

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Ninety-fifth Legislature

OF THE

STATE OF MAINE

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PUBLIC LAWS

OF THE

STATE OF MAINE

As Passed by the Ninety-fifth Legislature

1951

Chapter 273

AN ACT to Revise the State Civil Defense Law.

Emergency preamble. Whereas, recent events have shown that there is an imperative need for an adequate civil defense and public safety program in order to protect the citizens of this state; and

Whereas, existing provisions of law for the development of civil defense and public safety programs are inadequate; and

Whereas, recent events have shown that speed is of the essence in modern warfare and defense; and

Whereas, the president of the United States has declared a national emergency; and

Whereas, in the judgment of the legislature these facts create an emergency within the meaning of the constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now therefore

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

Sec. 1. R. S., c. 11-A, § 2, amended. The 2nd paragraph of section 2 of chapter 11-A of the revised statutes, as enacted by chapter 298 of the public laws of 1949, is hereby amended to read as follows:

'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 or catastrophe that may occur.'

Sec. 2. R. S., c. 11-A, § 3, amended. Section 3 of chapter 11-A of the revised statutes, as enacted by chapter 298 of the public laws of 1949, is hereby amended to read as follows:

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 or catastrophes caused by enemy attacks,

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, **county** 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, **county** 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 **county, city, town or village corporation in the state.**’

Sec. 3. R. S., c. 11-A, § 4, amended. The 1st and last paragraphs of section 4 of chapter 11-A of the revised statutes, as enacted by chapter 298 of the public laws of 1949, are hereby amended to read as follows:

‘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 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 ~~he~~ **they** shall hold office during the pleasure of the governor and council. ~~He~~ **They** shall receive such compensation as shall be fixed by the governor and council and shall hold no other state office.’

‘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 main-

tain liaison with and cooperate with civil defense and public safety agencies and organizations of other states, ~~and of the federal government and foreign countries, and the political subdivisions thereof,~~ and shall have such additional authority, duties and responsibilities as may be prescribed by the governor.'

Sec. 4. R. S., c. 11-A, § 6, amended. Section 6 of chapter 11-A of the revised statutes, as enacted by chapter 298 of the public laws of 1949, is hereby amended to read as follows:

'Sec. 6. Emergency; proclamation; publication; powers of the governor; annulment. ~~Whenever a conflagration or other disaster exists or appears imminent in any part of the state~~ Whenever any disaster or catastrophe exists or appears imminent arising from attack, sabotage or other 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, and in the event of disaster or catastrophe 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 foreign countries, and the political subdivisions thereof, 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 and foreign countries, and the political subdivisions thereof, 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 or catastrophe, 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 foreign countries, and the political subdivisions thereof, 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.

Whenever the governor is satisfied that an emergency no longer exists, he shall 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. 5. R. S., c. 11-A, § 6-A, additional. Chapter 11-A of the revised statutes, as enacted by chapter 298 of the public laws of 1949, is hereby amended by adding thereto a new section to be numbered 6-A, to read as follows:

'Sec. 6-A. Eminent domain and compensation. When the governor has issued a proclamation as provided for in section 6 and when thereafter in his judgment 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 executive 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 to 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.'

Sec. 6. R. S., c. 11-A, § 7, amended. Section 7 of chapter 11-A of the revised statutes, as enacted by chapter 298 of the public laws of 1949, is hereby amended to read as follows:

'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 re-

sponsibility 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 and foreign countries, and the political subdivisions thereof.

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.

Police sections of such mobile reserve battalions shall have the power to make arrests of persons found in violation of any state law or any provisions of this chapter or any rules or regulations promulgated thereunder; and the same power of arrest is vested in such police sections of mobile reserve battalions of other states, foreign countries or their political subdivisions while on active duty within the borders of this state.

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

Whenever a mobile reserve battalion of another state or foreign country, or political subdivision thereof, shall render aid in this state pursuant to the orders of the governor of its home state or responsible authority of the foreign country and upon the request of the governor of this state, this state shall reimburse such other state or foreign country 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 foreign country, or a political subdivision thereof, resulting from the rendering of such aid; provided that the laws of such other state or foreign country contain provisions substantially similar to this section, or whenever the mutual aid arrangement between this state and such other state, foreign country or political subdivision thereof requires such payment.

No personnel of mobile reserve battalions of this state shall be ordered by the governor to operate in any other state or foreign country, or political subdivision thereof, unless the laws of such other state or foreign country, or political subdivision thereof, contain provisions substantially similar to those of this section.'

Sec. 7. R. S., c. 11-A, § 9, amended. Section 9 of chapter 11-A of the revised statutes, as enacted by chapter 298 of the public laws of 1949, is hereby amended to read as follows:

'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, and for this purpose political subdivisions are authorized to enter into such mutual aid arrangements.

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

Sec. 8. R. S., c. 11-A, § 16, amended. Section 16 of chapter 11-A of the revised statutes, as enacted by chapter 298 of the public laws of 1949, is hereby amended to read as follows:

'Sec. 16. Aid in emergency; penalty. In the event of disaster or catastrophe as provided in section 6, the governor shall have the power and

authority to utilize any available ~~equipment~~ property and enlist the aid of any person to assist in the effort to control, put out or end the ~~conflagra-
tion or other~~ disaster or catastrophe, 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. The state shall be liable for any damage to any ~~equipment~~ property utilized under the provisions of this chapter.'

Sec. 9. R. S., c. 13, § 5-A, additional. Chapter 13 of the revised statutes is hereby amended by adding thereto a new section to be numbered 5-A, to read as follows:

'Sec. 5-A. State police reserve corps. The chief is authorized to establish and maintain a state police reserve corps. To be eligible for membership in such reserve corps, applicants shall meet such standards as may be determined by the chief; shall enlist therein for a period of not less than 3 years, and shall take the oath prescribed in section 14 of chapter 11-A. Upon the issuance by the governor of the proclamation provided for in section 6 of chapter 11-A, the chief may order any or all of the members of said reserve corps to active duty as state police for the duration of the proclaimed emergency or any part thereof. When ordered to active duty, members of said reserve corps shall have the same status as regular members of the state police.'

Emergency clause. In view of the emergency cited in the preamble, this act shall take effect when approved.

Effective May 4, 1951

Chapter 274

AN ACT Relating to Clerk Hire in the Office of the Recorder of the Portland Municipal Court.

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

R. S., c. 79, § 269, amended. The 4th paragraph of section 269 of chapter 79 of the revised statutes, as amended, is hereby further amended so that said paragraph, so far as it relates to the amount to be paid for clerk hire in the office of the recorder of the Portland municipal court, shall read as follows: