

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 189**

H. P. 426

House of Representatives, January 30, 1945.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Hemphill of Mechanic Falls.

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**STATE OF MAINE**

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-FIVE

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**AN ACT to Provide a Town Council and Manager Form of Government  
for the Town of Mechanic Falls, in the County of Androscoggin.**

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

**Sec. 1. Date of town meeting.** On and after the passage of this act and its adoption by the town as hereinafter provided, annual town meetings shall be held in the town of Mechanic Falls, in the county of Androscoggin on the 3rd Monday of March in each year, and the voters shall then choose by ballot, as now provided by law, a moderator.

**Sec. 2. Election of officers.** At such annual town meetings the voters shall elect by ballot as hereinafter provided, 5 inhabitants of said town to be known as councillors, and a member or members of the superintending school committee, in accordance with the revised statutes of 1944 and amendments thereto, and a town clerk.

At the first annual town meeting held under this act, said councillors shall be elected as follows: 2 for a term of 1 year, 2 for a term of 2 years, 1 for a term of 3 years, and thereafter at each of said annual town meetings 2 councillors shall be chosen as herein provided, each for a term of 3 years, provided, however, that in each 3rd year but 1 councillor shall be chosen; and provided further, that vacancies in the office of town councillor due to

death, resignation or other cause shall be filled at the next annual meeting for the unexpired term.

The council when duly elected and qualified shall annually appoint a treasurer, and once in 3 years a health officer subject to the approval of the state commissioner of health and welfare, as now provided by the revised statutes of 1944 and amendments thereto, and when a vacancy exists, shall select a town manager, with duties hereinafter defined, for a term not to exceed 3 years. Said health officer shall appoint a plumbing inspector for a term of 1 year subject to the approval of said commissioner as now provided by general law. Except as hereinafter provided, all other necessary town officers provided by this act or now or hereafter provided under any statute or by-law shall be appointed by the town manager, subject to approval by a majority of the councillors.

**Sec. 3. Councillors to serve ex officio as certain officers.** The councillors provided for in section 2 shall serve instead of selectmen, overseers of the poor, and assessors of taxes provided for by general statutes and shall have the same powers and be subject to the same duties vested in them by virtue of said offices, not inconsistent with general statutes.

**Sec. 4. Organization meeting.** The councillors elected as herein provided shall meet within 24 hours after their election and shall choose by ballot 1 of their number to be chairman, and shall appoint a secretary; an affidavit of such choice of chairman and appointment of secretary, signed by a majority of the councillors, shall be recorded by the town clerk in the records of said town and thereafter records shall be kept of all the doings of said councillors. Said records shall be public records and shall be open at all times to the inspection of any citizen of the town.

**Sec. 5. Duties of council; school committee.** The councillors shall meet once each month at such times as they may designate in their organization meeting provided for in section 4, and 3 members of said council shall constitute a quorum for the transaction of business.

Special meetings may be called by the chairman of said council or by a majority of all the members of said council. Notice of such special meeting shall be mailed, served upon or left at the usual dwelling place of each councillor and the town manager, at least 24 hours before such meeting.

The present members of the superintending school committee whose terms of office have not expired shall continue to serve until the expiration of their present term of office. The 3rd member shall be chosen in the manner provided for in section 2 for a term of 3 years and annually there-

after a member of the superintending school committee shall be elected annually by the voters for a term of 3 years. The superintending school committee, constituted or elected as herein provided, shall have the same powers in relation to schools of said town as now provided by statute and shall be subject to the same duties in relation thereto.

**Sec. 6. Compensation.** Each councillor shall receive an annual salary of \$50. In addition to said annual salary, councillors when sitting as a board of registration of voters in their capacity as municipal officers as required by law during the 3 secular days next preceding any primary election, state or presidential election, shall receive a per diem of \$3 each, but the total of such per diem allowance shall not exceed \$9 for any one day, meaning and intending that any 3 of said councillors shall constitute a legal board to pass upon the qualifications of persons desiring their names entered upon the polling list of said town of Mechanic Falls. Provided further, that for such services, as required under the general law, of such councillors, acting in their capacity as municipal officers, at any such primary election, state or presidential election the per diem shall be \$5 per day, the total allowance for any one day not to exceed \$15. Payment for all services contemplated by this section shall be made by the town treasurer out of the town treasury.

**Sec. 7. Town manager and tax collector.** Said councillors shall by ballot by a majority vote of the total members appoint a town manager, said office of town manager being hereby created, who shall not be a member of said board of councillors. Said appointment to be made as soon as possible after the organization of said council. The town manager so appointed shall be the collector of taxes and as such shall have the same powers as though regularly elected under the provisions of the general statute. The councillors as overseers of the poor, as herein provided, may authorize the town manager, at the time of his appointment aforesaid or at any time thereafter, to be clerk or agent for them as said overseers of the poor, to sign and send the written notices and written answers referred to in sections 29 and 30 of chapter 82 of the revised statutes of 1944, and acts additional thereto and amendatory thereof. Any such written notices and written answers shall have the same effect as if signed and sent by the members of the council as overseers of the poor themselves. Said town manager, on and after his appointment as aforesaid, shall be road commissioner of said town.

**Sec. 8. Special power of council.** The council shall pass such municipal ordinances as they think necessary and proper, governed by the authority

which towns have to enact ordinances under the provisions of the revised statutes of 1944 and amendments thereto.

**Sec. 9. Terms of town officers.** All appointed officers and boards shall hold office at the pleasure of the appointing power, except that of town manager and health officer, who can only be removed upon written charges and a public hearing before the council upon the question. At least 30 days before the proposed removal of the town manager, the council shall adopt a resolution stating its intention to remove him and the reasons therefor. A copy of such resolution shall be served forthwith on the manager, who may, within 10 days, demand a public hearing, in which event the manager shall not be removed until such public hearing has been held. Upon or after passage of such resolution the council may suspend him from duty, but his pay shall continue until his removal. In case of such suspension the council may appoint an acting manager to serve at the pleasure of the council for not more than 90 days. The action of the council in removing the manager shall be final, and shall be by a written ballot by a majority of the total members of the council.

**Sec. 10. Powers and duties of town manager.** The town manager shall be chosen by the town council on the basis of his executive and administrative qualifications and his technical knowledge of municipal management and his integrity of character. He shall be the administrative head of the town government and shall be responsible to the council for the administration of all departments of the town over which the council under this act and the general statutes has control, and his powers and duties, where not otherwise herein provided, shall be generally as follows:

**I.** To collect the taxes committed to him in his capacity as tax collector and to collect the automobile excise tax, imposed by the general law, as well as all other moneys that may be due the town, and pay the same over to the town treasurer as provided by the revised statutes, receiving therefrom a duly executed voucher, which shall be retained by him as evidence of such payment.

**II.** To exercise control over all departments created herein or that may be hereafter created, except the school department, either by general law or by ordinance.

**III.** To act as purchasing agent for all departments of the town, except the school department, and to submit to competitive bids any transaction involving more than \$100, if the council so orders.

**IV.** To attend the meetings of the council, except when his removal is

being considered, and recommend for adoption such measures as he may deem inexpedient.

**V.** To keep the council fully advised as to the business, financial condition, and future needs of the town.

**VI.** To see that the laws and ordinances are enforced.

**VII.** To perform such other duties as may be prescribed by the council.

**Sec. 11. Duties as purchasing agent.** As purchasing agent of the said town, the town manager shall purchase all supplies and materials for the town and for the several departments with the exception of the school department, and shall see to the delivery of such supplies and materials to each department, and shall take and file receipts thereof; and all accounts for the purchase of supplies and materials and work performed for said town with the exception of the accounts of the school department, shall bear the approval of the town manager when presented to the council for payment.

**Sec. 12. Salary.** The town manager shall devote his entire time to his said office, and shall receive for his services a rate of compensation to be fixed by the council and the actual and necessary expenses incurred in the performance of his duties, to be paid by the town treasurer in semi-monthly payments on the 1st and 15th days of every month. He shall maintain an office at such place as the councillors deem advisable and shall be provided with such clerical assistance as the council may decide.

**Sec. 13. Officers to be sworn.** All elected and appointed officers of the town shall be sworn in by the town clerk, a justice of the peace, or notary public, or by the moderator before the town meeting adjourns. The moderator can also be sworn in by the officer presiding when he is elected.

All officers shall continue in office until their successors are elected or appointed, and qualified.

**Sec. 14. Compensation of officers.** When not otherwise provided herein, the compensation and fees of officers of said town shall be fixed by a vote of the council.

**Sec. 15. Payments from treasury limited.** No money shall be paid out of the town treasury except by order issued and signed by the councillors or their representative authorized for the purpose and presented to the treasurer of said town at time of payment.

**Sec. 16. Bonds of officials.** The council of said town shall require a bond from a surety company satisfactory to said council, from all persons

trusted with the collection, custody, or disbursement of any of the moneys of the said town; and may require such bond from such officials as it may deem advisable. The premium on said bonds to be paid by the town.

**Sec. 17. Nomination of officers.** Nomination of candidates for the office of councillor and all other elective officers in the town of Mechanic Falls, shall be made by nomination papers signed in the aggregate for each candidate by not less than 25 qualified voters of the town of Mechanic Falls.

All nomination papers, besides containing the name and address of the candidate, must specify to each: 1st, the office for which he is to be nominated; 2nd, the term for which he seeks nomination. Nomination papers for the nomination of candidates for any of the elective offices in the town of Mechanic Falls shall be filed with the town clerk at least 10 days prior to the annual town meeting. Nomination papers shall be uniform and shall be supplied by the town clerk.

The election of all elective officers provided for in this act shall be by Australian ballot.

**Sec. 18. Preparation of ballots.** The town clerk shall prepare the ballots to be used at the municipal elections in a form as nearly like the ones used in biennial elections as the requirements of this charter permit. The ballot shall contain the names in alphabetical order, without party designations, of all who file with the town clerk as candidates for any elective office in the town of Mechanic Falls not later than 5 o'clock in the afternoon of the 10th day before the election. The town clerk shall have the same powers and duties with reference to general elections that he has to biennial elections so far as such powers are not inconsistent herewith.

**Sec. 19. Trustees of public library.** The present members of the board of trustees of the public library whose terms of office have not expired shall continue to serve until the expiration of their present term of office. The 3rd member to be appointed as provided in section 2. The board of trustees of the public library, constituted or appointed as herein provided, shall have the same powers as at the present time.

**Sec. 20. Repealing clause.** All acts or parts of acts inconsistent herewith insofar as they relate to the town of Mechanic Falls, in the county of Androscoggin, are hereby repealed.

**Sec. 21. Effective dates; referendum.** This act shall take effect 90 days after the adjournment of this legislature only for the purpose of permitting its submission to the legal voters of said town of Mechanic Falls at a

special meeting of the above mentioned town; said special town meeting to be held prior to January 1, 1946.

Such meeting shall be called for that purpose by an appropriate article inserted in the call for such meeting and such meeting shall be called, advertised and conducted according to the law relating to municipal elections. The town clerk shall prepare the required ballots for the election upon which he shall reduce the subject matter of this act to the following question: "Shall 'An Act to Provide a Town Council and Manager Form of Government for the Town of Mechanic Falls, in the County of Androscoggin' be accepted?", and the voters shall indicate by placing a cross in a square designated by the words "Yes" or "No" their opinion of the same. This vote shall be by the Australian ballot and check list shall be used.

If a majority of the qualified voters of the town, present and voting, vote in favor of the acceptance of this act, it shall become operative at the next annual town meeting.

The result of the vote in said town shall be declared by the municipal officers thereof and a certificate thereof filed by the town clerk with the secretary of state.

**Sec. 22. Saving clause.** If any portion of this act shall be held to be unconstitutional, such decision shall not affect the validity of the remaining portion thereof.