

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 1218

S. P. 353

In Senate, March 5, 1969

Referred to Committee on State Government. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Stuart of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Revising County Government.

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

Sec. 1. R. S., T. 30, c. 1, sub-c. I-A, additional. Chapter 1 of Title 30 of the Revised Statutes is amended by adding a new subchapter I-A, to read as follows:

SUBCHAPTER I-A
GOVERNMENT

§ 10. Governing body; executive

Each of the several counties shall be governed by a legislative body known as the county council and an executive, who shall have duties and powers necessary to their execution as set forth in this subchapter.

§ 11. County council

1. Election; terms; districts. The county council for each county shall have as many members as there are members of the House of Representatives from the county. The members of the county council shall be elected for terms of 2 years in the same manner and from the same districts as are the members of the House of Representatives, except that in counties having less than 7 members of the House of Representatives, 2 members of the county council shall be elected from each class district.

2. Duties in general. The county council shall make the county estimates and cause the taxes to be assessed. All assessments under this Title made by the county council which include sums assessed for an illegal object

shall not be void, nor shall any error, mistake, omission or inclusion of illegal sums in the assessment by the county council void so much of the assessment as is assessed for legal purposes. Any person paying such tax may bring a civil action against the county in the Superior Court for the same county and shall recover so much of the sum paid as was assessed for an illegal object, with 25% interest and costs and any damages which he has sustained by reason of the mistakes, errors or omissions of the county council and executive. They shall examine, allow and settle accounts of the receipts and expenditures of the moneys of the county; represent it; have the care of its property and management of its business; by an order recorded, appoint an agent to convey its real estate; lay out, alter or discontinue ways; keep their books and accounts on such forms and in such manner as shall be approved by the State Department of Audit; and perform all other duties required by law.

§ 12. County executive

1. When elected. If the electors of a county so decide at a special election to be held during the year 1969, the county executive shall be a resident of such county and shall be elected by the legally qualified voters thereof for a term of 4 years in the same manner as members of the House of Representatives, the district being the county. His term of office shall commence with his induction into office on the first business day of January following his election and continue for 4 years and until his successor is elected and qualified.

The question as proposed to the voters at such special election shall be:

"Shall the chief executive officer for this county be elected by the voters of the county for a term of 4 years?"

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

If in a county having an elected executive there is for any reason a vacancy in the office, the county council shall meet as soon as they can be legally called and shall choose a chairman to serve as county executive until the first business day of January following the next biennial election, at which said election a county executive shall be chosen for the remainder of the term, if any; but in any event, he shall hold office until another is chosen and qualified.

2. When chosen from county council. If the voters of a county choose not to elect a county executive, the members of the county council shall choose as county executive, a chairman from among its members to serve until the end of his term as a member of the council. If there is a vacancy in the office of county executive for any reason, when chosen by the county council, the council shall choose a new chairman from among its members to serve as executive to the end of his term as member of the county council.

3. Powers. The county executive shall be the chief executive officer of the county government. The county executive shall:

A. Preside at the meetings of the council and recommend to the council such measures as the business and interest of the county, in his opinion, require but he shall vote only in case of tie;

B. Have the power to veto any ordinance, order or resolution, excepting rules or orders of a parliamentary character; shall have power to veto any severable portion of any appropriation order, without affecting the validity of the remainder of the order. If the county executive disapproves of any such measure, he shall return it with his written objections, at the next meeting of the council, which shall proceed to reconsider the same. If upon such reconsideration, it shall be passed by a vote of not less than $\frac{2}{3}$ of the members of the council, it shall have the same validity as if signed by the county executive;

C. Call special meetings of the council when necessary, by 7 days written notice by first class mail and by notice in a newspaper having general circulation in the county;

D. See that the ordinances of the county and all laws are enforced;

E. Exercise directly, or with the assistance of the administrative assistant, supervision of all of the executive and administrative work of the county and provide for the coordination of administrative activities. Neither the council, nor any of its members, shall direct or request the appointment of any person to, or his removal from, office by the county executive or by any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the county, except as otherwise provided in this subchapter. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the county executive, and neither the council, nor any member thereof, shall give orders to any subordinate of the county executive either publicly or privately;

F. Submit annually to the council for its consideration and approval an operating and a capital budget;

G. Sign contracts, bonds or other instruments requiring the assent of the county, except those which other officers are authorized to sign;

H. See that the terms and conditions of all contracts are faithfully executed;

I. Upon service of notice, summons or process upon him, in any action or proceedings against the county, notify the county clerk and county attorney and forthwith inform the council thereof in writing;

J. Exercise such other powers and perform such other duties as may be prescribed by ordinance or by applicable state law.

§ 13. Meetings

The county council shall meet on the first business day of January in odd numbered years and shall meet regularly on the 2nd Tuesday of each month

and at such other times as it may decide. If the regular meeting day falls on a holiday, the meeting shall be held on the following day.

§ 14. Quorum and rules

Two-thirds of the members of the council must be present to constitute a quorum.

The county council may adopt its own rules of order.

§ 15. Powers; responsibilities

The inhabitants of the several counties, acting by and through their county council and county executive, shall be responsible for functions of government set forth in this section. For these purposes, a county may raise money by means of a county tax, may appropriate money, may borrow money in anticipation of taxes to be repaid within one year, and may borrow money for capital expenditures by general obligation or revenue bonds and notes. A county shall provide for:

1. Debt. Payment of principal and interest on any outstanding county debt;
2. Buildings. Building, repairing and maintaining courthouses and jails and other buildings necessary to its function, and providing and maintaining grounds and parking lots adjacent thereto;
3. Rooms. Rooms of fireproof construction for the registry of deeds, registry of probate and clerks of the superior courts, with all necessary personnel, equipment and supplies for said offices;
4. Courtrooms. Courtrooms for the superior court and supreme judicial court, offices for the judges of said courts, and all justices anterooms and consultation rooms necessary to the proper functioning of said courts;
5. County attorney offices. Offices for the county attorney and all necessary personnel, equipment and supplies;
6. Sheriff offices. Maintaining the office of sheriff with his necessary deputies and court officers and all equipment and supplies;
7. Superior Court expense. The expense of the Superior Court, including juries and witnesses as provided by law;
8. County law library. Fireproof rooms for the county law libraries with necessary furnishings and the stipend as provided by law;
9. County offices. Offices for the county treasurer, county engineer, county commissioners with necessary personnel, equipment and supplies;
10. Civil defense. The county civil defense center and civil defense unit with necessary personnel, equipment and supplies;
11. Bridge Act. The money necessary for the county to meet its obligation under the joint Bridge Act Title 23, chapter 9, subchapter III;

12. Compensation. Compensation of all county officers and employees, and participation in the state retirement system and group insurance program;

13. Audit. The county audit;

14. Taxes. Payment of F. I. C. A. taxes;

15. Other functions. All other functions of government imposed on counties by statute on the effective date of this Act;

16. Pollution. Systems of waste disposal for both dry and liquid waste which will abate pollution of both air and water. It shall be the principal function of the county engineer to study pollution problems within the county and devise methods of abating air and water pollution in order to bring the air and waters of the county within the standards of Title 38, chapter 3. The county shall design, construct and operate regional sewage disposal systems and dry waste disposal systems and for these purposes may acquire land and interests in land by eminent domain. Where there are local sewage and pollution problems that cannot be easily connected with a regional sewage system, a county shall design, construct and operate local sewage disposal systems where necessary to abate pollution, making use of revenue bond financing;

17. Zoning and building codes. The counties shall enact zoning and building codes which shall have the force of law in all that portion of a county, not now included within municipal zoning and building codes. The county council shall create a county planning board which shall compile a uniform zoning ordinance and building code suitable for the county. The uniform zoning ordinance and building code will first be adopted by the county council in principle, and then adopted for the unzoned municipalities and other places in the county after a zoning map has been prepared for such place. The county council in providing for county planning boards and zoning ordinances shall abide by chapter 5, the provisions of which shall apply to counties. The county commissioners remaining in office after enactment of a county zoning ordinance and building code shall serve as members of the zoning board of appeals. A municipality having a zoning ordinance and building code, may, after the enactment of a county ordinance, vote to come under the county ordinance. When enacting a zoning ordinance and building code, the county council shall provide for the office of building inspector;

18. Uniform assessment for the general property tax. The county shall provide funds for the office of county assessor. The county shall provide assessment maps of that portion of the county not previously mapped, and not assessed by the Board of Equalization under Title 36, chapter 107, within 10 years from the effective date of this Act, and within said time the county shall provide professional revaluation of said portion of the county, either by contracting with professional appraisal firms or by the county assessor and staff. After a municipality has been mapped and revalued, the county assessor shall submit a perfect list of the owners of property in

the municipality and the values of their property to the municipal assessors annually before the first day of July, showing the value as of the first day of April, of the real estate and personal property subject to be taxed, and shall estimate and record separately the land value, exclusive of buildings, of each parcel of real estate. The municipal assessors may accept the list provided by the county assessor verbatim and by so doing, they shall have fully complied with their obligation under Title 36, section 708. They may make changes in the list and their judgment shall be final. The county assessor shall be subject to and abide by all provisions of Title 36 applicable to his office and duties;

In order to equalize the county tax between municipalities mapped, re-valued and assessed by the county and those not receiving this service, the annual cost of assessment in those municipalities, not receiving the service, shall be included in the county estimates and reimbursed to the municipality, not receiving the service, after payment of its county tax;

19. County attorneys. Providing for the compensation and expenses of county attorneys and assistant county attorneys as may be necessary for the efficient prosecution of criminal cases before the courts in the county and control of crime and for necessary legal services for the business of the county. A county may employ other legal counsel in any civil matter. It is the intention of the Legislature that at least one full-time county attorney be employed in every county having a population in excess of 40,000 and that the compensation, assistants, clerical help and equipment, furnished county attorneys, be fully adequate to enable them to perform their function of criminal prosecutor for the county.

§ 16. Officers

1. County commissioners. County commissioners in office on the effective date of this Act shall continue in office until the expiration of their terms. They shall be members of the county council for the duration of their terms and shall attend and have one vote in all council meetings. They shall receive the same compensation as now provided. A county commissioner shall not at the same time hold the office of county executive, county treasurer, county assessor or county engineer. They shall continue to perform the duties of county commissioners except as found in sections 57, 251, 252, 253, 254, 301, 302, 351, 403, 404, 405, 406, 407, 408 and 411, but shall retain the power to lay out, alter and discontinue ways and to relocate ways whose bounds have become uncertain or lost.

For the years 1971 and 1972, the county executive shall appoint one member of the county council to act as county commissioner with the 2 elected county commissioners, and for the years 1972 and 1973 shall appoint 2 members of the county council to act as county commissioners with the remaining elected county commissioner. After 1973, the county executive shall appoint a committee of at least 3 members of the county council to hear and act upon all matters presented to the county council which formerly would have been within the jurisdiction of county commissioners. All such appointments shall be approved by the county council. The report of the

county commissioners or of such committees shall be received at any term of record of the county council and recorded by the clerk.

2. County officers. The county executive shall appoint, subject to confirmation by the council, officers whose duties shall be those now defined by law or as set forth in this subchapter, as follows:

The county clerk, the county treasurer, the county engineer, the members of the county planning board and zoning board of appeals, the building inspector and the county assessor. All assistants and subordinate officers and clerks, except in the office of the county executive, shall be nominated by the department head to the county executive, who shall notify the members of the council in writing with his recommendation and receiving no objection within 7 days, shall confirm the appointment.

§ 17. County clerk

The county clerk shall attend all meetings of the county council either personally or by his deputy. He shall keep a record of the presence or absence of the members at all council meetings. He shall give written notice to all members by first class mail 7 days before each meeting of the county council not an adjourned meeting. He shall record every action taken, every report received, every motion made and the number of yeas and nays on every vote. He shall have custody of and preserve all ancient records of the county commissioners and court of general sessions and shall assemble and complete the records of the county commissioners when found incomplete. At any meeting of the council when the county executive is absent, he shall preside until a chairman protem has been elected. The county clerk shall not at the same time hold the office of county treasurer or county attorney.

§ 18. County treasurer

The county treasurer shall be a resident of the county and shall serve during the term of the county executive. Neither the county clerk, county attorney, sheriff or a member of the county council shall be county treasurer. If a vacancy occurs in the office of county treasurer, the county executive shall appoint a new treasurer. The county treasurer and his deputy shall give bond to the county for the faithful discharge of his duties in such amount and with such sureties as the county council shall approve. The county treasurer may appoint a deputy treasurer with the approval of the county council who may perform the duties of the treasurer during his temporary absence. The treasurer shall deposit the moneys of the county in such banking institutions and savings and loan associations as are approved by the county council and in the obligations of the United States of America. He shall disperse the moneys of the county only by check and only for expenses of the county as the county council and the Supreme Judicial Court or Superior Court direct. County treasurers shall be subject to sections 702 to 704 and 751 to 756. The county treasurer shall make a monthly report of county finances to the county council in such form as the

county executive shall approve. He shall assist the county executive in preparing the county estimates.

§ 19. Administrative assistant to the county executive

If the county council gives prior approval of the post, the county executive may appoint an administrative assistant. The administrative assistant shall reside in the county and shall devote full time to the duties of his office. The administrative assistant shall not at the same time hold the office of county treasurer or deputy treasurer, county attorney, sheriff or member of the county council, but he may also serve as county clerk.

§ 20. County engineer

The county engineer shall study pollution problems within the county and devise methods of abating air and water pollution in order to bring the air and waters of the county within the standards of Title 38, chapter 3. He shall supervise the design, construction and operation of regional sewage disposal systems and regional dry waste disposal systems. He shall design and supervise the construction of local sewage and dry waste disposal systems when such methods are the more economical means of controlling and preventing pollution of the air and waters of the county. He shall be responsible for the design and construction of all public works and for engineering necessary to location, alteration and redefinition of highways.

§ 21. County assessor

The county assessor shall be a professionally trained assessor with prior experience as an assessor. He shall with the approval of the county council provide assessment maps and revaluation for all the unmapped portion of the county not assessed by the Board of Equalization. He shall equalize the valuation of the municipalities with which he is concerned in accord with section 15, subsection 18, and Title 36.

§ 22. The county tax

In order to assess a county tax, the county executive shall prepare estimates of all sums necessary to defray expenses which have accrued or may probably accrue for the purposes set forth in section 15 during the calendar year and shall present said estimates to the county council at its regular January meeting. A public hearing shall be held on said estimates after newspaper notice and notice by registered or certified mail with return receipt requested to the clerk of each municipality in said county and to each member of the Legislature from said county. Such estimates shall be made on such forms and in such manner as shall be approved by the State Department of Audit, and shall show in detail the proposed expenditures and expected receipts for each county department and account. After the public hearing, the county estimates shall be reviewed by the county council and given final approval during the month of February.

The estimates shall include a contingent account in an amount not to exceed \$50,000, which account shall be used for emergency purposes only at the discretion of the county council.

When the county estimates are finally approved by the county council, they shall be recorded by the clerk. An attested copy shall be sent by him to the Secretary of State with a copy of the apportionment of the county tax on the municipalities in the county. The county council shall apportion the county tax upon the towns and other places in the county according to the last State valuation. It may add such sum above the sum so authorized not exceeding 2% of said sum as a fractional division renders convenient and certify the fact in the record of apportionment and before the first day of March, issue the warrant of the council to the municipal assessors requiring them forthwith to assess the sum apportioned to their town or place and to commit their assessment to the tax collector for collection, and the county treasurer shall immediately certify the millage rate to the State Tax Assessor. The county tax shall be payable by the municipalities to the county treasurer on the first day of October.

§ 23. Applicability of present law

The provisions of sections 251, 301, 302, 351, 352, 401, 403, 408, 409, 410 and 411 applying to counties and county commissioners shall now apply to counties governed by a county council and county executive.

§ 24. Compensation of members of county council

The members of the county council in all counties shall receive a compensation at the rate of \$25 per day for attendance at any regular or special meeting of the council and for travel at the rate of 10c per mile going from and returning to their place of residence. They shall receive like compensation for attendance at hearings and on other county business with reasonable expenses when appointed by the county executive and confirmed by the council for such duty. The pay and expenses of members of the county council shall be paid out of the county treasury monthly after being certified by the member and examined and approved by the county clerk and county attorney.

§ 25. Compensation of county officers

The salary of the county executive shall be determined by the county council. The salaries of county attorneys and all county officers and employees shall be determined by the county council after receiving the recommendation of the county executive. Such salaries shall not be less than those established by law on the effective date of this Act. The salaries of the county executive, county attorneys and all county officers and employees shall be paid from the county treasury in weekly or monthly payments. They may also receive reasonable compensation for travel and expenses while on county business.

Every county officer whenever required by law to render a bill of expenses shall itemize the same and make oath, before presenting it for auditing or payment, that it includes only actual cash outlay while in the performance of his official duties.

All fees and charges of whatever nature, except charges for the publication of notices required by law, which may be payable to any county officer, shall

be payable by them to the county treasurer for the use and benefit of the county, but preserving the right of sheriffs and their deputies to receive fees for service of civil process and of sheriffs and their deputies not on a salary or per diem basis to receive fees for service of criminal process, and no county officer shall receive a private benefit from the labor of any person in the employ of the county.

§ 26. Bond

The county executive, administrative assistant, county treasurer, register of probate, clerk of courts, county clerk, county assessor, county engineer, building inspector, register of deeds and their deputies shall give bond to the county for the faithful discharge of their duties in such sum and with such sureties as approved by the county council. All county employees who customarily deal with the money or property of the county shall be required to give bond as determined by the county council. The premium of such bond shall be paid by the county.

Sec. 2. R. S., T. 30, § 151, repealed and replaced. Section 151 of Title 30 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 151. Terms of record

The county commissioners, or the county council acting in a capacity formerly that of county commissioners, shall hold terms of record in the shire-town of each county on the 2nd Tuesday of each month. If the 2nd Tuesday is a holiday, such term shall be held the following day.

Sec. 3. R. S., T. 30, §§ 1-6; 101-106; 201; 251-254; 404-407; 601-604; 651; 701, repealed. Sections 1 to 6, 101 to 106, 201, 251 to 254, 404 to 407; 601 to 604, 651 and 701, all of Title 30 of the Revised Statutes, as amended, are repealed.

Sec. 4. **Effective date.** This Act shall take effect on the first day of January, 1970 for the nomination and election of members of the county councils and county executives. The provisions for referendum in section 12 shall take effect 90 days after adjournment of the Legislature. All other parts of this Act shall take effect on January 1, 1971.