

MAINE STATE LEGISLATURE

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

Legislative Document

No. 308

H. P. 882

House of Representatives, February 4, 1937.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Wilkes of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

AN ACT Amending the City Charter of the City of Portland.

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

Sec. 1. P. & S. L., 1923, c. 109, Article II, 1st sentence amended. The first sentence of section 1 of Article II of chapter 109 of the private and special laws of 1923, is hereby repealed and the following enacted in place thereof:

'Sec. 1. Power and duties. The administration of all the fiscal, prudential, and municipal affairs of said city, with the government thereof, except the general management, care, conduct and control of the schools of said city which shall be vested in a school committee as hereinafter provided, and also except as otherwise provided by this charter, shall be and are vested in one body of 9 members, which shall constitute and be called the city council, all of whom shall be inhabitants of said city, and shall be sworn in the manner hereinafter prescribed.'

Sec. 2. P. & S. L., 1923, c. 109, Article II, § 2, amended. Section 2 of Article II of chapter 109 of the private and special laws of 1923, is hereby repealed and the following enacted in place thereof:

‘Sec. 2. Composition, election, tenure of office, etc. The city council shall be composed of 9 members. Each member shall be elected from his respective district by a majority of the qualified voters of said district for a term of 2 years and until their successors are elected and qualified. The city of Portland is hereby divided into 9 districts as follows: district 1 shall consist of and include the portion of the city of Portland now known as and called ward 1; district 2 shall consist of and include the portion of the city of Portland now known as and called Ward 2; district 3 shall consist of and include the portion of the city of Portland now known as and called ward 3; district 4 shall consist of and include the portion of the city of Portland now known as and called ward 4; district 5 shall consist of and include the portion of the city of Portland now known as and called ward 5; district 6 shall consist of and include the portion of the city of Portland now known as and called ward 6; district 7 shall consist of and include the portion of the city of Portland now known as and called ward 7; district 8 shall consist of and include the portion of the city of Portland now known as and called ward 8; district 9 shall consist of and include the portion of the city of Portland now known as and called ward 9.

The members of the city council shall designate 1 of its members as chairman as hereinafter provided by this charter, who shall be entitled to receive as salary the sum of \$500 per annum, and the other members of the city council shall each be entitled to receive as salary the sum of \$300 per annum, all said sums to be payable quarterly, for all services rendered. No member shall be eligible, while a member of the council, to any other office of emolument or profit under the city charter or ordinances, nor to hold the office of city manager, nor to act as city manager.’

Sec. 3. P. & S. L., 1923, c. 109, Article II, § 8, amended. Section 8 of Article II of chapter 109 of the private and special laws of 1923, is hereby repealed and the following enacted in place thereof:

‘Sec. 8. Procedure. The city council shall keep a record of its proceedings and shall determine its own rules of procedure and make lawful regulations for enforcing the same. The meetings of the city council shall be open to the public. The city council shall act only 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 until it has been read on 2 separate days, except when the requirement of a reading on 2 separate days has been dispensed with by a 2/3 vote of the voting members of the city council.

The yeas and nays shall be taken upon the passage of all ordinances and entered on the record of the proceedings of the city council by the clerk. 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 published, marked "Proposed Ordinance," in 1 or more of the daily newspapers published in Portland, 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 some justice of the supreme judicial court. Within 10 days after said approval by such justice said ordinance shall be published in full in 1 or more of the newspapers published in said Portland, but the failure to publish said ordinance either before or after final passage shall not affect its validity or force.

No order or resolve shall take effect until 10 days after its passage, except that the city council may, by vote of $\frac{2}{3}$ 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., 1923, c. 109, Article V, § 1, amended. Section 1 of Article V of chapter 109 of the private and special laws of 1923, is hereby repealed and the following enacted in place thereof:

'Sec. 1. Date of elections and procedure to determine results. At the first election after this charter is in force, to be held on the 1st Monday in December, A. D., 1937, the qualified voters of the city shall ballot for 2 members of the school committee, and the qualified voters of each district shall, at the same time, ballot for a councilman, a warden, a ward clerk and 2 constables for his ward and in case there is more than 1 voting precinct or island ward in any ward, then the qualified voters of each such precinct and island ward shall vote for a warden and a ward clerk for his precinct or island ward, as well as for said councilman and 2 constables from the ward at large; and thereafter, on the 1st Monday in December in each year, a regular municipal election shall be held and the qualified voters of the city shall ballot for such members of the school committee as may be necessary to fill the office of those whose term expires that year or for the unexpired term in which there is a vacancy; and the qualified voters of each district shall, at the same time ballot for a warden, a ward clerk and 2 constables for their ward and in case there is more than 1 voting precinct or island ward in any ward, then the qualified voters of each such precinct

and island ward shall vote for a warden and a ward clerk for such precinct or island ward as well as for said 2 constables from said ward at large; and thereafter on the 1st Monday in December, 1939, and every 2 years thereafter on the same day, a regular municipal election shall be held and the qualified voters of each district shall ballot for councilmen from their respective districts.

All votes cast for the several officers shall be sorted, counted, declared and registered in open ward meeting, as provided by statute. 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 the first election held under this charter the city council shall, as soon as it conveniently can, examine the copies of the records of the several wards, certified as aforesaid, and shall cause the persons who shall have been elected councilmen or members of the superintending school committee to be notified in writing of their election; if it shall appear that at the first election 9 councilmen have not been elected, or if, after the first election, it shall appear that no person has been elected councilman, or if the person elected shall refuse to accept office, warrants for another election to fill such vacancy shall be issued forthwith.

Sec. 5. P. & S. L., 1923, c. 109, Article V, § 3, amended. Section 3 of Article V of chapter 109 of the private and special laws of 1923, is hereby repealed and the following enacted in place thereof:

‘Sec. 3. Nominations for elective officers to be made by petition. The nomination of all candidates for elective offices provided for by this charter shall be by petition. The petition of a candidate for school committeeman shall be signed by not less than 300 nor more than 500 qualified voters of the city. The petition of a candidate for councilman shall be signed by not less than 100 nor more than 200 qualified voters of the district in which said candidate resides. The petitions of candidates for warden, for ward clerk and for constable shall be signed by not less than 25 nor more than 100 qualified voters of the ward or district wherein the candidate is to be elected. No voter shall sign petitions for more than one candidate for each office to be filled at the election, and should any voter sign more than one such petition, his signature shall be counted only upon the 1st petition filed, and shall be held void upon all other petitions’.

Sec. 6. P. & S. L., 1923, c. 109, Article V, § 8, amended. Section 8 of Article V of chapter 109 of the private and special laws of 1923, is hereby repealed and the following enacted in place thereof:

‘Sec. 8. Form of ballot. Ballots for use in elections under this charter shall contain the names of the various candidates, with their residence and the office for which they are a candidate, and shall be furnished with 1 column for crosses at the right of the candidate’s name and residence. Such ballots shall be without party mark or designation.’

Sec. 7. P. & S. L., 1923, c. 109, Article V, § 9, amended. Section 9 of Article V of chapter 109 of the private and special laws of 1923, is hereby repealed and the following enacted in place thereof:

‘Sec. 9. Face of ballot. The face of the ballot shall be in form as prescribed by the city clerk.’

Sec. 8. P. & S. L., 1923, c. 109, Article V, § 11, amended. Section 11 of Article V of chapter 109 of the private and special laws of 1923, is hereby repealed and the following enacted in place thereof:

‘Sec. 11. Count of ballots. As soon as the polls are closed, the warden shall immediately open the ballot boxes, take therefrom the ballots and with the assistance of the ward clerk and with the ballot clerks, sort and count them, and the warden shall declare them in open meeting in the presence of the ward clerk: and the ward clerk shall form a list of the persons voted for with the number of votes for each person against his name, shall make a fair record thereof in the presence of the warden, and in open meeting enter the total number thereof on a tally sheet provided by the city clerk. The ward clerk shall enter the number of votes for each candidate opposite the name of such candidate on said tally sheet, and make return thereof to the city clerk on a blank by said city clerk to be provided. Only 1 vote shall be counted for any candidate on any 1 ballot.’

Sec. 9. P. & S. L., 1923, c. 109, Article V, § 12, amended. Section 12 of Article V of chapter 109 of the private and special laws of 1923, is hereby repealed and the following enacted in place thereof:

‘Sec. 12. Returns, canvass. Upon receipt of the returns, from the first election under this charter, the then municipal officers and thereafter the city council shall determine the successful candidate as hereinafter provided in this section.

The person receiving a plurality of the votes cast at an election for any office, shall be declared to be elected to that office. The word “plurality” as used in this section shall mean the largest number of valid ballots cast for any candidate at such election for the candidates whose election is being canvassed.’

Sec. 10. P. & S. L., 1923, c. 109, Article V, § 14, 1st sentence amended and the provisions relative to procedure for filing recall petition, amended. The first sentence of section 14 and the provisions relative to procedure for filing recall petition of Article V of chapter 109 of the private and special laws of 1923, is hereby repealed and the following enacted in place thereof:

'Sec. 14. Recall provisions. Any member of the school committee may be recalled and removed therefrom by the electors of the city as herein provided. Any member of the city council may be recalled and removed therefrom by the electors of his district as herein provided.

Procedure for filing recall petition. Any voter of the city may make and file with the city clerk an affidavit containing the name or names of the member or members of the school committee whose removal is sought and a general statement of the reasons why his removal is desired. Any voter of a district may make and file with the city clerk an affidavit containing the name of the councilman of his district whose removal is sought and a general statement of the reasons why his removal is desired. The clerk shall thereupon deliver to the voter making such affidavit copies of petition blanks for such removal printed forms of which he shall keep on hand. Such blanks shall be issued by the clerk with his signature and official seal thereto attached; they shall be dated and addressed to the city council, shall contain the name of the persons to whom issued, the number of blanks so issued, and the name of the person or persons whose removal is sought. A copy of the petition shall be entered in a record book to be kept in the office of the city clerk. The recall petition, to be effective, must be returned and filed with the city clerk within 45 days after the filing of the affidavit. The petition before being returned and filed shall be signed by voters of the city to the number of at least ten per cent of the number of registered voters as determined at the time of the last preceding regular municipal election, in the recall of a member of the school committee, and at least 10% of the number of registered voters of a district in the recall of a member of the city council; and to every such signature shall be added the place of residence of the signer, giving the street and number or other description sufficient to identify the place. Such signatures need not all be on one paper but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. All such recall papers shall be filed as one instrument, with the endorsements thereon of the names and addresses of 3 persons designated as filing the same.'

Sec. 11. P. & S. L., 1923, c. 109, Article VI, subsection (b) of § 1, amended. Subsection (b) of section 1 of Article VI of chapter 109 of the private and special laws of 1923, is hereby repealed and the following enacted in place thereof:

'Sec. 1. Titles and appointment. (b) The following officers shall be appointed by the city manager, subject to confirmation by the city council; commissioner of public works, city electrician, commissioner of public safety who shall be a member of the civil service commission, secretary to overseers of the poor, city physician upon recommendation of the health inspector, inspector of buildings who shall give all his time to the work of his office and who shall not have any interest, direct or indirect, in any building or material concern, and all other department heads whose position may from time to time be created by ordinance; and, except as herein otherwise provided, upon recommendation of the heads of their departments, all minor officers and employees.'

Sec. 12. P. & S. L., 1923, c. 109, Article VI, § 3, amended. Section 3 of Article VI of chapter 109 of the private and special laws of 1923, is hereby repealed and the following enacted in place thereof:

'Sec. 3. Civil service rules for police and fire departments. 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, including the chiefs of said departments, and for a civil service commission to administer the same.

Neither the city council nor civil service commission shall have power or authority to reduce, terminate, or diminish in any way the pay, term or office, or pension or retirement privileges of the members of the police department or of the fire department of the city of Portland, as now enjoyed by them, including the chiefs of said departments, except that the city council may provide for the removal for cause of members of either the fire or police department upon presentation of charges and hearing before the civil service commission hereinbefore provided for. 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. 13. P. & S. L., 1923, c. 109, Article VII, § 8, 2nd sentence, amended. The 2nd sentence of section 8 of Article VII of chapter 109 of the private and special laws of 1923, is hereby repealed and the following enacted in place thereof:

'Sec. 8. Bond issues. No order providing for the issue of bonds shall be passed without public notice given by posting notice of the same in two public places in the city of Portland, and publishing said notice in at least 2 daily newspapers published in said Portland at least 2 weeks before final action by the city council, and the approval of $\frac{2}{3}$ of all the members of the city council.'

Sec. 14. P. & S. L., 1923, c. 109, Article VIII, § 1, 1st sentence amended. The first sentence of section 1 of Article VIII of chapter 109 of the private and special laws of 1923, is hereby repealed and the following enacted in place thereof:

'Sec. 1. Franchises. All public utility franchises, hereafter granted, and all renewals, amendments, and extensions thereof shall be granted or made only by a $\frac{2}{3}$ vote of the voting members of the council.'

Sec. 15. P. & S. L., 1923, c. 109, Article IX, § 3, amended. Section 3 of Article IX of chapter 109 of the private and special laws of 1923, is hereby repealed and the following enacted in place thereof:

'Sec. 3. Referendum. Date of meeting. Form of question. Procedure. This act shall be submitted for approval or rejection to the qualified voters of the city of Portland at an election to be held on the 2nd Monday in September in the year A. D. 1937 and warrants shall be issued for such election in the manner now provided for by law for the holding of municipal elections; notifying and warning the qualified voters of said city of Portland to meet in their several ward meeting places in their respective districts of said city of Portland, there to cast their ballot, concerning the selection of an amendment to the present charter of the city of Portland in substantially the following form:

FORM OF BALLOT

Place a cross X in the square after the form of charter which you select. Mark only 1 form or your ballot will not be counted.

FORMS OF CHARTER

Plan 1. Present form of charter providing for a city council of 5 members elected from the city at large, elected for a term of 5 years.

Plan 2. Amended form of charter, providing for the election of 9 members to the city council, elected from their respective districts for a term of 2 years.

If a plurality of the valid ballots deposited as aforesaid shall favor the adoption of Plan 2, so-called, on said ballot, then this act shall take effect as herein provided and the chairman of the city council shall forthwith make proclamation of the fact.'

Sec. 16. P. & S. L., 1923, c. 109, Article IX, § 4, amended. Section 4 of Article IX of chapter 109 of the private and special laws of 1923, is hereby repealed and the following enacted in place thereof:

'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 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 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 on the 2nd Monday in December in the year 1937.'

Sec. 17. Inconsistent law repealed. All acts and parts of act inconsistent herewith are hereby repealed.