

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

Legislative Document

No. 298

H. P. 559

House of Representatives, February 4, 1943.

Referred to Committee on Legal Affairs. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Cousins of Old Town.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-THREE

AN ACT Creating a Civil Service Commission for the City of Old Town.

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

Sec. 1. A civil service commission created. Forthwith after this act becomes a law, the city council of the city of Old Town shall elect at its next regular meeting by written ballot 3 resident citizens of the said city who shall constitute a civil service commission for the purpose of examination and appointment of all members of the police and fire departments within said city.

Said members shall be elected by the city council for the terms of 2, 4, and 6 years respectively. They shall qualify and serve as a civil service commission from the time of their election and qualification and shall receive no compensation for their services.

At the expiration of each of said terms a commissioner shall be appointed for a full term of 6 years. In case of any vacancy in the commission, the city council of Old Town shall elect by written ballot a member thereto for the balance of said unexpired term. All members of said commission shall hold office until their successors are elected and qualified.

Sec. 2. Qualifications. Each member of said commission shall qualify after his or her appointment as aforesaid by being sworn by the clerk of

the city of Old Town or by a justice of the peace to the faithful discharge of his or her duties. In the event that a member is qualified before a justice of the peace, a certificate thereof shall be forthwith filed with the city clerk by the justice of the peace.

Sec. 3. Powers and duties of the commission. The commission hereby created shall have full power and authority, subject to the provisions of this act to organize and establish the police force and fire department of the city of Old Town and to make all rules and regulations for the government, control and efficiency of the same. Said commission shall have and exercise all the powers and be charged with all the duties relative to the organization, appointment and control of said police department and fire department now conferred on or imposed upon the city council of the city of Old Town and such other powers as are given to them by the terms of this act. The commission with the approval of the city council may add to or reduce the number of men in either department.

Sec. 4. Organization of commission and of department. When the members of said commission shall have qualified they shall meet and elect the chairman and a clerk, and shall forthwith organize and establish the police force and the fire department as herein authorized. They shall forthwith choose in the manner hereinafter provided the chief of police and 3 patrolmen all of whom shall constitute the police department of the city of Old Town and they shall further choose in the manner hereinafter provided the chief of the fire department and 4 permanent men all of whom shall constitute the fire department of the city of Old Town except as to call men herein provided.

Sec. 5. Candidates for patrolmen and firemen, application, examination, etc. Candidates for appointment as patrolmen, and permanent firemen shall make application therefor to said commission upon blanks furnished by it. All such candidates and all candidates to fill any vacancies occurring in said departments or for any new places in said departments occasioned by an increase in the number thereof shall submit to such qualification tests as may be prescribed by said commission. The commission by such qualification tests shall inquire into the physical, mental and moral fitness of each applicant for appointment. They shall place upon an eligible list all successful applicants and appointments shall be made from men upon such eligible list. Each applicant shall remain upon said list for a period of 2 years from the date of his examination. The physical examination prescribed by the commission shall be conducted by a physician appointed

for the purpose by it and the fee for such physical examination shall be paid by the applicant in advance.

Sec. 6. Eligibility; preference given to former police officers and firemen; retirement. All male citizens of the city of Old Town between the ages of 24 and 40 who have resided for 2 years in the city of Old Town shall be eligible to appointment as patrolmen in the police department and permanent firemen in the fire department, provided they shall have made written application therefor and shall have satisfactorily passed the qualification tests prescribed by said commission, provided further however, that any police officer including the chief of police of the city of Old Town, the chief of the fire department and the 4 permanent men in the fire department serving at the time of the effective date of this act shall be appointed and hold the same rating held by them at the time of the effective date of this act without any examination or tests. Each police officer including the chief of police, the chief of the fire department and the 4 permanent men shall be appointed to serve until he has reached the age of 65 years at which time he may, upon petition to and permission from the commission, be retired unless previously removed by said commission as hereinafter authorized or becomes physically or mentally disabled from performing his duties before reaching the age of 65 years. All those retired on account of permanent disability in line of duty before reaching the age of 65 years shall also be paid retirement pay as hereinafter provided. Call men in the fire department shall be retired on reaching the age of 60 years.

Sec. 7. Authority of officers. The chief of police and patrolmen shall have and exercise within the limits of the city of Old Town all the common law and the statutory powers of constables, except service of civil process, and all powers given to police officers by the statutes of the state, the ordinances, by-laws and regulations of the city of Old Town and such special powers as may be conferred upon them by the commission under the authority of this act. The chief of the fire department, permanent men, and call men shall have all the powers given to them by the statutes of the state, the ordinances, by-laws and regulations of the city of Old Town and such special powers as may be conferred upon them by the commission under the authority of this act.

Sec. 8. Chief of department, how chosen, powers and duties. The chief of police and chief of fire department shall be chosen by the commission by a written ballot to serve until retirement age or otherwise retired or removed as provided by this act. He shall qualify by being sworn by the

clerk of the city of Old Town or by a justice of the peace to the faithful discharge of his duties and in event that he qualifies before a justice of the peace a certificate thereof shall be forthwith filed with said clerk of the city of Old Town. He shall have and exercise all the powers and authority in his respective department now given to the city marshal and chief of the fire department by the by-laws and ordinances of the said city of Old Town and by the general statutes of the state and such special powers and authority as may from time to time be delegated to him by the commission.

Sec. 9. Special patrolmen; compensation and appointment. Special patrolmen (with pay) shall be appointed by the chief of police from a list furnished to him by the commission, for a period of 1 year and such special patrolmen shall receive wages set by the city council for each day actually worked to be paid by the treasurer of the city of Old Town upon approval by the chief of police. Special patrolmen (without pay) may be appointed by the chief of police for a period of not more than 1 year for private duty. Call men shall be appointed by the chief of the fire department from a list furnished to him by the commission, for a period of 1 year and such call men shall receive wages set by the city council for each year worked to be paid by the treasurer of the city of Old Town upon approval by the chief of the fire department. The number of call men will be set by the city council.

Sec. 10. Removal of chief of police and chief of the fire department; vacancies, how filled. The chief of police and the chief of the fire department may be removed by the commission for cause. He shall upon request be furnished with a written copy of the charges against him and shall be given a public hearing. Such hearing shall be held within 10 days upon charges made by said commission or upon written charges being filed with said commission by 5 or more citizens of the city of Old Town. In the event of the removal of the chief of police as herein provided, or in the event of his incapacity through illness or otherwise, to perform his duties of his office, a patrolman designated by the commission shall assume the duties of the chief of police until his successor shall be elected by said commission and he shall have qualified as herein provided. In the event of the removal of the chief of the fire department as herein provided or in the event of his incapacity through illness or otherwise, to perform the duties of his office, a fireman shall assume the duties of the chief of the fire department until his successor shall be elected by said commission and he shall have qualified as herein provided. If as the result of the hearing mentioned in this section the chief of police or the chief of the fire department are removed he shall be notified of his removal by the commission within

10 days from the date of hearing provided however that the chief of police or the chief of the fire department, if removed, may enter his appeal to the superior court in equity for the county of Penobscot next to be held in said county after the date of his removal by filing with the clerk of courts a copy of the charges against him, a copy of the notice of removal with a sheriff's return showing that he has served on the commission the notice of his appeal, and the court on hearing shall suspend, remove or reinstate him.

Sec. 11. Misconduct of patrolmen in police department, and permanent men in fire department; proceedings. Patrolmen in the police department and permanent men in the fire department when guilty of irregular conduct on complaint of the chief of their respective departments to the commission or upon a written complaint signed by any 5 citizens of the city of Old Town or upon charges filed by the commission itself except that the chief of the respective departments may suspend any person in their departments for misbehavior or neglect of duty for a period not exceeding 1 week without preferring charges to the commission, for each offense. In all cases patrolmen and permanent firemen when notified of said charges shall be entitled to a copy thereof and to a public hearing at such time and place as the commission shall designate and on findings of the commission may suspend or remove any patrolmen or permanent men provided however that any patrolmen or permanent men so removed or suspended for a period longer than 30 days may file an appeal to the superior court for the county of Penobscot next to be held in said county after the date of his removal by filing with the clerk of courts a copy of the charges and the notice of removal, or suspension with a sheriff's return showing that he has served on the commissioners a notice of his appeal, and the court on hearing shall suspend, remove or reinstate him.

Sec. 12. Compensation. The salaries of the chief of police, patrolmen, special patrolmen and the permanent firemen shall be such amount as shall be allotted to them by the city council and shall be payable weekly to them by the treasurer of the city of Old Town. The salaries of the fire chief and call men shall be such amount as shall be allotted to them by the city council and shall be payable semi-annually to them by the treasurer of the city of Old Town. The chief of police and the chief of the fire department shall be entitled to 2 weeks vacation in each calendar year (with pay) the same to be taken when and as they may desire. The patrolmen in the police department and the permanent men in the fire department shall be entitled to a vacation of 2 weeks in each calendar year (with pay) at such time as prescribed by the chief of the respective departments.

Sec. 13. Other official positions and political activities incompatible. No persons holding office authorized by this act shall hold any other public office or take any active part in politics. Any violation shall be considered cause for removal.

Sec. 14. Former department abolished; certain statutes repealed. The chief of police and patrolmen of the police department, the chief of the fire department and permanent men of the fire department of the city of Old Town at the time of the effective date of this act shall continue in their respective office with all the powers and duties which they are by law vested, until the reorganization of the respective departments as herein provided shall be protected and the chief of police and patrolmen of the police department and the chief and permanent men of the fire department shall have been appointed under this act. All of said offices in said departments existing on the effective date of this act are hereby abolished as and of the date of appointment of the chief and patrolmen of the police department, the chief, permanent men and call men of the fire department.

Sec. 15. Retirement pay. The chief of police and every police officer, except special patrolmen in the police department, the chief, permanent men in the fire department on retirement on account of age or permanent disability received in the line of duty shall receive weekly retirement pay 50% of his regular weekly salary based on the average annual compensation of the last 10 years of service prior to retirement, the same to be paid by the treasurer of the city of Old Town; unless another retirement plan be provided by the city council of Old Town for the police and fire departments, and the city council of Old Town is hereby authorized and empowered to provide by proper order or ordinance such retirement plans.

Sec. 16. Amending clause. All by-laws, ordinances, and rules and regulations of the city of Old Town and all acts or parts of acts of the legislature inconsistent with the provisions of this act are hereby repealed or amended to conform with the provisions of this act.