

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-FOURTH LEGISLATURE

SENATE.

No. 466

STATE OF MAINE.

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

AN ACT to abolish the Common Council and increase the membership of the Board of Aldermen of the City of Portland with Referendum attached.

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

‘Section 2. The administration of all the fiscal, prudential
5 and municipal affairs of said city, with the government there-
6 of, 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

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

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

'Section 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 subor-
8 dinate 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 re-
11 commend such measures, as the interest of the city may re-
12 quire. He shall preside at all meetings of the city council,
13 but shall have only a casting vote. He shall be compensated
14 for his services by a salary to be fixed by the city council,
15 payable at stated periods, and shall receive therefor 110 other
16 compensation, which salary however, shall not be increased
17 or diminished during his term of office.'

Sect. 3. Section 4 of said chapter 275 as amended by
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:

'Section 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
10 is held at least one week after the aforesaid law, act, ordi-
11 nance, resolve or order is presented to the mayor for his ap-
12 proval. The city council shall enter the objections at large
13 on its journal and proceed to reconsider the same. If upon
14 such reconsideration it shall be passed by vote of two-thirds
15 of all the members of the board of aldermen, it shall have the
16 same effect as if signed by the mayor. If the law, act ordi-
17 nance, resolve or order shall not be returned by the mayor
18 at the next stated meeting it shall be held at least one week
19 after the same has been presented to the mayor. It shall
20 have the same effect as if he had signed it. The mayor shall
21 have the right to approve as a whole any resolve or order
22 involving the appropriation and expenditure of money, or to
23 approve or disapprove specific items thereof, and the por-
24 tions approved shall thereby be in force in like manner as if
25 no part thereof had been disapproved, and the portion or
26 portions disapproved, shall thereupon take the same course,
27 as herein provided, as though said resolve or order has been
28 disapproved as a whole. In case of vacancy in the office of
29 mayor, when said law, act, ordinance, resolve or order be
30 finally passed, the same shall be valid without approval. In
31 case any ordinance, order, resolution or vote involves the
32 appropriation or expenditure of money to an amount which
33 may exceed one hundred dollars, the laying of an assess-
34 ment or the granting to any person or corporation of any

35 right in, over, upon or under any street or other public
36 ground of said city, the affirmative votes of a majority of all
37 the members of the city council shall be necessary for its pas-
38 sage. Every such ordinance, order, resolution or vote shall
39 be read twice within an interval of at least seven days be-
40 tween the two readings, before being finally passed, and the
41 vote upon its final 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:

Section 5. The executive powers of said city generally
4 and the administration of police and health departments, with
5 all the powers of selectmen, except as modified by this Act,
6 shall be vested in the mayor and aldermen. All the powers
7 of establishing watch and ward, now vested by the laws of
8 the 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 chief
14 of police so many captains of police 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 ap-
17 point. All other powers now or hereafter vested in the in-
18 habitants of said city, and all powers granted by this Act, as
19 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:

'Section 6. The compensation of all subordinate city of-
6 ficers whatsoever, shall be fixed by the city council. All of-
7 ficers of the police and health departments shall be appointed
8 by the mayor and aldermen, and may be removed by them for
9 good cause. All other subordinate officers, now elected by
10 the 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 be
16 and their term of office shall be for one year, and until others
17 are qualified in their place. All vacancies may be filled by
18 the city council.

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

'Section 9. The city council shall have exclusive author-
4 ity to lay out, widen or otherwise alter, or discontinue any or
5 all streets or public ways in the city of Portland, without
6 petition therefor, and as far as extreme low water mark; and

7 to estimate all damage sustained by the owners of land taken
8 for that purpose; but all locations below high water mark
9 shall be subject to the provisions of the laws relating to the
10 commissioners of Portland harbor. A standing committee
11 shall be appointed, whose duty it shall be to lay out, alter,
12 widen or discontinue any street or way in said city, first giv-
13 ing notice of the time and place of their proceedings to all
14 parties interested, by an advertisement in two daily papers
15 printed in Portland, for one week at least previous to the
16 time appointed. The committee shall first hear all parties in-
17 terested, and then determine and adjudge whether the pub-
18 lic convnience requires such street or way to be laid out,
19 altered or discontinued; and shall make a written return of
20 their proceedings, signed by a majority of them, containing
21 the bounds and descriptions of the street or way, if laid out
22 or altered, and the names of the owners of the land taken,
23 when known, and the damages allowed therefor; the re-
24 turn shall be filed in the city clerk's office at least seven days
25 previous to its acceptance by the city council. The street
26 or way shall not be altered or established until the report
27 is accepted by the city council, and the report shall not be
28 altered or amended before its acceptance. A street or way
29 shall not be discontinued by the city council, excepting upon
30 the report of said committee. The committee shall estimate
31 and report the damages sustained by the owners of the lands
32 adjoining that portion of the street or way which is so dis-

33 continued; their report shall be filed with the city clerk seven
34 days at least before its acceptance. Any person aggrieved
35 by the decision or judgment of the city council in establish-
36 ing, altering, or discontinuing streets, may, so far as relates
37 to damages, appeal therefrom to the next court having juris-
38 diction thereof in the county of Cumberland, which court
39 shall determine the same by a committee of reference under a
40 rule of court, if the parties agree, or by a verdict of its jury,
41 and shall render judgment and issue execution for the dam-
42 ages recovered, with costs to the party prevailing in the ap-
43 peal. Such appeal shall be made to the term of the Supreme
44 Judicial Court, which shall first be holden in the county of
45 Cumberland more than thirty days from and after the day
46 the street is finally established, altered or discontinued, ex-
47 cluding the day of commencement of the session of said
48 court. The appellants shall serve written notice of such ap-
49 peal upon the mayor or city clerk, fourteen days at least be-
50 fore the session of the court, and shall at the first term file a
51 complaint setting forth substantially the facts of the case.
52 On the trial, exceptions may be taken to the rulings of the
53 court, as in other cases. Co-tenants who are appellants
54 shall join in their appeal or shall not recover their costs.
55 If a street or way is discontinued before the damages are
56 paid or recovered for the land taken, the land owner shall
57 not be entitled to recover such damages, but the committee
58 in their report discontinuing the same shall estimate and in-

59 clude all the damages sustained by the land owner, including
60 those caused by the original location of the streets, and in
61 such cases, if an appeal has been regularly taken the appel-
62 lant shall recover his costs. The city shall not be com-
63 pelled to construct or open any street or way thus hereafter
64 established, until in the opinion of the city council the public
65 good requires it to be done; nor shall the city interfere with
66 the possession of the land so taken by removing therefrom
67 materials, or otherwise until they decide to open and con-
68 struct said street. The city council may regulate the height
69 and width of sidewalks in any public square, places, streets,
70 lanes or alleys in said city; and may authorize posts and trees
71 to be placed along the edge of said sidewalks. Nor shall
72 the city be answerable for damages occasioned by telegraph
73 posts and wires erected in the streets.'

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

'Section 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 excep-
11 tion of the aldermen shall hold their offices for one year from

12 the second Monday of December and until others shall be
13 elected and qualified in their places. All city and ward of-
14 ficers shall be held to discharge the duties of the of-
15 fices to which they have been respectively elected, notwith-
16 standing their removal after their election out of their respec-
17 tive wards into any other wards in the city; and they shall
18 not so be held after they have taken up their permanent resi-
19 dence out of the city.'

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

'Section 13. On the first Monday in December, 1910, the
6 qualified electors in each ward shall ballot for mayor, one
7 alderman to serve for one year, one alderman to serve for
8 two years, or until others are elected and qualified in their
9 places, a warden and clerk and two constables on one bal-
10 lot, and annually thereafter on the first Monday in December
11 the qualified electors in each ward shall ballot for mayor, one
12 alderman to serve for a term of two years, or until a succes-
13 sor is elected and qualified, a warden and clerk and two con-
14 stables 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 ad-
21 journed to another day (not more than two days thereafter)
22 to complete such election and may so adjourn from time to
23 time until the election is completed. The board of aldermen
24 shall as soon as conveniently may be, examine the copies of
25 the records of the several wards, certified as aforesaid, and
26 shall cause the person who shall have been elected mayor by
27 a plurality of the votes given in all the wards, to be notified
28 in writing of his election. But if it shall appear that no per-
29 son shall have been so elected, or if the person elected shall
30 refuse to accept the office, the said board shall issue their
31 warrants for another election; and in case the citizens shall
32 fail on a second ballot to elect a mayor, the city council shall,
33 from the four highest candidates voted for at the second
34 election and returned, elect a mayor for the ensuing year;
35 and in case of a vacancy in the office of mayor by death, re-
36 signation or otherwise, it shall be filled for the remainder of
37 the the term by a new election in the manner hereinbefore
38 provided for the choice of said officer. The oath or affirma-
39 tion prescribed by this act, shall be administered to the mayor
40 by the city clerk or any justice of the peace in said city.
41 The aldermen elect shall meet on the second Monday in De-
42 cember at 10 o'clock in the forenoon when the oath or affir-
43 mation required by the second section of this act shall be ad-
44 ministered to the members present by the mayor or any jus-

45 tice of the peace. The city council shall by ordinance, de-
46 termine the time of holding stated or regular meetings of the
47 board, and shall also, in like manner, determine the manner
48 of calling special meetings and the persons by whom the same
49 shall be called; but until otherwise provided by ordinance,
50 special meetings shall be called by the mayor by causing a
51 notification to be left at the usual residence or place of busi-
52 ness of each member of the board.'

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

'Section 14. After the organization of a city government
4 and the qualification of a mayor, and when a quorum of the
5 board of aldermen shall be present, said board, the mayor
6 presiding, shall proceed to choose a permanent chairman,
7 who, in the absence of the mayor, shall preside at all meet-
8 ings of the board, and in case of any vacancy in the office
9 of mayor, he shall exercise all the powers and perform all
10 the duties of the office so long as such vacancy shall remain;
11 he shall continue to have a vote in the board, but shall not
12 have the veto power. The board of aldermen in the absence
13 of the mayor and permanent chairman, shall choose a presi-
14 *pro tempore* who shall exercise the powers of a permanent
15 chairman.'

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

'Section 17. The city clerk shall be clerk of the city
4 council. He shall perform such duties as shall be prescribed

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

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

'Section 19. The aldermen shall not be entitled to receive
4 any salary or other compensation during the term for which
5 they are elected, nor be eligible to any office of profit or
6 emolument, 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 Spe-
2 cial Laws of the State of Maine, approved February 6th,
3 1899, is hereby amended so as to read as follows:

'Section 3. On the first Monday in December, 1909, the
5 qualified electors in each of the nine wards shall ballot for
6 mayor, one alderman to serve for one year, one alderman to

7 serve for two years, or until others are elected and qualified
8 in their places, a warden and clerk and two constables on
9 one ballot, and annually thereafter on the first Monday in
10 December the qualified electors of each of said nine wards
11 shall ballot for mayor, one alderman to serve for three years
12 or until a successor is elected and qualified, a warden and
13 clerk and two constables on one ballot in the manner pro-
14 vided by law. At said election for one thousand eight hun-
15 dred and ninety-nine the electors for ward eight shall like-
16 wise ballot for a member of the school committee to serve for
17 one year; and the electors of ward nine shall likewise bal-
18 lot for a member of the school committee to serve for two
19 years, and thereafter the electors in each of said wards by a
20 plurality of the votes cast, shall elect a member of the school
21 committee for two years.'

Sect. 13. At the annual municipal election following the
2 passage of this act, the legal voters of the city of Portland
3 shall be called upon to give in their votes upon the acceptance
4 of this act at meetings in the several wards in said city, duly
5 warned by the mayor and aldermen. The vote shall be taken
6 upon the same ballot on which the votes are given for the
7 municipal and ward officers and shall be in answer to the
8 following question: "Shall the act passed by the Legislature
9 of the State of Maine, in the year 1909, entitled 'An act to
10 abolish the common council and increase the membership of
11 the board of aldermen of the city of Portland' be accepted?"
12 Those in favor of the acceptance of said act shall vote "Yes,"

13 and those opposed, "No." The same proceedings shall be
14 had for the sorting, counting, declaring and recording of
15 the returns of said votes as it provided herein for the election
16 of mayor, and the board of aldermen shall at the time it can-
17 vasses the returns of the votes of the several wards for may-
18 or, compare the returns of the several ward officers of the
19 votes upon the question of the acceptance of this act; and
20 if it appears that a majority of the votes given upon the ac-
21 ceptance of this act are in favor thereof, the mayor shall be
22 so notified and shall forthwith make proclamation of the fact,
23 and this act shall thereupon take effect as hereinafter pro-
24 vided.

Sect. 14. So much of this act as authorizes the submis-
2 sion of the question of its acceptance to the legal voters of the
3 city of Portland, shall take effect upon its passage, but it
4 shall not take further effect unless accepted by the legal
5 voters of said city as hereinbefore provided. In case of the
6 acceptance of this act, all the powers and authority over the
7 fiscal, prudential and municipal affairs of said city and the
8 government thereof, shall continue to be vested in the mayor
9 and members of the Board of Aldermen and Common Coun-
10 cil, elected at the municipal election at which this act is ac-
11 cepted, during the municipal year for which they were
12 elected, and until their successors are elected and qualified
13 under the provisions of this act, and said powers and au-
14 thority shall continue to be exercised by them in the same
15 manner as now provided by law and as if this act had not

16 been accepted; and the members of said Board of Aldermen
17 and Common Council shall hold office until a majority of
18 the Board of Aldermen provided for in this act are elected at
19 the next following municipal election and qualified, where-
20 upon this act shall have full force and effect. All acts and
21 parts of acts, in so far as they are inconsistent with this
22 act, are hereby repealed.

STATE OF MAINE.

IN SENATE,

March 19, 1909.

Reported by a majority from Portland Delegation and laid
on table to be printed under joint rules.

F. G. FARRINGTON, *Secretary*.