

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 364

H. P. 282

House of Representatives, January 20, 1965

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

JEROME G. PLANTE, Clerk

Presented by Mr. Bussiere of Lewiston.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-FIVE

**RESOLVE, Proposing an Amendment to the Constitution to Provide for
Municipal Home Rule.**

Constitutional amendment. Resolved: Two-thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of this State be proposed:

Constitution, Article VIII-A, additional. The Constitution is amended by adding a new Article VIII-A, to read as follows:

'ARTICLE VIII-A.

Municipal Home Rule

Section 1. General legislation. The Legislature may act in relation to municipal corporations only by laws which are general in terms and effect.

Section 2. Incorporation and corporate changes. The Legislature shall provide by law, general in terms and effect, for the incorporation and government of municipal corporations and the methods by which municipal boundaries may be altered, municipal corporations may be merged or consolidated and municipal corporations may be dissolved. The Legislature shall, by such law, facilitate the extension of municipal boundaries to the end that municipal territory may readily be made to conform to the actual urban area.

Section 3. Classification; optional plans of government. The Legislature may classify municipal corporations by grouping them into not more than four classes based upon population to be determined by the most recent census made under the authority of the United States or of this State. No other classification may be made but the Legislature may, from time to time, change the grouping within

the maximum limitation of four groups. Legislation in relation to municipal corporations in any class shall apply alike to all municipal corporations in that class. No class shall include less than two, or whatever minimum a particular state prefers, municipal corporations at the time it is established. Classification legislation shall provide for transition from class to class in keeping with population changes.

The Legislature may, by a law applicable to all classes of municipal corporations or to a particular class, provide optional plans of municipal organization and government, under which an authorized optional plan may be adopted or abandoned by majority vote of the qualified voters of a municipal corporation voting thereon.

Section 4. Home rule charter making. The qualified voters of any municipal corporation are granted power to adopt a home rule charter of government and to amend or repeal the same. The adoption of a charter or the amendment or repeal of a charter shall be proposed either by a resolution of the legislative body of a municipal corporation or by a charter commission of not less than seven members, elected by the qualified voters of the municipal corporation from their membership at large, pursuant to petition for such an election bearing the signatures of at least 20% of the qualified voters of the municipal corporation and filed with the clerk or other chief recording officer of the legislative body of the municipal corporation. The charter commission candidates in a number equal to the number to be elected, who receive the most votes, shall constitute the commission. On the death, resignation or inability of any member of a charter commission to serve, the remaining members shall elect a successor. The commission shall have authority to propose the adoption of a charter, amendment of a charter or particular part or parts of a charter, or repeal of a charter, or any of these actions as specified in the petition.

The Legislature shall provide by statute for procedure, not inconsistent with the provisions of this section, necessary to effectuate this section, and may provide by statute for a number of charter commission members in excess of seven on the basis of population. In the absence of such legislation the legislative body of a municipal corporation in which the adoption, amendment or repeal of a charter is proposed shall provide by ordinance or resolution for that procedure and the number of charter commission members shall be seven. The legislative body may, if it defaults in the exercise of this authority, be compelled, by judicial mandate and at the instance of at least ten signers of a sufficient petition filed under this section, to exercise such authority.

All expenses of elections conducted under this section and all necessary or proper expenses of a charter commission shall be paid by the municipal corporation.

Section 5. Submission to electors of separate or alternative charter provisions. Any part of a proposed home rule charter may be submitted for separate vote.

Alternative sections or articles of a proposed home rule charter may be submitted and the section or article receiving the larger vote shall, in each instance, prevail if a charter is adopted.

In the case of proposed charter amendments there may likewise be separate or alternative submission.

Section 6. Home rule charter powers. A municipal corporation which adopts a home rule charter may exercise any power or perform any function which the Legislature has power to devolve upon a nonhome rule charter municipal corporation and which is not denied to that municipal corporation by its home rule charter, is not denied to all home rule charter municipal corporations by statute and is within such limitations as may be established by statute. This devolution of power does not include the power to enact private or civil law governing civil relationships except as an incident to an exercise of an independent municipal power, nor does it include power to define and provide for the punishment of a felony.

A home rule charter municipal corporation shall, in addition to its home rule powers and except as otherwise provided in its charter, have all the powers conferred by general law upon municipal corporations of its population class.

Charter provisions with respect to municipal executive, legislative and administrative structure, organization, personnel and procedure are of superior authority to statute, subject to the requirement that the members of a municipal legislative body be chosen by popular election, and except as to judicial review of administrative proceedings, which shall be subject to the superior authority of statute.

Section 7. Provision for transition in event of charter repeal. A municipal legislative body or charter commission which proposes the termination of home rule charter status by repeal of a home rule charter shall incorporate in the proposition to be submitted to the qualified voters a specification of the form of government under which the municipal corporation would thereafter operate in the event of repeal, whether it be a form prescribed by general law for municipalities of its population class or one of such optional forms as may have been authorized by general law for municipalities of its population class. A municipal legislative body or charter commission proposing charter repeal shall also, by resolution of that body, determine when the transition to the new form of government would take place in the event of repeal and make such other provision, as may be appropriate, to effect an orderly transition from home rule charter to nonhome rule charter status.

Section 8. Publication of proposed charter, charter amendment or repeal proposition and resolution. At least thirty days before an election thereon, notice shall be given by publication in a newspaper of general circulation within the municipal corporation that copies of a proposed charter, charter amendment or repeal proposition and resolution are on file in the office of the clerk or other chief recording officer of the legislative body of the municipal corporation and that a copy will be furnished by him to any qualified voter or taxpayer of the municipal corporation upon request.

Section 9. Only one charter commission in two years. The qualified voters of a municipal corporation may not elect a charter commission more often than once in two years.

Section 10. Legislation increasing municipal financial burdens. State legislation requiring increased municipal expenditures may not become effective in a municipal corporation until approved by ordinance enacted by the legislative body of the municipal corporation, unless the legislation is enacted by two-thirds vote of all the members elected to each House of the Legislature or funds sufficient to meet the increased municipal expenditure are granted to the municipal corporation by that legislation or separate legislation enacted at the same session of the Legislature.'

Form of question and date when amendment shall be voted upon. Resolved: That the aldermen of cities, the selectmen of towns and the assessors of the several plantations of this State are empowered and directed to notify the inhabitants of their respective cities, towns and plantations to meet in the manner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of Senators and Representatives at the next general election in the month of November or special state-wide election on the Tuesday following the first Monday of November following the passage of this resolve to give in their votes upon the amendment proposed in the foregoing resolution, and the question shall be:

“Shall the Constitution be amended as proposed by a resolution of the Legislature to Provide for Municipal Home Rule?”

The inhabitants of said cities, towns and plantations shall vote by ballot on said question, and shall indicate by a cross or check mark placed against the words “Yes” or “No” their opinion of the same. The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the office of the Secretary of State in the same manner as votes for Governor and Members of the Legislature, and the Governor and Council shall count the same, and if it shall appear that a majority of the inhabitants voting on the question are in favor of the amendment, the Governor shall forthwith make known the fact by his proclamation, and the amendment shall thereupon, as of the date of said proclamation, become a part of the Constitution.

Secretary of State shall prepare ballots. Resolved: That the Secretary of State shall prepare and furnish to the several cities, towns and plantations ballots and blank returns in conformity with the foregoing resolve, accompanied by a copy thereof.