

MAINE STATE LEGISLATURE

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EIGHTY - THIRD LEGISLATURE

House Document

No. 188

H. P. 666 House of Representatives, Feb. 17, 1927.

Referred to Committee on Legal Affairs and 1,000 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Cyr of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-SEVEN

AN ACT Relating to the Charter of the City of Waterville.

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

Section 1. Section three, chapter one hundred and ninety-
2 five of private and special laws of the State of Maine of
3 one thousand eight hundred and eighty-seven is hereby
4 amended by inserting the words 'He shall appoint' after the
5 word "punished" in the seventh line of said section, by
6 striking out the word "two" in the nineteenth line and in-
7 serting the word 'fifteen' and by striking out all words after
8 "agency" in the twenty-fourth line, so that the section, as
9 amended, shall read as follows:

'Sect. 3. The mayor of said city shall be the chief execu-
2 tive magistrate thereof. It shall be his duty to be vigilant

3 and active in causing the laws and regulations of the city
4 to be executed and enforced, to exercise a general super-
5 vision over the conduct of all subordinate officers, and to
6 cause their violations or neglect of duty to be punished.
7 He shall appoint all city officers except those that are re-
8 quired by law to be elected by the qualified electors of said
9 city or of the several wards in said city, or to be appointed
10 or employed by authority of the board of education and
11 may remove city officers so appointed by him, for cause.
12 He shall also appoint an overseer of the poor, who shall
13 hold his office for a term of two years. Such officer, so
14 appointed, shall perform such duties as may be prescribed
15 by the municipal officers, and shall in general do and per-
16 form all the duties and exercise all the powers incumbent
17 upon or vested in overseers of the poor by law. Such over-
18 seer may be removed by the mayor for cause. The mayor
19 shall exercise the same power of appointment to fill a va-
20 cancy in any appointive city office. He may call special
21 meetings of the board of aldermen and common council,
22 when, in his opinion, the interest of the city requires it, by
23 a notice in one or more of the papers printed in the city, or
24 by causing a summons or notification to be given in hand,
25 or left at the usual dwelling place of each member of the
26 board to be convened. He shall, from time to time, com-
27 municate to the city council, such information and recom-
28 mend such measures as the business and interests of the
29 city may, in his opinion, require. He shall preside in the

30 board of aldermen and joint meetings of the two boards,
31 but shall have only a casting vote. The salary and com-
32 pensation of the mayor shall be fifteen hundred dollars per
33 year, which shall not be increased or diminished during his
34 continuance in office unless by the vote of the qualified elec-
35 tors in ward meetings called for that purpose. Nor shall
36 he receive from the city any other compensation for any
37 services by him rendered in any other capacity or agency.

Section five, chapter one hundred and ninety-five of private
2 and special laws of the State of Maine of one thousand eight
3 hundred and eighty-seven is hereby amended by striking
4 out the words "and aldermen" in the fifteenth line so that
5 the section, as amended, shall read as follows:

'Sect. 5. The executive powers of said city generally, and
2 the administration of police and health departments, with
3 all the powers of selectmen and overseers of the poor except
4 as modified by this act, shall be vested in the mayor and
5 aldermen. All the powers of establishing watch and ward,
6 now vested by the laws of the state in the justices of the
7 peace and municipal officers or inhabitants of the town, are
8 vested in the mayor and aldermen, so far as relates to said
9 city, and they are authorized to unite the watch and police
10 departments into one department, and establish suitable
11 regulations for the government of the same. The officers
12 of police shall be one chief, to be styled the city marshal,
13 as many deputy marshals as the city councils may by ordi-
14 nance prescribe, and as many watchmen and police as the

15 mayor may, from time to time, appoint. All other powers
16 now or hereafter vested in the inhabitants of said city, and
17 all powers granted by this act, as well as all powers relating
18 to the fire department, shall be vested in the mayor and
19 aldermen and common council of said city to be exercised
20 by concurrent vote, each board to have a negative upon the
21 other. (But all members and officers of the fire department
22 shall be continued in the service of said department with-
23 out re-election or re-appointment unless removed for in-
24 efficiency or other cause or retired on arrival at an age limit
25 which may be determined by the city council of said city.)
26 Each board shall keep a record of its proceedings, and judge
27 of the election of its own members, and in case of vacancies,
28 new elections shall be ordered by the mayor and aldermen.'

Section six, chapter one hundred and ninety-five of private
2 and Special Laws of the State of Maine of one thousand
3 eight hundred and eighty-seven is hereby amended by strik-
4 ing out all words after the word "appointed" in the fourth
5 line of said section so that said section, as amended, shall
6 read as follows:

'Sect. 6. The compensation of all subordinate city officers
2 whatsoever, shall be fixed by the city council. All officers
3 of the police and health departments shall be appointed by
4 the mayor and may be removed by him for good cause.
5 All other subordinate officers shall be appointed by the
6 mayor and such officers may be removed by him for good
7 cause. Except as otherwise specially provided in this act

8 or by the laws of the State of Maine all subordinate officers
9 shall be appointed biennially on the first Monday of Janu-
10 ary, or as soon thereafter as may be, and their term of
11 office shall be for two years and until others are qualified
12 in their place. All vacancies may be filled by the mayor.'

Section seven, chapter one hundred and ninety-five of pri-
2 vate and special laws of the State of Maine of one thousand
3 eight hundred and eighty-seven is hereby amended by in-
4 serting the words 'million five' after the word "one" in the
5 fifteenth line of said section so that the section, as amended,
6 shall read as follows:

'Sect. 7. No money shall be paid out of the city treasury
2 except on orders drawn and signed by the mayor, designat-
3 ing the fund or appropriation from which said orders are
4 to be paid, nor unless the same shall be first granted or ap-
5 propriated therefor by the city council, and the city council
6 shall secure a prompt and just accountability by requiring
7 bonds with sufficient penalty and surety or sureties, from
8 all persons trusted with the receipt, custody or disbursement
9 of money; they shall have the care and superintendence of
10 the city buildings and the custody and management of all
11 city property, with power to let or sell what may be legally
12 let or sold, and to purchase and take, in the name of the
13 city, real and personal property for municipal purposes to
14 an amount not exceeding one million five hundred thousand
15 dollars in addition to that now held by the town, and shall,
16 as often as once a year, cause to be published for the infor-

17 mation of the inhabitants, a particular account of receipts
18 and expenditures, and a schedule of city property.'

Section eight, chapter one hundred and ninety-five of pri-
2 vate and special laws of the State of Maine of eighteen hun-
3 dred and eighty-seven, is hereby amended by striking all
4 words before the words "an assistant" in the ninth line of
5 said section, so that said section as amended shall read as
6 follows:

'Sect. 8. The board of assessors shall consist of three
2 members to be appointed by the mayor on the second Mon-
3 day in March in the manner hereinafter provided. Each
4 member shall hold office for a term of three years. The
5 present assessors shall continue in office until their term as
6 heretofore provided, expires. And a vacancy caused by
7 the expiration of their term shall be filled by appointment
8 by the mayor. The mayor shall appoint an assistant assessor
9 in each ward, whose duty it shall be to furnish the assessors
10 with all the necessary information relative to persons and
11 property taxable in his ward; he shall be sworn or affirmed
12 to the faithful performance of his duty. All taxes shall be
13 assessed, apportioned and collected in the manner prescribed
14 by the laws of this state relative to town taxes, except as
15 herein modified, and the city council may establish further
16 or additional provisions for the collection thereof, and of
17 interest thereon.'

Section nine, chapter one hundred and ninety-five of pri-
2 vate and special laws of the State of Maine of eighteen

3 hundred eighty-seven, is hereby amended by inserting the
4 words 'or establish a grade' after the word "city" in the
5 eighth line of said section, so that the section as amended
6 shall read as follows:

'Sect. 9. The city council shall have exclusive authority
2 to lay out, widen or otherwise alter, or discontinue any and
3 all streets or public ways in the city of Waterville, without
4 petition therefor, and to estimate all damage sustained by
5 the owners of land taken for that purpose. A joint stand-
6 ing committee of the two boards shall be appointed, whose
7 duty it shall be to lay out, alter, widen or discontinue any
8 street or way in said city or establish a grade, first giving
9 notice of the time and place of their proceedings to all par-
10 ties interested, as now required by law in case of town ways.
11 The committee shall first hear all parties interested and
12 then determine and adjudge whether the public convenience
13 requires such street or way to be laid out, altered or dis-
14 continued, and shall make a written return of their pro-
15 ceedings, signed by a majority of them, containing the
16 bounds and descriptions of the street or way, if laid out or
17 altered, and the names of the owners of the land taken,
18 when known, and the damages allowed therefor; the re-
19 turn shall be filed in the city clerk's office, at least seven
20 days previous to its acceptance by the city council. The
21 street or way shall not be altered or established until the
22 report is accepted by the city council, and the report shall
23 not be altered or amended before its acceptance. A street

24 or way shall not be discontinued by the city council, except-
25 ing upon the report of said committee. The committee
26 shall estimate and report the damages sustained by the own-
27 ers of the lands adjoining that portion of the street or way
28 which is so discontinued; their report shall be filed with
29 the city clerk, seven days at least before its acceptance. Any
30 person aggrieved by the decision or judgment of the city
31 council in establishing, altering or discontinuing streets,
32 may, so far as relating to damages, appeal therefrom as
33 in case of town ways. If a street or way is discontinued be-
34 fore the damages are paid or recovered for the land taken,
35 the land owner shall not be entitled to recover such dam-
36 ages, but the committee in their report discontinuing the
37 same shall estimate and include all the damages sustained
38 by the land owner, including those caused by the original
39 location of the streets, and in such cases, if an appeal has
40 been regularly taken, the appellant shall recover his costs.
41 The city shall not be compelled to construct or open any
42 street or way thus hereafter established, until in the opinion
43 of the city council, the public good requires it to be done;
44 nor shall the city interfere with the possession of the land
45 so taken, by removing therefrom materials, or otherwise,
46 until they decide to open and construct said street. The city
47 council may regulate the heighth and width of sidewalks
48 in any public square, places, streets, lanes or alleys in said
49 city, and may authorize posts and trees to be placed along the
50 edge of said sidewalks. Nor shall the city be answerable for

51 damages occasioned by telegraph poles and wires erected in
52 its streets.

‘(Whenever said city council shall determine to lay out,
2 widen or otherwise alter any public street or road, said
3 city council is authorized to levy an assessment upon the
4 real estate fronting upon the line of said street and upon
5 other land near said street and benefited thereby in propor-
6 tion to the valuation and the benefits to be derived. The
7 amount of said assessment shall be fixed by the committee
8 of the city council authorized to lay out, widen or alter said
9 road, and in their report to the city council said committee
10 shall state definitely what amount they have assessed on
11 each parcel of land or real estate, giving a description of
12 the same. In proceeding to lay out, widen or alter such
13 streets, such committee shall proceed in the same manner
14 and give the same notices as are required by law in laying
15 out other roads. The report of such committee shall be filed
16 with the city clerk at least seven days before action thereon
17 by the city council. The action of such committee shall
18 be subject to revision and change by the city council. The
19 city clerk shall give to the person owning or in possession
20 of said real estate at least five days’ notice that such assess-
21 ment has been made, stating the amount of same, before
22 the action of the city council upon the same, and a fair
23 opportunity shall be given to all the parties interested to be
24 heard on said assessment before the city council, before
25 action shall be taken thereon and any person aggrieved by

26 the action of the city council shall have the right to appeal,
27 and be heard in court in the same manner as provided by
28 law for appeals and hearings in cases of damages for land
29 taken for highways; said assessment shall constitute a lien
30 on said real estate, which shall continue in force for one
31 year after final action on said assessment, either by city
32 council or by way of proceedings on appeal. The assess-
33 ment so made shall within three months after said final
34 action thereon, be committed to the collector of taxes, and
35 he shall proceed to collect the same in the same manner,
36 and by the same means, as now provided by law for collec-
37 tion of taxes on real estate.'

Section twelve, chapter one hundred ninety-five of private
2 and special laws of the State of Maine of eighteen hundred
3 and eighty-seven, is hereby amended by striking out all of
4 said section twelve and inserting in its place, the following:

'Sect. 12. The mayor shall be elected by the inhabitants
2 of the city, voting in their respective wards. One alderman,
3 two common councilmen, a warden, a clerk, one member
4 of the board of education, and one constable, shall be elected
5 by each ward, being residents in the ward where elected.
6 All said officers shall be elected by ballot by plurality of
7 the votes given, and shall hold their offices two years from
8 the first Monday in January (except that all said officers
9 elected at the first biennial election to be held on the second
10 Monday of December, nineteen hundred and twenty-seven,
11 shall assume and hold their offices from the second Mon-

12 day in March, nineteen hundred and twenty-eight, until the
13 first Monday in January, nineteen hundred and thirty), and
14 until others shall be elected and qualified in their places.

(a) All city and ward officers shall be held to discharge
2 the duties of the offices to which they have been respectively
3 elected notwithstanding their removal after their election out
4 of their respective wards into any other wards in the city,
5 but they shall not be so held after they have taken up their
6 permanent residence out of the city.'

Section thirteen, chapter one hundred and ninety-five, of
2 private and special laws of the State of Maine of eighteen
3 hundred and eighty-seven, is hereby amended by striking
4 out all of said section and inserting in place thereof, the
5 following:

'Sect. 13. On the second Monday in December, biennially,
2 beginning with the year nineteen hundred and twenty-seven,
3 the qualified electors of each ward shall ballot for mayor,
4 one alderman, two common councilmen, a warden and clerk,
5 a member of the board of education (b) and one constable,
6 on one ballot. The ward clerk, within twenty-four hours
7 after such election, shall deliver to the persons elected, cer-
8 tificates of their election, and shall forthwith deliver to
9 the city clerk, a certified copy of the record of such election,
10 a plain and intelligible abstract of which, shall be entered
11 by the city clerk on the city records. If the choice of any
12 ward officer is not effected on that day, the meeting shall be
13 adjourned to another day, not more than two days there-

14 after, to complete such election, and may so adjourn, from
15 time to time, until the election is complete. The board of
16 aldermen shall, as soon as conveniently may be, examine
17 the copies of the records of the several wards, certified as
18 aforesaid, and shall cause the person who shall have been
19 elected mayor by a plurality of the votes given in all the
20 wards, to be notified in writing of his election. But if it
21 shall appear that no person shall have been so elected, or if
22 the person elected shall refuse to accept the office, the said
23 board shall issue their warrants for another election; and
24 in case the citizens shall fail on a second ballot to elect a
25 mayor, the city council in convention shall, from the four
26 highest candidates voted for at the second election and re-
27 turned, elect a mayor for the ensuing year; and in case of
28 a vacancy in the office of mayor by death, resignation or
29 otherwise, it shall be filled for the remainder of the term
30 by a new election in the manner hereinbefore provided for
31 the choice of said officer. The oath or affirmation prescribed
32 by this act shall be administered to the mayor by the city
33 clerk or any justice of the peace in said city, and a certifi-
34 cate thereof filed with the clerk and recorded. The alder-
35 men and common councilmen elect, shall, on the first Mon-
36 day in January, at ten o'clock in the forenoon, meet in con-
37 vention, when the oath or affirmation required by the sec-
38 ond section of this act, shall be administered to the mem-
39 bers of the two boards present, by the mayor or any jus-
40 tice of the peace, after which the board of common council

41 shall be organized by the election of a president and clerk
42 (except that the first organization meeting after the first
43 biennial election to be held on the second Monday of De-
44 cember, nineteen hundred and twenty-seven, shall be held
45 on the second Monday of March, nineteen hundred and
46 twenty-eight). The city council shall, by ordinance, deter-
47 mine the time of holding stated or regular meetings of the
48 boards, and shall also, in like manner, determine the man-
49 ner of calling special meetings and the persons by whom
50 the same shall be called, but until otherwise provided by
51 ordinance, special meetings shall be called by the mayor, by
52 causing a notification to be left at the usual residence or
53 place of business of each member of the board or boards,
54 to be convened.'

Section sixteen, chapter one hundred and ninety-five of
2 private and special laws of the State of Maine of eighteen
3 hundred and eighty-seven, as amended by Chapter three hun-
4 dred eighty-three of private and special laws of the State
5 of Maine of nineteen hundred and one, is hereby further
6 amended by striking out all of said chapter three hundred
7 and eighty-three of the private and special laws of the State
8 of Maine of nineteen hundred and one, and adding to said
9 section sixteen the following:

'The members of the board of education from wards one
2 and two to be elected on the second Monday in December,
3 nineteen hundred and twenty-nine, to take their seats on
4 the first Monday in March, nineteen hundred and thirty,

5 shall hold their office until the first Monday in January,
6 nineteen hundred and thirty-two. The members of the board
7 of education to be elected on the second Monday in De-
8 cember, nineteen hundred and twenty-seven, from wards
9 three and four to take their seats on the second Monday
10 in March, nineteen hundred and twenty-eight, shall retain
11 their offices until the first Monday in January, nineteen
12 hundred and thirty-two. The members of the board of
13 education elected on the first Monday in March, nineteen
14 hundred and twenty-six, from wards five, six and seven,
15 shall hold their office until the first Monday in January,
16 nineteen hundred and thirty, and at each biennial election
17 members for those wards shall be chosen by those wards
18 whose members' terms are about to expire and the term of
19 office shall be four years. In case of a vacancy a member
20 may be chosen by the ward in which the vacancy exists to
21 fill the unexpired term,' so that said section, as amended,
22 shall read as follows:

'Sect. 16. The board of education, elected as hereinbefore
2 provided, shall take the place of the superintending school
3 committee, and perform all its duties and be invested with
4 all its rights and powers. The board shall elect a chair-
5 man annually, and appoint some suitable person, not a mem-
6 ber of the board, superintendent of schools, and may adopt
7 such rules and regulations for the management of the
8 schools as are not inconsistent with the laws of the state.
9 The superintendent shall be the secretary and executive

10 agent of the board, which shall fix his salary, to be paid
11 from the city treasury as salaries of teachers are paid, and
12 may remove him for good cause and appoint a successor.
13 The members of the board shall receive no compensation
14 for their services as such. The members of the board of
15 education from wards one and two to be elected on the sec-
16 ond Monday in December, nineteen hundred and twenty-
17 nine, to take their seats on the first Monday in March, nine-
18 teen hundred and thirty, shall hold their office until the first
19 Monday in January, nineteen hundred and thirty-two. The
20 members of the board of education to be elected on the sec-
21 ond Monday in December, nineteen hundred and twenty-
22 seven, from wards three and four to take their seats on the
23 second Monday in March, nineteen hundred and twenty-
24 eight, shall retain their office until the first Monday in Jan-
25 uary, nineteen hundred and thirty-two. The members of
26 the board of education elected on the first Monday in March,
27 nineteen hundred and twenty-six, from wards five, six and
28 seven, shall hold their office until the first Monday in Janu-
29 ary, nineteen hundred and thirty, and at each biennial elec-
30 tion members for those wards shall be chosen by those wards
31 whose members' terms are about to expire and the term of
32 office shall be four years. In case of a vacancy a member
33 may be chosen by the ward in which the vacancy exists to
34 fill the unexpired term.'

This act shall not take effect unless approved by a ma-
2 jority of those voting upon the question of its approval at

3 a general or special election held on the second Monday
4 in September, nineteen hundred and twenty-seven, and the
5 municipal officers of the city of Waterville shall issue their
6 warrant calling said election at least seven days before the
7 date appointed by them for said election.