

MAINE STATE LEGISLATURE

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DECEMBER SPECIAL SESSION

E I G H T Y - S I X T H L E G I S L A T U R E

Legislative Document

No. 12

H. P. 2

House of Representatives, Dec. 4, 1933.

HARVEY R. PEASE, Clerk.

Presented by Mr. Hill of South Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND
THIRTY-THREE

**AN ACT Amending an Act Entitled, "An Act to Grant a Commission
Manager Form of Government to the City of South Portland."**

Emergency preamble. Whereas, chapter 55 of the private and special laws of 1933, entitled "An Act to Grant a Commission Manager Form of Government to the City of South Portland," was adopted by the voters of said South Portland at a referendum election held on the 2nd Monday in September, 1933 in accordance with the provisions thereof; and

Whereas, it is provided in said act that the same shall become effective immediately following the 1st election to be held thereunder on the 1st Monday of December, 1933, although it is elsewhere in said act provided that the city officers to be elected at said election shall not take office until the 1st Monday of January, 1934; and

Whereas, the result of said act would be to throw the government of said city into a state of great confusion and uncertainty in the interim between said dates; and

Whereas, it is contended that the effect of said act would be to abolish the municipal court in South Portland on the 1st Monday of December, 1933, although such was not the intention of the framers of said act; and

Whereas, said act contains other errors and omissions amendment of which is necessary in the interest of orderly government; and

Whereas, in the judgment of the legislature these facts create an emer-

gency within the meaning of the constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety, now therefore

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

Sec. 1. P. & S. L., 1933, c. 55, art. 3, § 2, amended. Section 2 of article 3 of chapter 55 of the private and special laws of 1933 is hereby amended to read as follows :

‘Sec. 2. Polling places. The 5 districts hereby established shall have as their respective polling places the usual polls now in force as follows :

District 1 shall have polling place 1 located at hose house just off Pillsbury Street.

District 2 shall have polling places 2 and 3 located respectively at K. of P. Hall, High and Preble Streets and at Union Hall, Munroe Street.

District 3 shall have polling places 4 and 6 located respectively at American Legion Hall, E Street and at hose house, Robinson Street.

District 4 shall have polling place 5 located at rear of South Portland Heights School, Sawyer Street.

District 5 shall have polling place 7 located at hose house at Cash Corner on Broadway.

Provided, however, that the city council shall have power to change by majority vote said polling places in any or all of said wards and districts.’

Sec. 2. P. & S. L., 1933, c. 55, art. 4, § 1, sub-division B amended. Sub-division B of section 1 of article 4 of chapter 55 of the private and special laws of 1933 is hereby amended to read as follows :

‘B. Chairman of council board of education. The city council shall designate 1 of its members to act as chairman of the ~~school board~~ **board of education**, with voting power only in case of tie.’

Sec. 3. P. & S. L., 1933, c. 55, art. 4, § 8, amended. Section 8 of article 4 of chapter 55 of the private and special laws of 1933 is hereby amended to read as follows :

‘Sec. 8. Procedure. The city council shall keep a record of its proceedings and shall determine its own rule of procedure and make lawful regulations for enforcing the same. The meetings of the council shall be open to the public. The city council shall only act by ordinance, order or resolve. All ordinances, orders and resolves, except orders or resolves making appropriations of money shall be confined to one subject which shall be clearly expressed in the title.

The appropriation order or resolve shall be confined to the subject of appropriations only. No ordinance and no appropriation resolve shall be passed on until it has been read on 2 separate days, with an elapse of at

least 3 days between readings. The yeas and nays shall be taken on the passage of any order or resolve when called for by any member of the city council. Every ordinance shall require on final passage the affirmative vote of a majority of the voting members of the city council. Every ordinance before final passage shall be posted, marked "Proposed Ordinance," at the city hall and shall take effect and be in full force 30 days from and after it shall have received final passage by the city council and have been approved by corporation counsel. Within 10 days after the approval by such counsel said ordinance shall be published in full at discretion of city council in 1 or more of the newspapers published in South Portland or Portland.

No order or resolve shall take effect until 10 days after its passage except that the city council may by vote of ~~majority~~ **four-fifths** of its members pass emergency orders or resolves to take effect at the time indicated therein but such emergency orders or resolves shall contain a section in which the emergency is set forth and defined.'

Sec. 4. P. & S. L., 1933, c. 55, art. 5, § 1, amended. Section 1 of article 5 of chapter 55 of the private and special laws of 1933 is hereby amended to read as follows:

'Sec. 1. How invoked. The submission to the vote of the people of any proposed ordinance, order or resolve, or of any ordinance, order or resolve enacted by the city council and which has not yet gone into effect, may be accomplished by the presentation of a petition therefor to the city council in the manner hereinafter provided. Any 30 qualified voters of the city of South Portland may originate a petition putting in operation the initiative or the referendum, by signing such petition at the office of the city clerk. Whenever requested by ~~30~~ **30** such voters, the city clerk, shall prepare the proper petition with a copy of the ordinance, order or resolve to be submitted attached thereto and upon its being signed by said ~~30~~ **30** voters, the city clerk shall file the petition and shall, during office hours for 30 business days thereafter, keep the same open for signature by qualified voters of the city, and no such petition shall be signed or presented for signature at any place other than the clerk's office. At the expiration of said 30 days, the city clerk shall declare the petition closed and shall, at the 1st regular meeting of the city council thereafter, present to that body the petition with verification of the number of valid signatures thereto attached. If the number of valid signatures to said petition shall amount to 300 or more, the city council shall immediately take the necessary steps to submit to the voters of the city, the question proposed in said petition; provided that in the case of the referendum the entire repeal of the ordinance, order or resolve sought to be referred, and in the case of the initiative, the passage by the city coun-

cil of the desired ordinance, order or resolve, shall put an end to all proceedings under said petition.'

Sec. 5. P. & S. L., 1933, c. 55, art. 5, § 4, amended. Section 4 of article 5 of chapter 55 of the private and special laws of 1933 is hereby amended to read as follows:

'Sec. 4. Time of election. Within 10 days after an initiative or referendum petition with the required number of valid signatures is presented by the city clerk, the city council shall set a time for the holding of a special election at which the proposed or suspended ordinance, resolve or order shall be submitted to the voters of the city, which special election shall be held not less than 30 nor more than 60 days after such presentation; provided, that if a petition shall be so presented within 4 months next preceding a regular municipal election, no special election shall be called, but the question shall be submitted at said regular election.'

Sec. 6. P. & S. L., 1933, c. 55, art. 7, § 1, amended. Section 1 of article 7 of chapter 55 of the private and special laws of 1933 is hereby amended to read as follows:

'Sec. 1. Date of elections and procedure to determine results. The regular municipal elections under the provisions of this charter will be held annually on the 1st Monday of December. At these annual elections the qualified voters of the city shall ballot within their regular districts and at their respective polling places for member or members of the city council and member or members of the board of education and the candidates for these offices shall be duly qualified under the nomination regulations contained herein; the said annual municipal election being held for the purpose of replacing, by a city-wide vote the member or members of the city council and the member or members of the board of education from each district whose term or terms automatically expire for the current municipal year within which that election is held. In addition the qualified voters of the 7 polling places or wards of the 5 districts shall ballot for the following offices for each polling place or ward: 1 warden, 1 ward clerk, 1 constable, and the terms of office of these ward officers shall be 1 year each. Also if there are any vacancies existing in any elective municipal offices at the time of the regular municipal election, the qualified voters of the city shall ballot to fill such vacancies.

As provided in section 2 of article 4, at the first municipal election to be held under the provisions of this charter ~~12/4/1933~~ **December 4, 1933** the qualified voters of the various districts and polling places shall vote for 5 members of the city council, 5 members of the board of education, 7 wardens, 7 ward clerks and 7 constables, all of whom shall have been nominated under the provisions of this charter. Those candidates for ward offices re-

ceiving the ~~majority~~ plurality of votes cast within their respective wards shall be designated as the office holders duly elected for their respective offices.

All votes cast for the several officers shall be counted, sorted, declared and registered in open meeting as required by law. The ward clerk shall forthwith deliver to each person elected warden or ward clerk a certificate of his election and shall forthwith deliver to the city clerk a certified copy of the record of such election.

After such elections the then municipal officers shall examine not longer than 24 hours after such elections the records of the several polling places, certified as aforesaid, and shall cause the person or persons who shall have been elected councilman, or councilmen, member or members of the board of education, wardens, ward clerks and constables to be notified in writing of their election. If it appears that no person has been elected to fill these various offices then warrants shall be issued forthwith for another election to fill the vacancy.'

Sec. 7. P. & S. L., 1933, c. 55, art. 7, § 4, amended. Section 4 of article 7 of chapter 55 of the private and special laws of 1933 is hereby amended to read as follows:

'Sec. 4. Form of nomination paper. The signatures to nomination papers need not all be affixed to 1 nomination petition, but to each separate petition there shall be attached an affidavit of the circulator thereof stating the number of signers on each petition, and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer giving the street and number of the street, or ~~their other~~ description sufficient to identify the same. The form of the nomination petition shall be substantially as follows:

To the city clerk of the city of South Portland:

We, the undersigned voters of the city of South Portland, hereby nominate whose residence is for the office..... to be voted for at the election to be held in the city of South Portland on the day of..... 19....; and we individually certify that we are qualified to vote for a candidate for the above office and that we have not signed more nomination petitions of candidates for this office than there are vacancies to be filled.

Name Street and Number.....

.....being duly sworn, deposes and says that he

is the circulator of the foregoing nomination petition containing..... signatures, and that the signatures appended thereto were made in his presence and are the signatures of the persons whose names they purport to be.

(Signed).....

Subscribed and sworn to before me this..... day of 19.....

Justice of the Peace
(Or Notary Public)

If this petition is deemed insufficient by the city clerk he shall forthwith notify by mail at No. street.'

Sec. 8. P. & S. L., 1933, c. 55, art. 7, § 9, amended. Section 9 of article 7 of chapter 55 of the private and special laws of 1933 is hereby amended to read as follows:

'Sec. 9. ~~Rotation~~ Arrangement of names of candidates. The city clerk in preparing all ballots for election under this charter shall arrange the names of all qualified candidates for each office in alphabetical order according to surnames, as to districts.

~~Sample ballots shall be printed from the arrangement of the 1st group of ballots to be printed as above provided.~~

Sec. 9. P. & S. L., 1933, c. 55, art. 7, § 13, ¶ 3, amended. Paragraph 3 of section 13 of article 7 of chapter 55 of the private and special laws of 1933 is hereby amended to read as follows:

'Examination and amendment of recall petitions. Within 10 days after the filing of the petition the clerk shall ascertain whether or not the petition is signed by the requisite number of voters and shall attach thereto his certificate showing the result of such examination. If his certificate shows the petition to be ~~sufficient~~ insufficient, he shall forthwith so notify in writing 1 or more of the persons designated on the petition as filing the same; and the petition may be amended at any time within the 10 days after the giving of the notice, by the filing of a supplementary petition upon additional papers, issued, signed and filed as provided herein for the original petition. The clerk shall, within 10 days after such amendment, make like examination of the amended petition, and attach thereto his certificate of the result. If then found to be insufficient, or if no amendment was made, he shall file the petition in his office and shall notify each of the persons designated thereon as filing it of that fact. The final ending of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.'

Sec. 10. P. & L., 1933, c. 55, art. 8, § 3, amended. Section 3 of article 8 of chapter 55 of the private and special laws of 1933 is hereby amended to read as follows:

'Sec. 3. Civil service rules for police and fire departments. ~~The present civil service commission and its rules shall remain in effect and the method of naming members shall remain the same with the chairman of the city council assuming any duties of the mayor with respect to the same.~~ The City Council shall provide by ordinance for a system of civil service rules for the appointment, promotion, demotion, lay-off, reinstatement, suspension and removal of the members of the police department and of the fire department, other than the chiefs of said departments, and for a civil service commission to administer the same. No further or other physical examination shall be required of the present members of the police or fire departments other than that to which they are now subject.'

Sec. 11. P. & S. L., 1933, c. 55, art. 11, § 4, amended. Section 4 of article 11 of chapter 55 of the private and special laws of 1933 is hereby amended to read as follows:

'Sec. 4. Date when effective. So much of this act as authorizes the submission of the acceptance of this charter to the voters of the city of South Portland shall take effect as provided in the constitution of the state, but it shall not take further effect unless adopted by the voters of the city of South Portland as hereinbefore provided. If adopted by the voters of the city, then this act for the purpose of nominating and electing officers hereunder shall take effect on the date of its adoption by the voters, and for all other purposes this act shall take effect ~~immediately following the 1st election held under provisions of this charter on the 1st Monday of January, 1934.~~

Sec. 12. P. & S. L., 1933, c. 55, art. 11, § 7, amended. Section 7 of article 11 of chapter 55 of the private and special laws of 1933 is hereby amended to read as follows:

'Sec. 7. Term of office, officers, boards. All officers now in office by the election of the people and all officials, officers, trustees, members of commissions or departments now in office holding positions hereafter to be filled under the provisions of this charter by the city council or the city manager shall not serve out their present terms but shall continue in office only until their successors are appointed or elected and qualified as provided in this act.'

Sec. 13. P. & S. L., 1933, c. 55, art. 11, § 8, amended. Section 8 of article 11 of chapter 55 of the private and special laws of 1933 is hereby amended to read as follows:

'Sec. 8. Repealing clause. In event this act is approved in the manner hereinbefore provided, all acts and parts of acts inconsistent herewith are hereby repealed. **Provided, however, that nothing contained in this act shall be construed as repealing section 23 of chapter 242 of the private laws of 1895 establishing the municipal court in said South Portland, or as repealing any acts or parts of acts amendatory thereof or additional thereto.'**