

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 1302

H. P. 1000

House of Representatives, March 11, 1969

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Rocheleau of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Relating to Civil Service Commission in City of Auburn.

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

P. & S. L., 1967, c. 109, Art. VI, § 3, repealed and replaced. Section 3 of Article VI of chapter 109 of the private and special laws of 1967 is repealed and the following enacted in place thereof:

Sec. 3. Civil Service Commission.

The civil service commission shall consist of 3 members, who shall hold no other elective or appointive office under this charter. Members of the commission shall be appointed by the mayor to serve for a term of 3 years, with one appointed each year. Members of the commission holding office when this charter takes effect shall continue in office until the expiration of their terms.

The commission shall elect by ballot annually a chairman from its membership and shall meet on call of the chairman at the city building in the city council chamber.

1. The commission shall supervise and control, under this charter, the selection for appointment and promotion, lay-off, reinstatement, suspension and removal of the members of the fire department, the fire chief and the city electrician. The commission shall examine all applicants for appointment as firemen, fire chief and city electrician. All appointments to such positions shall be made from eligibility lists prepared by the commission.

A. All appointments to the office of fire chief and city electrician shall be made by the city manager from an eligibility list prepared by the civil

service commission. The appointees to such offices shall be physically fit and in good health and shall be not less than 30 years of age nor more than 64 years of age.

B. All appointments to the fire department, except the fire chief, shall be made by the chief of the fire department subject to the approval of the city manager from the eligibility list prepared by the civil service commission.

Appointments to the fire department will be for a probationary period of 6 months. At the request of the appointing officer or the city manager, the commission shall present the names of such candidates as appears on the eligibility list.

Any person's name that appears on the eligibility list shall remain thereon for one year and shall not be required to retake an examination in order to maintain his name on the said list.

C. Appointments to the offices of fire chief and city electrician shall be during good behavior, and shall terminate when the appointee shall have attained the maximum age limitation for such office.

D. If any appointee to the office of fire chief, who, prior to said appointment, shall have been a member of the fire department, he shall resign said office or be removed therefrom for any cause other than a cause involving moral turpitude, shall remain a member of the department from which he was appointed and shall return to the grade or rank which he held at the date of the said appointment.

E. If there shall be a vacancy for any reason, including incapacity, in the office of fire chief, until such a person shall have been appointed to permanently fill said vacancy, the city manager shall designate one of the members of the said department as acting chief and said acting chief shall be vested with all the rights, powers and duties of the regular chief.

F. Applicants for appointment to the office of fire chief shall be considered on the basis of executive and administrative abilities; shall be a high school graduate, or the equivalent; and need not be a resident of the City of Auburn, or the State of Maine at the time of his appointment, but shall be a resident of the City of Auburn during his tenure of office.

Promotions from one grade to another in the fire department shall be made by the chief of the department, but no person shall be eligible for promotion until he shall have served at least 12 months in the next lower grade of rank and if there shall be no person in the next lower grade or rank eligible for promotion, or if there shall be an insufficient number of persons in the next lower grade or rank eligible for promotion to fill the positions vacant, then all persons in the grade or rank next below the grade or rank next lower than the grade or rank to which the promotion is to be made shall be eligible for said promotion.

After the examinations, the commission shall grade the applicants for the department and shall make and keep an eligibility list for the department.

When the civil service commission had presented certified names for promotion to the chief for deputy, captain or lieutenant, promotions shall be made and posted one week or seven days after said chief has received the list of said certified names. In case of illness of the said chief of the department, the officer acting in the chief's capacity shall make said promotions with the department chief's approval.

Any member of the department may be demoted, suspended or removed for just cause and for reasons specifically given in writing to such member within 24 hours of his demotion, suspension or removal. Sickness or other physical incapacity of sufficient severity to permanently render any member of said department physically unfit to ever adequately perform the duties of his office shall be considered as cause for removal but in every such case, such officer shall be entitled to an honorable discharge.

The demotion, removal or suspension of the fire chief, deputy fire chiefs and city electrician, shall be by the city manager. A copy of the report containing the action taken with reasons therefor shall be forwarded to the civil service commission and to the person involved by the city manager. These officers shall have the right of appeal within 5 days of receipt of the report to the civil service commission, who shall grant a hearing within 15 days from the date of the appeal, and the accused person shall have the right of representation by counsel. The action of the civil service commission shall be final.

Demotion, removal or suspension of other officers shall be by the chief, subject to the approval of the city manager. If such action is confirmed by the city manager, the accused member shall have the same right of appeal as would the fire chief, deputy fire chiefs and city electrician.

The commission may make its own rules for the conduct of hearings before it, and may put witnesses under oath.

The commission shall, in the event that it deems any charges made to be frivolous, or unjustified, recommend to the city council the payment of lost wages, reasonable counsel and witness fees, incurred by any member of the fire department in the defense of such frivolous and unjustified charges.

Emergency appointments may be made at any time as provided in subsection 2, paragraphs A to F for appointments, whenever the city manager shall determine that an emergency exists. All appointments made under this provision shall be for the period of the emergency only, the city manager having the right to determine when the emergency had ended.

Every member of the fire department whose position falls within the requirements of civil service as herein provided shall have a tenure of office which shall continue during good behavior until he attains the maximum age limitation, only subject to removal for cause as hereinbefore provided.

Every member of the fire department whose position is subject to civil service under the foregoing provisions of this section shall be automatically retired from service in said department when he attains the maximum age limitation.

The commission may exclude from examination, refuse to certify as eligible, or remove from the eligibility list upon sufficient evidence of the following conditions:

1. Dismissal of the applicant from public service or his resignation pending charges.
2. Criminal, infamous, dishonest, immoral or bad conduct of character.
3. The knowingly making of a materially false statement by any person in the application or in his examination and any connivance by him or any materially false statement made in any accompanying certificates, or the commission of, or attempt to commit any fraud against service rules after or during examination.

The burden or proof of good character shall in all cases be upon the applicant, who may be required to furnish evidence in addition to the certificates required in his application.

Before the commission shall take final action under this rule, it shall give the person affected an opportunity to be heard at a reasonable time, upon reasonable notice and be counseled if such person so elects.

Applicants for appointment to the fire department shall be:

- A. Not less than 5 feet 7 inches in height;
- B. Not less than 140 pounds;
- C. Not less than 21 years nor over 34 years of age;
- D. At least a high school graduate or its equivalent;

Applications shall be filed in the office of the city clerk at the city hall. The city 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 of the fire department.

Application shall be in the following form:

APPLICATION FOR APPOINTMENT ON THE FIRE DEPARTMENT OF THE CITY OF AUBURN

The applicant will answer the following questions in his own handwriting, date and subscribe the same, and return to the city clerk:

1. When were you born?
2. Are you married?
3. Where were you born and where have you lived since your birth?
4. If you are a naturalized citizen, when and where were you naturalized?

5. What is your present address?
6. What is your present occupation, and what has it been for the past two years?
7. What is your height?
8. What is your weight?
9. Do you use intoxicating liquor?
10. Are you a veteran of any war? If so, give details of service.
11. Have you ever been arrested, convicted or ordered to appear in court, either in this State or elsewhere, for violation of any law? If so, give details in full.
12. Have you every been a member of any fire department? If so, when, where and how long?
13. What is the present state of your health? Have you ever suffered any severe sickness? If so, when and what was its nature? Have you a regular physician, and if so, whom?

Dated this day of A.D., 19 _____

Applicant

Subscribed and sworn to by said _____ on the day and year first above written

Before me,

Notary Public-Justice of the Peace

Reference 1.

1. Is the applicant related to you?
2. Has the applicant ever been in your employ?
3. Would you employ him if the opportunity arose?
4. Has the applicant to your knowledge ever used intoxicating liquor, stimulants or narcotic drugs?
5. Do you know if the applicant has ever been arrested, convicted or ordered into court, either in this State or elsewhere, for the violation of any law?

6. I have known the applicant herein mentioned for the period _____ and I have observed his conduct during the period so stated, and found him to be honest, sober, of good character, civil in manner and behavior, that I know nothing to his prejudice and recommend him as a fit person to be a fireman for the City of Auburn.

Reference 2. (Same as number 1)

The commission may at any time order a further physical examination, if they deem it proper.

The examination is designed to test the physical, moral and mental qualifications of candidates, including an inquiry into their strength, activity, power or endurance, courage, self-control, judgment, willingness to obey, disposition, quickness of comprehension, manners, bearing, accuracy of perception, thought and expression, promptness, capacity and willingness to learn. The results of each examination shall be filed with the city clerk not later than 30 days after the date of the examination.