

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 1289

S. P. 379

In Senate, March 12, 1969

Referred to Committee on Legal Affairs. Sent down for concurrence and 1,500 ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Conley of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT to Amend the Charter of the City of Portland.

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

Sec. 1. P. & S. L., 1961, c. 194, Art. I, § 2, amended. Section 2 of Article I of chapter 194 of the private and special laws of 1961 is amended to read as follows:

Sec. 2. Powers and duties. The administration of all the fiscal, prudential, and municipal affairs of said city, with the government thereof, except the general management, care, conduct, and control of the schools of said city which shall be vested in a school committee as hereinafter provided, and also except as otherwise provided by this charter, shall be and are vested in ~~one body of 9 members, which shall constitute and be called the city council, all of whom shall be inhabitants of said city, and shall be sworn in the manner hereinafter prescribed~~ an elected council, an elected mayor and such other officers and employees as may be duly appointed.

The ~~members~~ mayor acting with the advice and consent of the city council shall be and constitute the municipal officers of the City of Portland for all purposes required by statute, and, except as otherwise herein specifically provided, shall have all powers and authority given to, and perform all duties required of, municipal officers ~~and mayors~~ of cities under the laws of this State.

All other powers now or hereafter vested in the inhabitants of said city, and all powers granted by this charter, except as herein otherwise provided, shall be vested in said city council.

Sec. 2. P. & S. L., 1961, c. 194, Art. II, § 2, repealed and replaced. Section 2 of Article II of chapter 194 of the private and special laws of 1961 as amended is repealed and replaced as follows :

Sec. 2.

(a) The city council shall be composed of 9 members, all of whom shall be inhabitants of the said city and registered voters therein. Councilmen shall serve for a term of 4 years, except as hereinafter provided for those first elected, beginning on the first Monday in January next following their election. They shall be elected at large and by election districts at regular municipal elections to be held as hereinafter provided. Councilmen shall hold office until their successors are elected and qualified.

(b) Three council members shall be elected at large by the registered voters of the entire city. One councilman shall be elected from each of the 6 election districts heretofore provided for by the registered voters of each district. The candidate from each of the 6 districts must be a resident of his district for a period of at least 3 months prior to the date on or before which nomination papers are to be filed.

(c) At the first election as hereinafter provided following the adoption of this charter, 9 councilmen shall be elected and shall serve for the following terms: The 3 councilmen elected at large shall serve for a term of 4 years and the 6 councilmen elected from election districts for a term of 2 years.

(d) On the first Monday in January next following the first regular municipal election held under this charter, the city council shall by order establish the amount each member shall be entitled to receive as salary for all services rendered. Thereafter, the council may by order increase such amount, but no such order shall take effect during the then current municipal year. No council member shall be eligible during the term for which he was elected for any other office the salary of which is payable by the city, nor shall he during such term hold any such office.

Sec. 3. P. & S. L., 1961, c. 194, Art. II, § 3, additional. Article II of chapter 194 of the private and special laws of 1961, as amended, is further amended by adding a new section 3, to read as follows :

Sec. 3. The legislative power of the City of Portland shall be exercised by the city council, except as may be otherwise provided by the laws of the State of Maine.

Sec. 4. P. & S. L., 1961, c. 194, Art. II, § 3, renumbered and amended. Section 3 of Article II of chapter 194 of the private and special laws of 1961 is renumbered to be section 4 and the 3rd paragraph amended to read as follows :

The chairman shall preside at all meetings of the council, and shall perform such other duties, consistent with this office, as the council may provide. He shall be entitled to vote, and his vote shall be counted upon all matters and things as a vote of other members of the council. ~~The chairman shall be recognized as the official head of the city for ceremonial purposes, and shall~~

have the powers and authority given to and perform the duties required of mayors of cities for all purposes of military law, and shall act in lieu of the mayor insofar as representation is provided for the city by the mayor upon any board or commission by any statute. In the temporary absence or disability of the chairman, the council may select a chairman pro tempore from among its number and he shall exercise all the powers of the chairman.

Sec. 5. P. & S. L., 1961, c. 194, Art. II, § 4, renumbered and amended. Section 4 of Article II of chapter 194 of the private and special laws of 1961 is renumbered to be section 5 and amended by adding the following sentence at the end of the first paragraph:

The council shall fill vacancies temporarily by appointment to serve until the qualification of a person so elected.

Sec. 6. P. & S. L., 1961, c. 194, Art. II, § 5, renumbered and amended. Section 5 of Article II of chapter 194 of the private and special laws of 1961 is renumbered to be section 6 and the first sentence amended to read as follows:

The city council shall meet at the usual place for holding meetings at 10:00 a.m. on the ~~second~~ first Monday in ~~December~~ January following the regular municipal election, and at said meeting the councilmen-elect shall be sworn to the faithful discharge of their duties by a justice of the peace, or by the city clerk.

Sec. 7. P. & S. L., 1961, c. 194, Art. II, § 6, renumbered and amended. Section 6 of Article II of chapter 194 of the private and special laws of 1961 is renumbered to be section 7 and amended to read as follows:

Sec. 6. Special meetings may be called by the mayor, the chairman, or ~~and in case of his absence, disability, or refusal may be called~~ by a majority of the members of the city council. Notice of such meeting shall be served in person or left at the residence of the mayor and each member of the city council at least 24 hours before the time for holding said special meeting.

Sec. 8. P. & S. L., 1961, c. 194, Art. II, § 7, renumbered. Section 7 of Article II of chapter 194 of the private and special laws of 1961 is renumbered to be section 8.

Sec. 9. P. & S. L., 1961, c. 194, Art. II, § 8, renumbered and amended. Section 8 of Article II of chapter 194 of the private and special laws of 1961 is renumbered to be section 9 and amended by deleting the last sentence of the first paragraph.

Sec. 10. P. & S. L., 1961, c. 194, Art. III, §§ 1-9, additional. Chapter 194 of the private and special laws of 1961, as amended, is further amended by the addition of a new Article III, sections 1 through 9, to read as follows:

ARTICLE III

Mayor and Administration

Sec. 1. The mayor shall be elected by the registered voters of the City of Portland at a regular municipal election to be held as hereinafter provided.

He shall be an inhabitant of the city and a registered voter therein. He shall serve for a term of 4 years beginning on the first Monday in January next following his election.

Sec. 2. The salary of the mayor shall be \$15,000 per year unless and until increased by ordinance. No ordinance increasing such amount shall take effect during the then-current municipal year.

Sec. 3. In case of a vacancy in the office of mayor more than 6 months prior to the next regular municipal election, the vacancy shall be filled by a special election, the warrant for which shall upon vote of the city council be issued by a member of the city council by vote designated for that duty. Such election shall be called and held and nominations made as in other elections. The council shall fill a vacancy temporarily by appointment to serve until the qualification of a person so elected.

Sec. 4. The executive power of the City of Portland shall be exercised by the mayor.

Sec. 5. The mayor shall enforce the charter and ordinances of the City of Portland and all general laws applicable thereto. He shall annually report to the council and the public on the work of the previous year and on the condition and requirements of the city government and shall from time to time make such recommendations for action by the council as he may deem in the public interest. He shall supervise all departments of the city government and shall require each department to make an annual and such other reports of its work as he may deem desirable.

Sec. 6. Ordinances, orders and resolves adopted by the council, excepting rules or orders of a parliamentary character, shall be submitted to the mayor, and he shall within 10 days after receiving any ordinance, order or resolve, either approve it by affixing his signature thereto or return it to the council by delivering it to the city clerk together with a statement setting forth his objections thereto or to any item or part thereof. No ordinance, order or resolve, or any item or part thereof shall take effect without the mayor's approval unless the mayor fails to return it to the council within 10 days after it has been presented to him, or unless the council upon reconsideration thereof on or after the 3rd day following its return by the mayor shall by a vote of $\frac{2}{3}$ of the members resolve to override the mayor's veto. Any emergency ordinance, order or resolve passed as hereinbefore provided shall take effect at the time indicated therein unless before that time the mayor returns it to the council as herein provided. In such case the council may upon reconsideration thereof at any time following its return by the mayor resolve to override the mayor's veto by a vote of $\frac{2}{3}$ of its members.

No ordinance shall take effect until 30 days after its passage, and no order or resolve shall take effect until 10 days after its passage, except as herein otherwise provided for emergency ordinances, orders and resolves.

Sec. 7. The mayor shall attend all public meetings of the council and may take part in discussions of the council but shall have no vote.

Sec. 8. The mayor shall designate the city administrator as acting mayor. The acting mayor shall serve as mayor when the mayor shall be prevented by absence from the city, disability or other cause from attending to the duties of his office. During such time, the acting mayor shall possess all the powers and duties of mayor.

Sec. 9.

(a) The city shall have a department of administration and such other departments as the council may establish by ordinance. All of the administrative functions, powers and duties of the city, other than those vested in the office of city clerk, shall be allocated and assigned among and within such departments.

(b) The mayor shall appoint a city administrator, who shall serve during the term of office of the mayor appointing him, and until the appointment and qualification of his successor. The city administrator shall head the department of administration. The city administrator shall be chosen by the mayor solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, the duties of his office, and his professional training. He need not be a resident of the City of Portland or of the State of Maine at the time of his appointment. He shall give bond for the faithful discharge of his duties to the City of Portland in such sum as the city council shall determine and direct and with surety or sureties to be approved by the city council. The premium on his bond shall be paid by the city. He shall be the administrative head of the city and shall be responsible to the mayor for the administration of all departments.

(c) Each department, with the exception of the department of administration, shall be headed by a director, who shall be appointed by the mayor with the advice and consent of the council. Each department director shall serve during the term of office of the mayor appointing him, and until the appointment and qualification of his successor.

(d) The mayor may in his discretion remove the city administrator and any department director.

(e) Department directors shall appoint subordinate officers and employees within their respective departments and may, with approval of the mayor, remove such officers and employees subject to the provisions of applicable civil service regulation.

(f) The city council shall provide by ordinance for a system of civil service regulations for the appointment, promotion, demotion, layoff, reinstatement, suspension and removal of the members of all departments of the city other than the directors of said departments, and for a civil service commission to administer the same.

(g) The city council shall provide by ordinance for the creation, abolition, organization, conduct and operation of all agencies, boards and commissions of the city.

Sec. 11. P. & S. L., 1961, c. 194, Art. VI, § 7, renumbered and amended. Section 7 of Article VI of chapter 194 of the private and special laws of 1961 is renumbered as section 10 of Article III and amended to read as follows:

Sec. 7. There shall be an assessor of taxes who shall exercise the same powers and be subject to the same duties and liabilities that similar officers of the several towns and cities in the State may exercise, and may now or hereafter be subject to under the laws of the State. The assessor may appoint temporary assistant assessors, if the ~~city mayor~~ **with the approval of the council so ~~direct~~ directs**, whose duty it shall be to furnish the assessor with all the necessary information relative to person and property taxable. The compensation of such assistant assessors shall be fixed by the ~~city mayor with the approval of the council~~, but such assistant assessors shall hold office during the pleasure of the assessor.

Sec. 12. P. & S. L., 1961, c. 194, Art. VI, §§ 8-10 and 12, renumbered. Sections 8 through 10 and section 12 of Article VI of chapter 194 of the private and special laws of 1961 are renumbered to be sections 11 through 14 of Article III.

Sec. 13. P. & S. L., 1961, c. 194, Art. III, §§ 15, 16, additional. Chapter 194 of the private and special laws of 1961, as amended, is further amended by the addition of a new Article III, sections 15 and 16, to read as follows:

Sec. 15. The salaries of the administrator and all directors of departments shall be fixed by the mayor with the approval of the council.

Sec. 16. The mayor shall appoint, with the approval of the council, the assessor of taxes, the city clerk, the corporation counsel and the members of all agencies, boards and commissions established pursuant to ordinance or statute.

Sec. 14. P. & S. L., 1961, c. 194, Art. III, renumbered. Article III of chapter 194 of the private and special laws of 1961 is renumbered as Article IV.

Sec. 15. P. & S. L., 1961, c. 194, Art. IV, repealed and replaced. Article IV of chapter 194 of the private and special laws of 1961 is repealed and replaced with the following new Article V:

ARTICLE V

Sec. 1. The terms of office of members of the city council and members of the superintending school committee as existing on the effective date of this charter shall not be terminated and each shall continue in office until his successor is duly elected as provided in section 19 of this Article and qualified as provided in this charter. In the event redistricting of the city as herein provided shall cause a then council member to reside in a district other than that from which he was elected, the office of such member shall not thereby be considered vacated but such member shall continue in office until his successor is duly elected and qualified.

Sec. 2. The nomination of a candidate for mayor or council must be made by primary election.

Sec. 3. A candidate for mayor or council must be a resident of the electoral division he seeks to represent on the date established for filing primary petitions in the year he seeks election. He must maintain this residence during his term of office.

Sec. 4. A candidate for nomination by primary election must become qualified by filing a primary petition and consent as provided in sections 5 and 6 of this Article.

Sec. 5. A primary petition is governed by the following provisions:

1. Content. It may contain as many separate papers as necessary. It may contain the consent required by section 6 herein. It must contain the name of only one candidate, his place of residence, the office sought, his party and electoral division.

2. It may be signed only by voters of the electoral division which is to make the nomination who are enrolled in the party named in the petition. Other signatures are void.

3. It must be signed personally by the voter using one of the following combinations: First name, middle name, last name; first name, middle initial, last name; first initial, middle name, last name; or if no middle name, first name and last name.

4. After his name, the voter must personally add his street address. Ditto marks are permitted.

5. It must be signed by a number of voters equal to at least 1% but not more than 2% of the total vote cast for Governor at the last gubernatorial election in the electoral division which is to make the nomination, or equal to at least 10% of the total vote for Governor cast in that electoral division at the last gubernatorial election by the party of the candidate, whichever is less.

6. It may not be signed before July 1st of the election year in which it is to be used.

7. A voter may sign only as many primary petitions for each office as there are vacancies to be filled.

8. A signer of a primary petition or the person who circulates it shall certify his belief that the signatures on it are genuine, that the signers are members of the party named in it, and that they are residents of the electoral division for which the nomination is proposed. The person who certifies a primary petition may do so by making oath to the above statements on the petition or on a certificate attached to it.

9. It must be filed with the city clerk on or before September 1st of the election year in which it is to be used.

10. A primary petition which does not meet the requirements of this section is void.

A. Exception. If a voter fails to comply with this section in signing the petition his name may not be counted, but the petition is otherwise valid.

11. Anyone who desires to challenge the validity of a candidate's primary petition as filed with the city clerk must notify the city clerk of his intent to do so within 7 days after the final filing date of such petition.

Sec. 6. The written consent of each candidate must be filed with his primary petition.

1. The consent must contain a statement over the signature of the candidate that he will accept the nomination of the primary election, that he will not withdraw, and that he will qualify for the office if he is elected. The statement may be printed as a part of the primary position.

2. A candidate need file only one consent. The consent is valid even though it may be part of a primary petition which is void.

Sec. 7. On receipt of a primary petition, the city clerk shall review it. If it is incomplete or incorrect on its face, he shall advise the candidate or the person who certified it and allow him to correct it in accordance with the facts.

1. Limitation. Additional signatures may not be submitted after the date on which the petition must be filed.

Sec. 8. The primary election shall be held on the first Monday of October of each odd-numbered year.

Sec. 9. Primary elections are deemed to be separate elections for each party which takes part in them. This includes the duties of public officials in notifying the election, providing forms and ballots, keeping records and any other matter necessary to effect the purpose of a primary election. A primary election shall be conducted as to each party as nearly as practicable the same as the general election.

Sec. 10. The city clerk shall notify each nominee of his nomination forthwith by mail.

Sec. 11. Within 7 days after receiving notice of his nomination, a write-in candidate must file a written acceptance with the city clerk.

1. If he fails to do so, he becomes disqualified, and his name must not be printed on the general election ballot.

Sec. 12. The council shall notify a regular or primary or special election by issuing a warrant signed by a majority of councilmen, containing a statement of the purpose of the election, the date, and the time of opening and closing the polls. Such warrant shall be served by any constable of the city by posting attested copies of said warrant at all appointed voting places at least 7 days before the date of the election. Such warrant, with the officer's return of service thereon, shall be returned to the clerk at least 4 days before the date of the election. The clerk shall also cause notice of the election to be published in a newspaper having general circulation in the city at least 7 days before the date of the election. Special ward elections shall be notified in

a similar manner within each ward where an election is to be held. Ballots for all regular or special or primary or ward elections shall be prepared by the clerk and shall be in substantially the same form as required by the election laws of Maine, except that ballots for the office of school committee shall contain no party designation, but shall list the candidates as provided in section 20. At least 7 days before any municipal election the clerk shall post a specimen ballot, prepared according to the regulations for state elections, at the voting place in each ward.

Sec. 13. The warden of each ward elected at the last previous municipal election shall supervise the voting place in his ward on election day. The ward constable shall, on request of the warden, remove, confine or arrest a person who creates a disturbance or otherwise violates the law at a voting place. Four election clerks and additional clerks, if necessary, nominated by the city committee of each major political party and appointed by the council as required by the election laws of Maine, shall assist the warden in distributing, receiving and counting ballots. All regular and primary and special municipal elections shall be conducted in the same manner as provided by the election laws of Maine, the Revised Statutes of 1964, Title 21, and amendments thereto. As soon as the polls are closed, the election officials shall count the ballots publicly under the supervision of the warden. The ward clerk shall record upon a tally sheet, procured therefor from the city clerk, the results of the balloting, certify the votes given, have the tally sheet attested by the warden and deliver it to the city clerk forthwith. The council of the City of Portland shall constitute the canvassing board for the canvass of the votes and the determination of the result of every general, primary or special municipal election held under the provisions of this charter. The council shall meet as such canvassing board as soon as convenient after each election, at which time they shall receive the returns from the wards and shall by resolution certify and determine the result of such election as to each officer and matter voted upon at the election. The candidate for mayor having a plurality of the votes cast in all the wards shall be elected. The clerk shall deliver certificates of election to all municipal and ward officers elected, within 3 days of their election. If it shall appear that one or more of the offices to be filled by an election has not been so filled, or if any person elected shall fail to qualify within 14 days of notification of his election, warrants for another and special election to fill such vacancy shall be issued forthwith, in substantially the same manner as provided in section 12 of this Article.

Sec. 14. On the written application of a candidate in any municipal election, within 10 days after the election, the clerk shall permit the candidate or his counsel to recount the ballots under protective regulations substantially the same as provided in the election laws of Maine, the Revised Statutes of 1964, Title 21, section 1152, and amendments thereto. A person who claims title to any municipal or ward nomination or office may proceed against another who claims title to the office by proceeding in the manner provided in said Title 21, section 1212, and amendments thereto.

Sec. 15. Absentee voting shall be permitted in all primary, regular or special elections, provided that such voting conforms to the regulations gov-

erning absentee voting provided in the Revised Statutes of 1964, Title 21, and amendments thereto. All absentee ballots, in order to be valid, must be delivered to the city clerk before 3 p.m. on election day.

Sec. 16. No person shall be allowed to vote at any municipal election unless his name is registered on the voting list of his ward. A person may register as a voter by appearing before the board of registration when it is in session and by proving himself qualified to vote as required by the laws of Maine. The board of registration shall publish in a newspaper having general circulation in the city notice of the time schedule for registration before each regular or special municipal election. When the board of registration is not in session, the clerk shall accept applications for registration, except during the week immediately preceding any election. The board of registration shall prepare a printed list of voters for each ward and shall keep the list current at all times. Registration proceedings shall be conducted in the same manner as provided by the election laws of Maine, the Revised Statutes of 1964, Title 21, and amendments thereto.

Sec. 17. No person shall vote in any primary unless he is an enrolled member of the political party holding the primary. The enrollment of voters shall follow the provisions of the election laws of Maine, the Revised Statutes of 1964, Title 21, and amendments thereto.

Sec. 18. The nomination of all candidates for school committee shall be by petition which shall be signed by not less than 300 nor more than 500 qualified voters of the city. No voter shall sign petitions for more than one candidate for each office to be filled at the election, and should any voter sign more than one such petition, his signature shall be counted only upon the first petition filed and shall be held void upon all other petitions. The form of the nomination petition shall be as provided in section 5 of this Article except that no party designation shall be indicated. Petitions may be signed by any registered voter of the City of Portland. Nomination petitions shall be filed with the city clerk on or before October 10th of each election year.

Sec. 19. At the regular municipal election to be held on the first Monday in December following the effective date of this charter, the qualified voters of each ward shall ballot for a mayor, for three councilmen to be elected at large as provided in Article II, for one councilman from the district in which they are entitled to vote, for such members of the superintending school committee as may be necessary to fill the offices of those whose terms would then expire and to fill any vacancy in any unexpired term of office, and for a warden, ward clerk, and ward constable from the precinct in which they are voting. Thereafter, on the first Monday in December of each year, the said voters shall ballot for warden, ward clerk and ward constable as aforesaid, for such other of the aforementioned officers whose terms are to expire, and to fill any vacancy in an unexpired term of office.

Sec. 20. In preparing all ballots for election to the office of school committee, the city clerk shall arrange the names of all qualified candidates for each office in alphabetical order according to surnames, except as hereinafter provided. In any case where the names of 4 or more persons appear on one

ballot and voting machines are not in use, the city clerk shall have printed as many sets of ballots as there are candidates for any single office. Each set of ballots shall begin with the name of a different candidate, the other names being arranged thereafter in regular alphabetical order, commencing with the name next in alphabetical order after the one that stands first on that set of ballots. When the last name is reached in alphabetical order it shall be followed by the name that begins with the first letter represented in the list of names and by the others in regular order. The ballots so printed shall then be combined in blocks of 50 so as to have the fewest possible ballots having the same order of names printed thereon together in the same block.

Sec. 21. Special elections may be called by the council for any purpose permitted by this charter or by statute. All special elections shall be called by order of the council, authorizing the issuance of a warrant which shall fix the time therefor and shall state the offices to be filled or the questions to be decided thereat, and shall direct the clerk to give the necessary notice and make the necessary preparation for the holding of such election.

Sec. 16. P. & S. L., 1961, c. 194, Art. V, §§ 1, 2, 4, 5, renumbered and amended. Article V of chapter 194 of the private and special laws of 1961 is hereby renumbered as Article VI and sections 1, 2, 4, and 5 are amended to read as follows:

ARTICLE VI

Recall

Sec. 1. ~~Any~~ The mayor or any member of the city council, or any member of the superintending school committee may be recalled and removed therefrom by the qualified electors of the City of Portland as herein provided.

Sec. 2. Any voter of the city may make and file with the city clerk an affidavit containing the name or names of the ~~member officer~~ or ~~members officers~~ whose removal is sought and a general statement of the reasons why such removal is desired. The clerk shall thereupon deliver to the voter making such affidavit copies of petition blanks for such removal, printed forms of which he shall keep on hand. Such blanks shall be issued by the clerk with his signature and official seal thereto attached; they shall be dated and addressed to the city council; shall contain the ~~name~~ names of the persons to whom issued, the number of blanks so issued, and the name of the person or persons whose removal is sought. A copy of the petition shall be entered in a record book to be kept in the office of the city clerk.

The recall petition to be effective must be returned and filed with the the city clerk within 45 days after the filing of the affidavit. The petition, before being returned and filed, shall be signed by voters of the city to the number of at least 10% of the registered voters as determined at the time of the last preceding regular municipal election and to every such signature shall be added the place of residence of the signer, giving the street and number or other description sufficient to identify the place. Such signatures need not all be on one paper but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of

the person whose name it purports to be. All such recall papers shall be filed as one instrument, with the endorsements thereon of the names and addresses of 3 persons designated as filing the same.

Sec. 4. If the petition or amended petition shall be certified by the city clerk to be sufficient, he shall submit the same with his certificate to the city council at its meeting and shall notify the ~~member officer~~ or ~~members officers~~ whose removal is sought of such action. The city council shall thereupon, within 10 days of the receipt of the city clerk's certificate, order an election to be held not less than 40 nor more than 60 days thereafter; provided that, if a regular municipal election is to occur within 90 days after the receipt of said certificate, the city council may in its discretion provide for the holding of the recall election on the date of such other municipal election. The recall election shall be called and held and nominations made as in other elections under this charter except for the specific limitations of this section.

Sec. 5. Unless the ~~member officer~~ or ~~members officers~~ whose removal is sought shall have resigned within 10 days after the receipt by the city council of the city clerk's certificate, the form of the ballot at such election shall be as nearly as may be: "Shall A be recalled? Shall B be recalled?", etc., the name of the ~~member officer~~ or ~~members officers~~ whose recall is sought being inserted in place of A, B, etc., and the ballot shall also contain the names of the candidates nominated in place of the men recalled, as follows: "Candidates for the place of A, if recalled; Candidates for the place of B, if recalled," etc., but ~~those the men~~ whose recall is sought shall not themselves be candidates upon such ballot. If the person or persons sought to be removed shall have resigned within 10 days after the receipt by the city council of said certificate, the form of ballot at said election shall be the same, as nearly as may be, in the form and arrangement in use at a regular municipal election.

Sec. 17. P. & S. L., 1961, c. 194, Art. VI, §§ 1 - 6 and 11, repealed. Sections 1 through 6 and section 11 of Article VI of chapter 194 of the private and special laws of 1961 are repealed.

Sec. 18. P. & S. L., 1961, c. 194, Art. VII, § 1, amended. Section 1 of Article VII of chapter 194 of the private and special laws of 1961 is amended to read as follows:

Sec. 1. Accounts shall be kept by the director of finance, showing the financial transactions of all departments of the city. The general accounting system shall be recommended by the director of finance and prescribed by the ~~city manager~~ mayor, with the approval of the city council. Accounts shall be kept in such a manner as to show fully at all times the financial condition of the city. The director of finance shall furnish to the ~~city manager~~ mayor each month a report containing in detail the receipts and disbursements of the city on all accounts, and for each appropriation item the expenditures made and the obligations incurred during the preceding calendar month and the total unencumbered balance. All the accounts of the city shall be audited annually by a qualified accountant to be chosen by the city council, **which choice shall not be subject to mayoral veto.**

Sec. 19. P. & S. L., 1961, c. 194, Art. VII, § 2, subsection (d), amended. Subsection (d) of section 2 of Article VII of chapter 194 of the private and special laws of 1961 is amended to read as follows:

(d) Such other financial information as may be required by the ~~city council~~ mayor.

Sec. 20. P. & S. L., 1961, c. 194, Art. VII, § 3, repealed and replaced and renumbered to be section 4, as follows:

Sec. 4. The city budget shall be prepared by the mayor with the assistance of the city administrator. During the month of November, the mayor shall require all department heads to submit requests for appropriations for the ensuing budget year, and to appear before the city administrator at public hearings, which shall be held during that month, on the various requests.

On or before the 15th days of January of each year, the mayor shall submit to the council for approval his recommended budget, together with such explanatory comment or statement as he may deem desirable. The budget shall be published upon its submission to the city council and shall contain:

(a) Exact statement of the financial condition of the city.

(b) Itemized statement of appropriations recommended for current expenses, and for permanent improvements; with comparative statements in parallel columns of expenditures for the current and next preceding fiscal year. An increase or decrease in any item shall be indicated.

(c) Itemized statement of estimated revenue from all sources, other than taxation; and a statement of taxes required, with comparative figures from the current and next preceding year.

(d) Such other information as may be requested by the city council.

The council may reduce any item or items in the mayor's budget by a vote of the majority of the council, but the addition of or an increase in any item or items therein shall become effective only upon an affirmative vote of 2/3 of the members of the council.

Sec. 21. P. & S. L., 1961, c. 194, Art. VII, § 4, renumbered and amended. Section 4 of Article VII of chapter 194 of the private and special laws of 1961 is renumbered section 5 and the first paragraph amended to read as follows:

Sec. 5. As early as practicable after ~~the beginning of the fiscal year submission of the budget~~, the city council shall pass an annual appropriation resolve, which shall be based on the budget submitted by the ~~city manager~~ mayor. The total amount appropriated shall not exceed the estimated revenue of the city.

Sec. 22. P. & S. L., 1961, c. 194, Art. VII, §§ 5 - 13, renumbered. Sections 5 through 13 of Article VII of chapter 194 of the private and special laws of 1961 are renumbered as sections 6 through 14.

Sec. 23. P. & S. L., 1961, c. 194, Art. VIII, § 1, amended. Section 1 of Article VIII of chapter 194 of the private and special laws of 1961 is amended to read as follows:

ARTICLE VIII

Miscellaneous Provisions

Sec. 1. No ~~city manager~~ mayor, no administrator, no member of the city council, no subordinate city officer, no member of any board or commission charged with the expenditure of any money appropriated by the city council or belonging to the city, no officer or employee of the city, elected or appointed, shall be interested, directly or indirectly, in any contract entered into by or in behalf of the city of Portland for work or material, or the purchase thereof, to be furnished to or performed for the city, and all contracts made in violation hereof are void and the city treasurer is expressly forbidden to pay any money out of the city treasury on account of any such contract. No such officer or employee, except a policeman or fireman, shall accept or receive from any person, firm or corporation acting under a franchise or license from the city, any frank, free pass, free ticket, or free service, or accept directly or indirectly from any such person, firm or corporation, any service upon terms more favorable than those granted to the public generally. This provision shall not apply, however, to any free service now or hereafter provided for by contract, franchise or ordinance.

Sec. 24. P. & S. L., 1961, c. 194, Art. VIII, § 5, amended. Section 5 of Article VIII of chapter 194 of the private and special laws of 1961 is amended to read as follows:

Sec. 5. On complaint of failure to obey summons to the ~~district municipal~~ court ~~of sitting in~~ the City of Portland, which court is expressly given jurisdiction to hear such complaints, said ~~municipal~~ district court, if it finds failure to obey said summons to be without reasonable excuse, shall imposed a fine of not less than \$10 nor more than \$100, or by imprisonment for not more than 30 days, or both fine and imprisonment. Appeal from such conviction may be had to the Superior Court as provided in ~~the Revised Statutes of 1964, Chapter 146, Section 22~~ Title 15, section 2111, as amended.

Sec. 25. P. & S. L., 1961, c. 194, Art. VIII, § 7, additional. Article VIII of chapter 194 of the private and special laws of 1961 is amended by the addition of a new section 7 to read as follows:

Sec. 7. If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter, it being the intention that the remaining portions of this charter shall stand, notwithstanding the unconstitutionality and invalidity of any section, sentence, clause or phrase.

Sec. 26. This Act shall be submitted for approval or rejection to the qualified voters of the City of Portland at an election to be held on the first Tuesday in November, 1970, and warrants shall be issued for such election in the manner now provided by law for the holding of municipal elections, notifying the qualified voters of said city of the date and purpose of the referendum. The provisions of law relating to the preparation of voting lists for municipal elections shall apply to such election, and said election shall in all other respects be conducted as municipal elections in said city are now conducted

by law, and the results thereof shall be determined in the manner now provided for the determination of the election of members of the city council. If a majority of the ballots shall reject, this Act shall not go into effect, but if a majority of the ballots shall approve, then this Act shall take effect as herein provided. The result of said vote shall be determined as provided by law and due certificate thereof filed by the clerk with the Secretary of State.

Sec. 27. The provisions of this Act, which are essential to the election of the mayor, council and superintending school committee provided for herein, shall go into effect on the first day of June following the approval of this charter by a majority of qualified voters, as provided in section 26 of this Act. The remaining provisions of this Act shall go into effect and be in force from and after 7 p.m. on the first Monday in January next following the general municipal election at which the mayor and the council are elected.

Sec. 28. In the event that this Act is approved in the manner herein provided, all acts and parts of acts inconsistent with its provisions are hereby repealed and superseded. Insofar as the provisions of this Act are the same in terms or in substance and effect as provisions of law in force when this Act shall take effect, the provisions of this Act are intended to be not a new enactment but a continuation of such provisions of law, and this Act shall be so construed and applied.

Sec. 29. All ordinances in force at the time that this Act takes effect, not inconsistent with this Act, shall continue in force until amended or repealed. All rules and regulations of the municipal officers or of any office of the City of Portland in force at the time that this Act takes effect, not inconsistent with the provisions hereof, shall continue in force until amended or repealed.

Sec. 30. Any and all officers, department heads, employees and members of boards and commissions of the City of Portland on the effective date of this Act shall continue in such capacity until a successor is appointed and qualified as provided herein, unless sooner removed by the appointive power designated herein.