

MAINE STATE LEGISLATURE

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

Legislative Document

No. 1171

H. P. 1930

House of Representatives, April 23, 1941.

Reported by Majority from Committee on Legal Affairs and laid on table to be printed under joint rules.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-ONE

**AN ACT to Provide a Pension for Members of the Fire Department of
the City of Auburn.**

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

P. & S. L., 1917, c. 201, Art. VI-B, additional. Chapter 201 of the private and special laws of 1917 is hereby amended by adding thereto a new article to be numbered VI-B, and to read as follows:

'ARTICLE VI-B

Fire Department Pension

Sec. 1. Pensions provided for. Pensions are hereby authorized and provided for, to be paid by the city of Auburn to members of the fire department of said city in accordance with the following provisions of this article.

Sec. 2. Creation of pension fund. The city of Auburn is hereby authorized to and shall appropriate money for the payment of said pensions, which sum shall be known as the "firemen pension fund" and which shall be created to provide for the monthly payment of such pensions as may become due under the terms of this article.

Sec. 3. Creation of firemen pension commission. A firemen pension commission hereby is created for the administration of the provisions of this article, and shall consist of the following members: the mayor, one member to be selected by the members of the fire department, and one other member to be chosen by the other aforesaid members. As soon as possible after the determination of the selection or choosing of a member, notice shall be filed with the city clerk by the body so selecting or choosing of its action. The mayor shall serve during his term of office; the member representing the fire department and the 3rd member shall serve for a period of 5 years from the date that notice thereof has been filed with the city clerk. All members shall serve without salary. The pension commission herein established shall have custody and complete jurisdiction in the setting up and in the administration of the firemen pension fund and in the drafting of such rules and regulations as may be necessary to make effective the operation of this system, subject however to the limitations of this article. Said firemen pension commission shall invest said firemen pension fund only in such securities as are enumerated in the first 10 subdivisions under section 27 of chapter 57, R. S., 1930. The members of said firemen pension commission shall give bond to the city of Auburn in such sum and with such sureties as the city council shall approve for the faithful performance of their duties as herein set forth, and the cost thereof to be paid out of said fund.

Sec. 4. Eligibility. When any regular member of the said fire department, including the department chief and deputy chief, shall have arrived at the age of 65 years, he shall be deemed to be incapacitated for further useful service in said department, and his honorable discharge shall be given him by the city council upon receipt of a proper certificate from said pension commission whereupon he shall automatically become eligible for all the benefits of said pension.

2. When any regular member of said fire department, including the department chief and deputy chief, shall have arrived at the age of 60 years or shall have served 25 years in said department, he may petition for the benefits of this article, and his honorable discharge shall be given him by the city council, whereupon he shall automatically become eligible for all benefits of said pension.

3. When any regular member of said department, as aforesaid, shall become totally disabled, he may petition for the benefits of this article, and his honorable discharge shall be given him by the city council, and he shall automatically become eligible for all benefits of said pension. Total dis-

ability shall be construed to mean disability resulting from an injury or the contracting of any disease or illness while a member of said department in the course of his employment and without willful negligence on his part which shall permanently prevent such person from performing his duties in said department. Three reputable physicians, one to be appointed by the said pension commission, one by the petitioner and a 3rd to be chosen by the 2 physicians, aforesaid, shall determine whether such disability exists. They shall certify their findings to the said pension commission, which findings shall be final, and if said physicians are unable to agree, then in such event, the findings of the majority shall be controlling.

4. In the event a member of said department shall lose his life in the performance of his duty, his widow shall receive all benefits of this pension during such time as her widowhood status is maintained. Upon her death or remarriage or in the event he leaves no widow, the minor children of the deceased, if any, shall receive during their minority, pro rata, the full benefits of this pension during such time as the said pension commission, in its discretion, may deem necessary and proper.

Sec. 5. Amount of pension. Said pension shall be equal, at any given time, to $\frac{1}{2}$ the regular salary at that time received by the member of the said department serving in the same capacity as the pensioner was serving at the time he was retired; all pension payments made under the provisions of this section shall be automatically increased or diminished in amount as increases or reductions in the daily pay are allowed by the city council to the regular members of the said department. When, as a result of disability as set forth in section 4 hereof, such member receives compensation payments therefor from any other source, payments hereunder shall not commence until such other compensation payments have been terminated.

Sec. 6. Contributions to fund. The sum of 2% shall be deducted from the salaries paid to the members of the department which shall be paid into the said pension fund and be available for the purposes of this article. In case of the death, resignation or discharge of any member contributing to this fund before the member receives or is entitled to receive any benefits from this article, the amounts paid in by him shall be paid back to him or his estate plus interest at the prevailing savings bank rate. Said deductions of 2% as aforesaid shall not be mingled with other funds of the city of Auburn but shall be kept in a separate cash fund and paid over to the firemen pension commission quarter annually.

Sec. 7. Pensions not attachable, etc. No portion of said pension fund shall, either before or after its order of distribution to any pensioned member of said department, be held, seized, taken or levied upon, by virtue of any attachment, injunction, writ, interlocutory, or other order or decree, or any process or proceedings whatever, issued out of or by any court, for the payment or satisfaction in whole or part of any debt, damage claim, demand or judgment against any said member, except orders of support of minor children, separate support of wife or alimony, and no pensioner shall have the legal right to assign his or her pension, or any part thereof.

Sec. 8. Constitutionality. If any section, sentence, clause or phrase of this act is for any reason, held to be unconstitutional or invalid, such decisions shall not affect the validity of the remaining portions of this article; it being the intention that the remaining portions of this article shall stand, notwithstanding the unconstitutionality and invalidity of any section, sentence, clause or phrase.

Sec. 9. Repealing clause. All acts or parts of acts, either public or private, concerning the subject matter of pensions for members of the Auburn fire department, are hereby repealed in their entirety.

Sec. 10. Referendum. This act shall take effect 90 days after the adjournment of the legislature only for the purpose of permitting its acceptance or rejection by the legal voters of the city of Auburn at a special election to be held within 30 days after the effective date of this act, which special election shall be notified and called by the mayor and council in the manner prescribed by law.

The question proposed on said ballot shall be substantially in the following form:

“Shall an act passed by the legislature in the year 1941 approved (insert date) entitled, ‘An Act to Provide a Pension for Members of the Fire Department of the City of Auburn’ be accepted?” otherwise said ballot shall be in form provided by law when a constitutional amendment is submitted to the vote of the people.

If a majority of the votes cast by the qualified voters of the city favor the acceptance of this act, it shall become operative. The city clerk shall forthwith file with the secretary of state a certificate of the action of the city thereon.’