

Iowa

Senate File No. 42

as passed by

SENATE and HOUSE
AND ENROLLED

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STATE OF IOWA

SENATE FILE NO. 42

AN ACT to provide for the protection, welfare and assistance of aged persons in need and resident in the State of Iowa, providing the method therefore, making an appropriation therefor, levying a tax, and prescribing penalties for the violation of the provisions of this act.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Definitions. When used herein (a) the term "commission" shall mean the Old Age Assistance Commission; (b) the term "superintendent" shall mean the Old Age Assistance Superintendent; (c) the term "board" shall mean the Old Age Assistance Board of a county; (d) the singular shall include the plural and the masculine shall include the feminine.

Sec. 2. There is hereby created a commission to be known and designated as the Old Age Assistance Commission which shall be composed of three citizens of the state, no more than two of whom shall belong to the same political party, who shall within ninety days of the approval of this Act, be appointed by the Governor for a term of four years, except that of the members first appointed, one shall be appointed for a term of three years and one for a term of two years; provided, however, that the members first so appointed shall be subject to the approval of the executive council. As the term of a commissioner expires, the Governor shall appoint a successor for a term of four years. All such appointments shall be with the approval of two-thirds of the membership of the Senate, in executive session. Each member of the commission shall receive as compensation, in addition to the necessary expenses incurred in the performance of his duties, ten dollars per diem while actually engaged in the business of the commission. Vacancies shall be filled in the same way as the original appointment.

Sec. 3. Superintendent. The commission shall appoint a superintendent who shall be qualified by character, training and experience. He shall receive a salary of three thousand dollars a year. The superintendent, with the approval of the commission, shall appoint the necessary number of assistants and fix their duties and salaries.

Sec. 4. Rules and Regulations. The commission shall have authority to make such rules and regulations as are necessary to carry out the provisions of this act.

Sec. 5. Appointment of Boards in Counties. The Old Age Assistance Board of a county shall consist of three members, no more than two of whom shall belong to the same political party, of which the overseer of the poor shall be an ex-officio member. If any county have more than one overseer of the poor, the Board of Supervisors of such county shall designate, by writing, filed with the county auditor, the overseer who shall serve as a member of such board. The other two members of the

board shall be appointed by the Board of Supervisors for a term of one and two years respectively. Upon the expiration of the term of office of a member of the board, his successor shall be appointed by the Board of Supervisors for a full term of two years. If a vacancy occurs, otherwise than by the expiration of a term, in the office of an appointive member of the board, it shall be filled for the unexpired term. At least one member of the board shall be a woman. Appointments shall be made in writing and filed with the county auditor.

Sec. 6. Compensation. The members of the board as herein provided shall receive no compensation for their services as members of such board, but they shall be entitled to the actual and necessary traveling expenses incurred by them in properly discharging their official duties.

Sec. 7. Local investigators. The board may appoint one or more local investigators, at a salary for each to be fixed by the board. All appointments shall be made from candidates who have passed an examination prepared by the commission as to character, training and experience of the applicant and conducted under the supervision of the superintendent. Examinations shall be given at such times and in such places as the commission shall provide. The Board in its discretion may arrange with other public or private relief departments or agencies to use one or more of their investigators who meet the required qualifications.

Sec. 8. Meetings. The commission and boards shall meet at such times and places as may be fixed by the rules of the commission.

Sec. 9. Persons Entitled to Assistance. Subject to the provisions and under the restrictions contained in this act, every aged person who has not an income of one dollar a day, while residing in the state, shall be entitled to assistance in old age.

Sec. 10. Amount of Assistance. The amount of assistance shall be fixed with due regard to the condition of the individual and community in each case but in no case shall it be an amount which, when added to the income of the applicant from all other sources, shall exceed a total of twenty-five dollars a month.

Sec. 11. Income exempt. In calculating the income of the applicant, earnings or gifts when such do not exceed \$100.00 in any calendar year, shall not be considered.

Sec. 12. To Whom Granted. Old Age Assistance may be granted only to an applicant who:

- (a) Has resided in the county for two years immediately preceding his application;
- (b) Has attained the age of sixty-five years;
- (c) Has been a citizen of the United States for at least fifteen years before making application for assistance;
- (d) Has a domicile in the state and
 - (1) has had such domicile continuously for at least ten years immediately preceding the date of application, but continuous residence in the state shall not be deemed to have been interrupted by periods of absence therefrom if the total of such periods of absence does not exceed eighteen

months and the residence for the last three years preceding the application has been continuous, but absence in the service of the State or of the United States shall not be deemed to interrupt residence in the state if a domicile be not acquired outside the State;

(e) is not at the date of making application or of receiving aid, an inmate of any prison, jail, workhouse, insane asylum, or any other public reform or correctional institution;

(f) for six months or more during the ten years preceding the date of application for assistance, if a husband, has not deserted his wife, or, without just cause, failed to support her and his children under the age of fifteen years; if a wife, has not deserted her husband, or, without just cause, failed to support such of her children as were under the age of fifteen (15) years;

(g) has not within two years preceding such application for assistance been a professional tramp or beggar;

(h) has no child or other person responsible under the law of this state and found by the board or by the commission able to support him.

(i) is found by the commission to be unable regularly to earn an income of at least one dollar per day, on account of age, infirmity or inability to procure suitable employment.

Sec. 13. No person shall be allowed assistance if the claimant has deprived himself, directly or indirectly, of any property for the purpose of qualifying for old age assistance.

Sec. 14. Annual Income of Property. The annual income of any property, which does not produce a reasonable income, shall be computed at five per centum of its value as determined by the board.

The income of the applicant shall be his income for twelve months preceding the date on which his application is made.

The property owned at the date of application for assistance shall be taken as property of the applicant for the purpose of this act.

Sec. 15. Deduction from Estate. On the death of a person receiving assistance under this act or of the survivor of a married couple, both of whom were so assisted, the total amount paid as assistance, together with simple interest at six per centum annually, shall be allowed as a claim of the second class against the estate of such decedent, and neither the homestead nor the proceeds therefrom of such decedent or his survivor, shall be exempt from the payment of said claim, any act or statute to the contrary notwithstanding. The proceeds of such claim shall be paid into the Old Age Pension Fund. In case of the death of either husband or wife, both of whom have been receiving assistance under this act, the estate of deceased shall not be settled or the homestead sold until the surviving spouse shall die or cease to occupy the homestead as such.

Sec. 16. Transfer of Property to the State of Iowa. In any event, the assistance furnished under this Act shall be and constitute a lien on any real estate owned either by the husband or wife for assistance furnished to either of such persons. Whenever an order is made for such assistance to any person in whom or in whose spouse the title to any

real estate is vested, a copy of such order shall be indexed and recorded in the manner provided for the indexing of real estate mortgages in the office of the County Recorder of the county in which the real estate is situated, and such recording and indexing shall constitute notice of such lien.

If the commission deems it necessary to protect the interest of the state, it may require, as a condition to the grant of assistance, the absolute conveyance of all, or any part, of the property of an applicant for assistance to the state of Iowa. Such property shall be managed by the board which shall pay the net income to the person or persons entitled thereto. The commission shall have power to sell, lease, or transfer such property or defend and prosecute all suits concerning it, and to pay all just claims against it, and to do all other things necessary for the protection, preservation and management of the property.

Upon the death of the applicant, the property shall be disposed of and the proceeds shall be transferred to the old age pension fund of the state.

The Attorney General, at the request of the commission, shall take the necessary proceedings, and represent and advise the commission in respect to any matters arising under this act.

Sec. 17. Applicants. An applicant for assistance shall deliver his claim, in writing, to the board of the county in which he resides, in the manner and form prescribed by the commission.

All statements in the application shall be sworn to or affirmed by the applicant setting forth that all facts are true in every material point.

Sec. 18. Investigation. Whenever an application is made for old age assistance, the board directly or through an investigation shall promptly make investigations, and after hearing the applicant, if he so request, if it approves the application, shall make a recommendation of the amount of the assistance to be allowed, or, if it disapprove, make a recommendation that no assistance be allowed. The board shall send a copy of the application, its recommendation, and the reasons for its decision, to the commission with such supporting papers as the commission may require. The commission may thereupon make investigation as it sees fit through the superintendent or through the board making the recommendation, and may direct a hearing before the board, of which the applicant shall have at least ten days' notice, and at which he may appear and offer evidence. The commission shall decide upon the application and fix the amount of the assistance, if any. An applicant whose application for assistance has been rejected may within thirty days appeal from the decision of the commission to the district court of the county in which the application was filed by serving a ten days' notice of such appeal upon the superintendent or upon any member of the commission, in the manner required for an original notice. Upon service of such notice, the commission shall furnish the applicant a copy of the application, a copy of all supporting papers, a transcript of the testimony and a copy of its decision. The court shall hear and determine said application on its merits. Upon the allowance of any such application, any taxpayer of the county in which said application was filed may appeal to the district court of such county by serving notice as hereinabove pro-

vided, and upon service of said notice the commission shall furnish such taxpayer with a copy of said application, a copy of all supporting papers, a transcript of the testimony and a copy of its decision. The district court may either affirm or reverse the decision of the commission appealed from, and enter such order as may be proper; and said order and judgment of the district court shall be final. An applicant whose application for assistance has been rejected may not reapply for assistance until the expiration of twelve months from the date of the previous application.

Sec. 19. Witnesses. For the purpose of any such investigation, the commission and the board shall have the power to compel, by subpoena, the attendance and testimony of witnesses and the production of books and papers. All witnesses shall be examined on oath, and any member of the commission or of the board may administer said oath.

Sec. 20. Assistance Certificate. The commission shall issue to each applicant to whom assistance is allowed a certificate for one year, stating the amount of each installment, which may be monthly or quarterly, as the commission may decide; and, on written order of the commission, the state comptroller shall issue and forward warrant, or warrant check, to such recipient in payment of each installment.

Sec. 21. New Certificate Annually. An assistance certificate shall be required for each subsequent year, to be issued by the commission after such investigation as it may deem necessary; and the amount of the assistance may be changed if the commission finds that the applicant's circumstances have changed.

Sec. 22. When Assistance Commences. The assistance, if allowed, shall commence on the date named in the certificate, which shall be the first day of the calendar month following that on which the petition was received by the board; provided, however, that no old age assistance payments shall be made before July 1, 1935, except as provided in section thirty-five (35) of this Act.

Sec. 23. To Notify Board of Increase of Property or Income. If at any time during the currency or continuance of an old age assistance certificate the recipient, or the wife or husband of the recipient, becomes possessed of any property or income in excess of the amount allowed by this act in respect of the amount of assistance granted, it shall be the duty of the recipient immediately to notify the board of the receipt and possession of any such property or income, and the board may on inquiry, and with the approval of the commission, either cancel the assistance or pay the amount thereof during the period of the certificate. Any excess assistance paid shall be returned to the state, and recoverable as a debt due the state.

Sec. 24. Recovery in Case of Assistance from State. If on the death of any person receiving assistance it is found that he was possessed of property or income in excess of the amount allowed by this act, in respect of the amount of assistance, double the total amount of the assistance in excess of that to which the recipient was entitled may be recovered by

the commission as a preferred claim from his estate, and the amount so recovered shall be transferred to the old age pension fund of the state.

Sec. 25. Funeral Expenses. On the death of any person receiving old age assistance, such reasonable funeral expenses for burial shall be paid to such persons as the board directs; provided, such expenses do not exceed one hundred dollars and the estate of the deceased is insufficient to defray the same.

Sec. 26. Inmate of Institution. While any person receiving assistance is an inmate of any charitable, benevolent, or fraternal institution, the amount of assistance shall be paid to the governing authorities of that institution, and shall be applied toward defraying the actual expenses of such person in such institution; provided, that the commission has approved and that it and its agents are permitted freely to visit and inspect said institution. Any moneys remaining after defraying such expense shall be paid to the recipient. It shall not be lawful for the authorities of any charitable institution receiving public moneys, to refuse admission as an inmate of such institution, or to refuse relief, on the ground that the person is receiving assistance under this act.

Sec. 27. Recipient Not to Receive Other Assistance. No person receiving assistance under this act shall at the same time receive any other assistance from the state, or from any political subdivision thereof, except for medical and surgical assistance, and hospitalization.

Sec. 28. Incapacity of Assisted. If the person receiving assistance is, on the testimony of reputable witnesses, found incapable of taking care of himself or his money, the board may direct the payment of the installments of the assistance to any responsible person or corporation for his benefit. It shall be within the power of the commission to suspend payment for such period as the board shall recommend.

Sec. 29. Assistance to be Inalienable. All rights to old age assistance shall be absolutely inalienable by any assignment, sale, execution or otherwise, and, in the case of bankruptcy, the assistance shall not pass to or through any trustees or other persons acting on behalf of creditors.

Sec. 30. Assistance Certificate Improperly Obtained. If at any time the commission has reason to believe that an assistance certificate has been improperly obtained, it shall cause special inquiry to be made by the board, and may suspend payment of any installment pending the inquiry. It shall also notify the board of such suspension. If on inquiry it appears that the certificate was improperly obtained, it shall be canceled by the commission, but if it appears that the certificate was properly obtained, the suspended installments shall be payable in due course.

Sec. 31. Violations. Any person who by means of a wilfully false statement or representation or by impersonation or other fraudulent device obtains, or attempts to obtain, or aids or abets any person to obtain,

- (a) an assistance certificate to which he is not entitled; or
- (b) a larger amount of assistance than that to which he is justly entitled; or

(c) payment of any forfeited installment grant; or any person who buys or aids or abets in buying or in any way disposing of the property of a person receiving assistance, without the consent of the commission—shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or both.

Sec. 32. Penalty. Any person who violates any provision of this act for which no penalty is specifically provided shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or both. Where a person receiving assistance is convicted of an offense under this section the commission shall cancel the certificate.

Sec. 33. No Assistance During Imprisonment. If any person receiving assistance is convicted of any crime or offense and punished by imprisonment for one month or longer, the board shall direct that payments shall not be made during the period of imprisonment.

Sec. 34. Appropriations by Local Authorities. There is hereby created a fund to be known as the Old Age Pension Fund to be administered by the Commission, the proceeds of which shall be used to pay the expenditures incurred under this Act. To provide money for said fund, there is hereby levied on all persons residing in this state and who are citizens of the United States and of twenty-one (21) years of age and upwards, except inmates of State and County institutions, an annual tax of two dollars (\$2.00). From the list certified to the county treasurer under the provisions of section 36 of this act, it shall be the duty of such county treasurer to place the names of all persons subject to said tax on the tax list, and the said annual tax levied by the provisions of this section and act shall be collected in 1935, and each year thereafter, by the county treasurer at the same time as property taxes and subject to the same penalties, and the county treasurer shall make remittance thereof to the treasurer of state who shall credit same to the old age pension fund; provided, however, that said tax, if paid, shall be credited on any poll taxes assessed for street, road, or other purposes against the person paying same. Any person, firm, association or corporation, including municipal corporations and special charter cities, having in their employ continuously for a period of thirty days or more any resident of this state and who is a citizen of the United States, and to whom this act applies and who has not paid the tax provided for in this section, shall deduct said tax from the earnings of such employee and deliver to such **employee a receipt for said collection and remit same to the treasurer of state, together with a report showing the amount and name of the person from whom collected;** and the treasurer of state shall credit said tax as other taxes provided for in this section and act, and report to the county treasurer of the county from which such remittance was received, giving the name of the employee and the amount of such tax collected; and when said report has been received by the county treasurer, he shall credit such person on his books with said payment. Any employer failing to collect and so report said tax shall be liable therefor. As a condition

for obtaining assistance under this Act and from this fund, satisfactory proof shall be furnished to the Board or Commission that the applicant for said aid has paid all taxes due to said fund. Any one who becomes in arrears more than three (3) years on this tax for any year shall forfeit all claim to old age pensions provided for herein.

All taxes collected under the provisions of this section and act shall be deposited to the credit of the old age pension fund, and shall be kept separate from the general fund of the state. On receipt of written order from the commission, the state comptroller shall draw warrants, and/or warrant checks against the old age pension fund for any and all old age assistance payments and other expenditures provided for in this act.

Sec. 35. For the purpose of affording old age assistance commencing November 1, 1934, under the provisions of this act prior to July 1, 1935, there is hereby levied on all persons pursuant to section 34, a tax of one dollar (\$1.00), payable on or before July 1, 1934. The Board of Assessment and Review is hereby directed to instruct the auditors of the several counties of the state to have the assessors submit lists of persons over twenty-one (21) years of age, subject to this tax in their respective districts and the said auditor to pass these lists on to the treasurer of such counties for collection.

Sec. 36. Each assessor shall at the time of listing property for assessment list and return to the county auditor on or before March 15, 1935, and each year thereafter, the names and post office addresses of all persons subject to the tax provided for in this act; and the county auditor shall certify said list to the county treasurer on or before April 1, 1935, and each year thereafter.

Sec. 37. Report of Commission. Within ninety (90) days after the close of each calendar year, the commission shall make a report to the governor for the preceding year, stating:

- (a) the total number of recipients;
- (b) the amount paid in cash;
- (c) the total number of applications;
- (d) the number granted;
- (e) the number denied;
- (f) the number canceled during that year; and
- (g) such other information as the commission may deem advisable.

Sec. 37-a. There shall be kept on file in the State Comptroller's office an itemized record of all receipts and disbursements showing the money received from each county and the assistance granted to each county. A summary of the said record shall be compiled and published at the end of the tax year.

Sec. 38. Procedure. All methods of procedure in hearings, investigations, recording, registration, and accounting, pertaining to old age assistance under this act, shall be in accordance with the rules and regulations as laid down, from time to time, by the commission.

Sec. 39. Assistance Subject to Future Statute. Every assistance granted under the provisions of this act shall be deemed to be granted

and shall be held subject to the provisions of any amending or repealing act that may hereafter be passed, and no recipient under this act shall have any claims for compensation, or otherwise, by reason of his assistance being affected in any way by such amending or repealing act.

Sec. 40. The sum of ten thousand dollars (\$10,000.00) or so much thereof as may be found necessary, is hereby appropriated to the commission, out of any funds not otherwise appropriated for the purpose of carrying out the provisions of this act.

Sec. 41. Construction of this Act.

1. Nothing in this act shall be construed as repealing any other act or part of an act providing for the support of the poor except insofar as inconsistent therewith, and the provisions of this act shall be construed as an additional method of supporting and providing for the aged poor.

2. This act shall be liberally construed.

3. If any provision of this act is held invalid, the validity of the remainder of the act shall not be affected thereby.

Sec. 42. This act being deemed of immediate importance shall be in full force and effect after its publication in the Mount Pleasant News, a newspaper published at Mount Pleasant, Iowa, and the Burlington Hawkeye Gazette, a newspaper published at Burlington, Iowa.

President of the Senate

Speaker of the House

I hereby certify that this Bill originated in the Senate and is known as Senate File No. 42, Forty-fifth General Assembly in extraordinary session.

Secretary of the Senate

Approved....., 1934.

Governor

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