

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 681

H. P. 478

House of Representatives, January 24, 1963

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

HARVEY R. PEASE, Clerk

Presented by Mr. Dennett of Kittery.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT to Provide for a Civil Service Commission for Town of Kittery.

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

Sec. 1. Civil Service Commission. A Civil Service Commission, consisting of 3 residents of the Town of Kittery, shall be appointed by the selectmen of the Town of Kittery as soon as convenient after this act shall become effective, all of whom shall serve without pay. The members of the Civil Service Commission shall hold no other elective or appointive town office. Members shall serve for a term of 3 years, except that at the first appointments under this act, one shall be appointed for one year, one for 2 years and one for 3 years, and thereafter one member shall be appointed at the first meeting of the board of selectmen following the annual town meeting. The commission shall annually elect one of their number chairman and one of their number clerk. Each member shall qualify after appointment by being sworn by the town clerk of said town to the faithful discharge of his duties.

Sec. 2. Powers and duties of commission. The commission shall supervise and control the selection for appointment and promotion, lay-off, reinstatement, suspension and removal of the members of the police department, and chief of the police department. The commission shall examine all applicants for appointment as chief of the police department and police. The commission is empowered to adopt and promulgate reasonable standards, establishing preferences based upon years of continuous service in the department, and these preferences may be considered with regard to the appointments to be made as provided in section 3.

Sec. 3. Appointment of the chief of police. All appointments to the office of chief of police shall be made by elevating the assistant chief to this office, pro-

vided he has completed 10 years or more of satisfactory service as a regular in the department. Appointments to assistant chief shall be made by the commission from an eligibility list made up after the examination of applicants. Appointments to the office of chief of police shall be during good behavior and may terminate when the appointee shall have attained his 65th birthday.

Sec. 4. Departmental appointments. All appointments to the police department, except the chief and assistant chief of the police department, shall be made by the chief of the department, subject to the approval of the commission, from the eligible list prepared by the Civil Service Commission. At the request of the appointing officer, the commission shall submit 3 names for one vacancy; 4 names for 2 vacancies; 5 names for 3 vacancies; 6 names for 4 vacancies; and 7 names for 5 vacancies; provided that if there be an insufficient number of candidates on the eligible list, the commission shall present the names of such candidates as it has available. Appointments to the department shall be for a probationary period of 12 months, after which time appointees shall be confirmed or rejected by the commission. All appointments as regular members of the police department shall be made from those who have been so examined.

Sec. 5. Applications. Applications shall be made under oath and on blank forms prescribed by the commission and shall be accompanied by certification or other satisfactory evidence as to character, health and physical conditions, as the commission may require. Applications shall be filed in the office of the town clerk. The town clerk shall forward to the chairman of the civil service commission all applications filed. No applicant will be examined, unless the application has been filed, together with such physical examination report as the commission may require, at least 10 days prior to the date of any examination. Any person who has taken an examination may make new application for the same service, and his status shall be determined by the result of the last examination taken. The applications shall expire at the end of 2 years from the date of the last examination.

Sec. 6. Promotions. Promotion from one grade to another in the police department, except assistant chief, shall be made by the chief of the department, subject to the provisions of section 4, but no person shall be eligible for promotion until he shall have served at least 12 months in the lower grade.

Sec. 7. Demotion, suspension and removal. Any member of the police department may be demoted, suspended or removed for just cause and for reasons specifically given in writing to such members within 24 hours of his demotion, suspension or removal. Sickness or other physical incapacity of sufficient severity to permanently render any member of the department unfit to ever adequately perform the duties of his office shall be considered as a cause for removal, but in every case such member shall be entitled to an honorable discharge. The demotion, suspension or removal of the chief or the assistant chief of the department shall be by the commission. A copy of the action taken, with the reasons therefor, shall be forwarded to these officers by the commission. These officers shall have the right of appeal within 5 days to the civil service commission, who shall grant a hearing within 15 days from the date of appeal, and the accused shall have the right of representation by counsel. Any member may request a public hearing on his discharge, suspension or demotion. Any member aggrieved

by any ruling of the commission shall have the right to appeal the same to a Justice of the Superior Court, by petition filed with said justice within 10 days after notification of the ruling of the commission, and said petition may be heard in term time or vacation. Such justice shall fix the time and place of hearing upon said petition and cause notice thereof to be given to the commission. After such hearing, the justice may affirm, modify or reverse the decision of the commission and shall remand the case to the commission for execution in accordance with the court decree. Demotion, suspension or removal of any other member of the department shall be by the chief, subject to approval by the commission. The accused member shall have the right to appeal as in the case of the chief or assistant chief. Charges may be preferred against any member of the department by the commission or upon written charges filed with the commission signed by 10 or more citizens of the Town of Kittery, and the party complained of shall be furnished with a written copy of said charges by the commission. The commission may, in the event that it deems any charges made are frivolous and without justification, recommend to the governing body of the town the payment of reasonable counsel and witness fees incurred by any member of the department in the defense of such frivolous and unjustified charges.

Sec. 8. Emergency appointments. Emergency appointments may be made at any time by the chief of the department whenever the chief of the department shall determine that an emergency exists. All appointments made under this provision shall be for the period of the emergency only, and the commission shall have the right to determine when the emergency has ended.

Sec. 10. Tenure of office. Every member of the department, whose position falls within the requirements of civil service as herein provided, shall have tenure of office which shall continue during good behavior until he attains the age of 65 years, subject only to the right of removal for cause as hereinbefore provided.

Sec. 11. Retirement. Every member of the department, whose position is subject to civil service under the foregoing provisions of this act, may retire from service in the department when he attains the age of 62 years.

Sec. 12. Meetings of the commission. The commission shall meet on call of the chairman at the municipal building.

Sec. 13. Compensation. The compensation of the members of the police department shall be fixed by the voters of said town.

Sec. 14. Exemption of present members. All members of the police department of the Town of Kittery at the time this act becomes effective shall be continued in office and shall be exempt from the provisions of this act with respect to examination and qualifying age restrictions.

Sec. 15. Order of dismissal. In the event of a reduction of the police department, the latest to be appointed shall be the first to be removed, and shall be given preference, if still on the eligible list, in filling the first vacancy.

Sec. 16. Inconsistent acts repealed. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Sec. 17. Constitutionality. If any portion of this act shall be held to be unconstitutional, such decision shall not affect the validity of the remaining portions thereof.

Sec. 18. Reservation of legislative control. No rights shall vest under this act which shall not forever remain subject to amendment, extension or revocation by the Legislature.

Referendum; effective date; certificate to Secretary of State. This act shall take effect 90 days after the adjournment of the Legislature, only for the purpose of permitting its submission to the qualified voters of the Town of Kittery at the next annual municipal election. The town clerk shall prepare the required ballots on which he shall reduce the subject matter of this act to the following question: "Shall the act to provide for a Civil Service Commission for the Town of Kittery, passed by the 101st Legislature, be accepted?" The voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same. This act shall take effect for all purposes hereof immediately upon its acceptance by a majority of the legal voters voting at said election.

The result of said vote shall be declared by the municipal officers of the Town of Kittery and due certificate thereof shall be filed by the town clerk with the Secretary of State.