court, as evidence, in such action or proceeding after a judge thereof shall have ruled the same to be relevant and competent evidence in such action or proceeding according to the laws of this state.

Pensions to Certain Veterans and Their Dependents

Sec. 6. Pensions to certain soldiers and sailors or their dependents. Any person who has served in the army or navy of the United States in the war of 1861, on the quota of Maine, and any person not on the quota of Maine, who has served in the army or navy of the United States in said war, and at time of making application for pension shall have been a resident of the state at least 5 years; also any person who has served in the army or navy of the United States in the war with Spain, on the quota of Maine, and any person whether or not on the quota of Maine, who has

served in the army or navy of the United States in the war with Spain or the Philippine insurrection at any time prior to the 4th day of July, 1902, and at time of making application for pension shall have been a resident of the state at least 5 years, and who is unable from his own resources and the United States pension, if any, to obtain a livelihood for himself and those dependent upon him, shall be entitled to a pension from the state not exceeding \$12 a month, provided, he has been honorably discharged from said service. No such pension shall be paid by this state to persons residing in other states.

Sec. 7. Pension to widow, orphan children, and dependent relatives. The widow during her widowhood, or the son, daughter, parent, or sister of any soldier or seaman deceased, who was dependent upon him at the time of his decease, is entitled to the same pension as is provided in the preceding section and under similar conditions; provided that not more than \$12 a month shall be paid the dependents of any such soldier or seaman. Any son, daughter, parent, or sister of any soldier or seaman deceased, who was receiving a pension on July 10th, 1925, shall not be rendered ineligible by reason of anything herein contained.

Sec. 8. Department shall have jurisdiction. The department shall determine whether or not any applicant is entitled to a pension under the provisions of the 2 preceding sections.

Sec. 9. Pensions to be paid monthly; payment of special legislative pensions. Pensions granted under the provisions of sections 6 to 9, inclusive, shall be paid monthly from the state treasury.

All special legislative pensions granted prior to January 1, 1941, and charged to the appropriation for support of dependent soldiers and sailors shall be paid from the appropriation for special legislative pensions. Provided, however, that if investigation by the department reveals that the need for a special pension no longer exists the department may suspend the same for part or all of the period until the next regular session of the legislature, and shall promptly notify the person to that effect.

Support of Dependents of Veterans of World War I and World War II

Sec. 10. Definitions. As used in sections 10 to 18, inclusive, the following terms shall have the following meanings:

I. The term "wife" shall be construed to mean the legally married wife of the veteran, not divorced, or the unremarried widow of the veteran, not previously divorced.

II. The term "child" shall be construed to mean a child under the age of 16, or over age 16 and under age 18 if found by the department to be regularly attending school, or over 16 and not attending school if, prior to reaching age 16 the child becomes or has become permanently incapable of self-support by reason of mental or physical defect, and shall include a legitimate or legally adopted child of the veteran, or a step-child if a member of the veteran's household either at time of application, or in the event of the veteran's death, at time of death, and who continues a member of the household, or an illegitimate child, provided that the veteran has been judicially ordered or decreed by the court to contribute to the child's support, or has been judicially decreed to be the putative father, or has acknowledged under oath in writing that he is the father of such child.

III. The term "parent" shall mean the father or mother of a veteran with whom the veteran lived during his minority and for whom he would be legally responsible under the laws of the state.

IV. The term "veteran" shall be construed to mean any person who served or is serving in the armed forces of the United States on active duty during World War I or World War II, not dishonorably discharged.

V. The terms "World War I" and "World War II" shall be interpreted in accordance with the Acts of Congress as now or hereafter defined by the regulations of the federal department charged with administering monetary and other benefits to veterans and their dependents.

Sec. 11. Eligibility for aid. Aid shall be granted under the provisions of sections 10 to 18, inclusive, to the needy wife, child, and/or parent or parents, residing in the state, of a veteran, providing said veteran enlisted or was inducted while having a residence in the state of Maine, or who shall have been a resident of the state at least 5 years previous to date of application, and who is deceased or disabled, or providing, if the veteran is deceased and not enlisted or inducted while having a residence in the state, that the dependent or dependents applying shall have been resident of the state at least 5 years previous to date of application. Such aid shall not be forfeited by reason of temporary absence from the state. The department shall endeavor to give preference to applications in which the death or disability of the veteran is due to service or in which the department might presume that death or disability might be due to service. The department shall require satisfactory proof as to the disability of a veteran and its effect on his ability to provide for himself and dependents. Dur-

ing the period that such aid is being paid, the recipient thereof shall not acquire or lose a settlement or be in the process of acquiring or losing a settlement and no person receiving such aid under the provisions of sections 10 to 18, inclusive, shall be considered a pauper.

Sec. 12. Application. Application for aid under the provisions of sections 10 to 18, inclusive, shall be made to the department on forms provided for this purpose by the department, and may be made by the dependent of the veteran, or any person who is recognized by the department as entitled to act therefor.

Sec. 13. Amount of aid. The department shall determine the character and amount of aid which shall be granted with due regard to the resources of the veteran and his dependents and the necessary expenditures and conditions existing in each case, and which shall be sufficient, when added to all other income and support available, to provide such dependents with a reasonable subsistence compatible with decency and health.

Sec. 14. All funds administered by the department. The department shall administer all funds appropriated for the purpose of sections 10 to 18, inclusive. It shall make such rules and regulations with respect to the administration of said sections as it deems advisable.

Sec. 15. Right of appeal. Any person who is denied or who is not satisfied with the amount of aid allotted to him by the department, shall have the right of appeal to the commissioner who shall provide the appellant with reasonable notice and opportunity for a fair hearing. Said commissioner or a member of the department designated and authorized by him shall hear all evidence pertinent to the matter at issue and render a decision thereon within a reasonable period after the date of hearing; provided that when the evidence in the case is heard by a person other than the commissioner, the decision shall be rendered in the name of the commissioner.

Sec. 16. Payment of relief. Relief granted under the provisions of sections 10 to 18, inclusive, as approved by the department and audited by the state controller shall be paid by the treasurer of state, and may, in the discretion of the department, be paid to any persons whom it may designate for the benefit of such dependents.

Sec. 17. False or fraudulent statement; penalty. Whoever knowingly shall make a false statement, oral or written, relating to a material fact in support of application for aid under the provisions of sections 10 to 18, inclusive, shall be punished by a fine of not more than \$500, or by im-

prisonment for not more than 11 months. Whoever, being entitled to the benefits of the provisions of said sections, fraudulently applies for or receives assistance for a period of time following a termination of his right to receive the same, shall be punished by a fine of not more than \$500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

Sec. 18. Authority to receive federal funds. The department shall have authority to accept the provisions of any federal law now in effect or hereafter enacted which makes federal funds available to the states for:

I. The furnishing of information to veterans and their beneficiaries and dependents concerning their rights under laws of the United States and the states relating to veterans' benefits,

II. Providing assistance in making application for such benefits, and

III. Furnishing information and assistance with respect to reemployment and other matters relating to the readjustment of veterans to civilian life, and to meet such federal requirements with respect to the administration of such funds as are required as conditions precedent to receiving such federal funds.'

Sec. 2. Continuance of former agency in department. For the purpose of succession to all rights, powers, duties and obligations of the former department, agency or officer as constituted at the time of such assignment or transfer, the department of veterans' affairs as herein created constitutes a continuation of the former department, agency or officer as to matters within the jurisdiction of the former department, agency or officer, with the same force and effect as if such functions, powers and duties had not been assigned or transferred.

Sec. 3. Delivery of records. The head of the department or other agency, or the officer, whose functions, powers and duties are assigned and transferred to the department of veterans affairs, shall transfer and deliver to the latter all state contracts, books, maps, plans, papers, records and property of every description connected with the functions, powers and duties transferred to the department of veterans' affairs within his jurisdiction and control, and shall also transfer thereto such employees engaged in the exercise of such functions, powers and duties as the commissioner may select. The commissioner is authorized to take possession of said property, and shall take charge of said employees, and shall employ them in the exercise of their respective functions, powers and duties transferred as aforesaid, without reduction of compensation, subject to change or termi-

nation of employment or compensation as may be otherwise provided by law.

Sec. 4. Appropriations transferred. All unexpended funds appropriated or made available to any department, agency or officer for the purpose of any of its functions, powers or duties which are transferred to the department of veterans affairs are hereby transferred to the latter.

Sec. 5. R. S., c. 22, §§ 295-306, and P. L., 1945, c. 150, repealed. The following sections of chapter 22 of the revised statutes, as amended, are hereby repealed: sections 295 to 297, inclusive; sections 298, as amended by chapter 271 of the public laws of 1945; sections 299 to 306, inclusive; and section 306-A as enacted by chapter 150 of the public laws of 1945.

Sec. 6. Appropriation. There is hereby appropriated the sum of \$36,000 from the unappropriated surplus for the fiscal year ending June 30, 1947 to carry out the purposes of this act. Any unexpended balances shall lapse to the general fund.