

MAINE STATE LEGISLATURE

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EIGHTY - SEVENTH LEGISLATURE

Legislative Document

No. 413

H. P. 1077

House of Representatives, February 5, 1935.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Maheu of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-FIVE

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

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

Sec. 1. P. & S. L., 1887, c. 195, § 2, relating to administration of fiscal, prudential and municipal affairs, amended. Section 2 of chapter 195 of the private and special laws of 1887, as amended, is hereby amended by inserting in place thereof the following :

'Sec. 3. Administration of fiscal, prudential and municipal affairs vested in mayor and aldermen. The administration of all the fiscal, prudential and municipal affairs of said city, with the government thereof, shall be vested in one principal magistrate to be styled the mayor, and a board of 7 aldermen designated as the board of aldermen, all of whom shall be inhabitants of said city and legal voters therein. Said mayor and board of aldermen shall constitute the city council. All shall be sworn to a faithful performance of the duties of their respective offices.'

Sec. 2. P. & S. L., 1887, c. 195, § 3, relating to powers and duties of mayor, amended. Section 3 of chapter 195 of the private and special laws of 1887, as amended, is hereby amended by inserting in place thereof the following :

'Sec. 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 or the board of police and may remove city officers so appointed by him for cause. He shall appoint a clerk to the overseers of the poor, who shall hold his office for a term of 2 years. Such officer, so appointed, shall perform such duties as may be prescribed by the municipal officers. Said clerk 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, when, in his opinion, the interest of the city requires it, by a notice in 1 or more of the papers printed in the city, or by causing a summons or notification to be given in hand, or left in the usual dwelling place of each member of said board of aldermen. He shall, from time to time, communicate to the board of aldermen, 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, but shall have only a casting vote. The salary and compensation of the mayor shall be \$1500 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.'

Sec. 3. P. & S. L., 1887, c. 195, § 4, relating to passage of laws, acts, ordinances, resolves or orders, amended. Section 4 of chapter 195 of the private and special laws of 1887, as amended, is hereby amended by striking out the whole of said section and inserting in place thereof the following:

'Sec. 4. Laws, acts, ordinances, resolves or orders to be presented to mayor for approval. Every law, act, ordinance, resolve or order, excepting the rules and orders of a parliamentary character, shall be presented to the mayor for approval. If not approved by him, he shall return it with his objections, at the next session of the board of aldermen, which shall enter the objections at large on its journal and proceed to reconsider the same. If, upon such reconsideration, it shall be passed by a vote of 2/3 of all of

the members of that branch, it shall have the same effect as if signed by the mayor. In case of vacancy in the office of mayor, when said law, act, ordinance, resolve or order be finally passed, the same shall be voted without approval.'

Sec. 4. P. & S. L., 1887, c. 195, § 5, relating to powers vested in mayor and aldermen, amended. Section 5 of chapter 195 of the private and special laws of 1887, as amended, is hereby amended by striking out the whole of said section and inserting in place thereof the following:

'Sec. 5. Executive power of city generally. The executive powers of said city generally, with all the powers of selectmen and overseers of the poor except as modified by this act, shall be vested in the mayor and aldermen. All other powers now or hereafter vested in the inhabitants of said city and all powers granted by this act as well as all powers relating to the fire department, shall be vested in the mayor and aldermen. (But all members and officers of the fire department shall be continued in the service of said department without reelection or reappointment unless removed for inefficiency or other cause or retired on arrival at an age limit which may be determined by the mayor and aldermen.) The board of aldermen shall keep a record of proceedings and judge of the election of its own members, and in case of vacancies, new elections shall be ordered by the mayor and aldermen.'

Sec. 5. P. & S. L., 1837, c. 195, § 6, relating to compensation of subordinate officers, amended. Section 6 of chapter 195 of the private and special laws of 1887, as amended, is hereby amended by striking out all of said section and inserting in place thereof the following:

'Sec. 6. Compensation of subordinate officers. The compensation of all subordinate city officers whatsoever shall be fixed by the city council. All subordinate officers shall be appointed by the mayor and such officers may be removed by him for good cause. Except as otherwise especially provided in this act or by the laws of the state, all subordinate officers shall be appointed biennially on the 1st Monday of January or as soon thereafter as may be, and their term of office shall be for 2 years, and until others are qualified in their place. All vacancies may be filled by the mayor.'

Sec. 6. P. & S. L., 1887, c. 195, § 7, relating to disbursements of city moneys, amended. Section 7 of chapter 195 of the private and special laws of 1887, as amended, is hereby amended to read as follows:

'Sec. 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 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 \$1,500,000 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.'

Sec. 7. P. & S. L., 1887, c. 195, § 8, relating to assessors of taxes and assessment and collection of taxes, amended. Section 8 of chapter 195 of the private and special laws of 1887, as amended, is hereby amended to read as follows:

'Sec. 8. Assessors appointed by mayor; present assessors to complete terms; assistant assessors appointed by mayor. The board of assessors shall consist of 3 members to be appointed by the mayor on the 2nd Monday in March in the manner hereinafter provided. Each member shall hold office for a term of 3 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.'

Sec. 8. P. & S. L., 1887, c. 195, § 9, relating to authority of city council to lay out streets, amended. Section 9 of chapter 195 of the private and special laws of 1887, as amended, is hereby further amended to read as follows:

‘Sec. 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 committee composed of members of the board of aldermen 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 7 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 damage 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, 7 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 electric light, telegraph and telephone 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 5 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 1 year after final action on said assessment, either by city council or by way of proceedings on appeal. The assessment so made shall within 3 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.'

Sec. 9. P. & S. L., 1887, c. 195, § 12, relating to election of mayor, aldermen, and other ward officers, amended. Section 12 of chapter 195 of the private and special laws of 1887 is hereby amended by striking out all of said section 12 and inserting in place thereof the following:

'Sec. 12. Biennial elections; tenure of office. The mayor shall be elected by the inhabitants of the city, voting in their respective wards. 1 alderman, a warden, a clerk, 1 member of the board of education, and 1 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 2 years from the 1st Monday in January (ex-

cept that all said officers elected at the 1st biennial election to be held on the 2nd Monday of December, 1935, shall assume and hold their offices from the 2nd Monday in March, 1936, until the 1st Monday in January, 1938, 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 offices 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.'

Sec. 10. P. & S. L., 1887, c. 195, § 13, relating to election of city government. Section 13 of chapter 195 of the private and special laws of 1887 is hereby amended by striking out all of said section and inserting in place thereof the following :

'Sec. 13. Date of election changed to 2nd Monday in December, biennially. On the 2nd Monday in December, biennially, beginning with the year 1935, the qualified electors of each ward shall ballot for mayor, 1 alderman, a warden and clerk, 1 member of the board of education in accordance with the provisions of section 16 of this chapter, and 1 constable, on 1 ballot. The ward clerk, within 24 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 2 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 2nd ballot to elect a mayor, the city council in convention shall, from the 4 highest candidates voted for at the 2nd 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 may 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 by 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 elect, shall, on the 1st Monday in January, at 10 o'clock in the forenoon, meet in convention, when the oath or affirmation required by the 2nd section of this act, shall be administered to the members of the board of aldermen present, by the mayor or any justice of the peace, (except that the first organization meeting after the first biennial election to be held on the 2nd Monday of December, 1935, shall be held on the 2nd Monday of March, 1936.) The city council shall, by ordinance, determine the time of holding stated or regular meetings of said council, 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 to be convened.'

Sec. 11. P. & S. L., 1887, c. 195, § 14, relating to organization of city government, amended. Section 14 of chapter 195 of the private and special laws of 1887, as amended, is hereby amended by striking out all of said section 14 and inserting in place thereof the following:

'Sec. 14. Relating to organization of city government. After the organization of a city government and the qualification of a mayor, and when a quorum of the board of aldermen shall be present, said board, the mayor presiding, shall proceed to choose a permanent chairman, who, in the absence of the mayor, shall preside at all meetings of the board, and in case of any vacancy in the office of mayor, he shall exercise all the powers and perform all the duties of the office so long as such vacancy shall remain. He shall continue to have a vote in the board but shall not have the veto power. The board of aldermen in the absence of the mayor and permanent chairman shall choose a president, pro tempore, who shall exercise the powers of a permanent chairman.'

Sec. 12. P. & S. L., 1901, c. 383, repealed; P. & S. L., 1887, c. 195, § 16, relating to powers and duties of board of education, amended. Section 383 of the private and special laws of 1901 is hereby repealed and section 16 of chapter 195 of the private and special laws of 1887 is hereby amended by striking out said section and inserting in place thereof the following:

'Sec. 16. Terms of office of members of board of education from various wards fixed. There shall be a board of education elected as hereinafter

provided, which board of education 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.

Members of the board of education shall be elected in wards 1 and 2 on the 2nd Monday in December, 1935, said members to serve from the 2nd Monday in March, 1936, until the 1st Monday in January, 1940. Members of the board of education shall be elected in wards 3 and 4 on the 2nd Monday in December, 1935, said members to serve from the 2nd Monday in March, 1937, until the 1st Monday of January, 1940. The members of the board of education to be elected in wards 5, 6 and 7 on the 1st Monday in March, 1935, to serve until the 1st Monday in January, 1938, 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 4 years. In case of a vacancy, a member may be chosen by the ward in which the vacancy exists to fill the unexpired term.'

Sec. 13. P. & S. L., 1887, c. 195, § 17, relating to salaries of aldermen. Section 17 of chapter 195 of the private and special laws of 1887, as amended, is hereby amended by striking out all of said section 17 and inserting in place thereof the following:

'Sec. 17. Compensation of aldermen. The aldermen shall not be entitled to receive any salary or other compensation during the term for which they are elected or be eligible to any office of profit or emolument, the salary of which is payable by the city, and all departments, boards, offices and committees, acting under the authority of the city, and entrusted with the expenditures of public money, shall expend the same for no other purpose than that for which it is appropriated, and shall be accountable therefor to the city, in such manner as the city council may direct.'

Sec. 14. Inconsistent acts repealed. All acts and parts of acts inconsistent with this act and amendments hereof, are hereby repealed from and after the time when this act shall have been accepted.

Sec. 15. 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 a general or special election held on the 2nd Monday in September, 1935, and the municipal officers of the city of Waterville shall issue their warrant calling said election at least 7 days before the date appointed by them for said election.