

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. 360

H. P. 1104

House of Representatives, February 9, 1937.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Churchill of Brewer.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

AN ACT to Amend the City Charter of Brewer.

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

Sec. 1. P. & S. L., 1931, c. 75, Art. II, § 7, amended. Section 7 of Article II of chapter 75 of the private and special laws of 1931 is hereby amended to read as follows :

‘Sec. 7. Records, rules, procedure. The city council shall keep a record of its proceedings and shall be the judge of the qualification and election of its own members. The council may determine its own rules and procedure, make lawful regulations for enforcing the same, and punish members for misconduct. The meetings of the council shall be open to the public. The city council shall act only by ordinance, order or resolve; all ordinances, orders and resolves, except general appropriation resolves shall be confined to one subject. The appropriation order or resolve shall be confined to the subject of appropriations only. **No ordinance, order or resolve shall take effect until 10 days after its passage, except that the city council may, by a 4/5’s yea and nay vote 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. The yeas and nays shall be taken on the passage of any ordinance, order or resolve when called for by any member of the city council. The city council may provide, by ordinance, order or resolve, for all other rules and orders of a parliamentary charter.'

Sec. 2. P. & S. L., 1931, c. 75, amended. Chapter 75 of the private and special laws of 1931 is hereby further amended by inserting after Article II the following article:

ARTICLE IIA

INITIATIVE AND REFERENDUM

'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 registered voters of the city of Brewer 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 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 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 registered 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 council of the desired ordinance, order or resolve, shall put an end to all proceedings under said petition.

Sec. 2. Form of petition. The petition used to originate the initiative or the referendum shall be substantially in the following form:

PETITION TO THE BREWER CITY COUNCIL

For the Submission to the People of the Question

Shall the proposed ordinance, order or resolve, a copy of which is hereunto attached, be adopted.

We, the undersigned, under oath, depose and say that we are duly qualified voters of the city of Brewer, residing respectively at the addresses placed opposite our names, and we hereby petition the city council to submit the foregoing question to the voters of the city of Brewer.

NAMES	RESIDENCES	DATE
.....
.....
.....

I,....., the city clerk of the city of Brewer, do solemnly affirm that I witnessed the signing of each of the above signatures and that, at the time of said signing, I made certain that the person affixing his name thereto had reasonable knowledge of the purpose of the petition.

.....City Clerk.

Date.....

Sec. 3. Effect of referendum petition. Whenever there has been originated as aforesaid a petition for the reference to the people of any such ordinance, order or resolve passed by the city council, and the required number of valid signatures has been obtained thereon for its presentation to the city council, the same shall be suspended from going into operation until it has been submitted to a vote of the people and has received the affirmative vote of a majority of the voters voting on said question.

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, order or resolve 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, or the city council in its discretion may submit the matter at the next regular municipal election.

Sec. 5. Publication. Whenever any ordinance, order or resolve is required by the provisions of this article to be submitted to the voters of the

city at any election, the city council must order one publication of the complete text thereof to be made in one, or more should the city council deem it best, of the newspapers published in the city of Brewer or city of Bangor, such publication to be made not less than 10 days, nor more than 15 days prior to the election.

Sec. 6. Form of ballot. The ballots used when voting on such proposed ordinance, order or resolve shall set forth the title thereof in full and state its general nature, and shall contain the words: "For the ordinance, order or resolve" and "Against the ordinance, order or resolve."

Sec. 7. Result of election. If a majority of the qualified voters voting on said proposed initiative ordinance, order or resolve, or said referred ordinance, order or resolve, shall vote in favor thereof, such ordinance, order or resolve shall take effect 5 days after the declaration of the official canvass of the return of said election.

Sec. 8. Conflicting ordinances, orders or resolves. Any number of proposed or referred ordinances, orders or resolves may be voted upon at the same election. In the event that 2 or more ordinances, orders or resolves adopted at the same election shall contain conflicting provisions, the ordinance, order or resolve receiving the highest number of votes at such election shall be paramount, and all question of construction shall be determined accordingly.

Sec. 9. Order upon the ballot. In the event that 2 or more ordinances, orders or resolves are submitted at the same election, they shall be placed upon the ballot in order of the priority of the filing of the respective petitions and shall be given precedence upon the ballot over any and all questions submitted by the city council on its own initiative.

Sec. 10. Repeal of popular ordinances, orders or resolves enacted by the people. No ordinance, order or resolve proposed by petition and adopted by vote of the people shall be repealed or amended except by a vote of the people unless such ordinance, order or resolve shall otherwise expressly provide.

Sec. 11. Ordinances, orders or resolves submitted to popular vote. The city council may submit, on its own initiative, a proposition for the enactment, repeal or amendment of any ordinance, order or resolve, except as herein otherwise provided, to be voted upon at any municipal election, and should such proposition receive a majority of the votes cast thereon at such election, such ordinance, order or resolve shall be enacted, repealed or amended accordingly.

Sec. 12. Further regulations. The city council shall, by ordinance, make such further regulations as shall be necessary to carry out the provisions of this article.'

Sec. 3. P. & S. L., 1931, c. 75, Art. II, § 2, amended. Section 2 of Article II of chapter 75 of the private and special laws of 1931 is hereby amended to read as follows:

'Sec. 2. Terms of members. The city council shall consist of 5 members, who shall be elected at large by and from the qualified votes of the city for a term of 5 years from the 2nd Monday in January next following the date of their election and until their successors are elected and qualified; except that at the 1st annual municipal election after the adoption of this amendment to the city charter of Brewer there shall be elected 2 members of the city council for a term of 5 and 4 years respectively from the 2nd Monday in January next following the date of their election and until their successors are elected and qualified, and the candidate so elected having the largest number of votes shall serve for 5 years and the candidate so elected having the next largest number of votes shall serve for 4 years; and at the 2nd annual municipal election after the adoption of this amendment to the city charter of Brewer there shall be elected 3 members of the city council for a term of 5 and 2 years and 1 year respectively from the 2nd Monday in January next following the date of their election and until their successors are elected and qualified, and the candidate so elected having the largest number of votes shall serve for 5 years and the candidate so elected having the next or 2nd largest number of votes shall serve for 2 years and the candidate so elected having the next or 3rd largest number of votes shall serve for 1 year. Thereafter at each annual municipal election, beginning with the 3rd annual municipal election after the adoption of this amendment to the city charter of Brewer, there shall be elected 1 member of the city council to serve for 5 years from the 2nd Monday in January next following the date of his election and until his successor is elected and qualified, to fill the office of the member of the city council whose term of office expires that year. At the said 1st and 2nd annual municipal elections of members of the city council, in the event that 2 or more candidates shall receive the same number of votes for member of the city council, the terms of office of said candidates shall be determined by lot by the city clerk after reasonable notice to said candidates by said city clerk of the time and place of said determination.'

Sec. 4. P. & S. L., 1931, c. 75, Art. IV, § 1, ¶ 1, amended. Paragraph 1

of section 1 of Article IV of chapter 75 of the private and special laws of 1931 is hereby amended to read as follows :

Sec. 1. Elections. The regular annual municipal election for the city of Brewer shall be held on the 3rd Monday in December of each year, when the qualified voters of the city shall ballot for 1 member of the city council and for 1 member of the school committee to fill the offices of those whose terms of office expire that year, and also to fill any vacancies in the above offices which then may exist; except that at the regular annual municipal election of the year 1938 the qualified voters of said city shall ballot for 2 members of the city council and at the regular annual municipal election of the year 1939 said voters shall ballot for 3 members of the city council for terms of office as provided for in section 2 of Article II of the city charter of Brewer. The qualified voters of each ward in said city shall, at each regular annual municipal election, ballot for a warden and a ward clerk for their respective ward.'

Sec. 5. Referendum. This act shall be submitted for approval or rejection to the qualified voters of the city of Brewer at an election to be held on the 2nd Monday in September, 1937, and warrants shall be issued for such election in the manner now provided by law for the holding of municipal elections, notifying and warning the qualified voters of said city to meet in the several ward meetings of said city, there to cast their ballots for the approval or rejection of this act. The question proposed on said ballot shall be substantially in the following form :

"Shall an act passed by the legislature in the year 1937 approved (insert date) entitled 'An Act to Amend the City Charter of Brewer' be accepted," otherwise said ballot shall be in form provided by law when a constitutional amendment is submitted to the vote of the people. The provisions of law relating to the preparation of voting lists for municipal elections shall apply to such election and said election shall in all other respects be conducted as municipal elections in said city are now conducted by law, and the result thereof shall be determined in the manner now provided by law for the determination of the election of mayor. If a majority of the ballots deposited as aforesaid shall reject, this act shall not go into effect, but if a majority of the electors voting at said ward meetings shall approve, then this act shall take effect as herein provided.

Sec. 6. Effective date. So much of this act as authorizes the submission of the acceptance of this charter to the electors of the city of Brewer shall take effect as provided in the constitution of the state, but it shall not take further effect unless accepted by the electors of the city of Brewer

as hereinbefore provided. If accepted by the electors of the city, then this act shall take effect on the 2nd Monday in January, 1938.

Sec. 7. Acts repealed. All acts and parts of acts, either public or private, inconsistent herewith, are repealed or amended to conform to the provisions of this act.