

# MAINE STATE LEGISLATURE

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*Maine*  
REVISED STATUTES  
1964

*Prepared Under the Supervision  
of the  
Committee on Revision of Statutes*

Being the Tenth Revision of the  
Revised Statutes of the State  
of Maine, 1964

Volume 5  
Titles 26 to 32



Boston, Mass.  
Boston Law Book Co.

Orford, N. H.  
Equity Publishing Corporation

St. Paul, Minn.  
West Publishing Co.

**Text of Revised Statutes**  
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CHAPTER 213

TOWN OFFICIALS

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SUBCHAPTER I

GENERAL PROVISIONS

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**§ 2251. Conflicts of interest**

Certain proceedings of municipalities and municipal officials are void and actionable according to the following provisions:

**1. Where vote decisive.** Where it would be decisive, the vote by any official of a municipality in his official position on any question in which he has a direct or an indirect pecuniary interest is void.

**2. Contracts.** A contract, other than a contract obtained through properly advertised bid procedures, made by a city during the term of a city official who has a direct or an indirect pecuniary interest in it is void.

1963, c. 185.

**3. Restrain proceedings.** The Superior Court may restrain proceedings in a municipality in violation of this section on the application of at least 10 taxable residents. (1961, c. 317, § 244.)

R.S.1954, c. 91, §§ 80-82; 1957, c. 405, § 1; 1961, c. 317, § 244; 1963, c. 185.

**§ 2252. Title to municipal office**

A person who claims to have been elected to any municipal office may proceed against another who claims title to the office within 15 days after election day by following the procedure outlined in Title 21, section 1212.

1961, c. 360, § 14.

**§ 2253. Vacancy in municipal office**

A vacancy in a municipal office may occur by the following means: Nonacceptance, resignation, death, removal, permanent disability or incompetency, failure to qualify for the office within 10 days after written demand by the municipal officers or failure of the municipality to elect a person to office.

**1. Vacancy in office other than selectman, assessor or school committee.** When there is a vacancy in a town office other than that of selectman, assessor or school committee, the selectmen may appoint a qualified person to fill the vacancy.

**2. Vacancy in office of selectman or assessor.** When there is a vacancy in the office of selectman or assessor, the selectmen may call a town meeting to elect a qualified person to fill the vacancy.

**3. Person appointed qualifies.** The person appointed to fill a vacant office must qualify in the same manner as one chosen in the regular course of municipal activity.

R.S.1954, c. 91, §§ 22, 40, 41; 1957, c. 405, § 1.

**§ 2254. Neglect of official duty**

A municipal official who neglects or refuses to perform a duty of office shall be punished by a fine of not more than \$100 for each offense, when no other penalty is provided. The fine shall be recovered on complaint to the use of the municipality.

R.S.1954, c. 91, § 43; 1957, c. 405, § 1.

**§ 2255. Deputy officials**

The treasurer, clerk and collector of a municipality may each appoint in writing a qualified person as his deputy.

**1. Sworn and oath recorded.** Before assuming the duties of office, the deputy shall be sworn and the fact of his oath recorded as provided in section 2060, subsection 9.

**2. Term; duties.** The deputy shall serve at the will of the appointing official. He may perform any of the duties of office prescribed by the appointing official.

**3. Bond liability.** The appointing official and the surety on his bond are liable for all acts and omissions of his deputy.

**4. Absence.** If the clerk fails to do so, the municipal officers may appoint a deputy clerk to act during his absence.

R.S.1954, c. 91, §§ 26, 32; 1957, c. 405, § 1.

## SUBCHAPTER II

### TOWN MANAGERS

Sec.

2301. Town manager form of government.

2302. Manager's powers and duties.

2303. Union of towns.

#### § 2301. Town manager form of government

A town may adopt the town manager form of government at a meeting held at least 60 days before the annual meeting.

**1. Offices, manager to hold.** The selectmen shall determine which offices the manager is to hold.

**A.** A manager may not be a moderator, selectman, assessor or member of the school committee.

**B.** The selectmen shall appoint the manager annually to each office.

1963, c. 202.

**2. Duration of form of government.** Once adopted, the town manager form of government remains in effect until revoked at a meeting held at least 60 days before the annual meeting.

1963, c. 202.

**3. Compensation of manager.** The selectmen shall fix the compensation of the manager.

1963, c. 202.

**4. Removal of manager.** The manager may be removed for cause by the selectmen.

**A.** The selectmen shall file with the town clerk a written preliminary resolution setting forth the specific reasons for

the proposed removal, a copy of which shall be delivered to the manager within 10 days of filing.

**B.** The manager may within 20 days of receiving the resolution reply in writing and may request a public hearing.

**C.** Upon request for a public hearing the selectmen shall hold one not earlier than 10 days after the request is filed nor later than 30 days.

**D.** After the public hearing, or at the expiration of the time permitted the manager to request the public hearing, if no such request is made, the selectmen may adopt or reject the resolution of removal.

**E.** The selectmen may suspend the manager from duty in the preliminary resolution, but in no event shall the manager's salary be affected until the final resolution of removal has been adopted. (1963, c. 202.)

R.S.1954, c. 91, §§ 16-19; 1957, c. 405, § 1; 1963, c. 202.

## § 2302. Manager's powers and duties

The manager, as administrative head of the town government, is responsible to the selectmen for the administration of all departments over which selectmen have control.

**1. Powers and duties.** Where not otherwise provided, his powers and duties are as follows:

**A.** To see that the law is enforced.

**B.** To exercise control over all departments and divisions in the town except the board of selectmen, assessors, school committee and election officials.

**C.** The selectmen shall designate the offices for which the manager is responsible. The manager shall appoint qualified persons to such offices who shall be responsible to the manager and serve at his pleasure.

**D.** To act as purchasing agent for all departments except the school department.

(1) The selectmen may require purchases involving more than \$100 to be submitted to bid.

**E.** To attend the meetings of the selectmen, except when his removal is being considered, and to make recommendations for the more efficient operation of the town government.

**F.** To keep the selectmen and residents of the town informed as to its financial condition.

R.S.1954, c. 91, § 18; 1957, c. 405, § 1; 1963, c. 202.

### **§ 2303. Union of towns**

A town may join a union of other contributing towns for the purpose of employing a manager.

**1. Selection of manager.** In a town union, the joint board of selectmen from each town may select the manager and may remove him for cause.

**A.** In a joint board, the selectmen of each town shall cast collectively a single vote.

**2. Compensation of manager.** The selectmen of each town shall determine the amount to be paid to the manager by their town.

**3. Withdrawal from union.** A town may vote to withdraw from the union at a meeting held at least 90 days before the annual meeting.

**A.** After the meeting, the clerk shall send forthwith a written notice to the selectmen of the other towns in the union advising them of the vote to withdraw.

**B.** The withdrawal becomes effective at the end of the municipal year in which the action is taken.

R.S.1954, c. 91, §§ 16-19; 1957, c. 405, § 1.

## **SUBCHAPTER III**

### **TOWN CLERKS**

Sec.

2351. Bond.

2352. Fee schedule.

2353. Expenses.

2354. Assistant.

### **§ 2351. Bond**

A municipality may require its clerk to be bonded according to section 5001, before assuming the duties of office.

R.S.1954, c. 91, § 27; 1957, c. 405, § 1.

**§ 2352. Fee schedule**

Except as provided in Title 11, the clerk shall charge for his services according to the following fee schedule:

- 1. Recording; general.** Recording the following:
  - A.** Administration of an oath, 50¢.
    - (1) This shall be paid by the municipality.
  - B.** A birth, marriage or death as required by Title 22, sections 2702, 2703, 2763 and 2802, 25¢.
    - (1) This shall be paid by the municipality.
  - C.** An out-of-state marriage as provided by Title 19, section 64, \$1.
    - (1) This shall be paid by the municipality.
  - D.** Affidavit establishing or correcting a record of birth, marriage or death as provided by Title 22, sections 2705 and 2764, \$1.
    - (1) The clerk shall issue a copy of the record to the applicant.
  - E.** Affidavit legitimating a birth as provided by Title 22, section 2765, \$1.
    - (1) The clerk shall issue a copy of the amended birth record to the applicant.
  - F.** Release of an attachment, 50¢.
  - G.** Certificate of partnership, \$1.
  - H.** Certificate of withdrawal of a partner, \$1.
  - I.** Certificate of a person engaging in trade under a name, style or designation other than his own, \$1.
  - J.** Honorable discharge or release papers of veterans of the Armed Forces of the United States of America, 25¢.
    - (1) A copy of such a document attested by the clerk is prima facie evidence of its existence and validity.
  - K.** Petition for enforcement of a lien on monumental works, 50¢.
  - L.** License for clam cultivation or an assignment of it, 50¢.
  - M.** Any other instrument entitled to be recorded, including an executed assignment attached to or made a part of it before it is received for recording, \$1.50 for the first 500 words,

and 50¢ for each additional 100 words or part thereof. In a municipality which records by photostat or microfilm the fee is \$1 each for the first 5 pages and 50¢ each for each succeeding page.

(1) If the clerk is furnished a true copy of the original instrument suitable for filing in a municipality which does not photostat or microfilm, the fee is \$1.

(2) The acts of any municipality in recording any instrument by microfilm prior to September 21, 1963 are hereby ratified, confirmed and made effective.

1955, c. 307; 1957, c. 166; 1961, c. 37; 1963, c. 173, § 1; c. 362, § 23.

**2. Marriage intentions and license.** Recording marriage intentions and issuing a marriage license, \$2.

**3. Birth, marriage or death certificates.** Issuing the following:

**A.** Certificate of birth, marriage or death, \$1.

**B.** Burial permit, 50¢.

1957, c. 166.

**4. Marginal release.** Entering in the margin of a record the release of an attachment, 25¢.

**A.** The marginal release shall be signed by the person making it.

1963, c. 362, § 24.

A municipality may provide for a salary to be paid to the clerk as full compensation, in which case the fees accrue to the municipality.

R.S.1954, c. 91, §§ 25, 28; 1955, c. 307; 1957, c. 166; c. 298, § 11; c. 405, §§ 1, 21; 1961, c. 37; 1963, c. 173, § 1; c. 362, §§ 22-24.

### § 2353. Expenses

Each municipality shall pay the reasonable expenses of its clerk and deputy clerk incurred in attending the annual meetings of the Maine Municipal Association and the Maine Town and City Clerks' Association.

R.S.1954, c. 91, § 29; 1957, c. 405, § 1.

**§ 2354. Assistant**

The clerk may appoint in writing one or more assistants who may act as clerk only for the purpose of recording documents and issuing certified copies of the records in his office.

**1. Sworn and oath recorded.** Before assuming the duties of office, an assistant clerk shall be sworn and the fact of his oath recorded as provided in section 2060, subsection 9.

**2. Term.** The assistant clerk shall serve at the will of the clerk.

**3. Bond liability.** The clerk and the surety on his bond are liable for all acts and omissions of his assistant.

R.S.1954, c. 91, § 26; 1957, c. 405, § 1.

## SUBCHAPTER IV

## CONSTABLES AND POLICE OFFICERS

Sec.

2401. Appointment and powers of police officers.

2402. Extent of criminal authority.

2403. Misconduct.

2404. Fees.

**§ 2401. Appointment and powers of police officers**

The municipal officers may appoint for not more than one year, remove, control and fix the compensation of police officers, when the municipality has not provided otherwise under section 2152, subsection 2.

**1. Power.** A police officer has all the power of a constable in criminal matters within the limits of the municipality.

R.S.1954, c. 91, §§ 71, 72; 1957, c. 405, § 1.

**§ 2402. Extent of criminal authority**

Except for the purpose of retaking a prisoner whom he has arrested and who has escaped, or for the purpose of taking a person before the District Court, or for the purpose of executing a mittimus given to him by such a court, or for the purpose of pursuing a person who has gone into another town and for whose arrest a constable or a city marshal has a warrant, no constable of

the several towns or city marshal of the several cities shall have any authority in criminal matters beyond the limits of the town or city in which he is elected or chosen.

R.S.1954, c. 89, § 199; 1963, c. 402, § 114.

**§ 2403. Misconduct**

Persons injured by the neglect or misdoings of a constable have the same remedy by preliminary action, and action on his bond, as in case of a sheriff's bond.

R.S.1954, c. 89, § 209.

**§ 2404. Fees**

For services which may be performed either by a deputy sheriff or a constable, the constable is allowed the same fees as a deputy sheriff, unless otherwise provided.

R.S.1954, c. 89, § 208.