

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-FOURTH LEGISLATURE

HOUSE.

No. 535

STATE OF MAINE.

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

AN ACT to amend the Charter of the City of Auburn.

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

Section 1. Elections for the choice of a mayor, four alder-
2 men and members of the superintending school committee,
3 of the city of Auburn shall be held in the year one thousand
4 nine hundred and ten, and biennially thereafter, on the first
5 Monday of March.

Sect. 2. The government of said city, and the administra-
2 tion of all its fiscal, prudential and municipal affairs shall be
3 vested in a city council composed of one principal magistrate,
4 to be styled a mayor, and four aldermen, all of whom shall
5 be inhabitants of said city, and shall be elected by ballot from

6 the citizens at large, by the inhabitants thereof voting in
7 their respective wards. They shall hold their offices for two
8 years beginning at ten o'clock in the forenoon on the third
9 Monday of March of the year in which they are elected, and
10 until others shall be elected in their places.

Sect. 3. The superintending school committee of said city
2 shall consist of the mayor of the city, ex-officio, and six other
3 members, who shall be inhabitants of said city and shall be
4 elected by ballot from the citizens at large, by the inhabitants
5 thereof voting in their respective wards. No person shall
6 be ineligible to membership on the superintending school
7 committee on account of sex. At the municipal election held
8 on the first Monday in March in the year one thousand nine
9 hundred and ten, there shall be elected two members of said
10 committee to serve for a term of two years, two members
11 to serve for a term of four years, and two members to serve
12 for a term of six years; and biennially thereafter two mem-
13 bers shall be elected to serve for a term of six years. Any
14 vacancies upon said committee shall be filled by the city
15 council, by the election of a member to serve for the unex-
16 pired term.

Sect. 4. At any city election the person receiving the high-
2 est number of votes for an office shall be deemed and de-
3 clared elected to such office; and if two or more persons are
4 to be elected to the same office, the several persons to the
5 number to be chosen to such office receiving the highest num-

6 ber of votes shall be deemed and declared to be elected; but
7 persons receiving the same number of votes shall not be
8 deemed to be elected if thereby a greater number would be
9 elected than are by law to be chosen, and in such event war-
10 rants shall be issued forthwith for a new election to such
11 office.

Sect. 5. On the first Monday of March in the year one
2 thousand nine hundred and ten, the qualified voters of each
3 ward shall ballot for a mayor, four aldermen, six members
4 of the superintending school committee, a warden and a
5 ward clerk; and on the first Monday of March biennially
6 thereafter the qualified voters of each ward shall ballot for
7 a mayor, four aldermen, two members of the superintending
8 school committee, a warden and a ward clerk; all the votes
9 given for such several officers respectively shall be sorted,
10 counted, declared and registered in open ward meeting, by
11 causing the names of the persons voted for and the num-
12 ber of votes given for each to be written on the ward record
13 at length. The ward clerk shall forthwith deliver to the
14 persons elected warden and ward clerk certificates of their
15 election, and shall forthwith deliver to the city clerk a cer-
16 tified copy of the record of such election.

In the year one thousand nine hundred and ten the board
18 of aldermen, and thereafter the city council, shall, as soon
19 as conveniently may be, examine the copies of the records of
20 the several wards certified as aforesaid, and shall cause the

21 persons who shall have been elected mayor, aldermen and
22 members of the superintending school committee to be noti-
23 fied in writing of their election; but if it shall appear that no
24 person shall have been elected to any office, or if the person
25 elected shall refuse to accept the office, warrants for another
26 election shall be issued forthwith.

Sect. 6. The warden and ward clerk chosen as provided
2 in the preceding section shall be residents of the wards for
3 which they are elected, and shall hold their offices for two
4 years from the Tuesday following the first Monday of
5 March on which they are elected, and until others have been
6 chosen and qualified in their stead; said warden and clerk
7 shall be sworn to the faithful performance of their duties
8 by the person presiding in said meeting, or by the clerk
9 thereof, and a certificate of such oath shall be entered by the
10 clerk on the records of said ward. The warden shall preside
11 at all ward meetings with the powers of moderators of town
12 meetings, and if at any meeting the warden shall not be
13 present, the clerk of the ward shall call the meeting to order
14 and preside until a warden pro tempore shall be chosen. If
15 neither the warden nor the clerk shall be present, any legal
16 voter in the ward shall preside until a clerk pro tempore
17 shall be chosen and qualified. The clerk shall record all the
18 proceedings and certify the votes given, and deliver over to
19 his successor in office all such records and journals together
20 with all documents and papers held by him in said capacity.

21 all ward meetings shall be notified and called by the city
22 council in the manner provided in the laws of this State for
23 notifying and calling town meetings by the selectmen of the
24 several towns.

Sect. 7. The mayor and aldermen elected as aforesaid shall
2 meet at ten o'clock in the forenoon, on the third Monday of
3 March in the year one thousand nine hundred and ten, and
4 at ten o'clock in the forenoon on the third Monday of March
5 biennially thereafter, and shall severally take oath before the
6 city clerk or a justice of the peace to perform faithfully the
7 duties of their respective offices. The city council shall
8 thereupon be organized by the choice of a president, who
9 shall be called the president of the city council, and shall
10 hold his office during its pleasure. He shall be some mem-
11 ber thereof other than the mayor. The organization of the
12 city council shall take place as aforesaid, notwithstanding
13 the absence, death, refusal to serve, or non election of the
14 mayor or of one or more of the four aldermen, provided
15 that at least three of the persons entitled to be members of
16 the city council are present and take oath as aforesaid. Any
17 person entitled to take the aforesaid oath who was not pres-
18 ent at the time above fixed therefor may take the same at
19 any time thereafter.

Sect. 8. Upon the organization of the city council elected
2 as aforesaid, on the third Monday of March in the year one
3 thousand nine hundred and ten, the terms of office of the

4 mayor, aldermen, common council, members of the super-
5 intending school committee, of the board of fire commis-
6 sioners and board of public works then serving shall ter-
7 minate; and thereafter the city council elected under this act
8 shall have, possess, and shall exercise all the powers and
9 duties then held, possessed and exercised by all or any, the
10 mayor, municipal officers, aldermen, city council, board of
11 public works, board of fire commissioners, overseers of the
12 poor and park commissioners. The city council shall be the
13 judge of the election of its own members.

Sect. 9. The city council shall by ordinance appoint suit-
2 able times for its regular meetings, which shall be held at
3 least twice in each month. The mayor, or any two members
4 of the city council, or in case the mayor is absent from the
5 city the president of the city council, may at any time call a
6 special meeting, by causing a written notice stating the time
7 and place of holding such meeting, signed by the person or
8 persons calling the same, to be delivered in hand to each
9 member, or left at his usual dwelling place at least twenty-
10 four hours before the time appointed for such meeting.
11 Meetings of the city council may also be held at any time
12 when all the members are and remain present and consent
13 thereto.

Sect. 10. A majority of the members of the city council
2 shall constitute a quorum. Its meetings shall be public. The
3 mayor, if present, shall preside and shall have the right to

4 vote on all questions. Subject to such conditions as the city
5 council may from time to time by ordinance or rule deter-
6 mine, any tax payer or voter of said city may address the
7 city council, but not vote, when any ordinance, order or reso-
8 lution for appropriating money or fixing any salaries is under
9 consideration. The mayor shall also appoint all commit-
10 tees of the city council. In the absence of the mayor the
11 president of the city council shall preside, and in the absence
12 of both a chairman pro tempore shall be chosen. The city
13 clerk shall be ex-officio clerk of the city council, and shall
14 keep the records of its proceedings. All votes of the mem-
15 bers of the city council shall be by yeas and nays if any
16 member so requests, and shall be entered upon the records.
17 The affirmative votes of at least three members shall be nec-
18 essary for the passage of any order, ordinance, resolution or
19 vote. The mayor shall have no power of veto, and no order,
20 ordinance, resolution or vote which the city council shall
21 make or pass shall be presented to him for, or shall require
22 his approval in order to be effective; and the city council
23 may, without the approval of the mayor, do all things which
24 the city council, board of mayor and aldermen, board of
25 aldermen and common council, or any of them, may now
26 do, with such approval.

Sect. 11. The city council shall not make or pass any
2 order, resolution or vote to appropriate money in excess of
3 five hundred dollars, or make or authorize the making of any

4 contract involving a liability on the part of the city in excess
5 of five hundred dollars, unless the same is proposed in writ-
6 ing and remains on file in the office of the city clerk at least
7 one week before its passage, except an order, resolution or
8 vote for preservation of the public peace, health or safety,
9 which contains a statement of its urgency, and is made or
10 passed by a four-fifths vote. No vote of the city council
11 granting a franchise of any description to any person or
12 corporation, shall be valid unless the same be approved by a
13 vote of the qualified voters of the city, voting in their re-
14 spective wards at the biennial municipal election, or at a
15 special election to be called therefor. But this provision
16 shall not be construed to deprive the city council of the au-
17 thority now conferred by law over poles, wires, pipes and
18 conduits in the streets of the city, and future extensions and
19 locations thereof. The city council shall raise and set apart
20 each year, for a sinking fund, a sum equivalent to two per
21 cent of the total appropriations for each year. The sinking
22 fund shall be applied to the payment of the bonded indebt-
23 edness of the city, and shall be invested in bonds of the city
24 or in such other bonds as savings banks in this State may
25 from time to time be authorized to hold for investment, or
26 may be deposited in such savings banks.

Sect. 12. The annual salary resolve and the annual appro-
2 priation resolve shall only be finally passed at a regular meet-
3 ing of the city council, and each shall be made up in com-

4 plete form and filed with the city clerk at least fourteen
5 days before the regular meeting at which each is in order for
6 final passage; the city clerk shall give public notice in some
7 newspaper selected by the city council, of the date of the
8 meeting at which such resolve will be in order for final
9 passage; such notice shall be given at least seven days prior
10 to the date of such meeting, and at said meeting all tax
11 payers and voters in the city shall be given an opportunity
12 to be heard thereon.

The city council shall provide by ordinance for such pub-
14 lication of the receipts and expenditures of the city from
15 time to time during each municipal year, as will give pub-
16 licity and full and accurate information to the voters and tax
17 payers of the city as to the administration of its affairs.

Sect. 13. The city council may by ordinance divide the
2 administration of the affairs of the city into such depart-
3 ments as seem to them proper and advisable, and by vote or
4 resolution may assign the oversight of each department to
5 a member of said body, and may from time to time change
6 such assignments.

All accounts against the city, except pay rolls, shall before
8 payment be audited and allowed by the city council. The
9 city council by ordinance may authorize the approval of the
10 weekly pay roll of any department by the member of the city
11 council to whom oversight of that department is assigned.

Sect. 14. The city council is hereby constituted the over-

2 seers of the poor of said city, and as such may appoint an
3 agent to act for and under its direction and approval in mat-
4 ters relating to the poor of the city and persons having a
5 pauper settlement therein. The written notices and writ-
6 ten answers referred to in sections thirty-nine and forty of
7 chapter twenty-seven of the Revised Statutes, may be signed
8 and sent by such agent, and with the same effect as if signed
9 and sent by the members of the city council themselves, and
10 notices, sent to and addressed to said agent, shall be held
11 to be notices to the overseers of the poor of said Auburn, and
12 all acts of said agent in his official capacity shall be held to
13 be the acts of the overseres of the poor.

Sect. 15. Such powers of nomination, appointment, con-
2 firmation and election for and to office or position, of ap-
3 proval and consent to nominations and appointments, or
4 removal from office and consent thereto, as are now vested
5 in all or any, the mayor, mayor and aldermen, city council,
6 board of aldermen, common council, board of fire commis-
7 sioners and board of public works, shall be exercised by the
8 city council by vote; the mayor shall no longer have the
9 power to make nominations or appointments for or to office
10 or removals therefrom, but shall have the same right to
11 vote thereon as any other member of the city council. The
12 mayor, however, may suspend any police officer until the
13 next meeting of the city council.

Sect. 16. For the municipal year of one thousand nine hundred and ten, and until otherwise ordered by the city council, the annual salary of the mayor shall be five hundred dollars, and the annual salary of each alderman shall be three hundred fifty dollars. These salaries may be changed by any city council, but such change shall not take effect until the expiration of the existing terms of office of the mayor and aldermen making such change.

Sect. 17. No member of the city council shall during the term for which he was chosen, be eligible either by appointment or by election of the city council, to any other office the salary of which is payable by the city, or shall during such term hold any such office.

No officer or employee of the city, elected or appointed, shall be interested directly or indirectly in any contract for work or materials, or the purchase thereof, to be furnished or performed for the city. 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.

Sect. 18. Upon the death, resignation or absence of the
2 mayor, or upon his inability to perform the duties of his
3 office, the president of the city council shall perform them,
4 and if he also is absent or unable from any cause to perform
5 the said duties, they shall be performed by such member of
6 the city council as it may from time to time elect, until the
7 mayor or president of the city council is able to perform the
8 said duties, or until the vacancy is filled as hereinafter pro-
9 vided. The person upon whom such duties devolve shall
10 be called "Acting Mayor," and shall possess the powers of
11 mayor, but shall not act as a member of the superintending
12 school committee.

Sect. 19. If there is a vacancy in the city council, whether
2 as to the mayor or one or more of the aldermen, the coun-
3 cil shall by its remaining members call a special city election
4 to fill the vacancy or vacancies, for the unexpired term or
5 terms respectively, except that if such vacancy or vacancies
6 occur less than six months prior to the biennial city election,
7 the city council shall by its remaining members fill such
8 vacancy or vacancies for the unexpired term or terms re-
9 spectively. A person elected to fill such vacancy shall, before
10 entering upon the duties of his office, take oath before the
11 city clerk or a justice of the peace faithfully to perform the
12 same.

Sect. 20. The mayor of the city shall be ex-officio a mem-
2 ber of the superintending school committee, and, when pres-

ent, shall preside at their meetings. He shall have the right to vote upon all questions, and may appoint the standing committees of said body and fill vacancies therein; in case of a vacancy in the office of mayor, the standing committees may be constituted by resolution of the remaining members of the committee. Every vote of the school committee shall be taken by yeas and nays if any member so requests, and its vote shall be entered on its records. Five of its members shall constitute a quorum.

Sect. 21. Nominations of candidates under this act shall be made by nomination papers filed with the city clerk at least fourteen days, exclusive of Sundays, previous to the day of election, stating the name and ward residence of the candidate, and the office for which he is nominated; no nomination paper shall be valid in respect to any candidate whose written acceptance is not thereon. The nomination papers and the lists of candidates posted by the city clerk shall not contain any party, political, or other designation. Nominations of candidates for mayor shall be signed by at least two hundred qualified voters of said city. Nominations of candidates for aldermen shall be signed by at least one hundred fifty qualified voters of said city. Nominations of candidates for the superintending school committee shall be signed by at least one hundred fifty qualified voters of said city. All nominations for candidates for warden and ward clerk shall be signed by at least twenty-five qualified voters of the ward

18 wherein said candidates are to be elected. Each voter sign-
19 ing a nomination paper shall make his signature in person
20 and add to it his ward residence. No person shall sign nom-
21 ination papers for a greater number of candidates than he
22 has a right to vote for at the election for which the nom-
23 inations are made. The nomination papers shall be pre-
24 sented to the city clerk for verification and certification of
25 signatures as provided by section four of chapter six of the
26 Revised Statutes; one of the signers to each such separate
27 paper shall swear to the truth thereof and the certificate of
28 such oath shall be annexed to or made upon the nomination
29 paper. Section five of said chapter six shall not apply to
30 nominations under this act.

Sect 22. The official ballots and specimen ballots for use
2 at municipal elections in said city shall not contain any
3 party, political, or other designation. The names of the
4 candidates shall be arranged in alphabetical order according
5 to the surnames under the title of the office to be filled; but
6 the names of candidates for the same office, for different
7 terms of service therein, shall be arranged in groups accord-
8 ing to the length of their respective terms. Beneath the
9 title of the office shall be a brief direction to the voter direct-
10 ing him as to the number of candidates to be voted for for
11 such office, such as "Vote for one," "Vote for two," and
12 the like. At the right of each name shall be a square within
13 which the voter shall place a cross to designate his choice.

14 Blank places shall be left at the end of the list of the can-
15 didates for each different office, equal to the number of can-
16 didates to be elected thereto, in which the voter may insert
17 the name of any person not printed on the ballot, for whom
18 he desires to vote, as a candidate for such office, and if any
19 blank is filled, it shall not be necessary to place a cross in
20 the square opposite such name. No names of candidates
21 shall be printed upon an official ballot except the names of
22 candidates nominated as provided in the preceding section.
23 In all other respects the official ballots and the conduct of
24 said elections in said city shall be in conformity with the
25 laws of the State, now or hereafter in force, concerning elec-
26 tions under the secret ballot law.

Sect. 23. This act shall be submitted for approval or re-
2 jection to the qualified voters of the city of Auburn, at an
3 election to be held on the second Monday of September in
4 the year one thousand nine hundred and nine, and warrants
5 shall be issued for such election in manner now provided by
6 law for the holding of municipal elections, notifying and
7 warning the qualified voters of said city to meet in the sev-
8 eral ward meetings of said city, there to cast their ballots for
9 the approval or rejection of this act. The question proposed
10 on said ballot shall be substantially in the following form:

“Shall an act passed by the legislature in the year nineteen
12 hundred and nine, approved (insert date) entitled ‘An Act
13 to Amend the Charter of the City of Auburn’, be accepted?”,

14 otherwise said ballots shall be in the form provided by law
15 when a constitutional amendment is submitted to the vote
16 of the people. The provisions of law relating to the prep-
17 aration of voting lists for municipal elections shall apply to
18 such elections, and said elections shall in all other respects
19 be conducted as municipal elections in said city are now con-
20 ducted by law, and the results thereof shall be determined in
21 the manner now provided by law for the determination of
22 the election of mayor. If a majority of the ballots deposited
23 as aforesaid shall reject, this act shall not go into effect, but
24 if a majority of the electors voting at said ward meetings
25 shall approve, then this act shall take effect as herein pro-
26 vided.

At said election so to be held on the second Monday of Sep-
28 tember in the year one thousand nine hundred and nine, the
29 following question shall also be submitted on the official bal-
30 lot to the qualified voters of said city, and the warrants to be
31 issued for said election shall also warn said voters to meet
32 in the several ward meetings of said city, to cast their ballots
33 thereon, viz :

“Shall the municipal elections for the choice of mayor, al-
35 dermen, members of the superintending school committee,
36 wardens and ward clerk, be held annually after the year one
37 thousand nine hundred and ten?” If the ballots cast upon
38 said question in the affirmative equal in number a majority
39 of all ballots cast for the approval or rejection of this act,

40 this act shall be deemed to be amended by substituting the
41 words 'annual' and 'annually' for the words "biennial" and
42 'biennially' whenever they occur herein, relating to the
43 municipal elections in said city for the choice of said officers;
44 and said officers, excepting the members of the superintend-
45 ing school committee, shall hold their respective offices for
46 the term of one year instead of two years as hereinbefore
47 provided; and the third sentence in section three of this act
48 shall be deemed to be amended so as to read as follows:

'At the municipal election held on the first Monday in
50 March in the year one thousand nine hundred and ten, there
51 shall be elected two members of said committee to serve for
52 a term of one year, two members to serve for a term of two
53 years, and two members to serve for a term of three years;
54 and annually thereafter two members shall be elected to
55 serve for a term of three years.'

Sect 24. So much of this act as authorizes the submission
2 of the question of its acceptance to the electors of the city
3 of Auburn, shall take effect as provided in the constitution of
4 the State, but it shall not take further effect unless accepted
5 by the electors of said city as hereinbefore provided. If
6 accepted by the electors of said city, then this act for the
7 purpose of nominating and electing officers hereunder shall
8 take effect on the first day of January in the year one thou-
9 sand nine hundred and ten; and for all other purposes
10 this act shall take effect on the third Monday of March, in
11 the year one thousand nine hundred and ten, and thereupon

12 chapter 402 of the Private and Special Laws of 1897, estab-
13 lishing a board of fire commissioners for the city of Auburn ;
14 chapter 445 of the Private and Special Laws of 1901, con-
15 stituting the mayor and aldermen of said city overseers of
16 the poor ; chapter 137 of the Private and Special Laws of
17 1903, establishing a board of public works in said city ;
18 chapter 109 of the Private and Special Laws of 1905, amend-
19 ing the act last named, and chapter 45 of the Private and
20 Special Laws of 1905 relating to the school committee of
21 said city, and all other acts and parts of acts inconsistent
22 herewith are hereby repealed, and the provisions of section
23 ten of chapter 471 of the Private and Special Laws of 1868,
24 providing for the election of a street commissioner, and a
25 chief engineer and other necessary engineers of the fire de-
26 partment, by the city council, are hereby revived ; provided,
27 however, that the chief engineer and the assistant engineers
28 of the fire department then in office shall continue to hold
29 office until their successors are elected by the city council,
30 and that the engineers of the fire department thereafter
31 elected by the city council shall have and exercise all the
32 powers, and be subject to all the duties of fire wards, as pro-
33 vided by section five of said chapter 402 of the Private and
34 Special Laws of 1897 in case of engineers elected by the
35 board of fire commisioners ; and provided further, that all
36 by-laws and ordinances of the city of Auburn in force at
37 the time when said repeal takes effect, and not inconsistent
39 with the provisions of this act, shall continue in force until

39 the same are repealed or amended. Upon this act taking
40 effect the records of the board of public works of said city,
41 and of the board of fire commissioners of said city shall be
42 completed by the secretaries of said boards, and shall be de-
43 posited by them with the city clerk of said city.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES,

Augusta, March 10, 1909.

Reported by Mr. WING from Committee on Judiciary and
ordered printed under joint rules.

E. M. THOMPSON, *Clerk.*