

MAINE STATE LEGISLATURE

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

Legislative Document

No. 541

H. P. 928

House of Representatives, February 8, 1951.

Referred to the Committee on Legal Affairs, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Bates of Orono.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

AN ACT Establishing a Tri-State Authority to Enable the Collective Construction and Operation of Institutions in Maine, New Hampshire and Vermont.

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

R. S., c. 25-A, additional. The revised statutes are hereby amended by adding thereto a new chapter to be numbered 25-A, to read as follows:

‘CHAPTER 25-A

TRI-STATE AUTHORITY

Sec. 1. Authorization. The governor, on behalf of this state, is hereby authorized to enter into a compact substantially in the following form with the states of New Hampshire and Vermont, and the legislature hereby signifies in advance its approval and ratification of such compact.

Tri-State Facilities Authority Compact

Whereas, the states of Maine, New Hampshire and Vermont are from time to time faced with the necessity of constructing buildings and institutions necessary to satisfy human needs in the fields of education, welfare, hospitalization and corrections; and

Whereas, the existing institutions in the said states from time to time may prove inadequate to properly provide for the discharge of the governmental functions hereinbefore enumerated; and

Whereas, by the separate establishment of a facility in each instance for each state would not serve the interests of economy and good administration; and

Whereas, the necessary exercise of the police power for the education, good order, peace and safety of the people of these states requires such collective action in the public interest; and

Whereas, the geographical locations of the said states are such as to make it practical and more economical for the said states to join in the establishment of single facilities to provide the necessary buildings required in the fields hereinbefore enumerated, rather than a separate establishment of duplicating facilities in each state; now, therefore, the states of Maine, New Hampshire and Vermont do agree and are bound as follows:

Article I

Each of the signatory states pledges to each of the other signatory states faithful cooperation in the establishing, maintaining and operating of a tri-state facilities authority, to provide the necessary facilities in the fields of education, welfare and corrections as may from time to time be determined by the collective action of the legislatures of the member states.

Article II

There is hereby created the Tri-state Facilities Authority, hereinafter referred to as the "authority," which shall have the powers, duties and jurisdiction herein enumerated and such other and additional powers as shall be conferred upon it by the act or acts of a signatory state, concurred in by other signatory states or by act or acts of the congress of the United States.

Article III

The authority shall consist of 9 members: 3 members from each signatory state, each of whom shall be a citizen of the state from which he is appointed and well qualified in public or private business administration. Their terms and conditions of tenure and removal shall be as prescribed by the rules of their respective states.

Article IV

The authority shall elect from its membership a chairman and a vice-chairman, and shall appoint, and at its pleasure remove or discharge, such

officers and clerks, experts and other employees, as may be required to carry out the provisions of this compact and shall fix and determine their duties, qualifications and compensation. It shall establish and maintain a principal office for the administration of its affairs in connection with and at the location of, a facility to be established under the terms hereof.

A majority of the members from a majority of the signatory states shall constitute a quorum for the transaction of business. The authority may meet at any time or place within the signatory states upon call of the chairman or upon call of a majority of the members from any one signatory state. Meetings shall be at least twice each year.

The authority shall keep accurate records and accounts of all receipts and disbursements and shall make an annual report to the governor and to the legislature of each signatory state, setting forth in detail the operations and transactions conducted by it pursuant to this compact, and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes of the signatory states which may be necessary to carry out the intent and purpose of this compact.

The authority shall not incur any obligations for salaries, office, administrative, traveling or other expenses prior to the appropriation of necessary funds by the signatory states adequate to meet the same.

The authority shall not have the authority to pledge the credit of any of the signatory states except by and with proper authorization from the legislatures of the signatory states.

The authority shall appoint a treasurer, who shall furnish such bond as the authority shall determine for the proper discharge and the faithful performance of his duties, and the disbursements by the treasurer shall be valid only when countersigned by the chairman or vice-chairman of the authority.

The authority shall appoint a secretary from its membership, who shall be custodian of the records of the authority with the power to attest to and certify such records and copies thereof.

Article V

The authority shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this compact, including the following powers in addition to others herein granted:

- I. To sue and to be sued; to have a seal and to alter the same at plea-

sure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this compact, to carry into effect the powers and purposes of the authority;

II. Within its area of operation: to prepare, carry out, acquire, lease and operate facilities; to provide for the construction, reconstruction, improvement, alteration or repair of any facility or any part thereof;

III. To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for, or in connection with, a facility or the occupants thereof; and, notwithstanding anything to the contrary contained in this compact or in any other provision of law, to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and to comply with any conditions which the federal government may have attached to its financial aid of the project;

IV. To lease or rent any dwellings, houses, accommodations, lands, buildings, structures embraced in any facility and, subject to the limitations contained in this compact, to establish and revise the rents or charges therefor; to own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise or otherwise any real or personal property or any interest therein; to acquire by the exercise of the power of eminent domain any real property; to sell, lease, exchange, transfer, assign, pledge or dispose of any real or personal property or any interest therein; to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards, to procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof issued by the authority, including the power to pay premiums on any such insurance;

V. To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks of any of the member states may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be cancelled;

VI. Within its area of operation to investigate and to determine suitable locations and sites for the construction of adequate tri-state facilities

as may be requested from time to time by the concurrent action of the legislatures of the member states or by a properly constituted commission established pursuant to such concurrent acts; to make studies and recommendations relating to a problem of planning, constructing and providing appropriate facilities and to cooperate with any commission in connection with such problems; and to engage in research, studies and experimentation on the subject of institutional facilities, and to publish and disseminate information on any of its findings;

VII. To exercise all or any part or combination of powers herein granted. No provisions of law with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to the authority unless the legislature shall specifically so state;

VIII. In the operation or management of institutional facilities the authority shall at all times observe the following duties with respect to rentals:

A. It may rent or lease the accommodations therein only to the commission duly established to provide for the facility in connection with any of the purposes coming within the terms of this compact;

B. It shall not accept as tenants at any of the facilities which it constructs and maintains persons other than those who may lawfully occupy the premises in accordance with the laws of the member states;

C. It may enter into a contract with any duly authorized commission to fix the rentals on any of its facilities at no higher rates than it shall find to be necessary in order to produce revenue which, together with all other available moneys, revenue, income and receipts of the authority from whatever source derived, will be sufficient

1. to pay as the same becomes due the principal and interest on the bonds of the authority,

2. to meet the cost of, and to provide for, maintaining the cost of the projects, including the cost of any insurance, and the administrative expenses of the authority, and

3. to create, during not less time than the 6 years immediately following its issuance of any bonds, a reserve sufficient to meet the largest principal and interest payments it will be required to pay on such bonds in any one year, and thereafter to maintain such reserve.

Nothing contained in this article shall be construed as limiting the power of the authority to vest in an obligee or guarantor the right, in the event

of default by the authority, to take possession of a facility or cause the appointment of a receiver thereof, free from all restrictions imposed by this article;

IX. The authority shall have the right to acquire by the exercise of the power of eminent domain, in accordance with the laws of the state wherein the property is located, any real property which it may deem necessary for its purposes under this compact after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. Property already devoted to a public use may be acquired in like manner, provided that no property belonging to a municipality, state or other political subdivision thereof may be acquired without its consent. Where it appears to the satisfaction of the court, at any stage of the proceedings, upon the petition of the authority that the public interest will be prejudiced by delay, the court may, after such notice to the parties in interest as it may prescribe, which notice, however, shall not be less than 8 days and may be by posting upon the property or by publication in such paper or papers at such time as court may require, order that the authority be permitted to enter immediately upon the real property described in the petition or any part thereof and to demolish any structures located thereon, and to proceed with the construction of the facility thereon, upon depositing with the court a sum of money or in lieu thereof, bonds or obligations of the United States of equivalent or greater value, not less than the last assessed valuation of the property, which the court shall find to be sufficient for the protection of the persons who may be entitled to the award. Such deposit or the proceeds thereof shall be applied so far as it may be necessary for that purpose, to the payment of any award that may be made, with interest thereon, costs and expenses, and the residue, if any, shall be returned to the authority; in the event of a deficiency in the sum deposited, the authority shall pay the balance to make up the award in accordance with the judgment;

X. The authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. The authority shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it. The authority may issue such types of bonds as it may determine, including, without limiting the generality of the foregoing, bonds on which the principal and interest are payable: exclusively from the income and revenues of the facilities financed with the proceeds of such bonds; or exclusively from the income and revenues of certain designated facilities whether or not they are financed in whole

or in part with the proceeds of such bonds; or from its revenues generally. Any such bonds may be additionally secured by a pledge of any grant or contributions from the federal government or other source, or a pledge of any income or revenues of the authority, or a mortgage of any facility or other property of the authority.

Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the authority (and such bonds and obligations shall so state on their face) shall not be a debt of any state and no member state shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of said authority. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes.

XI. Bonds of the authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, not exceeding 6% per year, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such a rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution, its trust indenture or mortgage may provide.

The bonds may be sold at public or private sale at not less than par. In case any of the commissioners or officers of the authority whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such commissioners or officers had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this compact shall be fully negotiable.

In any suit, action or proceedings involving the validity or enforceability of any bond of the authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a facility, to provide accommodations as requested by a duly authorized commission, shall be conclusively deemed to be issued for a facility of such character and such facility shall be conclusively deemed

to have been planned, located and constructed in accordance with the provisions of this compact.

XII. In anticipation of the sale of definitive bonds to meet the cost of any facility, the authority may sell temporary notes in an amount not in excess of the cost of the facility as requested by the legislatures or their duly authorized commission. Any such note or notes may be refunded through the sale of similar notes but no such refunding note or notes shall be issued after the sale of definitive bonds covering the cost of the facility. The term, the time of sale, and any other conditions of sale of said notes shall be determined by resolution of the authority, in like manner as in the case of bonds under the preceding subsection.

Article VI

All contracts for the payment of rent agreed upon by the authority and by any commission hereafter established by the laws of the member states shall provide for the equitable distribution and shares of said rent to be paid by the respective states in proportion to the use of the facility made by each state during the preceding fiscal year. Within 30 days from the end of each fiscal year the commission shall prepare and submit to each of the signatory states a budget of estimated expenditures for such period as may be required by the laws of each state for presentation to the legislature thereof. In determining the relative use of each facility the contract shall provide that the authority consider the average number of resident-days and such other factors as may be properly be considered in determining the fair share of each state.

Article VII

This compact shall continue in force and remain binding upon each state signatory thereto until renounced by it. Renunciation of this compact must be preceded by sending 6 months' written notice by registered mail to the chairman of the commission and to the governor of each of the other signatory states.

Upon renunciation of this compact, the renouncing state shall remove within 30 days from the date such renunciation becomes effective all persons committed from such state to the institution.

At least 60 days prior to the effective date of such renunciation, the commission shall consider and formulate the terms, conditions, and amount of funds which the renouncing state shall be entitled to have refunded to it from its contribution to the capital cost of such institution and such con-

tribution, if any, as it has made for the operating and maintenance costs for the then current fiscal year.

Such formula, conditions, and provisions for refund shall take into consideration, among other things, the capital cost of the building, depreciation, improvements, and anticipated life and shall be approved by $\frac{3}{4}$ of the total membership of the commission.

Sec. 2. Appointment of members of Authority. The governor and council shall appoint 3 men qualified by experience in private or public business administration who shall be citizens of the state of Maine, to represent this state as members of the authority established in the preceding compact. 1 member shall be appointed for a term ending December 31, 1951, 1 member for a term ending December 31, 1952, and 1 member for a term ending December 31, 1953. On the 1st day of January, 1952 and each year thereafter, they shall appoint 1 member for a term of 3 years. All vacancies shall be filled for the remainder of the unexpired term.

Sec. 3. Commission established. There is hereby established a commission on defective delinquents, to consist of the head of the state hospital, ex officio, a person admitted to practice law in the state of Maine, and a qualified psychiatrist; the attorney and psychiatrist members to be appointed by the governor and council for a term of 2 years; provided, however, that upon the adoption of this law the governor and council shall appoint forthwith the law member, whose term shall expire on December 31, 1951, and the psychiatrist member, whose term shall expire on December 31, 1952. All commissioners shall be residents of the state of Maine. All vacancies shall be filled for the unexpired term.

Sec. 4. Commission; duties. The commission appointed under the terms of the preceding section shall represent the interests of the state of Maine as members of an interstate commission on defective delinquents and shall participate regularly in the meetings and deliberations of said commission representing the interests of the state of Maine therein. Together with the commissioners of New Hampshire and Vermont they may organize themselves as a continuing board by the election of officers and the adoption of bylaws, which shall provide among other things that a majority of the commissioners from a majority of the signatory states shall constitute a quorum for the transaction of business and shall also provide for regular conduct of meetings at least once every quarter. They shall keep a record of their proceedings and the appointed members shall receive as compensation \$10 per day. All members shall receive their reasonable expenses incurred in the discharge of their duties. Together with

the commissioners from the states of New Hampshire and Vermont they shall upon organization forthwith request the tri-state facilities authority to undertake studies and plan the construction, reconstruction or acquisition, as the case may be, of a suitable building, together with adequate land to be used as an institution for the care and treatment of defective delinquents. They shall request the authority to submit such plans, together with estimated costs, for their approval prior to undertaking said construction, reconstruction or acquisition. They shall have the authority to lease and operate such facility when it becomes available and to employ all necessary assistants, professional and otherwise, to adequately and properly staff and maintain an institution for defective delinquents to accommodate the 3 states of Maine, New Hampshire and Vermont. They shall keep a careful record of their activities and a careful account of all receipts and disbursements. They shall prepare for submission to the governors of the respective states, in November of each even-numbered year, a detailed statement as to the estimated cost which that state must bear in the continued maintenance of the institution for the ensuing biennium, commencing June 30th of each odd-numbered year, said estimate to be based upon the number of patients committed to the care of the commission by the courts of each state.

Sec. 5. Defective delinquents; definition. For the purposes of this chapter, a defective delinquent is any person inflicted with intellectual impairment from birth or from an early age to such extent that he is incapable of managing himself and his affairs; and who is charged with, arrested for or convicted of criminal offense; and who for his own welfare and the welfare of others, and of the community, requires supervision, control or care; and who is not insane or of unsound mind to such extent as to require his commitment to an institution for the insane.

Sec. 6. Commitment. The superior court, upon petition of any county attorney, may upon hearing determine whether or not there is probable cause to examine any person alleged by the county attorney under oath to be a defective delinquent. Said petition shall set forth in detail the basis for the county attorney's belief that the subject is a defective delinquent and a copy of said petition, together with notice of the time and place of hearing thereon, shall be given in such manner as may be deemed just by the court to the person so charged. If upon hearing it appears to the court that the petition should be granted he shall forthwith commit the subject for a period of 30 days to the commission on defective delinquents for observation. At the end of said time the commission shall return the defective delinquent to the custody of the court, together with their studies and find-

ings, stating in detail whether or not it is their conclusion that the person so charged is in fact a defective delinquent. The court shall set a date for further hearing upon the report, at which time the alleged defective delinquent shall be given the opportunity to be represented by counsel and if indigent, the reasonable expenses of said counsel shall be paid by the county. If the court is of the opinion that the person is a defective delinquent he shall so decree and order that he be committed to the commission on defective delinquents. A certified copy of said decree and order shall be given in hand to the executive director of the institution wherein he shall stand committed until released by further process of law. Nothing herein contained shall be construed to abridge or limit the principles and benefit of habeas corpus in the most easy, free, cheap and expeditious manner in the courts of this state.

Sec. 7. Transportation. All expenses incurred in the transportation of patients committed by the courts of this state, to and from the tri-state institution provided for their care and maintenance shall be paid for by the state of Maine and the commission shall be bound by the orders of the said courts with regard to commitment, custody and release of such patients. No person so committed to a facility outside the territorial limits of this jurisdiction shall be deemed to be a "fugitive from justice" within the terms of the uniform extradition act but shall be returned at the expense of this state to the court by which he was committed upon any order of the said court, notwithstanding any law to the contrary.

Sec. 8. Escape. Any person committed to the tri-state institution escaping therefrom shall be guilty of a misdemeanor and shall be fined not more than \$50 or sentenced not more than 6 months by the court having original committing jurisdiction. Sentence shall be suspended until such time as the person is released from the tri-state facility by due process of law.

Sec. 9. Parole. Upon organization the tri-state commission shall establish a parole board consisting of 3 members of the commission, each representing one of the signatory states, the superintendent of the institution and resident psychiatrist, who shall have the authority to parole any person committed to the institution to the state of origin.

Sec. 10. Appropriation. There is hereby appropriated for the cost of administration of the commission for the fiscal year ending June 30, 1953 the sum of \$1,000. There is hereby appropriated for the cost of the administration of the authority for the biennium ending June 30, 1952 the sum of \$1,000.

Sec. 11. Constitutionality. If any terms of this chapter or of the compact contained herein are to be held unconstitutional in their application, the remainder of this chapter and of the compact shall not be deemed to be unconstitutional in their application to different circumstances.

Sec. 12. Provisions controlling. The provisions of this chapter, together with the terms of the compact contained herein, shall be controlling in any instance where they may be in conflict with other laws of this state.

Sec. 13. Effective date. The provisions of this chapter shall take effect at such time as the compact herein provided for shall become fully effective by compliance with its terms.'