

# MAINE STATE LEGISLATURE

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EIGHTY-FIFTH LEGISLATURE

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Legislative Document

No. 372

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H. P. 829 House of Representatives, Feb. 4, 1931.

Referred to Committee on Legal Affairs and 500 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Berry of Waterville.

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STATE OF MAINE

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

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

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

Section 1. P. & S. L., 1887, c. 195, sec. 3; relating to powers and duties of mayor, amended. Section three, chapter one hundred and ninety-five of the private and special laws of one thousand eight hundred and eighty-seven, as amended by Chapter 150 of the Private and Special Laws of 1899, and as further amended by Chapter 78 of the Private and Special Laws of one thousand nine hundred and twenty-seven, is hereby further amended by inserting in place thereof, the following:

‘Sect. 3. Mayor to appoint all city officers. The mayor of said city shall be the chief executive magistrate thereof. It shall be his duty to be vigilant and active in causing the laws and regulations of the city to be executed and enforced, to exercise a general supervision over the conduct of all subordinate officers, and to cause their violations or neglect of duty to be punished. He shall appoint all city officers except those that are required by law to be elected by the qualified electors of said city or of the several wards in said city, or to be appointed or employed by authority of the board of education and may remove city officers so appointed by him, for cause. He shall

also appoint an overseer of the poor, who shall hold his office for a term of two years. Such officer, so appointed, shall perform such duties as may be prescribed by the municipal officers, and shall in general do and perform all the duties and exercise all the powers incumbent upon or vested in overseers of the poor by law. Such overseer may be removed by the mayor for cause. The mayor shall exercise the same power of appointment to fill a vacancy in any appointive city office. He may call special meetings of the board of aldermen and common council, when, in his opinion, the interest of the city requires it, by a notice in one or more of the papers printed in the city, or by causing a summons or notification to be given in hand, or left at the usual dwelling place of each member of the board to be convened. He shall, from time to time, communicate to the city council, such information and recommend such measures as the business and interests of the city may, in his opinion, require. He shall preside in the board of aldermen and joint meetings of the two boards, but shall have only a casting vote. The salary and compensation of the mayor shall be fifteen hundred dollars per year, which shall not be increased or diminished during his continuance in office unless by the vote of the qualified electors in ward meetings called for that purpose, nor shall he receive from the city any other compensation for any services by him rendered in any other capacity or agency.'

Sect. 2. P. & S. L., 1887, c. 195, sec. 6; relating to compensation of subordinate officers, amended. Section six, chapter one hundred and ninety-five of the private and special laws of one thousand eight hundred and eighty-seven, is hereby amended by striking out all the words after the word "appointed" in the third line of said section so that said section, as amended, shall read as follows :

'Sect. 6. Mayor to appoint and remove subordinate officers. The compensation of all subordinate city officers whatsoever, shall be fixed by the city council. All officers of the health department shall be appointed by the mayor and may be removed by him for good cause. All other subordinate officers shall be appointed by the mayor and such officers may be removed by him for good cause. Except as otherwise specially provided in this act or by the laws of the state of Maine, all

subordinate officers shall be appointed biennially on the first Monday of January, or as soon thereafter as may be, and their term of office shall be for two years and until others are qualified in their place. All vacancies may be filled by the mayor.'

Sect. 3. P. & S. L., 1887, c. 195, sec. 7; relating to disbursements of city moneys, amended. Section seven, chapter one hundred and ninety-five of the private and special laws of one thousand eight hundred and eighty-seven is hereby amended by inserting the words 'million five' after the word "one" in the fourteenth line of said section so that said section as amended shall read as follows:

'Sect. 7. Limit on authority to hold city property, increased. No money shall be paid out of the city treasury except on orders drawn and signed by the mayor, designating the fund or appropriation from which said orders are to be paid, nor unless the same shall be first granted or appropriated therefor by the city council, and the city council shall secure a prompt and just accountability by requiring bonds with sufficient penalty and surety or sureties, from all persons trusted with the receipt, custody or disbursement of money; they shall have the care and superintendence of the city buildings and the custody and management of all city property, with power to let or sell what may be legally let or sold, and to purchase and take, in the name of the city, real and personal property for municipal purposes to an amount not exceeding one million five hundred thousand dollars in addition to that now held by the town, and shall, as often as once a year, cause to be published for the information of the inhabitants, a particular account of receipts and expenditures, and a schedule of city property.'

Sect. 4. P. & S. L., 1887, c. 195, sec. 8; relating to assessors of taxes, and assessment and collection of taxes, amended. Section eight, chapter one hundred and ninety-five of the private and special laws of eighteen hundred and eighty-seven, is hereby amended by striking out all words before the words "an assistant" in the eighth line of said section, so that said section as amended shall read as follows:

'Sect. 8. Assessors appointed by mayor; present assessors to complete terms; assistant assessors appointed by mayor. The board of assessors shall consist of three members to be appointed by the mayor on the second Monday in March in the manner hereinafter provided. Each member shall hold

office for a term of three years. The present assessors shall continue in office until their term as heretofore provided, expires. And a vacancy caused by the expiration of their term shall be filled by appointment by the mayor. The mayor shall appoint an assistant assessor in each ward, whose duty it shall be to furnish the assessors with all the necessary information relative to persons and property taxable in his ward; he shall be sworn or affirmed to the faithful performance of his duty. All taxes shall be assessed, apportioned and collected in the manner prescribed by the laws of this state relative to town taxes, except as herein modified, and the city council may establish further or additional provisions for the collection thereof, and of interest thereon.'

Sect. 5. P. & S. L., 1887, c. 195, sec. 9; relating to authority of city council to lay out streets, amended. Section nine, chapter one hundred and ninety-five of the private and special laws of eighteen hundred eighty-seven, as amended by chapter four hundred eighty-three of the private and special laws of eighteen hundred ninety-three, is hereby further amended by inserting the words 'or establish a grade' after the word "city" in the eighth line of said section, so that said section as amended shall read as follows:

'Sect. 9. City council authorized to establish grades of streets. The city council shall have exclusive authority to lay out, widen or otherwise alter, or discontinue any and all streets or public ways in the city of Waterville, without petition therefor, and to estimate all damage sustained by the owners of land taken for that purpose. A joint standing committee of the two boards shall be appointed, whose duty it shall be to lay out, alter, widen or discontinue any street or way in said city or establish a grade, first giving notice of the time and place of their proceedings to all parties interested, as now required by law in case of town ways. The committee shall first hear all parties interested and then determine and adjudge whether the public convenience requires such street or way to be laid out, altered or discontinued, and shall make a written return of their proceedings, signed by a majority of them, containing the bounds and descriptions of the street or way, if laid out or altered, and the names of the owners of the land taken, when known, and the damages allowed therefor; the return shall be

filed in the city clerk's office, at least seven days previous to its acceptance by the city council. The street or way shall not be altered or established until the report is accepted by the city council, and the report shall not be altered or amended before its acceptance. A street or way shall not be discontinued by the city council, excepting upon the report of said committee. The committee shall estimate and report the damages sustained by the owners of the lands adjoining that portion of the street or way which is so discontinued; their report shall be filed with the city clerk, seven days at least before its acceptance. Any person aggrieved by the decision or judgment of the city council in establishing, altering or discontinuing streets, may, so far as relates to damages, appeal therefrom as in case of town ways. If a street or way is discontinued before the damages are paid or recovered for the land taken, the land owner shall not be entitled to recover such damages, but the committee in their report discontinuing the same, shall estimate and include all the damages sustained by the land owner, including those caused by the original location of the streets, and in such cases, if an appeal has been regularly taken, the appellant shall recover his costs. The city shall not be compelled to construct or open any street or way thus hereafter established, until in the opinion of the city council, the public good requires it to be done; nor shall the city interfere with the possession of the land so taken, by removing therefrom materials, or otherwise, until they decide to open and construct said street. The city council may regulate the height and width of sidewalks in any public square, places, streets, lanes or alleys in said city, and may authorize posts and trees to be placed along the edge of said sidewalks. Nor shall the city be answerable for damages occasioned by telegraph poles and wires erected in its streets.

Whenever said city council shall determine to lay out, widen or otherwise alter any public street or road, said city council is authorized to levy an assessment upon the real estate fronting upon the line of said street and upon other land near said street and benefited thereby in proportion to the valuation and the benefits derived. The amount of said assessment shall be fixed by the committee of the city council authorized to lay out, widen or alter said road, and in their report to the city

council said committee shall state definitely what amount they have assessed on each parcel of land or real estate, giving a description of the same. In proceeding to lay out, widen or alter such streets, such committee shall proceed in the same manner and give the same notices as are required by law in laying out other roads. The report of such committee shall be filed with the city clerk at least seven days before action thereon by the city council. The action of such committee shall be subject to revision and change by the city council. The city clerk shall give to the person owning or in possession of said real estate at least five days' notice that such assessment has been made, stating the amount of same, before the action of the city council upon the same, and a fair opportunity shall be given to all the parties interested to be heard on said assessment before the city council, before action shall be taken thereon and any person aggrieved by the action of the city council shall have the right to appeal, and be heard in court in the same manner as provided by law for appeals and hearings in cases of damages for land taken for highways; said assessment shall constitute a lien on said real estate, which shall continue in force for one year after final action on said assessment, either by city council or by way of proceedings on appeal. The assessment so made shall within three months after said final action thereon, be committed to the collector of taxes, and he shall proceed to collect the same in the same manner, and by the same means, as now provided by law for collection of taxes on real estate.'

Sect. 6. P. & S. L., 1887, c. 195, sec. 12; relating to election of mayor, aldermen, and other ward officers, amended. Section twelve, chapter one hundred ninety-five of the private and special laws of eighteen hundred and eighty-seven, is hereby amended by striking out all of said section twelve and inserting in place thereof, the following:

'Sect. 12. Biennial elections; tenure of office. The mayor shall be elected by the inhabitants of the city, voting in their respective wards. One alderman, two common councilmen, a warden, a clerk, one member of the board of education and one member of the board of police, and one constable, shall be elected by each ward, being residents in the ward where elected. All said officers shall be elected by ballot by plurality of the votes given, and shall hold their offices two years from

the first Monday in January (except that all said officers elected at the first biennial election to be held on the second Monday of December, nineteen hundred and thirty, shall assume and hold their offices from the second Monday in March, nineteen hundred and thirty-one, until the first Monday in January, nineteen hundred and thirty-three, and until others shall be elected and qualified in their places.)

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

Sect. 7. P. & S. L., 1887, c. 195, sec. 13; relating to election of city government. Section thirteen, chapter one hundred and ninety-five, of private and special laws of eighteen hundred and eighty-seven, is hereby amended by striking out all of said section and inserting in place thereof the following:

'Sect. 13. Date of election changed to second Monday in December, biennially. On the second Monday in December, biennially, beginning with the year nineteen hundred and thirty, the qualified electors of each ward shall ballot for mayor, one alderman, two common councilmen, a warden and clerk, a member of the board of education, a member of the board of police, and one constable, on one ballot. The ward clerk, within twenty-four hours after such election, shall deliver to the persons elected, certificates of their election, and shall forthwith deliver to the city clerk, a certified copy of the record of such election, a plain and intelligible abstract of which, shall be entered by the city clerk on the city records. If the choice of any ward officer is not effected on that day, the meeting shall be adjourned to another day, not more than two days thereafter, to complete such election, and may so adjourn, from time to time, until the election is complete. The board of aldermen shall, as soon as conveniently may be, examine the copies of the records of the several wards, certified as aforesaid, and shall cause the person who shall have been elected mayor by a plurality of the votes given in all the wards, to be notified in writing of his election, but if it shall appear that no person shall have been so elected, or if the person elected shall refuse to accept the office, the said board shall



issue their warrants for another election; and in case the citizens shall fail on a second ballot to elect a mayor, the city council in convention shall, from the four highest candidates voted for at the second election and returned, elect a mayor for the ensuing year; and in case of a vacancy in the office of mayor by death, resignation or otherwise, it shall be filled for the remainder of the term by a new election in the manner hereinbefore provided for the choice of said officer. The oath or affirmation prescribed in this act shall be administered to the mayor by the city clerk or any justice of the peace in said city, and a certificate thereof filed with the clerk and recorded. The aldermen and common councilmen elect, shall, on the first Monday in January, at ten o'clock in the forenoon, meet in convention, when the oath or affirmation required by the second section of this act, shall be administered to the members of the two boards present, by the mayor or any justice of the peace, after which the board of common council shall be organized by the election of a president and clerk (except that the first organization meeting after the first biennial election to be held on the second Monday of December, nineteen hundred and thirty, shall be held on the second Monday of March, nineteen hundred and thirty-one). The city council shall, by ordinance, determine the time of holding stated or regular meetings of the boards, and shall also, in like manner, determine the manner of calling special meetings and the persons by whom the same shall be called, but until otherwise provided by ordinance, special meetings shall be called by the mayor, by causing a notification to be left at the usual residence or place of business of each member of the board or boards, to be convened.'

Sec. 8. P. & S. L., 1901, c. 383; repealed. P. & S. L., 1887, c. 195, sec. 16; relating to powers and duties of board of education, amended. Chapter three hundred eighty-three of the private and special laws of nineteen hundred and one, is hereby repealed; section sixteen of chapter one hundred ninety-five of the private and special laws of eighteen hundred eighty-seven, is hereby amended by adding at the end thereof, the following:

'The members of the board of education to be elected on the first Monday of March, nineteen hundred and thirty, from wards one and two, shall be succeeded by members of the

board of education from said wards one and two, to be elected at the biennial election on the second Monday of December, nineteen hundred and thirty-two, these newly elected members to take office on the second Monday of March, nineteen hundred and thirty-three, and to retain their office until the first day of January, nineteen hundred and thirty-seven. Members of the board of education from wards three and four to be elected on the second Monday of December, nineteen hundred and thirty, to take their seats on the second Monday of March, nineteen hundred and thirty-one, shall hold their office until the first Monday in January, nineteen hundred and thirty-five. The members of the board of education from wards five, six and seven, elected on the first Monday in March, nineteen hundred and twenty-nine, shall hold their office until the first Monday in January, nineteen hundred and thirty-three, and at each biennial election, members for those wards shall be chosen by those wards whose members' terms are about to expire and the term of office shall be four years. In case of a vacancy, a member may be chosen by the ward in which the vacancy exists to fill the unexpired term,' so that said section, as amended, shall read as follows:

'Sect. 16. Terms of office of members of board of education from various wards fixed. The board of education, elected as hereinbefore provided, shall take the place of the superintending school committee, and perform all its duties and be invested with all its rights and powers. The board shall elect a chairman annually, and appoint some suitable person, not a member of the board, superintendent of schools, and may adopt such rules and regulations for the management of the schools as are not inconsistent with the laws of the state. The superintendent shall be the secretary and executive agent of the board, which shall fix his salary, to be paid from the city treasury as salaries of teachers are paid, and may remove him for good cause and appoint a successor. The members of the board shall receive no compensation for their services as such. The members of the board of education to be elected on the first Monday of March, nineteen hundred and thirty, from wards one and two, shall be succeeded by members of the board of education from said wards one and two, to be elected at the biennial election on the second Monday of December, nineteen hundred and thirty-two, these newly elected members

to take office on the second Monday of March, nineteen hundred and thirty-three, and to retain their office until the first day of January, nineteen hundred and thirty-seven. Members of the Board of Education from Wards three and four to be elected on the second Monday of December, nineteen hundred and thirty, to take their seats on the second Monday of March, nineteen hundred and thirty-one, shall hold their office until the first Monday in January, nineteen hundred and thirty-five. The members of the board of education from wards five, six and seven, elected on the first Monday in March, nineteen hundred and twenty-nine, shall hold their office until the first Monday in January, nineteen hundred and thirty-three, and at each biennial election, members for those wards shall be chosen by those wards whose members' terms are about to expire and the term of office shall be four years. In case of a vacancy, a member may be chosen by the ward in which the vacancy exists to fill the unexpired term.'

Sect. 9. Local referendum provided for. This act shall not take effect unless approved by a majority of those voting upon the question of its approval at any general or special election held at any time up to and including the second Monday in September, nineteen hundred and thirty, and the municipal officers of the city of Waterville shall issue their warrant calling said election or elections at least seven days before the date appointed by them for said election. If this act is accepted by a majority of the inhabitants of said city of Waterville, within the time limited by this section, the first election under the provisions of this act shall be held on the second Monday of December, nineteen hundred and thirty.

Sect. 11. Inconsistent acts repealed. All acts and parts of acts inconsistent with this act and amendments hereto, are hereby repealed, from and after the time when this act shall have been accepted as aforesaid.