

MAINE STATE LEGISLATURE

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

Legislative Document

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House of Representatives, March 24, 1949.

Reported by Mr. Wordsworth from the Committee on Judiciary and printed under Joint Rule 10.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

AN ACT Relating to the Establishment of a Civil Defense Agency and a
Public Safety Council.

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

Sec. 1. R. S., c. 11-A, additional. The revised statutes are hereby amended by adding thereto a new chapter to be numbered 11-A, to read as follows:

'CHAPTER 11-A.

STATE CIVIL DEFENSE AND PUBLIC SAFETY COUNCIL

Sec. 1. Short title. This chapter may be cited as the "Maine Civil Defense and Public Safety Act of 1949."

Sec. 2. Policy and purposes. The purpose of the provisions of this chapter is to create a state civil defense and public safety agency, and to authorize the creation of local organizations for civil defense and public safety in the political subdivisions of the state; to confer upon the governor and upon the executive heads or governing bodies of the political subdivisions of the state the emergency powers provided herein; and to provide for the rendering of mutual aid among the political subdivisions of the state and with other states with respect to the carrying out of civil defense and public safety functions.

It is further declared to be the purpose of this chapter and the policy of the state that all civil defense and public safety functions be coordinated to the maximum extent with the comparable functions of the federal government including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources and facilities for dealing with any disaster that may occur.

Sec. 3. Definitions. As used in this chapter:

"Civil defense and public safety" shall mean the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters caused by enemy attack, sabotage or other hostile action, or by fire, flood, earthquake or other natural causes. These functions include, without limitation, fire fighting services, police services, medical and health services, rescue, engineering, air raid warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services (civilian war aid), emergency transportation, existing or properly assigned functions of plant protection and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions.

"Local organization for civil defense and public safety" shall mean an organization created in accordance with the provisions of this chapter by state or local authority to perform local civil defense and public safety functions.

"Mobile reserve battalion" shall mean organization for civil defense and public safety created in accordance with the provisions of this chapter by state or local authority to be dispatched by the governor to supplement local organizations for civil defense and public safety in a stricken area.

"Political subdivision" shall mean any city, town or village corporation in the state.

Sec. 4. State civil defense and public safety agency. Whenever it is deemed advisable by the governor, there shall be created within the executive branch of the state government a department of civil defense and public safety, hereinafter in this chapter called the "civil defense and public safety agency" and a director of civil defense and public safety, hereinafter in this chapter called the "director" who shall be the head thereof. The director shall be appointed by the governor with the advice and consent of

the council and he shall hold office during the pleasure of the governor and council. He shall receive such compensation as shall be fixed by the governor and council and shall hold no other state office.

The director may employ such technical, clerical, stenographic and other personnel, subject to the provisions of the personnel law, and make such expenditures on approval of the governor and council, as may be necessary to carry out the purposes of this chapter.

The director and other personnel of the civil defense and public safety agency shall be provided with appropriate office space, furniture, equipment, supplies, stationery and printing in the same manner as provided for personnel of other state agencies.

The director, subject to the direction and control of the governor, shall be the executive head of the civil defense and public safety agency and shall be responsible to the governor for carrying out the program for civil defense and public safety. He shall coordinate the activities of all organizations for civil defense and public safety within the state, and shall maintain liaison with and cooperate with civil defense and public safety agencies and organizations of other states and of the federal government, and shall have such additional authority, duties and responsibilities as may be prescribed by the governor.

Sec. 5. Public safety council. There is hereby created a public safety council, which shall be composed of the following members: the insurance commissioner, who shall serve as chairman; the chief of the state police; the commissioner of health and welfare; the adjutant-general; the forest commissioner; the commissioner of inland fisheries and game; the chairman of the state highway commission; a member of the Fire Chiefs' Association appointed by said association; a member of the Maine Sheriffs' Association appointed by said association; a field representative of the American National Red Cross to be appointed by the governor and such other persons as the governor and council deem desirable. They shall serve during the pleasure of the governor and executive council. The council shall advise the governor and the director on all matters pertaining to civil defense and public safety. The governor shall be a member *ex officio*. The members thereof shall serve without compensation, but, other than state officers, may be reimbursed for their reasonable and necessary expenses incurred in the performance of their duties.

Powers and duties granted under the provisions of this chapter to the department of civil defense and public safety are hereby conferred upon the public safety council until such time as the department of civil defense and public safety is created.

Sec. 6. Civil defense and public safety powers of the governor. The governor shall have general direction and control of the civil defense and public safety agency, and shall be responsible for the carrying out of the provisions of this chapter, and in the event of disaster beyond local control, may assume direct operational control over all or any part of the civil defense and public safety functions within the state.

In performing his duties under the provisions of this chapter, the governor is authorized and directed to cooperate with all departments and agencies of the federal government, with the offices and agencies of other states and with private agencies in all matters pertaining to the civil defense and public safety of the state and of the nation.

In performing his duties under the provisions of this chapter, the governor is further authorized and empowered:

I. To make, amend and rescind the necessary orders, rules and regulations to carry out the provisions of this chapter within the limits of the authority conferred upon him herein, and not inconsistent with the rules, regulations and directives of the president of the United States or of any federal department or agency having specifically authorized civil defense and public safety functions.

II. To prepare a comprehensive plan and program for the civil defense and public safety of this state, such plan and program to be integrated into and coordinated with the civil defense and public safety plans of federal agencies and with the plans of other states to the fullest possible extent, and to coordinate the preparation of plans and programs for civil defense and public safety by the political subdivisions of this state, such plans to be integrated into and coordinated with the civil defense and public safety plan and program of this state to the fullest possible extent.

III. In accordance with such plan and program for the civil defense and public safety of this state, and consistent with the civil defense and public safety plans, programs and directives of the federal government, to procure supplies and equipment, to institute training programs and public information programs, and to take all other preparatory steps including the partial or full mobilization of civil defense and public safety organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of civil defense and public safety personnel in time of need.

IV. To conduct such studies and surveys and to take such inventories of the industries, resources and facilities of this state as may be necessary

to ascertain the capabilities of the state for civil defense and public safety, and to plan for the most efficient emergency use thereof.

V. On behalf of this state, to enter into mutual aid arrangements with other states and to coordinate mutual aid plans between political subdivisions of this state.

VI. To delegate any authority vested in him under the provisions of this chapter, and to provide for the sub-delegation of any such authority.

Sec. 7. Mobile reserve battalions. The governor is authorized to create and establish such number of mobile reserve battalions as may be necessary to reinforce civil defense and public safety organizations in stricken areas and in accordance with the plans of the federal government. He shall appoint a commander for each such battalion who shall have primary responsibility for the organization, administration and operation of such battalion. Mobile reserve battalions shall be called to duty upon orders of the governor and shall perform their functions in any part of the state, or, upon the conditions specified in this section, in other states.

Personnel of mobile reserve battalions while on duty, whether within or without the state, shall:

I. If they are employees of the state, have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment;

II. If they are employees of a political subdivision of the state, and whether serving within or without such political subdivision, have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment; and

III. If they are not employees of the state or a political subdivision thereof, be entitled to compensation by the state at \$6 per day and to the same rights and immunities as are provided by law for the employees of this state. All personnel of mobile reserve battalions shall, while on duty, be subject to the operational control of the authority in charge of civil defense and public safety activities in the area in which they are serving.

The state shall reimburse a political subdivision for the compensation paid and actual travelling and maintenance expenses of employees of such political subdivision while serving as members of a mobile reserve battalion, and for all payments for death, disability or injury of such employees incurred in the course of such duty, and for all losses of or damage to sup-

plies and equipment of such political subdivision resulting from the operation of such mobile reserve battalion.

Whenever a mobile reserve battalion of another state shall render aid in this state pursuant to the orders of the governor of its home state and upon the request of the governor of this state, this state shall reimburse such other state for the compensation paid and actual travelling and maintenance expenses of the personnel of such mobile reserve battalion while rendering such aid, and for all payments for death, disability or injury of such personnel incurred in the course of rendering such aid, and for all losses of or damage to supplies and equipment of such other state or a political subdivision thereof resulting from the rendering of such aid; provided that the laws of such other state contain provisions substantially similar to this section.

No personnel of mobile reserve battalions of this state shall be ordered by the governor to operate in any other state unless the laws of such other state contain provisions substantially similar to those of this section.

Sec. 8. Local organization for civil defense and public safety. Each political subdivision of this state is hereby authorized and directed to establish a local organization for civil defense and public safety in accordance with the state civil defense and public safety plan and program. Each local organization for civil defense and public safety shall have a director who shall be appointed by the executive officer or governing body of the political subdivision, and who shall have direct responsibility for the organization, administration and operation of such local organization for civil defense and public safety, subject to the direction and control of such executive officer or governing body. Each local organization for civil defense and public safety shall perform civil defense and public safety functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of section 9.

Sec. 9. Mutual aid arrangements. The director of each local organization for civil defense and public safety shall, in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal civil defense and public safety aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state civil defense and public safety plan and program, and in time of emergency it shall be the duty of each local organization for civil defense and public safety to render

assistance in accordance with the provisions of such mutual aid arrangements.

The director of each local organization for civil defense or public safety, when geographical locations make mutual aid arrangements desirable, may, subject to the approval of the governor, enter into mutual aid arrangements with civil defense and public safety agencies or organizations in other states for reciprocal civil defense and public safety aid and assistance in case of disaster too great to be dealt with unassisted.

Sec. 10. Immunity. Neither the state nor any political subdivision thereof, nor other agencies, nor, except in cases of willful misconduct, the agents, employees or representatives of any of them, engaged in any civil defense activities, while complying with or attempting to comply with the provisions of this chapter or any other rule or regulation promulgated pursuant to the provisions of this chapter, shall be liable for the death of or any injury to persons, or damage to property, as a result of such activity. The provisions of this section shall not affect the right of any person to receive benefits to which he or she would otherwise be entitled under the provisions of this chapter, or under the workmen's compensation law, or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of congress.

Sec. 11. Appropriations and authority to accept services, gifts, grants and loans. Each political subdivision shall have the power to make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision for the payment of expenses of its local organization for civil defense and public safety. In making such appropriations, such political subdivision shall specify the amounts and purposes for which the moneys so provided may be used by the local organizations for civil defense and public safety.

Whenever the federal government or any agency or officer thereof or any person, firm or corporation shall offer to the state or to any political subdivision thereof, services, equipment, supplies, materials or funds by way of gift, grant or loan, for purposes of civil defense and public safety, the state, acting through the governor, or such political subdivision, acting through its executive officer or governing body, may accept such offer and upon such acceptance the governor of the state or executive officer or governing body of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials or funds on behalf of the state or such

political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

Sec. 12. Utilization of existing services and facilities. In carrying out the provisions of this chapter, the governor and the executive officers or governing bodies of the political subdivisions of the state are directed to utilize the services and facilities of existing departments, offices and agencies of the state and of the political subdivisions thereof to the maximum extent practicable, and the officers and personnel of all such departments, offices and agencies are directed to cooperate with and extend such services and facilities to the governor and to the civil defense and public safety organizations of the state upon request.

Sec. 13. Political activity prohibited. No organization for civil defense and public safety established under the authority of this chapter shall participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes.

Sec. 14. Civil defense and public safety personnel. No person shall be employed or associated in any capacity in any civil defense and public safety organization established under the provisions of this chapter who advocates or has advocated a change in the constitutional form of the government of the United States or in this state or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in an organization for civil defense and public safety shall, before entering upon his duties, take an oath, in writing, before a person authorized to administer oaths in this state, which oath shall be substantially as follows:

"I, do solemnly swear (or affirm) that I will support and defend the constitution of the United States and the constitution of the state of Maine, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter.

"And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the government of the United States by force or violence; and that during such time as I am a member of the, I will not advo-

cate nor become a member of any political party or organization that advocates the overthrow of the government of the United States by force or violence.”

Sec. 15. Inconsistent laws suspended. Except as otherwise provided herein, all existing laws, rules and regulations inconsistent with the provisions of this chapter or of any order, rule or regulation issued under the authority of this chapter shall be suspended during the period of time and to the extent that such inconsistency exists.

Sec. 16. Aid in emergency; penalty. In the event of disaster as provided in section 6, the governor shall have the power and authority to utilize any available equipment and enlist the aid of any person to assist in the effort to control, put out or end the conflagration or other disaster, or aid in the caring for the safety of persons. Any person who thus refuses without reasonable cause shall upon conviction be punished by a fine of not more than \$1,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

Sec. 17. Right of way; penalty; jurisdiction. Men and equipment required to respond to emergency calls under the provisions of this chapter shall have the right of way over all public ways and roads and the governor is hereby granted the right to close or restrict traffic on all roads in any area.

Whoever shall fail to give the right of way to men, vehicles and equipment required to respond to emergency calls under this chapter, or whoever shall enter upon roads which have been closed to traffic under the provisions of this chapter, shall, upon conviction, be punished by a fine of not more than \$1,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. Municipal courts shall have jurisdiction of all such offenses.

Sec. 18. Enforcement. It shall be the duty of every organization for civil defense and public safety established pursuant to the provisions of this chapter and of the officers thereof to execute and enforce such orders, rules and regulations as may be made by the governor under authority of the provisions of this chapter. Each such organization shall have available for inspection at its office all orders, rules and regulations made by the governor, or under his authority.’

Sec. 2. Appropriations and authorizations of expenditures. There is hereby established a fund to be known as the “Emergency Defense and Safety Fund.”

The governor, with the advice and consent of the council, is hereby authorized to transfer to this fund any moneys in the general fund of the state that are not appropriated and any and all unexpended appropriation balances existing at the end of each fiscal year, except those that carry forward as provided by law, after the contingent fund has been provided for. The governor is hereby authorized to expend the moneys in the said war fund for the purpose of carrying out the provisions of this chapter.