

MAINE STATE LEGISLATURE

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(NEW TITLE)
NEW DRAFT OF S. P. 453—L. D. 1300

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

Legislative Document

No. 1602

S. P. 595

In Senate, May 22, 1957.

Reported by Senator Silsby of Hancock from Committee on Judiciary and printed under joint rules No. 10.

CHESTER T. WINSLOW, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT Revising the State Civil Defense and Public Safety Law.

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

R. S., c. 12, repealed and replaced. Chapter 12 of the Revised Statutes, as amended, is hereby repealed and the following enacted in place thereof:

‘Chapter 12.

State Civil Defense and Public Safety Law.

Sec. 1. Short title. This chapter may be cited as the “Maine Civil Defense and Public Safety Law.”

Sec. 2. Policy and purposes. The purposes of this chapter are 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 municipalities of the State; to confer upon the Governor and upon the municipal officers of the municipalities of the State those emergency powers specified; and to provide for the rendering of mutual aid among the municipalities 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, and those of other states.

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

“Civil defense and public safety” means the preparation for and the exercise

of the emergency powers provided in this chapter, including the minimization and repair of injury and damage resulting from disasters or catastrophes caused by enemy attacks, sabotage or other hostile action, or by fire, flood, earthquake or other natural causes.

“Local organization for civil defense and public safety” means an organization created in accordance with this chapter by state, county or local authority to perform local civil defense and public safety functions.

Sec. 4. State civil defense and public safety agency. There is created within the executive branch of the State Government a department of civil defense and public safety, as heretofore established and 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 and such administrative and operative assistants as may be necessary shall be appointed by the Governor with the advice and consent of the Council and they shall hold office during the pleasure of the Governor and Council. They 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 the Federal Government, and shall have such additional authority, duties and responsibilities authorized by this chapter as may be prescribed by the Governor.

Sec. 5. Rules and regulations. The Director shall make, amend or rescind, after public hearing thereon, notice of which has been duly advertised in the state paper, reasonable rules and regulations to carry out the provisions of this chapter.

Such rules and regulations shall become effective when approved in writing by the Governor and Council and when a certified copy thereof has been filed with the Secretary of State. Any person aggrieved by any such rule or regulation or the reasonableness of same, or any act or order of the Director in enforcing any such rule or regulation, may appeal to a Justice of the Superior Court by presenting to him a petition therefor, in term time or vacation, and he shall fix a time and place of hearing which may be in the chambers or in vaca-

tion and cause notice thereof to be given to the Director and, after the hearing, the Justice may affirm or reverse the rule, regulation, act or order of the Director and the decision of such Justice shall be final.

Sec. 6. Public Safety Council. A Public Safety Council, as heretofore established, shall be composed of 5 members. All members shall be appointed by the Governor with the advice and consent of the Council. They shall serve during the pleasure of the Governor and Council. 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 duty. The Public Safety Council shall meet at least 4 times in each calendar year, and as many other times as they shall deem necessary. The Council shall advise the Governor and the Director on all matters pertaining to civil defense and public safety.

Sec. 7. Powers of the Governor. In performing his duties under the provisions of this chapter, the Governor is authorized to cooperate with the departments and agencies of the Federal Government, and with the offices and agencies of other states in 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 authorized:

I. To make, amend and recind the necessary orders, rules and regulations to carry out the provisions of this chapter 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, and to coordinate the preparation of plans and programs for civil defense and public safety by the municipalities of this State. In preparing a plan, the Governor may assign to assenting state employees and officials, and to assenting employees and officials of the municipalities of the State, such duties and responsibilities in the civil defense and public safety organization as he deems best.

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 preparatory steps to insure the furnishing of adequately trained and equipped forces of civil defense and public safety personnel in times of emergency.

IV. To conduct such studies and surveys of the industries, resources and facilities of this State 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 municipalities 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.

VII. To cooperate with the President, the Civil Defense Agency of the United States, and other appropriate federal officers and agencies, and with the officers and agencies of other states in matters pertaining to the civil defense of the State and Nation, including the direction or control of:

- A. Blackouts, air raid drills and mobilization of civil defense forces;
- B. Warnings and signals for attacks and the mechanical devices to be used in connection therewith;
- C. The effective screening or extinguishing of all lights and lighting devices and appliances during an emergency;
- D. Shutting off water mains, gas mains, electric power connections and the suspension of all other utility services during an emergency;
- E. The conduct of vehicular traffic during an emergency; and
- F. The evacuation and reception of the civilian population.

Sec. 8. Emergency powers of the Governor. Whenever any disaster or catastrophe exists or appears imminent arising from attack, sabotage or hostile action, or by fire, flood, earthquake or other natural causes, the Governor shall by proclamation declare the fact and that an emergency exists in any or all sections of the State. Such proclamation shall be published in such newspapers of the State and posted in such places as the Governor deems necessary and a copy of such proclamation shall be filed with the Secretary of State. 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.

When the Governor has issued a proclamation of emergency and when thereafter for the better protection and welfare of this State or its inhabitants the situation so requires as a matter of public necessity or convenience, he may take possession of any property real or personal located within this State for public uses in furtherance of the provisions of this chapter.

If real estate is seized under the provisions of this section, a declaration of the property seized, containing a full and complete description, shall be filed with the register of deeds in and for the county in which the seizure is located and a copy of said declaration furnished the owner.

If personal property is seized under the provisions of this section, there shall be entered upon a docket containing a permanent record a description of such personal property and its condition when seized and there shall be furnished to the owner of such seized property a true copy of the docket recording.

The Governor shall, with the approval of the Council, award reasonable compensation to the owners of the property which he may take under the provisions

of this section and for its use and for any injury thereto or destruction thereof caused by such use.

Any owner of property of which possession has been taken under the provisions of this section to whom no award has been made or who is dissatisfied with the amount awarded him as compensation may file a petition in the Superior Court in the county in which he lives or has a usual place of business or in the county of Kennebec to have the amount in which he is entitled by way of damages determined. The petitioner may make such claim in such a manner as may be provided, within 6 years after the date when possession of the property was taken under the provisions of this section, except that if the owner of the property is in the military service of the United States at any time during which he should otherwise have filed his petition, he may file the same within 6 years after his discharge from the said military service. The petitioner and the State shall severally have the right to have such damages assessed by a jury.

In the event, by reason of the death of the owner of property seized under the provisions of this section, he is unable to file his petition or to continue the action provided for herein, such petition may be filed or the action continued by his executor or administrator, as the case may be.

Upon the cessation of the emergency, the Governor shall forthwith annul the proclamation by another proclamation affecting the sections of the State covered by the original proclamation, or any part thereof, which said proclamation shall be published and posted in the same manner as provided for the issuance of the original proclamation.

Sec. 9. Local organization for civil defense and public safety. Each municipality of this State may establish a local organization for civil defense and public safety in accordance with the state civil defense and public safety plan and program. The municipal officers of the municipality may appoint a director 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 the municipal officers of the municipality. Any director so appointed may be removed by the municipal officers for incompetence, misconduct, neglect of duty, disloyalty or subversive activity. The Director may also remove any of his appointees for incompetence, misconduct, neglect of duty, disloyalty or subversive activity. Each local organization for civil defense and public safety shall perform its civil defense and public safety functions within the territorial limits of the municipality within which it is organized.

Duly appointed law enforcement officers of local, state and sheriffs organizations are empowered to enforce any of the provisions of this chapter or any rules or regulations promulgated thereunder in the event of an emergency as provided in section 8. It shall be unlawful for any individual to fail or refuse to comply with any just or reasonable order relative to the above from any such duly appointed law enforcement officer. Such failure to comply with such order shall constitute a misdemeanor.

Duly appointed law enforcement officers of local, state and sheriffs organizations shall have power to make arrests of persons found in violation of any pro-

visions of this chapter or any rules and regulations promulgated thereunder in the event of an emergency as provided in section 8.

Sec. 10. Mutual aid arrangements. The director of each local organization for civil defense and public safety may, in collaboration with other public 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, and for this purpose municipalities are authorized to enter into such mutual aid arrangements.

Each municipality, when geographical locations make mutual aid arrangements desirable, may, subject to the approval of the State Director, enter into mutual aid arrangements with civil defense and public safety agencies in other municipalities of this State for reciprocal civil defense and public safety aid and assistance in case of disaster or catastrophe too great to be dealt with unassisted.

Sec. 11. Immunity. Neither the State nor any municipality thereof, nor, except in cases of willful misconduct, their agents, employees or representatives engaged in any civil defense activities, while complying 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 Act, or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress.

Sec. 12. Appropriations and authority to accept services, gifts, grants and loans. Each municipality may make appropriations in the manner provided by law for making appropriations for the ordinary expenses of a municipality for the payment of expenses of its organization for civil defense and public safety. In making these appropriations, the municipality shall specify the amounts and purposes for which the moneys so provided may be used for civil defense and public safety.

Whenever any agency or officer of the Federal Government or any person, firm or corporation offers services, equipment, supplies, materials or funds by way of gift, grant or loan to the State or a municipality for purposes of civil defense and public safety, the State, acting through the Governor, or the municipality, acting through its municipal officers may accept such offer and upon such acceptance the Governor of the State or municipal officers of the municipality may authorize any officer of the State or of the municipality to receive such services, equipment, supplies, materials or funds on behalf of the State or the municipality subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

Sec. 13. Utilization of existing services and facilities. In carrying out the provisions of this chapter, the Governor and the municipal officers of the mu-

municipalities of the State may utilize the services and facilities of existing departments, offices and agencies of the State and its municipalities. Such departments, offices and agencies may cooperate with and extend such services and facilities to the Governor and to the civil defense and public safety organizations of the State if practicable.

Sec. 14. 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. 15. 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 advocate 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. 16. Inconsistent laws suspended. Except as provided in this chapter, 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. 17. Aid in emergency. In the event of an emergency as provided in section 8, the Governor shall have the power and authority to utilize any available property to assist in the effort to control, put out or end the emergency, or aid in the caring for the safety of persons. The State shall be liable for any damage to any property utilized under the provisions of this chapter.

Sec. 18. Right of way. Men and equipment required to respond to emergency calls under this chapter shall have the right of way over all public ways and roads and the Governor, during an emergency, is authorized to close or restrict traffic on the roads in any area.

Sec. 19. 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.

Whoever violates or fails to comply with the provisions of any section of this chapter, or any rules or regulations established thereunder, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 11 months, or by both.

Sec. 20. Appropriations and authorization of expenditures. There is established a fund to be known as the "Emergency Civil Defense and Public Safety Fund."

The Governor, with the advice and consent of the Council, is authorized and empowered, whenever an emergency has been declared as provided in section 8, to transfer to this fund any state moneys in the general fund of the State, including unexpended appropriation balances of any state department or agency allotted or otherwise. The Governor is authorized to expend the moneys in the said fund for the purpose of carrying out the provisions of this chapter.

Sec. 21. Compensation of injuries received in line of duty. All members of the civil defense and public safety forces shall be deemed to be employees of the State when engaged in training for or on civil defense and public safety duty, and shall have all the rights given to state employees under the provisions of the Workmen's Compensation Act. All claims shall be filed and prosecuted and determined in accordance with the procedure set forth in the Workmen's Compensation Act.

In computing the average weekly wage of any claimant under the provisions of this section, the average weekly wage shall be taken to be the earning capacity of the injured in the occupation in which he is regularly engaged.

Any sum payable under any Act of Congress or other federal program as compensation for death, disability or injury of civil defense workers shall be considered with the determination and settlement of any claim brought under the provisions of this section. When payments received from the United States are less than an injured member would have been entitled to receive under this section, then he shall be entitled to receive all the benefits to which he would have been entitled under the provisions of this section, less the benefits actually received from the United States.'