

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-SECOND LEGISLATURE

HOUSE.

No. 221

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND FIVE.

AN ACT to abolish the common council and increase the membership of the board of aldermen of the city of Portland.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

Section 1. Section 2 of chapter 275 of the Private and 2 Special Laws of the State of Maine, approved March 24, 3 1863, is hereby amended so as to read as follows:

'Sect. 2. The administration of all the fiscal, prudential and 5 municipal affairs of said city, with the government thereof, 6 shall be vested in one principal magistrate to be styled the 7 mayor, and one board of eighteen to be denominated the 8 board of aldermen, all of whom shall be inhabitants of said 9 city; which board of mayor and aldermen shall constitute and

10 be called the city council; and shall be sworn or affirmed in
11 the form prescribed by the constitution of the State for State
12 officers.'

Sect. 2. Section 3 of said chapter 275 is hereby amended
2 so as to read as follows:

'Sect. 3. The mayor of said city shall be the chief execu-
4 tive magistrate thereof. It shall be his duty to be vigilant
5 and active in causing the laws of the State, and ordinances
6 and regulations of the city, to be executed and enforced, to
7 exercise a general supervision over the conduct of all sub-
8 ordinate officers, and to cause violations or neglect of duty
9 on their part to be punished. He shall, from time to time,
10 communicate to the city council such information, and recom-
11 mend such measures, as the interest of the city may require.
12 He shall preside at all meetings of the city council, but shall
13 have only a casting vote. He shall be compensated for his
14 services by a salary to be fixed by the city council, payable
15 at stated periods, and shall receive therefor no other com-
16 pensation, which salary, however, shall not be increased or
17 diminished during his term of office.'

Sect. 3. Section 4 of said chapter 275 as amended by chap-
2 ter 384 of the Private and Special Laws of the State of
3 Maine, approved March 19, 1901, is hereby further amended
4 so as to read as follows:

'Sect. 4. Every law, act, ordinance, resolve or order,
6 excepting rules and orders of a parliamentary character, shall
7 be presented to the mayor for approval. If not approved by
8 him he shall return it, with his objections, to the city council,
9 at the next stated session, provided that said stated session is
10 held at least one week after the aforesaid law, act, ordinance,
11 resolve or order is presented to the mayor for his approval.
12 The city council shall enter the objections at large on its
13 journal and proceed to reconsider the same. If upon such

14 reconsideration it shall be passed by a vote of two-thirds of
15 all the members of the board of aldermen, it shall have the
16 same effect as if signed by the mayor. The mayor shall have
17 the right to approve as a whole any resolve or order involving
18 the appropriation and expenditure of money, or to approve
19 or disapprove specific items thereof, and the portions
20 approved shall thereby be in force in like manner as if no
21 part thereof had been disapproved, and the portion or por-
22 tions disapproved shall thereupon take the same course, as
23 herein provided, as though said resolve or order has been
24 disapproved as a whole. In case of vacancy in the office of
25 mayor, when said law, act, ordinance, resolve or order be
26 finally passed, the same shall be valid without approval. In
27 case any ordinance, order, resolution or vote involves the
28 appropriation or expenditure of money to an amount which
29 may exceed three hundred dollars, the laying of an assess-
30 ment, or the granting to a person or corporation of any right
31 in, over or under any street or other public ground of said
32 city, the affirmative votes of a majority of all the members
33 of the city council shall be necessary for its passage. Every
34 such ordinance, order, resolution or vote shall be read twice,
35 with an interval of at least three days between the two read-
36 ings, before being finally passed, and the vote upon its final
37 passage shall be taken by roll call.'

Sect. 4. Section 5 of said chapter 275 is hereby amended
2 so as to read as follows:

'Sect. 5. The executive powers of said city generally and
4 the administration of police and health departments, with all
5 the powers of selectmen, except as modified by this act, shall
6 be vested in the mayor and aldermen. All the powers of
7 establishing watch and ward, now vested by the laws of the
8 State in the justices of the peace and municipal officers or
9 inhabitants of towns, are vested in the mayor and aldermen,
10 so far as relates to said city; and they are authorized to unite

11 the watch and police departments into one department and
12 establish suitable regulations for the government of the same.
13 The officers of police shall be one chief, to be styled the city
14 marshal, so many deputy marshals as the city council may
15 by ordinance prescribe, and so many watchmen and police-
16 men as the mayor and aldermen may from time to time
17 appoint. All other powers now or hereafter vested in the
18 inhabitants of said city, and all powers granted by this act,
19 as well as all powers relating to the fire department, shall be
20 vested in the city council. The city council shall keep a
21 record of its proceedings and be judge of the election of its
22 members; and in case of vacancies new elections shall be
23 ordered by the mayor and aldermen.'

Sect. 5. Section 6 of said chapter 275 as amended by chap-
2 ter 384 of the Private and Special Laws of the State of
3 Maine, approved March 19, 1901, is hereby further amended
4 so as to read as follows:

'Sect. 6. The compensation of all subordinate city officers
6 whatsoever, shall be fixed by the city council. All officers of
7 the police and health departments shall be appointed by the
8 mayor and aldermen, and may be removed by them for good
9 cause. All other subordinate officers, now elected by the
10 mayor and aldermen or the city council, shall hereafter be
11 elected by the city council, and such officers may be removed
12 for good cause, by the assent of two-thirds of all the mem-
13 bers thereof. Except as otherwise specially provided in this
14 act, all subordinate officers shall be elected annually on the
15 second Monday of December, or as soon thereafter as may
16 be, and their term of office shall be for one year, and until
17 others are qualified in their place. All vacancies may be filled
18 by the city council.'

Sect. 6. Section 9 of said chapter 275 is hereby amended
2 so as to read as follows:

‘Sect. 9. The city council shall have exclusive authority to
4 lay out, widen or otherwise alter, or discontinue any or all
5 streets or public ways in the city of Portland, without petition
6 therefor, and as far as extreme low water mark; and to esti-
7 mate all damage sustained by the owners of land taken for
8 that purpose; but all locations below high water mark shall
9 be subject to the provisions of the laws relating to the com-
10 missioners of Portland harbor. A standing committee shall
11 be appointed, whose duty it shall be to lay out, alter, widen
12 or discontinue any street or way in said city, first giving
13 notice of the time and place of their proceedings to all parties
14 interested, by an advertisement in two daily papers printed
15 in Portland, for one week at least previous to the time
16 appointed. The committee shall first hear all parties inter-
17 ested, and then determine and adjudge whether the public
18 convenience requires such street or way to be laid out, altered
19 or discontinued; and shall make a written return of their pro-
20 ceedings, signed by a majority of them, containing the bounds
21 and descriptions of the street or way, if laid out or altered,
22 and the names of the owners of the land taken, when known,
23 and the damages allowed therefor; the return shall be filed
24 in the city clerk’s office at least seven days previous to its
25 acceptance by the city council. The street or way shall not
26 be altered or established until the report is accepted by the
27 city council, and the report shall not be altered or amended
28 before its acceptance. A street or way shall not be discon-
29 tinued by the city council, excepting upon the report of said
30 committee. The committee shall estimate and report the
31 damages sustained by the owners of the lands adjoining that
32 portion of the street or way which is so discontinued; their
33 report shall be filed with the city clerk seven days at least
34 before its acceptance. Any person aggrieved by the decision
35 or judgment of the city council in establishing, altering, or
36 discontinuing streets, may, so far as relates to damages,

37 appeal therefrom to the next court having jurisdiction thereof
38 in the county of Cumberland, which court shall determine the
39 same by a committee of reference under a rule of court, if
40 the parties agree, or by a verdict of its jury, and shall render
41 judgment and issue execution for the damages recovered,
42 with costs to the party prevailing in the appeal. Such appeal
43 shall be made to the term of the supreme judicial court which
44 shall first be holden in the county of Cumberland more than
45 thirty days from and after the day the street is finally estab-
46 lished, altered or discontinued, excluding the day of com-
47 mencement of the session of said court. The appellants shall
48 serve written notice of such appeal upon the mayor or city
49 clerk, fourteen days at least before the session of the court,
50 and shall at the first term file a complaint setting forth sub-
51 stantially the facts of the case. On the trial, exceptions may
52 be taken to the rulings of the court, as in other cases. Co-ten-
53 ants who are appellants shall join in their appeal or shall not
54 recover their costs. If a street or way is discontinued before
55 the damages are paid or recovered for the land taken, the
56 land owner shall not be entitled to recover such damages,
57 but the committee in their report discontinuing the same shall
58 estimate and include all the damages sustained by the land
59 owner, including those caused by the original location of the
60 streets, and in such cases, if an appeal has been regularly
61 taken the appellant shall recover his costs. The city shall not
62 be compelled to construct or open any street or way thus
63 hereafter established, until in the opinion of the city council
64 the public good requires it to be done; nor shall the city
65 interfere with the possession of the land so taken by removing
66 therefrom materials, or otherwise until they decide to open
67 and construct said street. The city council may regulate the
68 height and width of sidewalks in any public square, places,
69 streets, lanes or alleys in said city; and may authorize posts
70 and trees to be placed along the edge of said sidewalks. Nor

71 shall the city be answerable for damages occasioned by tele-
72 graph posts and wires erected in the streets.'

Sect. 7. Section 12 of said chapter 275 as amended by said
2 chapter 384 of the Private and Special Laws of the State of
3 Maine, approved March 19, 1901, is hereby further amended
4 so as to read as follows:

'Sect. 12. The mayor shall be elected by the inhabitants
6 of the city in their respective wards. Two aldermen, elected
7 as hereinafter provided, a warden and clerk, and two con-
8 stables shall be elected by each ward, being residents in the
9 ward where elected. All said officers shall be elected by
10 ballot by a plurality of the votes given; and with the exception
11 of the aldermen shall hold their offices for one year from the
12 second Monday in December and until others shall be elected
13 and qualified in their places. All city and ward officers shall
14 be held to discharge the duties of the offices to which they
15 have been respectively elected, notwithstanding their removal
16 after their election out of their respective wards into any
17 other wards in the city; and they shall not so be held after
18 they have taken up their permanent residence out of the city.'

Sect. 8. Section 13 of said chapter 275 as amended by said
2 chapter 384 of the Private and Special Laws of the State of
3 Maine, approved March 19, 1901, is hereby further amended
4 so as to read as follows:

'Sect. 13. On the first Monday in December, 1905, the
6 qualified electors in each ward shall ballot for mayor, one
7 alderman to serve for one year, and one alderman to serve
8 for two years, or until others are elected and qualified in their
9 places, a warden and clerk and two constables on one ballot,
10 and annually thereafter on the first Monday in December the
11 qualified electors in each ward shall ballot for mayor, one
12 alderman to serve for a term of two years, or until a suc-
13 cessor is elected and qualified, a warden and clerk and two
14 constables on one ballot. The ward clerk within twenty-four

15 hours after such election, shall deliver to the persons elected,
16 certificates of their election, and shall forthwith deliver to the
17 city clerk a certified copy of the records of such election, a
18 plain and intelligible abstract of which shall be entered by
19 the city clerk on the city records. If the choice of any such
20 officers is not effected on that day, the meeting shall be
21 adjourned to another day (not more than two days there-
22 after) to complete such election, and may so adjourn from
23 time to time until the election is completed. The board of
24 aldermen shall as soon as conveniently may be, examine the
25 copies of the records of the several wards, certified as afore-
26 said, and shall cause the person who shall have been elected
27 mayor by a plurality of the votes given in all the wards, to
28 be notified in writing of his election. But if it shall appear
29 that no person shall have been so elected, or if the person
30 elected shall refuse to accept the office, the said board shall
31 issue their warrants for another election; and in case the citi-
32 zens shall fail on a second ballot to elect a mayor, the city
33 council shall, from the four highest candidates voted for at
34 the second election and returned, elect a mayor for the ensu-
35 ing year; and in case of a vacancy in the office of mayor by
36 death, resignation or otherwise, it shall be filled for the
37 remainder of the term by a new election in the manner here-
38 inbefore provided for the choice of said officer. The oath or
39 affirmation prescribed by this act, shall be administered to
40 the mayor by the city clerk or any justice of the peace in said
41 city. The aldermen elect shall meet on the second Monday
42 in December at 10 o'clock in the forenoon when the oath or
43 affirmation required by the second section of this act shall be
44 administered to the members present by the mayor or any
45 justice of the peace. The city council shall by ordinance,
46 determine the time of holding stated or regular meetings of
47 the board, and shall also, in like manner, determine the man-

ner of calling special meetings and the persons by whom the same shall be called; but until otherwise provided by ordinance, special meetings shall be called by the mayor by causing a notification to be left at the usual residence or place of business of each member of the board.'

Sect. 9. Section 14 of said chapter 275 is amended so as to read as follows:

'Sect. 14. After the organization of a city government and the qualification of a mayor, and when a quorum of the board of aldermen shall be present, said board, the mayor presiding, shall proceed to choose a permanent chairman, who, in the absence of the mayor, shall preside at all meetings of the board, and in case of any vacancy in the office of mayor, he shall exercise all the powers and perform all the duties of the office so long as such vacancy shall remain; he shall continue to have a vote in the board, but shall not have the veto power. The board of aldermen in the absence of the mayor and permanent chairman, shall choose a president pro tempore who shall exercise the powers of a permanent chairman.'

Sect. 10. Section 17 of said chapter 275 is amended so as to read as follows:

'Sect. 17. The city clerk shall be clerk of the city council. He shall perform such duties as shall be prescribed by the city council, and shall also perform all the duties and exercise all the powers now incumbent on him by law. He shall give notice in two or more of the papers printed in said city, of the time and place of regular ward meetings; the time of such meetings when not fixed by law, shall be determined by the board of aldermen. In case of the temporary absence of the city clerk, the mayor and aldermen may appoint a city clerk pro tempore.'

Sect. 11. Section 19 of chapter 275 is amended so as to read as follows:

‘Sect. 19. The aldermen shall not be entitled to receive any
4 salary or other compensation during the term for which they
5 are elected, nor be eligible to any office of profit or emolu-
6 ment the salary of which is payable by the city; and all
7 departments, boards, officers and committees, acting under
8 the authority of the city and entrusted with the expenditures
9 of public money, shall expend the same for no other purpose
10 than that for which it is appropriated; and shall be account-
11 able therefor to the city in such manner as the city council
12 may direct.’

Sect. 12. Section 3 of chapter 11 of the Private and Special
2 Laws of the State of Maine, approved February 6, 1890, is
3 hereby amended so as to read as follows:

‘Sect. 3. On the first Monday in December, 1905, the quali-
5 fied electors in each of the nine wards shall ballot for mayor,
6 one alderman to serve for one year and one alderman to serve
7 for two years, or until others are elected and qualified in their
8 places, a warden and clerk and two constables on one ballot,
9 and annually thereafter on the first Monday in December
10 the qualified electors or each of said nine wards shall ballot
11 for mayor, one alderman to serve for two years or until a
12 successor is elected and qualified, a warden and clerk and two
13 constables on one ballot in the manner provided by law. At
14 said election for one thousand eight hundred and ninety-nine
15 the electors for ward eight shall likewise ballot for a member
16 of the school committee to serve for one year; and the elec-
17 tors of ward nine shall likewise ballot for a member of the
18 school committee to serve for two years, and thereafter the
19 electors in each of said wards by a plurality of the votes cast,
20 shall elect a member of the school committee for two years.’

Sect. 13. This act shall take effect when approved.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES,

Augusta, February 22, 1905.

Reported by Mr. BAXTER from Committee on Legal Affairs and
ordered printed under joint rules.

E. M. THOMPSON, *Clerk.*