

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

NINETY - SECOND LEGISLATURE

Legislative Document

No. 301

H. P. 653

House of Representatives, February 1, 1945.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Jordan of Saco.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-FIVE

AN ACT to Amend the Charter of the City of Saco by Providing for the Appointment of a Civil Service Commission.

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

Sec. 1. Civil service commission. A civil service commission consisting of 3 resident citizens of Saco shall be appointed by the mayor of said city, as soon as convenient after this act shall take effect, all of whom shall serve without pay. The members of the civil service commission shall hold no other elective or appointive office under this charter. Members shall serve for a term of 3 years, except that at the first appointment under this charter one shall be appointed for 1 year, one for 2 years, and one for 3 years and thereafter one shall be appointed by the mayor each year. The mayor shall fill vacancies that may occur in this commission. The commission shall annually elect one of their number chairman, and one of their number clerk. Each member shall qualify after this appointment by being sworn by the city clerk of said city 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 forthwith filed by said justice with said city clerk.

Members shall be appointed from the 2 political parties receiving the largest number of votes in the city in the last preceding state election. No more than 2 of said members shall be from the same political party.

Sec. 2. Powers and duties of commission. The commission shall supervise and control under the charter the selection for appointment and promotion, lay-off, reinstatement, suspension and removal of the members of the police department, fire department, city marshal, and chief of the fire department. The commission shall examine all applicants for appointment as city marshal, chief of the fire department, policemen or firemen.

Sec. 3. Appointment of city marshal and fire chief. All appointments to the office of city marshal and chief of the fire department shall be made by the mayor from the eligible list prepared by the civil service commission. At the request of the mayor the commission shall submit 3 names for each vacancy. Appointments to the offices of chief of fire department and city marshal shall be during good behavior, and shall terminate when the appointee shall have attained his 65th birthday.

Sec. 4. Departmental appointments. All appointments to the police and fire departments except the chief of the fire department and city marshal shall be made by the chief or marshal of the respective department subject to the approval of the mayor from the eligible list prepared by the civil service commission. At the request of the appointing officer, the commission shall submit 3 names for 1 vacancy; 4 names for 2 vacancies; 5 names for 3 vacancies; 6 names for 4 vacancies; and 7 names for 5 vacancies, provided that if there be an insufficient number of candidates on the eligible list, the commission shall present the names of such candidates as it has available.

Appointments to either department will be for a probationary period of 6 months, after which time appointees shall be confirmed or rejected by the city council. All appointments as regular members of the police department or the fire department shall be made from those who have been so examined.

Sec. 5. Qualifications. I. Any applicant for the appointment of city marshal or chief of fire department must be a registered voter who has domiciled in the city of Saco for at least 3 years prior to the date of filing his application.

II. Applicants for the position of city marshal or chief of the fire department shall at the time of their application and appointment, be physically fit and in good health, and shall be not less than 30 years of age nor more than 65 years of age.

III. The burden of proof of good character shall in all cases be upon the applicant, who may be required to furnish evidence in addition to the certificates required in his application.

IV. The commission may exclude from examination, refuse to certify as eligible or remove from the eligible list upon sufficient evidence of the following conditions:

- A.** Dismissal of the applicant from public service or his resignation pending charges.
- B.** Criminal, infamous, dishonest, immoral or bad conduct of character.
- C.** The knowingly making of a materially false statement by any person in the application or in his examination and any connivance by him at any materially false statement made in any accompanying certificates, or the commission of or attempt to commit and defraud against service rules during or after examination.

No final action shall be taken by the commission under this rule without giving the person affected an opportunity to be heard.

V. Applicants for appointment to the fire department shall be not less than 5 feet 5½ inches in height and weigh not less than 130 pounds and shall be not less than 21 years of age or not over 35 years of age. Applicants for appointment to the call force shall be not less than 21 years of age and not more than 40 years of age. Applicants for appointment in the fire department who have been serving as call men for not less than 2 years prior to their application may be appointed to the permanent force of the fire department if not over 36 years of age. Applicants for appointment to the police department shall be not less than 5 feet 6 inches in height and weigh not less than 130 pounds and shall be not less than 21 years of age and not over 35 years of age.

Sec. 6. Applications. Applications shall be under oath and on blank forms prescribed by the commission and shall be accompanied by certifications or other satisfactory evidence as to character, health and physical conditions, as the commission may require.

Applications shall be filed in the office of the city clerk at the city hall. The city clerk shall forward to the chairman of the civil service commission all applications filed. No applicant will be examined unless the application has been filed, together with such physical examination report as the commission may require, at least 10 days prior to the date of any examination of the police or fire departments.

Any person who has taken an examination may make new application for the same service, and his status shall be determined by the result of the last examination taken.

The applications shall expire at the end of 1 year from the date of the last examination.

Application shall be in the following form:

APPLICATION FOR APPOINTMENT ON THE POLICE OR FIRE DEPARTMENT OF THE CITY OF SACO

If application is for appointment to police force, strike out words referring to fire department. If application is for appointment to fire department, strike out words referring to police force.

The applicant will answer the following questions in his own handwriting, date and subscribe the same, and return to the city clerk:

1. When were you born?
2. Are you married?
3. Where were you born and where have you lived since your birth?
4. If you are a naturalized citizen, when and where were you naturalized?
5. How long have you lived continuously in Saco?
6. In what ward, street and number do you now live?
7. What is your present occupation, and what has it been for the past 3 years?
8. What is your height?
9. What is your weight?
10. Do you use intoxicating liquors?
11. Are you a veteran of any war? If so, give details of service.
12. Have you ever been arrested, convicted or ordered to appear in court, either in this state or elsewhere, for violation of any law? If so, give details in full.
13. Have you ever been upon any fire or police force? If so, when, where, and how long?
14. If you once belonged to any fire or police force, why did you leave it?
15. What is the present state of your health? Have you ever suffered any severe sickness? If so, when and what was its character? Have you a regular physician, and if so, whom?

Dated this day of A. D. 19....
.....

Applicant

Subscribed and sworn to by said on the day and year before written.

Before me.

.....
Notary Public—Justice of the Peace

Reference 1.

1. Is the applicant related to you?
2. Has the applicant ever been in your employ?
3. Would you employ him if the opportunity offered?
4. Has the applicant to your knowledge ever used intoxicating liquors, stimulants or narcotic drugs?
5. Do you know if the applicant has ever been arrested, convicted or ordered into court, either in this state or elsewhere, for the violation of any law?
6. I have known the applicant herein mentioned for the period..... and I have observed his conduct during the period so stated, and found him to be honest, sober, of good character, civil in manner and behavior, that I know nothing to his prejudice and recommend him as a fit person to be a patrolman for the city of Saco.

Reference 2.

(Same as above)

Each applicant shall file with his application a certificate from some reputable physician showing the results of a thorough physical examination, and no examination shall be given the applicant by the civil service commission until such certificate is filed with the commission. The commission may at any time order a further physical examination, if they deem it proper.

The examination is designed to test the physical, moral and mental qualifications of candidates, including an inquiry into their strength, activity, power or endurance, courage, self-control, judgment, willingness of perception, thought and expression, promptness, capacity and willingness to learn. The results of each examination shall be filed with the city clerk not later than 30 days after the date of the examination.

After the examinations, the commission shall grade the applicants for each department and shall make and keep separate eligible lists for each department.

Sec. 7. Promotions. Promotion from one grade to another in the police and fire departments shall be made by the chief of the respective de-

partments, subject to the provisions of section 4, but no person shall be eligible for promotion until he shall have served at least 12 months in the lower grade.

Sec. 8. Demotion, suspension and removal. Any member of the department may be demoted, suspended or removed for just cause and for reasons specifically given in writing to such member within 24 hours of his demotion, suspension or removal. Sickness or other physical incapacity of sufficient severity to permanently render any member of either of said departments physically unfit to ever adequately perform the duties of his office shall be considered as cause for removal but in every such case such officer shall be entitled to an honorable discharge.

The demotion, removal or suspension of the chief or deputy chief of the fire department, city marshal shall be by the mayor. A copy of the action taken with reasons therefor shall be forwarded to the civil service commission by the mayor. These officers shall have the right of appeal within 5 days to the civil service commission who shall grant a hearing within 15 days from date of appeal and the accused member shall have right of representation by counsel. The action of the civil service commission shall be final.

Demotion, removal or suspension of other officers shall be by the chief subject to approval by the mayor. If such action is confirmed by the mayor the accused member shall have right of appeal as in the case of the chief or deputy chief, and city marshal.

Charges may be preferred against any member or chief of the police or fire department by the commission or upon written charges filed with said commission signed by 10 or more citizens of the city of Saco, and this party complained of shall be furnished with a written copy of said charges by the civil service commission.

The commission may make its own rules for the conduct of hearings before it, and may put witnesses on oath.

The commission may, in event that it deems any charges made frivolous and without justification, recommend to the city council the payment of reasonable counsel and witness fees incurred by any member of the police or fire department in the defense of such frivolous and unjustified charges.

Sec. 9. Emergency appointments. Emergency appointments may be made at any time by the mayor, whenever the mayor shall determine that an emergency exists. All appointments made under this provision shall

be for the period of the emergency only, the mayor having the right to determine when the emergency has ended.

Sec. 10. Tenure of office. Every member of either of said departments whose position falls within the requirements of civil service as herein provided shall have a tenure of office which shall continue during good behavior until he attains the age of 65 years subject only to the right of removal for cause as hereinbefore provided.

Sec. 11. Automatic retirement. Every member of the police and fire departments whose position is subject to civil service under the foregoing provisions of this section shall be automatically retired from service in said department when he attains the age of 65 years.

Sec. 12. Meetings of commission. The commission shall meet on call of the chairman at the city council chamber in the city building.

Sec. 13. Political activity forbidden. No person holding a position authorized by the provisions of this act shall hold any other public office or take any active part in politics. Any violation of this provision shall be considered cause for removal.

Sec. 14. Compensation. The compensation of the officers and men of the police and fire department shall be fixed by the city council of said city.

Sec. 15. Exemption of present members. All members and officers of the police and fire department of the city of Saco at the time this act becomes effective shall be continued in office as officers and patrolmen and firemen and shall be exempt from the provisions of this act with respect to examination and qualifying age restrictions.

Special police officers and call firemen shall be included in the provisions of this article. Special patrolmen shall be appointed by the city marshal from the eligible list of applicants for patrolmen, when necessary to make such appointments, with the exception of those assigned for special duty in the institutions and industries of the city who shall not have to qualify for the several examinations prescribed by the commissioners. All special officers shall be subject to the provisions of section 3. The special officers shall have the same authority as vested in the members of the regular force of patrolmen. Call firemen shall be appointed by the chief of the fire department, subject to the provisions of section 3, from the eligible list of applicants for firemen, when necessary to make such appointments.

Sec. 16. Order of dismissal. In the event of a reduction of the police or fire department by the city council, the latest to be appointed shall be

the first to be removed, and shall be given preference, if still upon the list in filling the first vacancy

Sec. 17. Inconsistent acts repealed. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Sec. 18. Constitutionality. If any portion of this act shall be held to be unconstitutional, such decision shall not affect the validity of the remaining portion thereof.

Sec. 19. Referendum. This act shall be submitted for approval or rejection to the qualified voters of the city of Saco at the annual municipal election or at any special election held, notified and called by the mayor and aldermen 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 1945 approved (Date) entitled, ‘An Act to provide for the appointment of a civil service commission for the city of Saco’ 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.