

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)

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

Legislative Document

No. 381

H. P. 616

House of Representatives, January 31, 1947

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

HARVEY R. PEASE, Clerk

Presented by Mr. Snow of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SEVEN

**AN ACT to Provide a Pension for Members of the Highway 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-C, additional. Chapter 201 of the private and special laws of 1917, as amended, is hereby further amended by adding thereto a new article to be numbered VI-C, to read as follows:

‘ARTICLE VI-C

Highway 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 highway 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 “highway 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 highway pension commission. A highway 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 members of the highway 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 highway 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 highway 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 highway pension commission shall invest said highway pension fund only in such securities as are enumerated in subsections I to X, inclusive, of section 38 of chapter 55 of the revised statutes of 1944. The members of said highway 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. 1. A regular member of said highway department shall be construed to mean any member, including the superintendent of streets, who shall have been an employee thereof for at least 5 years.

2. When any regular member of said highway department shall have arrived at the age of 70 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.

3. When any regular member of said highway department arrives at the age of 65 years, he shall, at any time between that date and the date he arrives at the age of 70 years, upon written request of the city, submit to a hearing before the pension commission for the purpose of determining whether or not he is able to perform the work required of him, if the commission shall deem him to be incapacitated for further use by said department, 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 said pension benefits.

4. When any regular member of said highway department 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.

5. When any regular member of said department 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 disability 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.

6. 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, but in no case to exceed the sum of \$4,000. 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.

7. Any member of said department who shall have had 10 years' service therein and shall be within 10 years of being eligible for the benefits of said pension shall not be removed from said department except as provided for the removal of firemen and policemen as provided in chapter 47, of the private and special laws of 1943, and said member shall have all the rights and privileges of a hearing before the civil service commission of the city of Auburn, as provided therein.

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 highway 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 highway department, are hereby repealed in their entirety.

Sec. 10. Referendum. This act shall take effect after its acceptance by the legal voters of the city of Auburn, at the regular bi-annual election

of the city of Auburn, in the year 1947. The question proposed on said ballot shall be substantially in the following form:

“Shall an act passed by the legislature in the year 1947 (insert date) entitled, ‘An Act to Provide a Pension for Members of the Highway 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.’