

MAINE STATE LEGISLATURE

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NEW DRAFT

EIGHTY-FOURTH LEGISLATURE

House Document

No. 695

H. P. 1660 House of Representatives, March 20, 1929.

Reported by Mr. Burkett of Union from Committee on Legal Affairs and laid on table to be printed under joint rules.

CLYDE R. CHAPMAN, Clerk.

STATE OF MAINE

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

AN ACT to Amend the Charter of the City of Westbrook, in Reference to Reducing the Number of its Aldermen, and Increasing the Time of Their Office as Well as That of the Mayor and the Board of Assessors.

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

Section 1. Section two of chapter two hundred and fifty-
2 seven of the public and special laws of nineteen hundred
3 seven, being the charter of the city of Westbrook, is hereby
4 amended, by striking out the whole of said section thereof,
5 and substituting the following:

'Sect. 2. The government of said city, with the adminis-
2 tration of all its fiscal, prudential and municipal affairs shall

3 be vested in one principal magistrate, to be called the mayor,
4 and in one council of seven, to be called the city council,
5 the members whereof shall be called aldermen. The general
6 management and control of the public schools and the school
7 property, including the school buildings and grounds, shall
8 be vested in a school committee to consist of seven mem-
9 bers. The members of said school committee shall continue
10 to be elected in the manner and for the terms provided in
11 section two of chapter three hundred and forty-six of the
12 private and special laws of eighteen hundred and ninety-
13 seven, which is hereby kept in force for that purpose, ex-
14 cept that each member so elected, shall hold office for the
15 term of two years from the first Monday of January suc-
16 ceeding the time when elected, and until a successor is
17 elected and qualified. All vacancies occurring in the school
18 committee by death, resignation or removal from the city,
19 shall be filled for the unexpired term by the remaining mem-
20 bers; and in case such vacancy is caused by the death, resig-
21 nation or removal from the city, of a member elected by a
22 ward, such vacancy shall be filled from the ward where it
23 occurs. Said school committee may effect such insurance
24 upon the school buildings and property as they may deem
25 expedient, and shall have charge of all repairs on the same.'

Sect. 2. Section four of said chapter is hereby amended
2 by striking out the entire section and substituting the fol-
3 lowing:

'Sect. 4. The mayor, the city clerk, and two aldermen

2 shall be elected from the citizens at large, by the legal vot-
3 ers of the city voting in their respective wards. One alder-
4 man, a warden, a ward clerk and one constable shall be
5 elected by each ward, being residents of the ward where
6 elected. All of said officers shall be elected by ballot by a
7 plurality of the votes given, and shall hold their offices for
8 two years from the first Monday in January, next succeed-
9 ing the time of their election and until others shall be
10 elected and qualified in their places. All city and ward
11 officers shall be held to discharge the duties of their respec-
12 tive offices, notwithstanding their removal after their elec-
13 tion, into any other wards in the city; but they shall not be
14 so held after they have taken up their permanent residence
15 out of the city.'

Sect. 3. Section five of said chapter is hereby amended
2 by striking out the first sentence thereof, and substituting
3 therefor the following: 'The municipal elections, after this
4 act has been approved by a majority of the votes cast by
5 those qualified to vote in said city, shall take place bien-
6 nially on the second Monday in December, beginning with
7 the year nineteen hundred thirty, except that there shall be
8 a municipal election of the second Monday of December,
9 nineteen hundred thirty-one for the sole purpose of elect-
10 ing two members of the school committee,' so that said sec-
11 tion as amended shall read as follows:

'Sect. 5. The municipal elections, after this act has been
2 approved by a majority of the votes cast by those qualified

3 to vote in said city, shall take place biennially on the second
4 Monday in December, beginning with the year nineteen
5 hundred thirty, except that there shall be a municipal elec-
6 tion on the second Monday in December, nineteen hundred
7 thirty-one for the sole purpose of electing two members of
8 the school committee. All meetings of the citizens for
9 municipal purposes shall be notified and called in their re-
10 spective wards, by the mayor and aldermen, in the manner
11 provided by the laws of this state for notifying and calling
12 town meetings by the selectmen of the several towns. The
13 wardens shall preside at all ward meetings, with the powers
14 of moderators at town meetings; and if at any ward meet-
15 ing the warden shall not be present, the clerk shall preside
16 till a warden, pro tempore, shall be chosen. If neither the
17 warden or clerk is present, any legal voter in the ward shall
18 preside till a clerk, pro tempore, shall be chosen and quali-
19 fied. The legal voters in each ward may choose two per-
20 sons to assist the warden in receiving, sorting and counting
21 votes. If from any cause there shall be a vacancy in the
22 office of warden or ward clerk in any of the wards of the
23 city, the same shall be filled by appointment by the mayor
24 for the unexpired term.'

Sect. 4. Section nine of said chapter is hereby amended
2 by striking out the entire section thereof, and substituting
3 the following:

'Sect. 9. The mayor-elect, and the aldermen-elect, shall
2 biennially on the first Monday in January, at seven o'clock

3 and thirty minutes in the afternoon, meet and be sworn to
4 a faithful discharge of their duties. The oath shall be ad-
5 ministered at their first meeting after the acceptance of this
6 act, by the city clerk or any justice of the peace, and shall
7 be duly certified on the Journal of the city council. The
8 city clerk shall be sworn by the city clerk of the previous
9 year or any justice of the peace. In case of the absence
10 of the mayor-elect on the first Monday in January, or if
11 the mayor shall not then have been elected, the oath of
12 office may at any time thereafter be administered to him
13 in the presence of the city council; and at any time there-
14 after in like manner the oath of office may be administered
15 to any member of the city council who has been previously
16 absent, or has been subsequently elected; and every such
17 oath shall be duly certified as aforesaid.'

Sect. 5. Section ten of said chapter is hereby amended
2 by striking out the entire section thereof, and substituting
3 the following:

'Sect. 10. After the oath has been administered to the
2 aldermen present, they shall be called to order, at their first
3 organization, by the city clerk, or in case of the absence
4 of the clerk, by the oldest member present. The person so
5 calling the city council to order shall proceed to call the roll
6 of the members and each member shall declare his choice
7 for president of the city council, who shall be a member
8 thereof. If no quorum is present an adjournment shall be
9 taken to a later hour, or to the next day, and thereafter the

10 same proceedings shall be had from day to day, until a
11 quorum shall be present. If any person receives a majority
12 of the votes of all the members of the city council present,
13 such person shall be declared chosen president thereof. If,
14 on the first day on which a quorum is present no person re-
15 ceives such majority, the roll call shall be repeated until
16 some person receives the vote of such majority, or an ad-
17 journment is taken to the succeeding day, and on such suc-
18 ceeding day when a quorum is present, a plurality of those
19 voting shall be sufficient for an election. The president may
20 be removed from office by the affirmative vote of five
21 members of the city council taken by roll call. The city
22 clerk shall be, ex officio, clerk of the city council and shall
23 keep a journal containing a record of the proceedings of the
24 city council and a record at large of all votes taken by roll
25 call, and shall sign and attest all ordinances and resolutions
26 of the city council. In case of a vacancy in the office of
27 president of the city council by death, resignation or other-
28 wise the same shall be filled for the unexpired term by a
29 plurality vote of the members voting by roll call.'

Sect. 6. Section thirteen of said chapter is hereby amend-
2 ed by striking out the entire section thereof, and substitut-
3 ing the following:

'Sect. 13. The city council shall as soon as may be after
2 its organization, biennially, choose an auditor of accounts,
3 who shall hold office for the term of two years, and until
4 his successor is chosen and qualified. A majority of the

5 votes of all the members of the city council, taken by roll
6 call, shall be necessary for the choice of such auditor; and
7 he may be removed by an affirmative vote of a majority of
8 all the city council taken by roll call.'

Sect. 7. Section twenty-two of said chapter is hereby
2 amended by inserting in the second line thereof after the
3 word "services" the words 'except that the council elected
4 in the year nineteen hundred twenty-nine and councils sub-
5 sequently elected may fix the compensation of the members
6 of the council for the term next following and, when so
7 fixed, it shall not be increased or diminished during the
8 term for which it has been so established,' so that said sec-
9 tion as amended shall read as follows:

'Sect. 22. The members of the city council shall receive
2 no compensation for their services, except that the council
3 elected in the year nineteen hundred twenty-nine and coun-
4 cils subsequently elected may fix the compensation of the
5 members of the council for the term next following and,
6 when so fixed, it shall not be increased or diminished dur-
7 ing the term for which it has been so established; nor shall
8 any member during the time for which he is elected, hold
9 any other office in or under the city government, have the
10 expenditure of any money appropriated by the city council,
11 or act as counsel in any matter before the city council or
12 any committee thereof; and no person shall be eligible for
13 appointment to any municipal office established by the city
14 council during any municipal year within which he was a

15 member thereof, until the expiration of the succeeding
16 municipal year.'

Sect. 8. Section twenty-nine of said chapter is hereby
2 amended by striking out the whole of said section thereof,
3 and substituting the following:

'Sect. 29. There shall be a board of five assessors, one
2 from each ward, to be elected on the second Monday in
3 January, annually or as soon as may be thereafter by the
4 city council by a majority of all its members by roll call.
5 The manner of their election, and the time of their office
6 shall be as follows. The first assessor elected shall be from
7 ward one and his term of office shall be for five years, the
8 next assessor elected shall be from ward two, and his term
9 of office shall be for four years, the next assessor elected
10 shall be from ward three, and his term of office shall be for
11 three years, the next assessor elected shall be from ward
12 four, and his term of office shall be for two years, and the
13 next assessor elected shall be from ward five, and his term
14 of office will be for one year. After having completed one
15 year in office, the assessor from ward five will be replaced
16 by an assessor from the same ward whose term of office will
17 be for **five** years, and at future elections to the board of
18 assessors, which shall be held annually, the vacancy to be
19 filled, will be supplied from the ward wherein the retiring
20 member resides. The compensation of the assessors shall
21 be fixed by the city council and shall not be increased or
22 diminished during the municipal term in which the change

23 is made for which they are elected. All taxes shall be as-
24 sessed, apportioned and collected in the manner prescribed
25 by the laws of this state relative to town taxes; but the city
26 council may establish further or additional provisions for
27 the collection thereof. All vacancies occurring in said board
28 by death, resignation, or removal from the city shall be filled
29 for the unexpired term by the city council, from the ward
30 where such vacancy occurs.'

Sect. 9. Section twenty-one of said chapter is hereby
2 amended by striking out the whole of said section and in-
3 serting in place thereof the following:

'Sect. 21. The mayor, city clerk, any member of the city
2 council or school committee may be recalled and removed
3 therefrom by the electors of the city as herein provided.

Any voter of the city may make and file with the city clerk
2 an affidavit containing the name or names of the member
3 or members whose removal is sought and a general state-
4 ment of the reasons why his removal is desired. The clerk
5 shall thereupon deliver to the voter making such affidavit
6 copies of petition blanks for such removal printed forms
7 of which he shall keep on hand. Such blanks shall be is-
8 sued by the clerk with his signature and official seal thereto
9 attached; they shall be dated and addressed to the city coun-
10 cil, shall contain the name of the persons to whom issued,
11 the number of blanks so issued, and the name of the per-
12 son or persons whose removal is sought. A copy of the
13 petition shall be entered in a record book to be kept in

14 the office of the city clerk. The recall petition, to be effec-
15 tive, must be returned and filed with the city clerk within
16 forty-five days after the filing of the affidavit. The petition
17 before being returned and filed shall be signed by voters
18 of the city to the number of at least ten per cent of the
19 number of registered voters as determined at the time of
20 the last preceding regular municipal election and to every
21 such signature shall be added the place of residence of the
22 signer, giving the street and number or other description
23 sufficient to identify the place. Such signatures need not
24 all be on one paper but the circulator of every such paper
25 shall make an affidavit that each signature appended to the
26 paper is the genuine signature of the person whose name it
27 purports to be. All such recall papers shall be filed as one
28 instrument, with the endorsements thereon of the names
29 and addresses of three persons designated as filing the same.

Within ten days after the filing of the petition the clerk
2 shall ascertain whether or not the petition is signed by the
3 requisite number of voters and shall attach thereto his cer-
4 tificate showing the result of such examination. If his cer-
5 tificate shows the petition to be insufficient, he shall forth-
6 with so notify in writing one or more of the persons desig-
7 nated on the petition as filing the same; and the petition
8 may be amended at any time within the ten days after the
9 giving of said notice, by the filing of a supplementary peti-
10 tion upon additional papers, issued, signed and filed as pro-
11 vided herein for the original petition. The clerk shall, with-

12 in ten days after such amendment, make like examination
13 of the amended petition, and attach thereto his certificate
14 of the result. If then found to be insufficient, or if no
15 amendment was made, he shall file the petition in his office
16 and shall notify each of the persons designated thereon as
17 filing it of that fact. The final finding of the insufficiency
18 of a petition shall not prejudice the filing of a new petition
19 for the same purpose.

If the petition or amended petition shall be certified by
2 the city clerk to be sufficient he shall submit the same with
3 his certificate to the city council at its next meeting and
4 shall notify the member or members whose removal is
5 sought of such action. The city council, shall thereupon,
6 within ten days of the receipt of the city clerk's certificate,
7 order an election to be held not less than forty nor more
8 than sixty days thereafter; provided, that if a regular
9 municipal election is to occur within ninety days after the
10 receipt of said certificate, the city council may in its discre-
11 tion provide for the holding of the removal election on the
12 date of such other municipal election. The removal elec-
13 tion shall be called and held and nominations made as in
14 other elections under this charter except for the specific
15 limitations of this section.

Unless the member or members whose removal is sought
2 shall have resigned within ten days after the receipt by the
3 city council of the city clerk's certificate, the form of the
4 ballot at such election shall be as nearly as may be: "Shall

5 A be recalled? Shall B be recalled?" etc., the name of the
6 member or members whose recall is sought being inserted
7 in place of A. B., etc., and the ballot shall also contain the
8 name of candidates in place of the men recalled, as follows:
9 Candidates for the place of A, if recalled; candidates for
10 the place of B, if recalled," etc., but the men whose recall
11 is sought shall not themselves be candidates upon such a
12 ballot. The names shall be determined in the same manner
13 as in regular municipal elections.

In case a majority of those voting for and against the re-
2 call of any official shall vote in favor of recalling such offi-
3 cial he shall be thereby removed, and in that event the can-
4 didate to succeed him for the balance of the unexpired
5 term shall be determined in the same manner as in regular
6 municipal elections.

If the person or persons sought to be removed shall have
2 resigned within ten days after the receipt by the city coun-
3 cil of the city clerk's certificate referred to in this section
4 above, the form of ballot at the election shall be the same,
5 as nearly as may be, as the form in use at a regular municipi-
6 pal election and all other procedure shall be the same.

Should the city council fail or refuse to order an election
2 as herein provided, such election may be ordered by any
3 justice of the supreme court.

Should any of said officials, against whom proceedings for
2 removal have been begun under the provisions of this sec-
3 tion, be required to perform any acts to effectuate the re-

4 quirements made hereunder, refuse or neglect faithfully to
5 perform such official duties in relation thereto, upon peti-
6 tion signed by twenty or more of the legal voters of said
7 city who have signed a petition or petitions for such re-
8 moval of such official, addressed to the board of county
9 commissioners of Cumberland county or to any justice of
10 the supreme judicial court; such board or justice, with or
11 without notice, may appoint a qualified voter of said city
12 to perform the same acts required hereunder of such offi-
13 cial against whom such removal proceedings have been
14 commenced and the duties of such appointee shall cease
15 after the declaration of the vote in such recall election.'

Sect. 10. All acts and parts of acts inconsistent with this
2 act, are hereby repealed.

Sect. 11. This act shall be submitted for approval or re-
3 jection to the voters of the city of Westbrook qualified to
4 vote in municipal elections at the regular annual election
5 to be held on the ninth day of December, nineteen hundred
6 twenty-nine. The city clerk shall reduce the subject mat-
7 ter of this act to the following question and cause same to
8 be printed on the official election ballot: "Shall the act re-
9 lating to amendment of the charter of the city of Westbrook
10 in reference to reducing the number of its aldermen and
11 increasing the time of their office as well as that of the
12 mayor, the board of assessors and the school committee, be
13 adopted?" and the voters shall indicate their preference by
14 a cross within a square upon their ballots, said ballots to

14 contain squares for answer of said question, marked "yes"
15 and "no" respectively. If this act is approved at said elec-
16 tion, then the same shall take effect and be in full force on
17 and after the first Monday in December, nineteen hundred
18 thirty, except that the officers elected at the annual elec-
19 tion in December, nineteen hundred twenty-nine shall con-
20 tinue in office until the first Monday in January, nineteen
21 hundred thirty-one.

Sect. 12. So much of this act as authorizes the submis-
2 sion of the question of its acceptance or rejection to the
3 legal voters of said city of Westbrook shall take effect
4 ninety days after the recess of the present legislature.