

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1771

H. P. 1337

House of Representatives, April 3, 1973

Referred to the Committee on County Government. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Farrington of China.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Relating to County Estimates.

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

Sec. 1. R. S., T. 30, § 2, repealed and replaced. Section 2 of Title 30 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 2. Salaries

The county attorneys and their assistants shall receive annual salaries from the State Treasury in monthly payments on the last day of each month in a sum which will, in the year's aggregate, most nearly equal the annual salary, as follows, and no other fees, costs or emoluments shall be allowed them:

Androscoggin County: County attorney, \$8,500; first assistant county attorney, \$6,000; second assistant county attorney, \$6,000;

Aroostook County: County attorney, \$8,500; assistant county attorney, \$5,500;

Cumberland County: County attorney, \$10,000; first assistant county attorney, \$7,000; second assistant county attorney, \$7,000; third assistant county attorney, \$7,000;

Franklin County: County attorney, \$7,000;

Hancock County: County attorney, \$8,500; assistant county attorney, \$4,500;

Kennebec County: County attorney, \$9,000; assistant county attorney, \$6,000;

Knox County: County attorney, \$7,500;

Lincoln County: County attorney, \$7,500;

Oxford County: County attorney, \$8,000; assistant county attorney, \$5,000;

Penobscot County: County attorney, \$8,000; first assistant county attorney, \$6,000; second assistant county attorney, \$6,000;

Piscataquis County: County attorney, \$7,000;

Sagadahoc County: County attorney, \$7,500;

Somerset County: County attorney, \$8,000; assistant county attorney, \$5,000;

Waldo County: County attorney, \$8,000;

Washington County: County attorney, \$8,500; assistant county attorney, \$4,500;

York County: County attorney, \$8,000; first assistant county attorney, \$5,500; second assistant county attorney, \$5,500.

The salaries of all other county officers, including, but not limited to, clerks of the judicial courts, county treasurers, sheriffs, registers of deeds, judges of probate and registers of probate, shall be set and determined annually by their respective county commissioners, provided that no such salary shall be less than the amount specified by law previous to the effective date of this Act.

The salaries mentioned in this section shall be in full compensation for the performance of all official duties by said officers. County commissioners shall allow to county officers all office expense, clerk hire and travel which they deem necessary, just and proper to the performance of their official duties.

Sec. 2. R. S., T. 30, § 3, repealed. Section 3 of Title 30 of the Revised Statutes is repealed.

Sec. 3. R. S., T. 30, c. 1, sub-c. 1-A, additional. Chapter 1 of Title 30 of the Revised Statutes is amended by adding a new subchapter 1-A to read as follows:

SUBCHAPTER 1-A

COUNTY CIVIL SERVICE COMMISSION

§ 10. Definitions

As used in this subchapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Appointing authority. "Appointing authority" means any officer or department appointing or employing an employee.

2. Classified service. "Classified service" means all employment as a full-time employee.

3. Commission. "Commission" means the County Civil Service Commission.

4. Director. "Director" means the director of the County Civil Service Commission.

5. Eligible register. "Eligible register" means whatever type of book or other record which may be used, having thereon the names of persons qualified by examinations to fill positions in the classified service.

6. Employee. "Employee" means any full-time employee holding a position subject to appointment by the appointing authority. "Employee" does not include elected officials of the county but does include full-time deputy sheriffs.

§ 11. Discrimination

In carrying out this subchapter no discrimination shall be made on account of political or religious opinions or affiliations or because of race or national origin, sex or marital status.

§ 12. Personnel records

Every appointment, promotion, demotion, dismissal, vacancy, change of salary rate, leave of absence, absence from duty and other temporary or permanent change in status of employees in the classified service shall be reported to the director at such time, in such form, and together with such supporting or pertinent information, as the commission shall by rule prescribe. The director shall maintain a perpetual roster of all employees in the classified service showing for each person such data as the commission deems pertinent.

§ 13. Membership; term; compensation

The County Civil Service Commission shall be composed of 5 members. The members shall be appointed by the Governor with the advice and consent of the Council. The terms of the members shall be 5 years, except that for the first appointment there shall be appointed one for one year; one for 2 years; one for 3 years; one for 4 years; and one for 5 years. Vacancies shall be filled for the full term of 5 years. The commission shall elect its own chairman biennially. The members of the commission shall receive \$20 a day for the time actually spent in the discharge of their duties and their necessary expenses. The commission shall have jurisdiction over county employees in all of the 16 counties.

§ 14. Powers and duties

The commission shall have the following powers and duties:

1. Director. To appoint a director;
2. Rules and regulations. Upon recommendation of the director and after a public hearing, to prescribe or amend rules and regulations relative to:

- A. Eligible registers.
- B. Classification of positions in the classified service,
- C. Compensation plan,
- D. Examination for admission to the classified service,
- E. Promotion in the classified service,
- F. Provisional, emergency, exceptional and temporary appointments,
- G. Probationary period,
- H. Reinstatement,
- I. Demotion,
- J. Suspension, layoff and dismissal,
- K. Leave of absence, resignation, hours of service, vacation and sick leave,
- L. Personnel records,
- M. In-service training,
- N. Service ratings, and
- O. Certification of payrolls;

which rules and regulations shall be in effect and have the force of law upon the approval of the county commissioners;

3. Dismissals from classified service. To make investigations and report its findings and recommendations in cases of dismissal from the classified service;

4. Enforcement. To enforce, through the director, the rules and regulations made thereunder;

5. Report. To receive, review and transmit to the county commissioners the annual report of the director. The report of the director may be supplemented by any additional comment, criticism or suggestions for the more effectual accomplishment of the purposes of this chapter that the commission may care to submit;

6. Minutes. To keep full and complete minutes of its proceedings, which shall, subject to reasonable regulations, be open to public inspection;

7. Hearings. In the course of any investigation through any member of the board, to have the power to administer oaths and to subpoena and require the attendance of witnesses and the production of books, papers, public records and other documentary evidence pertinent to such investigation. In case of the refusal of any person to comply with any subpoena issued hereunder or to testify to any matter regarding which he may be lawfully interrogated, the Superior Court in the county on application of any one of the members of the commission or of the director, when authorized by the commission, may issue an order requiring such person to comply with such

subpoena and to testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

§ 15. Director; qualifications; tenure; compensation; powers and duties

The director shall be, at the time of his appointment, a person thoroughly familiar with the principles and experienced in the methods and techniques of public personnel administration on the merit basis. His tenure of office shall be at the pleasure of the appointing commission and he shall receive such compensation as shall be fixed by the commission with approval of the county commissioners.

The director shall have the power and duty to administer and make effective this subchapter and the rules and regulations of the commission.

§ 16. Register of eligibility

The director shall prepare a register of persons eligible for appointment as employees in the classified service. The register shall consist of a list of all the persons who have shown by competitive tests, education and experience that they possess the qualifications which entitle them to be considered eligible for appointment as an employee. The register shall also contain the names of employees who have resigned or been dismissed, laid off or granted leaves of absence and whose names have been restored to the eligible register.

The names of all persons attaining the minimum final determined rates established by the director in advance of giving of the test shall be placed upon the register in order of their rates.

All persons competing in any test shall be given written notice of their final determination rates and of their relative standing upon the eligible register or of their failure to attain a place upon the register.

§ 17. Classification plan

It shall be the duty of the director to ascertain and record the duties and responsibilities of all positions in the service and to establish classes for such positions, in conformity with regulations adopted therefor by the commission. The titles so classified and so established shall be used in all personnel, accounting, budget, appropriation and financial records.

§ 18. Compensation plan

The director shall, as soon as practicable after the adoption of the classification plan, submit to the commission a proposed plan of compensation showing for each class of position in the classified service minimum and maximum salary rates and such intermediate rates as he deems desirable.

When the compensation plan has become effective through its adoption by the commission, it shall constitute the official schedule of salaries for all classes of positions in the classified service. No position shall be assigned a salary greater than the maximum or less than the minimum rates fixed in the compensation plan. Salaries of persons holding positions in the classified service shall not be approved by paying authorities unless such salaries conform to the adopted compensation plan.

Salary advancements within an established range shall not be automatic, but shall be dependent upon specific recommendation of the appointing officer and approval of the director and the commission. Such recommendation shall be based upon standards of performance as indicated by merit ratings or other pertinent data. No advancements in salary shall be made until the employee has completed the probationary period.

§ 19. Training programs

The director shall devise plans for and cooperate with appointing authority in the conduct of employee training programs to the end that the quality of service rendered by persons in the classified service may be continually improved.

§ 20. Service ratings

The director shall establish standards of performance for each class of position and a system of service ratings based upon such standards, which shall be in effect upon their approval by the commission.

§ 21. Composition of classified service

Appointments to and promotions in the classified service shall be made according to merit and fitness from eligible lists prepared upon the basis of examinations which so far as practicable shall be competitive. No person shall be appointed, promoted or demoted in the classified service in any manner or by any means other than those prescribed in this subchapter and in the rules of the commission.

§ 22. Filling of positions

Positions in the classified service shall be filled by original appointment, promotion, reinstatement or demotion in pursuance of rules and regulations established by the commission and administered by the director.

§ 23. Examinations

All examinations for positions in the classified service shall relate to those matters which will fairly test the capacity and fitness of the persons examined to discharge the duties of the employment sought by them, but due regard shall be shown for the capacity of the applicant for promotion to higher positions in the service.

The director, subject to the approval of the commission, shall determine the character, type and content of examination for admission to the classified service; the time and place of holding examinations; the forms of applications blanks for admission to the examination to be filed by applicants provided that admission to examinations shall be open only to those who have been legal residents of Maine for at least one year, except that at the request of the appointing authority the residence requirement may be waived in exceptional or emergency cases in which the commission deems such action necessary for the good of the service, the minimum requirements for admission to the examination, and the value for each phase of the tests used in determining the average rating of the applicant.

Public notice of the time, place and general scope or nature of every examination or test shall be given in the manner prescribed by rules drawn up by the director and approved by the commission.

§ 24. Veterans' preference

In making appointments to any position in the classified service, preference in appointment shall be given to honorably discharged veterans. The commission by regulation shall determine the percentage of preference to be given to veterans who are able-bodied and those who have disability.

§ 25. Probationary period; permanent appointment

All original appointments to the classified service shall be for a probationary period. The duration of such probationary period shall be determined by the director, but in no case shall it be for less than 6 months.

§ 26. Temporary and provisional appointments

Whenever it is impossible to certify eligible persons for appointment to a vacancy in the classified service, the appointing authority may nominate a person to the director. If such nominee is found by the director to have had experience and training which appear to qualify him for the position, he may be temporarily appointed to fill such vacancy but only until an appropriate eligible register can be established and an appointment made therefrom. In no event shall a temporary appointment be continued for more than 3 months. Successive temporary appointment of the same person shall not be made. Not more than one temporary appointment shall be made to any position within any 12-month period.

§ 27. Dismissal and disciplinary action

An appointing authority may dismiss, suspend or otherwise discipline a classified employee for cause. In every case of such dismissal, suspension or other disciplinary action, at the request of the employee, the commission shall investigate the circumstances relating to the action, and the fairness thereof, and if it shall find the charges unwarranted, the commission shall order the immediate reinstatement of the affected employee to his former position with no loss of pay, seniority or other rights and benefits resulting from the dismissal or disciplinary action. At the request of the employee, the commission may recommend the transfer of the employee to the same or similar class of position in another department or institution. Such transfer shall be made to such department or institution only with the approval of the appointing authority thereof.

At the request of the employee, the commission shall investigate the circumstances relating to an action of an appointing authority which lays off, demotes or otherwise deprives an employee of rights established by this subchapter or by rules, and if it shall find the action to be contrary to this subchapter and rules, the commission shall order the immediate reinstatement of the employee to his former position with no loss of pay, seniority or other rights or benefits resulting from such action.

§ 28. Solicitation of political campaign contributions

No officer or employee in the classified service shall, directly or indirectly,

solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution or political service, whether voluntary or involuntary, for any political purpose whatever from any person.

Sec. 4. R. S., T. 30, § 252, amended. The first paragraph of section 252 of Title 30 of the Revised Statutes, as repealed and replaced by section 1 of chapter 541 of the public laws of 1967 and as amended, is repealed and the following enacted in place thereof:

In order to assess a county tax, county commissioners, prior to October 1st before the convening of the Legislature, shall prepare proposed estimates of the sums necessary to defray the expenses which have accrued or may probably accrue for the coming year, including the building and repairing of jails, court houses and appurtenances, with the debts owed by their counties and like estimates for the succeeding year.

Sec. 5 R. S., T. 30, § 252, amended. The last sentence of the 2nd paragraph of section 252 of Title 30 of the Revised Statutes, as enacted by section 2 of chapter 380 of the public laws of 1971, is repealed and the following enacted in place thereof:

A copy of such estimate shall be distributed on or before October 5th to each member of the county finance committee hereinafter created.

Sec. 6. R. S., T. 30, § 252, amended. The 3rd paragraph, as amended by section 3 and the 4th paragraph as enacted by section 3, both of chapter 380 of the public laws of 1971, of section 252 of Title 30 of the Revised Statutes, are repealed.

Sec. 7. R. S., T. 30, § 252, amended. Section 252 of Title 30 of the Revised Statutes, as repealed and replaced by section 1 of chapter 541 of the public laws of 1967 and as amended, is further amended by inserting after the 4th paragraph the following:

The county commissioners, in conjunction with the county finance committee, shall hold a public hearing thereon on or before November 15th. They shall give notice of such hearing by newspaper notice published in a paper of general circulation in the county and shall transmit written notice thereof, together with copies of the estimates, by registered or certified mail with return receipt requested, to the chairman of the governing body of each municipality in said county. Said notice shall be given at least 5 days before the date set for said hearing.

At the hearing, any person may be heard on the estimates. After completion of the public hearing the commissioners by resolution may change, alter and revise the proposed estimates. The estimates as changed, altered and revised shall be finally adopted by resolution of the commissioners not later than December 20th. Immediately upon the final adoption of the estimates, an appropriation resolution in the form of the final estimates shall be passed by the commissioners and filed with the clerk of the county commissioners. When the appropriation resolution shall have been passed, the county tax shall be determined to be set and levied and the county commissioners shall proceed to assess the county tax.

In the event that the county commissioners shall fail to finally adopt an estimate for the ensuing year on or before December 20th, the estimate for the preceding year shall constitute the estimate for such ensuing year and the appropriation resolution, with such amendments as may be necessary to make it conform to such estimate, shall be deemed to have been passed by the commissioners as of such date. The county commissioners shall provide for the raising of the taxes required by such estimate in the manner and within the time prescribed by law.

1. County finance committee. There is created for each county a county finance committee which shall have the authority to review the county estimate and make recommendations to the county commissioners for changes, alterations or revisions therein.

In the event that the recommendations of the county finance committee are not adopted, in whole or in part by the county commissioners, then so much of the proposed estimates as may relate to those recommendations which are not adopted, shall be submitted to the standing committee of the Legislature on County Government, or its successor. The said legislative committee shall hold a public hearing on the matters in dispute and shall by a written report finally decide the matter. In such event it shall make a written report to the county commissioners who shall incorporate its requirements within their budget and shall proceed to adopt an appropriation resolution.

The committee shall consist of 7 members, 5 of whom shall be selected from members of the Legislature resident in the county as follows: The members of the Legislature resident in the county shall meet on or before said October 1st and elect one of their number to serve on the county finance committee. That person shall in turn select 2 other of said members to serve on the county finance committee and shall designate one of said other members from the majority party and one of said other members from the minority party when the composition of the legislative delegation of the county permits such designation. The county commissioners shall designate from said members 2 to serve on the said finance committee, one of whom shall be a member of the majority party and the other of whom shall be a member of the minority party when the composition of the legislative delegation of the county permits such designation. Each member of the Legislature who is a member of the committee shall reside in a different municipality. In the event that the members of the Legislature resident in the county are 5 or less, then all of said members shall be on the county finance committee. The remaining 2 members shall be selected from among the municipal officers of municipalities located in the county; one by the county commissioners and the other by the first person chosen to serve on the county finance committee. Municipal officers shall mean the mayor and aldermen of a city and the selectmen of a town.

The committee shall meet and give its recommendations, as aforesaid, to the county commissioners on or before December 1st. The committee shall, by majority vote, elect a chairman, vice-chairman and a secretary who shall serve at the pleasure of the committee. A majority of the committee shall constitute a quorum and a majority thereof shall have authority to act on any

matter falling within the jurisdiction of the committee. The committee shall keep minutes of matters considered and votes taken at its meetings. Clerical assistance shall be provided the committee by the respective county commissioners.

The committee shall have authority to determine the salaries of the respective county commissioners.

The members of the committee shall receive their actual expenses incurred in the performance of their duties.

2. **Petition to the Legislature.** Upon written petition of electors, the number of which shall not be less than 10% of the total vote for Governor cast in the last gubernatorial election in the county preceding the filing of such petition, and addressed to the Legislature and filed in the office of the Secretary of State on or before January 1st of the year of convening of the Legislature, requesting that the county estimate shall not be final until it has been presented to the Legislature, the same shall not be final and it shall be referred to the Legislature for its approval. In such instance, the county tax for the biennium shall be granted by the Legislature separately at the same session.

Sec. 8. R. S., T. 30, §§ 252-A and 252-B, additional. Title 30 of the Revised Statutes is amended by adding 2 new sections, 252-A and 252-B, to read as follows:

§ 252-A. **Authorized expenditures**

The county commissioners may raise or appropriate money for the following purposes.

1. **Operating expenses:**

- A. Providing for the operation of county government;
- B. Establishing a contributory pension system for its officials and employees, or participating in an existing system, including the State retirement System;
- C. Providing for the operation of various departments of county government, including provision for police and fire protection;
- D. Insuring officials, employees and volunteer workers against public liability and property damage resulting from their negligent operation of any vehicle owned or leased by the county or being used for county purposes or business;
- E. Obtaining the services of county advisory organizations.

2. **Public works:**

- A. Providing for buildings, ways, bridges, parks, parking places, water or sewage facilities;
- B. Providing for public solid waste disposal areas, either within or without its boundaries;
- C. Providing for cemeteries;
- D. Providing for flood control projects.

3. Education :

A. Providing for assistance to schools, including transportation of pupils.

4. Health and welfare :

A. Supporting a hospital serving its residents ;

B. Conducting a public health program, including employing the necessary professional help and assistance ;

C. Providing for extermination and control of pests ;

D. Providing for a public ambulance and facilities for it ;

E. Providing for a food stamp or donated food program in conformity with regulations promulgated by the United States Department of Agriculture and the United States Department of Health, Education and Welfare.

5. Development :

A. Supporting a chamber of commerce or board of trade ;

B. Advertising resources and attractions ;

C. Purchasing real estate and property for county purposes, including purchases from the Federal Government ;

D. Providing real estate and personal property for a recreational program ;

E. Planning for the purpose of development, including employment of a director of industrial development ;

F. Assisting a local historical society in writing and publishing its history ;

G. Assisting conventions.

6. Celebrations and commemorations :

A. Celebrating any anniversary of settlement or founding and publishing the proceedings of the celebration ;

B. Observing and decorating for holidays ;

C. Supporting an organization to provide music for functions in public celebration, and providing for monuments and memorials and real estate suitable for their erection to honor the veterans of the Armed Forces who sacrificed their lives in the defense of the United States of America.

7. Transportation :

A. Providing for the planning, construction, equipping, improvement, extension and operation of airports and including the provision of ground transportation equipment and facilities.

8. General duties and operation :

A. Performing any of the duties required of it by law ;

B. Providing for any operations authorized by law which by their nature require the expenditure of money.

The powers and authority provided in this section are additional and supplemental to any other authority or power of the counties, whether that authority or power be expressed or implied in existing statutes or other enabling provisions and shall not be regarded as in derogation of or as repealing any authority or power now existing under any other law.

§ 252-B. Federal and state grants

A county may accept grants:

1. Federal. Counties may apply for and accept federal grants for any purpose for which federal grants are made available to counties, either directly or through the State.

2. State. Counties may apply for and accept state grants for any purpose for which state grants are made available to counties, either directly or through a state agency.

Sec. 9. R. S., T. 30, § 253, repealed and replaced. Section 253 of Title 30 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 253. Estimates recorded

Said estimates shall be recorded by their clerk in a book. A copy of said estimates shall be transmitted by registered or certified mail by the county commissioners to the chairman of the governing board of each municipality in their respective counties on or before the first day of January of the year following the adoption of the estimate. A copy thereof shall be signed by the chairman of the county commissioners and attested by their clerk, who shall transmit it to the State Auditor on or before said January 1st.

Sec. 10. R. S., T. 30, § 409, repealed and replaced. Section 409 of Title 30 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 409. Bonds

To provide funds for capital improvements, the county commissioners are authorized to raise and expend sums not exceeding \$500,000 and to make such improvements and to build such facilities as they may deem advisable. The county commissioners may borrow from time to time upon the full faith and credit of the county, such sums, not exceeding in the aggregate \$500,000, as may be necessary therefor and may issue bonds therefor which shall bear on their face the words "(Name of county) County Capital Improvement Bonds, 19 (year)". A county having occasion to issue such bonds may make them payable in installments extending over a period of not more than 50 years. Such bonds shall be signed by the treasurer of the county and countersigned by a majority of the county commissioners. The county may sell such bonds at public or private sale upon such terms and conditions as the county commissioners may deem proper but at not less than par and accrued interest. Such bonds shall not be valid without first obtaining the consent of the county, substantially as provided in section 302.

The county treasurer, with the approval of the county commissioners, may issue temporary notes of the county, payable in not more than one year from their date, in anticipation of the issue of serial bonds under these provisions and may renew the same, but the time within which such serial bonds shall become due and payable shall not, by reason of such temporary notes, be extended beyond the term fixed by these provisions. Any notes issued in anticipation of the serial bonds shall be paid from the proceeds thereof. The balance submitted to the voters to authorize the issuance of bonds shall state the general purpose for which the proposed bonds are to be issued and the maximum principal amount of the proposed bonds authorized to be issued.

Sec. 11. R. S., T. 30, § 604, amended. Section 604 of Title 30 of the Revised Statutes is amended to read as follows:

§ 604. Salaries

County treasurers and their deputies shall receive annual salaries as set forth in section 2 by the county commissioners.

Sec. 12. R. S., T. 30, § 958, amended. The 2nd sentence of section 958 of Title 30 of the Revised Statutes, as amended, is repealed as follows:

~~Such full time deputy sheriffs shall not receive more than \$126 and chief deputies shall not receive more than \$130 in the aggregate for any one week, except that these limitations shall not apply to Androscoggin County, Cumberland County and York County~~

Sec. 13. Effective date. This Act, except for the provisions in section 3, shall become operative on September 1, 1974, only for the purpose of allowing county commissioners to utilize the procedural provisions to set the county tax for the year 1975 and succeeding years and shall become fully effective on January 1, 1975. The provisions of section 3 of this Act shall become effective on January 1, 1974 only for the purposes of allowing the County Civil Service Commission to implement the procedures set out in the law and to allow the appointment of the County Civil Service Commission. Section 3 shall become completely operative on January 1, 1975. It shall apply to employees who are in employment and who are employed on and after that date.

STATEMENT OF FACT

This Act is designed to give greater flexibility in the setting of county budgets but to retain some control over the setting of those budgets. Under existing statutes the county budgets are set by the Legislature. Under this legislation the counties would set their own budgets with the approval of a county finance committee composed of legislators and municipal officials. If the budget were not fully approved by the finance committee, the disputed matters would be submitted to the Legislature for resolution. Additionally, if citizens of the county were not satisfied with the budget as set, they could petition the Legislature to have it review the budget.

The legislation also sets up a Civil Service Commission covering county employees. It also specifies the reasons for which counties may raise moneys and otherwise attempts to modernize county budgetary procedures.