

MAINE STATE LEGISLATURE

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

Legislative Document

No. 1158

I. B. 1 House of Representatives, April 17, 1941.
Bill substituted for the Report of the Committee on Judiciary.
HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-ONE

AN ACT to Provide a Police Commission for the City of Biddeford.

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

Sec. 1. P. & S. L., 1933, c. 66, § 27, as amended, amended. Section 27 of chapter 66 of the private and special laws of 1933, as amended, is hereby repealed and the following enacted :

‘Sec. 27. Board of police. The administration of the police department of the city of Biddeford shall be under the jurisdiction of a board of police consisting of three citizens of the city of Biddeford who shall constitute a board of police of said Biddeford and who shall be sworn before entering upon the duties of their office. Vacancies in said board shall be temporarily filled by the city council and the member so chosen to fill said vacancy shall hold office until the first day of January following and at the next annual municipal election occurring after said vacancy exists some citizen shall be elected to serve during the remainder of that term. The board shall annually elect one of their number chairman and one of their number clerk, who shall be sworn and shall keep a record of all proceedings, issue all notices, and attest all such papers and orders as the board directs.’

Sec. 2. P. & S. L., 1933, c. 66, § 28, as amended, amended. Section 28 of chapter 66 of the private and special laws of 1933, as amended, is hereby repealed and the following enacted :

'Sec. 28. Salaries and quarters of board of police. The salaries of the members of said board shall be voted annually by the city council of said city and paid quarterly from the treasury thereof, but the salary of any member of said board shall not be diminished during the term of office. Said board of police shall be provided with such rooms as shall be convenient and suitable for the performance of its duties by said city and at its expense. The said city shall provide all suitable accommodations for the police of said city as said board shall require. All rooms in all buildings and all property used by said police shall be under the control of said board of police.

All the expenses for the maintenance of said rooms and all incidental expenses incurred in the administration of said police and all materials and supplies therefor shall be submitted by said board of police, upon its requisition, to the finance committee of the city, who, after approval thereof, shall purchase such necessary materials and supplies as is provided for other departments of said city government. The number of police officers and their compensation shall be determined by the city council upon the advice of said board of police.'

Sec. 3. P. & S. L., 1933, c. 66, § 29, as amended, amended. Section 29 of chapter 66 of the private and special laws of 1933, as amended, is hereby repealed and the following enacted:

'Sec. 29. Fees and expenses of police officers. The fees of the chief of police, captain of police and all other police officers of said city in criminal cases prosecuted in the municipal court of the city of Biddeford, including their fees as witnesses, shall be taxed and allowed as in behalf of the sheriffs of the county of York, and 75% of the criminal costs and fees in said municipal court, exclusive of the fees of witnesses other than police officers, shall be paid annually by the treasurer of said county to the city of Biddeford, provided, however, that when said percentage exceeds the annual salary or compensation of the chief of police, and captain of police of said city, the excess amount shall not be paid to said city, but shall be paid into the treasury of said county of York. Police officers may retain for their own use all fees received by them in civil cases. Neither the chief of police, captain of police, nor any other police officer of said city shall receive from any respondent in any criminal case any money, fine or costs, but in all such cases fines and costs shall be paid to the magistrate issuing the precept against such respondent, but fees taxed and allowed to the officers for attendance as witnesses in any criminal case before the appellate court, or before any court held in some town other than the one in which such officers reside, shall be paid to them from the county treasury. The ex-

penses of any such officer necessarily and reasonably incurred and actually disbursed in the services of any criminal precept shall be allowed and paid to him by the treasurer of said county upon his filing an itemized account thereof, under oath, accompanied by proper vouchers thereof.'

Sec. 4. P. & S. L., 1933, c. 66, § 30, as amended, amended. Section 30 of chapter 66 of the private and special laws of 1933, as amended, is hereby repealed and the following enacted:

'Sec. 30. Report of board of police. Said board of police shall make a report of its doings annually to the city council at the close of the fiscal year.'

Sec. 5. Appointment of chief; officers; rules and regulations. Said board of police shall have authority to appoint, establish and organize the police force of said city, including the chief of police and captain of police, who shall be invested with all the powers and authority formerly bestowed by law upon the city marshal and deputy marshal. The members of said department shall be removable for cause. Said board shall have the authority to make all needful rules and regulations for the government, control and efficiency of the police department.

Sec. 6. Special officers. The board of police shall have authority to appoint from time to time special police officers for a limited time for special services.

Sec. 7. P. & S. L., 1933, c. 66, § 4, as amended, amended. Section 4 of chapter 66 of the private and special laws of 1933, as amended, is hereby repealed and the following enacted in place thereof:

'Sec. 4. City officials; elections; term of office; finances. With the exception of the administration of the department of education and the police department, as hereinafter provided, all the executive powers of said city, generally, with all the powers of the selectmen of towns within the state, shall be vested in the mayor and city council as fully as if the same had been particularly enumerated herein; on the 1st day of January of each year, or as soon thereafter as conveniently may be, the mayor shall nominate all necessary subordinate officers and agents for the city for the ensuing year, including 1 assessor whose term of office shall be for the period of 3 years, city solicitor, city auditor, city clerk, city treasurer, overseer of the poor, road commissioners for the several districts, 2 members of the finance committee, collector of taxes, health officer and such other necessary officers as is prescribed by the statutes of this state or the ordinances of the city, and which nominations shall be subject to the confirmation of the city council. All such officers so nominated and confirmed, after being duly

sworn, shall be the duly elected and qualified officers of the city of Biddeford. All principal and subordinate officers of the city (except assessors, members of board of education and members of the board of police, chief engineer and members of fire department) after the effective date of this act, shall hold their office only until the 1st day of January following. The members of board of assessors and board of education where terms of office have 1 year or more remaining, shall hold their respective offices accordingly until the 1st and 2nd anniversary respectively of a new city government. All vacancies created during the current year shall be filled as hereinbefore provided. All the subordinate officers and agents, with the exception of assessors, members of board of education and board of police, chief engineer and members of fire department, shall hold their offices during the ensuing year or during the pleasure of the mayor and city council, and until others shall be nominated, confirmed and qualified in their stead. All moneys received and collected for and on account of the city, by any officer or agent thereof, shall forthwith be paid into the city treasury. The city council shall take care that moneys shall not be paid from the treasury unless granted or appropriated; shall secure a prompt and just accountability, by requiring bonds with sufficient penalty and sureties from all persons trusted with the receipt, custody or disbursement of money; shall have the care and superintendence of city buildings and the custody and management of all city property, with power to let or sell what may be legally let or sold; and to authorize the purchase within the limits of any appropriation therefor, and take in the name of the city such real or personal property, not exceeding the sum of \$1,000,000, including the property now owned by the city, as they may think useful to the public interest. And the city council shall cause to be published for the information of the inhabitants, a particular account of receipts and expenditures, and a schedule of the city property; and no money shall be paid from the treasury unless the same be appropriated by the city council, and upon a warrant signed by the mayor, which warrant shall state the appropriation under which the same was drawn.'

Sec. 8. P. & S. L., 1933, c. 66, § 6, as amended, amended. Section 6 of chapter 66 of the private and special laws of 1933, as amended, is hereby repealed and the following enacted in place thereof:

'Sec. 6. Finance committee; budget; report. On the 1st day of January, annually, or as soon thereafter as conveniently possible, the mayor shall nominate a finance committee consisting of 2 members of the city council subject to the confirmation of the remaining members of said board and of which committee the mayor, city auditor and city treasurer shall be

members ex officio. It shall be the duty of the finance committee, on or before the 3rd Monday of January of each year, to report to the city council a budget of proposed expenditures of all the various departments of the city government, including the school department, fire department, police department, street department, pauper department, and all other principal or subordinate departments of the city, including a contingent fund. Such budget, with such modifications as shall be made by the city council, shall be the basis for the annual appropriations for the current municipal, financial and fiscal year. No department or officer of the city government shall have authority to contract any debt or liability for the city in excess of the appropriation made by the city council for the department sought to be charged, provided, however, that before the annual appropriations vote shall have been passed the city council may make appropriation for current departmental expenses chargeable to the appropriation, when passed, for the current fiscal or municipal year, to an amount sufficient to cover the necessary expenses of the various departments until said annual appropriation vote is in force. After the annual appropriations have been passed, no subsequent expenditures shall be authorized for any object unless provision for the same shall be made by a special transfer from the appropriation of another department, contingent fund or other source of income, or by expressly created therefor a city debt, but no debt shall be created unless the resolution authorizing the same is passed by the affirmative vote of 2/3 of the entire city council voting by yeas and nays. No department, official or agent of the city shall have any authority to contract any indebtedness against the city for supplies and materials, without first making requisition for such necessary supplies and materials to the finance committee of the said city and receiving its approval therefor, and any attempted indebtedness or contract incurred in contravention hereof shall be null and void ab initio as to the city. The city council shall not vote, assess or appropriate any money for any object or appropriate money, except for such purposes as are authorized by this act. Neither the city council nor any officer of the city shall have the authority to make any contract or do anything binding the city or imposing upon the city any liability to pay money, until a definite amount of money shall have been appropriated for the liquidation of all pecuniary liability under said contract, and the amount of said appropriation shall be the maximum limit of the liability of the city under any such contract; said contract to be, ab initio, null and void as to the city for any other or further liability.'

Sec. 9. P. & S. L., 1933, c. 66, § 16, as amended, amended. Section 16 of chapter 66 of the private and special laws of 1933, as amended, is hereby repealed and the following enacted in place thereof:

'Sec. 16. Elections. The mayor shall be elected from the citizens at large by the inhabitants of the city voting in their respective wards, and shall hold his office for 1 year from the 1st day of January following his election. 1 councilman shall be elected by each ward, being a resident in the ward where elected. 4 councilmen-at-large shall be elected from the citizens by the inhabitants of the city, but there shall be not more than 2 councilmen elected from any 1 ward. Said officers shall be elected by ballot by a plurality of the votes given, and they shall hold their office for 1 year from the 1st day of January following their election in December, and until others shall be elected and qualified in their stead. On the 3rd Monday of December following the passage and acceptance of this act, the qualified electors of each ward shall ballot for a warden and ward clerk, 1 councilman, (all inhabitants of the said ward), a mayor and 4 councilmen-at-large, 1 member of board of education and 1 member of board of police. On the 3rd Monday of each December, following the 1st election held hereunder, an election shall be held in all the wards of the city for the election of a mayor, 1 councilman from each ward, a member of the board of education, member of board of police, and 4 councilmen-at-large. Vacancies in the office of the mayor or city council may also be filled at a special election duly called by law therefor.'

Sec. 10. P. & S. L., 1933, c. 66, § 17, as amended, amended. Section 17 of chapter 66 of the private and special laws of 1933, as amended, is hereby repealed and the following enacted in place thereof:

'Sec. 17. Ward elections. On the 3rd Monday of December after the passage and acceptance of this act, the qualified electors of each ward shall ballot for a mayor, 4 councilmen-at-large from the city, and 1 councilman, (a resident of the ward), member of board of education, member of board of police, warden and ward clerk. All the votes given for the said several officers, respectively, shall be sorted, counted, declared, and registered in open ward meeting by causing the names of the persons voted for, and number of votes given to each, to be written on the ward records at length. The ward clerk, within 24 hours after such election, shall deliver to the city clerk a certified copy of the record of such election. Provided, however, that if the choice of any of such officers cannot be conveniently effected on that day, the meeting may be adjourned from day to day to complete such election. The persons receiving the highest number of votes for councilman of that particular ward, warden or clerk shall be declared elected; if no one shall then have such highest number, the balloting shall be continued from day to day, until a choice is thus effected. In balloting for mayor, member of the board of education, member of board of police and 4 council-

men-at-large, the persons receiving the highest number of votes given in all the wards shall be declared elected. On the 3rd Monday of December, annually, following the 1st election held hereunder, the qualified electors of each ward shall ballot for a mayor, member of the board of education, member board of police, 4 councilmen-at-large, warden and ward clerk, and councilman for that particular ward. The board of councilmen shall, as soon as conveniently may be, examine the copies of the records of the several wards, certified as aforesaid, and shall cause the persons who shall have been elected mayor, member of board of education, member board of police to be notified, in writing, of their election; but if it shall appear that no person shall have been elected or if the person elected shall refuse to accept the office further elections shall in the same manner be ordered, till a choice shall be made of some one having the highest number of votes; and in case of a vacancy in the office of mayor, by death, resignation or otherwise, shall be filled for the remainder of the term by a new election, in the manner provided for the choice of said officer; and in the meantime the president of the board of councilmen shall perform the duties of the mayor. The oath prescribed by this act shall be administered to the mayor by the city clerk, or any justice of the peace in said city. The councilmen elect shall, on the first day of January, at 10 of the clock in the forenoon, meet, when the oath required by the second section of the city charter shall be administered to the members present, by the mayor or any justice of the peace.'

Sec. 11. Former police department abolished. The chief of police, captain, policemen and all other officers of the police department of the city of Biddeford at the time of the passage of this act, shall continue in office with all powers and duties with which they are by law vested, until the reorganization of said police department as herein provided shall be perfected and the chief of police, captain and all other officers herein provided for shall have been appointed by the police commission elected by the citizens of the city of Biddeford. All said offices in said police department existing at the passage of this act are hereby abolished as and of the date of the appointment of the chief of police, captain and other officers provided for in this act.

Sec. 12. Election of commission. Within 10 days after the passage and acceptance of this act, the mayor and city council of the city of Biddeford shall issue warrants for the special election of the 3 members of the board of police, and said election shall be held in the manner provided by the city charter. 1 commissioner shall be elected to serve until the 1st day of January of the following year; a 2nd commissioner elected to serve until the

1st day of the 2nd January thereafter and a 3rd commissioner elected to serve until the 1st day of the 3rd January thereafter. 1 member of the board of police shall thereafter be elected at each regular election for a term of 3 years.

Sec. 13. Constitutionality. If any section, subsection, sentence, clause or phrase of this act is, for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act.

Sec. 14. Repealing clause. Chapter 110 of the private and special laws of 1939, is hereby specifically repealed, excepting section 18 thereof. All acts or parts of acts inconsistent herewith are hereby repealed.