

MAINE STATE LEGISLATURE

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

Legislative Document

No. 482

H. P. 1163

House of Representatives, February 7, 1939.

Referred to Committee on Legal Affairs. Sent up for concurrence and 750 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Ford of Saco by request.

S T A T E O F M A I N E

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-NINE

AN ACT to Provide a Police Commission for the City of Biddeford.

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

Sec. 1. Board of police commissioners created. The police department of the city of Biddeford shall consist of a board of police commissioners of 3 members, a chief of police, 1 captain, 2 police clerks or deskmen, and such number of patrolmen as said board of police commissioners shall deem necessary, not to exceed 1 patrolman for each 1,000 of the population of said city of Biddeford.

Sec. 2. Commission; composition, appointment, tenure and vacancies. Said board of police commissioners shall consist of 3 members, who shall have been residents and legal voters of said city of Biddeford for at least 2 years next prior to the date of their appointment. The commissioners shall be appointed by the governor with the advice and consent of his council. In the first instance one shall be appointed for 6 years, one for 4 years, and one for 2 years. At the expiration of each of said terms a commissioner shall be appointed for a full term of 6 years. In case of any vacancy in the commission, the governor shall appoint a member thereto for the balance of said unexpired term. The members of the commission shall be appointed from the 2 political parties receiving the largest number of

votes in the last preceding state election. No more than 2 of said members shall be from the same political party.

Sec. 3. Qualification. Each member of said board shall qualify after his appointment as aforesaid by being sworn by the city clerk of the city of Biddeford or by a justice of the peace to the faithful discharge of his duties. In the event that a member qualifies before a justice of the peace, a certificate thereof shall be filed forthwith with said city clerk by said justice of the peace.

Sec. 4. Powers and duties of commission. The board of commissioners hereby created shall have full power and authority, subject to the provisions of this act, to organize and establish the police force of the city of Biddeford and to make all rules and regulations for the government, control and efficiency of the same. Said board shall have and exercise all the powers and be charged with all the duties relative to the police force, police department and police property of the city of Biddeford at the time of the passage of this act, as fully as if the same had been herein particularly enumerated, including all powers and duties relative to the organization, appointment and control of said police force and the equipment and maintenance of said police department, together with all such other powers and duties as are conferred or imposed by the terms of this act. Said board of police commissioners shall be provided with such room as shall be convenient and suitable for the performance of its duties by said city at its expense. The said city shall provide all suitable accommodation for the police of said city as said commissioners shall require. All rooms in all buildings and all municipal property used by said police of said city shall be under the control of said commissioners. All the expense for the maintenance of said rooms, and all the incidental expenses incurred in the administration of said police force, shall be paid by the city treasurer upon requisition of said commissioners.

Sec. 5. Organization of commission and of department. When said board of commissioners shall have qualified, they shall meet and elect a chairman, and one of their number clerk, who shall be sworn and shall keep a record of all proceedings, and they shall forthwith organize and establish the police force as herein authorized. They shall forthwith choose in the manner hereinafter provided, the chief of police, one captain, 2 police clerks or deskmen, and such number of patrolmen as said board shall deem necessary, not to exceed one patrolman for each 1,000 of the population of said city of Biddeford; all of whom, with said board of police commissioners, shall constitute the police department of said city.

Sec. 6. Candidates for patrolmen; application, examination, etc. Candidates for appointment as patrolmen shall make application therefor to the police commission upon blanks furnished by it. All such candidates, and all candidates to fill any vacancies occurring in said force, or for any new places on said force occasioned by an increase in the number thereof, shall submit to such qualification tests as may be prescribed by the board of commissioners. The commission, by such qualification tests, shall inquire into the physical, mental and moral fitness of each of the applicants for appointment. They shall place upon an eligible list all applicants who shall satisfactorily meet such tests, and every appointment shall be from men upon said eligible list. Each applicant shall remain upon said list for a period of 1 year from the date of his examination. The physical examination prescribed by the commission shall be conducted by a physician appointed for that purpose by it, and the fee for such physical examination shall be paid by the applicant in advance.

Sec. 7. Eligibility; preference given to former officers; retirement. Any citizen of Biddeford, between the ages of 24 and 40 shall be eligible to appointment as a patrolman, provided he shall have made written application therefor and shall have satisfactorily passed the qualification tests prescribed by the board of commissioners; provided further however, that any police officer of the city of Biddeford serving at the time of the passage of this act and any former police officers of said city, residents therein, who shall have served a full 5 year term on said force, under the age of 65 years, and who shall pass qualification tests required by said commissioners, shall be appointed to said force to the number authorized by this act in preference to any other applicants upon said list of eligibles. Each patrolman shall be appointed to serve until he shall arrive at the age of 65 years, when he shall be retired unless previously removed or pensioned as hereinafter authorized.

Sec. 8. Authority of members of police department. The chief of police, captain, police clerks or deskmen and all patrolmen shall have and exercise within the limits of the city of Biddeford all the common law and statutory powers of constables, except service of civil process, and all powers given to police officers by the statutes of the state, the city charter, ordinances, by-laws and regulations of said city, and such special powers as may be conferred upon them by the board of commissioners under the authority of this act.

Sec. 9. Chief of police, captain and police clerks; how appointed, tenure of office, powers and duties. The chief of police shall be chosen by the

board of commissioners by written ballot for a term of 4 years from the date of his election, or until his successor shall be elected and qualified. He shall qualify by being sworn by the city clerk of the city of Biddeford or by a justice of the peace, to the faithful discharge of his duties, and in the event that he qualifies before a justice of the peace, a certificate thereof shall forthwith be filed with said city clerk by said justice of the peace. He shall have and exercise all the powers and authority now given to the chief of police of the city of Biddeford by the charter and ordinances of said city, and by the general statutes of the state, and such special power and authority as may from time to time be delegated to him by the board of commissioners. The board of commissioners shall appoint 1 captain who shall hold office during good behavior or until retired under the provisions of this act. Such captain shall have such powers and duties as may be delegated to him by the said commissioners, or by the chief under the authority of said commissioners. The said commissioners shall also appoint 2 police clerks or deskmen who shall hold office during the pleasure of said commissioners and shall perform such duties as may be prescribed by the chief of police under authority of said commissioners.

Sec. 10. Special patrolmen; compensation and appointment. Special patrolmen (with pay) shall be appointed by the chief of police from a list furnished him by the police commissioners, for a period of from 1 to 30 days; and such special patrolmen shall receive a salary of \$3.75 per day, to be paid by the city treasurer upon approval by the chief of police. Special patrolmen (without pay) may be appointed by the chief of police for a period of not more than 1 year for private duty.

Sec. 11. Removal of chief of police; vacancy, how filled. The chief of police may be removed by the board of commissioners for cause. He shall, upon request, be furnished with a written copy of the charges against him, and shall be given a public hearing before action by the commission, at such time and place as said commission may designate. Such hearing shall be held upon charges made by said commission or upon written charges being filed with said commission by 5 or more citizens of Biddeford, and the findings of such commission thereon shall be final. In the event of the removal of the chief of police as hereinbefore provided, or in the event of his incapacity through illness or otherwise, to perform the duties of his office, the captain shall assume the duties of the chief of police until his successor shall have been elected by said commissioners and he shall have qualified as hereinbefore provided.

Sec. 12. Misconduct of captain and patrolmen; proceedings. The captain and patrolmen, when guilty of misconduct, shall be punished by fine

not to exceed \$100, or by suspension without pay, not to exceed 30 days, for each offense, or by removal, for cause, on complaint of the chief of police to the police commissioners, or upon written complaint signed by any 5 or more citizens of Biddeford, or upon charges filed by the commission itself, except that the chief of police may suspend any patrolman for misbehavior or neglect of duty for a period not exceeding 1 week without preferring charges to the police commissioners, for each offense. In all cases, patrolmen, when notified of such charges, shall be entitled to a copy thereof and to a public hearing at such time and place as the police commissioners shall designate and the findings of the commissioners upon such charges shall be final. When fines shall have been imposed, such fines shall be paid to the city treasurer and the patrolmen so fined shall stand suspended without pay until the order shall have been complied with.

Sec. 13. Compensation of commissioners. The police commissioners shall each receive an annual compensation of \$100 payable in equal quarterly installments by the city treasurer. They shall assemble at the call of the chairman of the board.

Sec. 14. Compensation of chief of police. The salary of the chief of police shall be \$2000 per annum, payable in equal weekly installments by the city treasurer. The chief of police shall be entitled to 1 week's vacation with pay each calendar year, the same to be taken when and as he may desire. While upon said vacation, or when incapacitated through illness, or absent from his office on the business of the department, the duties of his position shall be assumed by the captain.

Sec. 15. Compensation of captain and police clerks. The police captain shall receive a salary of \$1500 per annum, until he shall have served 5 years when he shall receive \$1600 per annum, payable in equal weekly installments by the city treasurer. The police clerks or deskmen shall receive a salary of \$1300 per annum, payable in equal weekly installments by the city treasurer. Said police captain and police clerks or deskmen shall be entitled to a vacation of one week with pay in each calendar year, to be taken at such time as may be designated by the chief of police.

Sec. 16. Compensation of patrolmen. The salary of each patrolman shall be \$1400 per year, until he shall have served 5 years when he shall receive \$1500 per year, payable in equal weekly installments by the city treasurer. Each patrolman shall be entitled to a vacation of 1 week in each calendar year, with pay, at such time as may be designated by the chief of police.

Sec. 17. Incompatibility of positions. No person holding office authorized by this act shall hold any other public office or take any active part in politics. Any violation of this section shall be considered cause for removal.

Sec. 18. Fees to be accounted for. The fees of the chief of police, captain of police, and all other police officers of said city in criminal cases prosecuted in the municipal court of the city of Biddeford, including their fees as witnesses, shall be taxed and allowed as in behalf of the sheriffs of the county of York, and 75% of the criminal costs and fees in said municipal court, exclusive of the fees of witnesses other than police officers, shall be paid annually by the treasurer of said county of York to the city of Biddeford, provided, however, that when said percentage exceeds the annual salary or compensation of the chief of police and the captain of police of said city, the excess shall not be paid to said city, but shall be paid into the treasury of said county of York. Police officers may retain for their own use all fees recovered by them in civil cases. Neither the chief of police, captain of police, nor any other police officer of said city shall receive from any respondent in any criminal case any money, fine or costs, but in all such cases fines and costs shall be paid to the magistrate issuing the precept against such respondent, but fees taxed and allowed to the officers for attendance as witnesses in any criminal case before the appellate court, or before any court held in some town other than the one in which such officers reside, shall be paid to them from the county treasury. The expenses of any such officer necessarily and reasonably incurred and actually disbursed in the service of any criminal precept shall be allowed and paid to him by the treasurer of said county upon his filing an itemized account thereof, under oath, accompanied by proper vouchers thereof.

Sec. 19. Number of patrolmen may be increased. The board of commissioners shall have power, subject to the approval of the municipal officers of said Biddeford, to increase the number of patrolmen provided for in this act. Said patrolmen so created shall be appointed by said commission and shall be subject to all the other provisions of this act.

Sec. 20. Providing for half-pay retirement pensions; conditions. Any member of the Biddeford police department who shall have arrived at the age of 65 years in active service, or any member who while in active service has become permanently disabled, shall be entitled to $\frac{1}{2}$ of the pay which such member received at the time of his retirement or permanent disability.

Sec. 21. Proof of disability. When application is made for pension because of permanent disability while in active service, the applicant shall satisfy the police commission as hereinafter set forth, that he is permanently disabled.

Sec. 22: Police commission to investigate and pass upon claims. The board of police commissioners as created by this act shall investigate and pass upon all matters pertaining to the pensions of policemen, in accordance with the provisions of this act, and shall have authority to grant such pensions as provided herein.

Sec. 23. Pensions, how and when paid. The pensions specified in this act shall be paid monthly by the city treasurer of the city of Biddeford, and no pension shall be allowed unless application therefor shall have been made to the board of police commissioners.

Sec. 24. Cumpulsory retirement in certain cases; chief of police not included in provisions of this act relative to pensions. Any member of said police department who hereafter reaches the age of 65 years, and who has served not less than 25 years, shall be retired on his petition, and thereupon become entitled to the benefits hereinbefore provided for, provided, however, that no provision of this act relative to pensions shall be construed to include the chief of police of said department.

Sec. 25. Former police department abolished. The chief of police, captain, policemen and all other officers of the police department of the city of Biddeford at the time of the passage of this act, shall continue in office with all powers and duties with which they are by law vested, until the reorganization of said police department as herein provided shall have been perfected and the chief of police, captain and all other officers herein provided for shall have been appointed. All said officers in said police department existing at the date of the passage of this act are hereby abolished as and of the date of the appointment of said chief of police, captain and other officers provided for in this act.

Sec. 26. Annual report of police commissioners. The board of police commissioners shall, within 30 days after the end of the fiscal year of said city of Biddeford, annually, file a written report of its doings with the municipal officers of said city. The records of said board of police commissioners shall be at all times open to the inspection of the said municipal officers.

Sec. 27. Inconsistent laws repealed. All acts and parts of acts, public, private and special, inconsistent with the provisions of this act are hereby repealed.