

# MAINE STATE LEGISLATURE

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

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**Legislative Document**

**No. 946**

H. P. 1276

House of Representatives, February 14, 1947.

Transmitted by revisor of statutes pursuant to joint order

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Cole of Portland.

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## STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-SEVEN

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### **AN ACT Amending the Charter of the City of Portland.**

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

**Sec. 1. P. & S. L., 1923, c. 109, Art. II, § 1, amended.** The 3rd paragraph of section 1 of Article II of chapter 109 of the private and special laws of 1923 is hereby repealed.

**Sec. 2. P. & S. L., 1923, c. 109, Art. II, § 4, amended.** The 2nd paragraph of section 4 of Article II of chapter 109 of the private and special laws of 1923 is hereby amended to read as follows:

'Any member of the city council who shall be convicted of a ~~crime~~ **felony or a misdemeanor involving moral turpitude** while in office shall, after due notice and hearing before the city council and the production of the records of such conviction, forfeit his office.'

**Sec. 3. P. & S. L., 1923, c. 109, Art. II, § 8, amended.** Section 8 of Article II of chapter 109 of the private and special laws of 1923 is hereby amended to read as follows:

'**Sec. 8. Procedure.** The city council shall keep a record of its proceedings and shall determine its own rules of procedure and make lawful regulations for enforcing the same. The meetings of the city council shall be

open to the public. The city council shall act only by ordinance, order or resolve; all ordinances, orders and resolves, except orders or resolves making appropriations of money, shall be confined to one subject which shall be clearly expressed in the title. The appropriation order or resolve shall be confined to the subject of appropriations only. No ordinance and no appropriation resolve shall be passed until it has been read on two separate days, except when the requirement of a **second** reading on ~~two~~ a separate days has been dispensed with by ~~a four fifths~~ the vote of ~~the voting~~ 7 members of the city council. The yeas and nays shall be taken upon the passage of all ordinances and entered on the record of the proceedings of the city council by the clerk. The yeas and nays shall be taken on the passage of any order or resolve when called for by any member of the city council. Every ordinance, **order and resolve** shall require on final passage the affirmative vote of ~~a majority of the voting~~ 5 members of the city council. Every ordinance before final passage shall be published, marked "Proposed Ordinance", in one or more of the daily newspapers published in Portland, and shall take effect and be in full force 30 days from and after it shall have received final passage by the city council ~~and have been approved by some justice of the supreme judicial court, except as herein otherwise provided for emergency ordinances.~~ Within 10 days after ~~said approval by such justice~~ final passage by the city council said ordinance shall be published in full in one or more of the newspapers published in said Portland, but the failure to publish said ordinance either before or after final passage shall not affect its validity or force.

No order or resolve shall take effect until 10 days after its passage, ~~except that the city council may, by vote of four fifths of its members, pass emergency orders or resolves to take effect at the time indicated therein, but such emergency orders or resolves shall contain a section in which the emergency is set forth and defined, except as herein otherwise provided for emergency orders and resolves.~~

The city council may, by vote of 7 of its members, pass emergency ordinances, orders or resolves to take effect at the time indicated therein, but such emergency ordinances, orders or resolves shall contain a section in which the emergency is set forth and defined, provided, however, that the declaration of such emergency by the city council shall be conclusive.'

Sec. 4. P. & S. L., 1923, c. 109, Art. III, § 2, amended. The 3rd subparagraph of section 2 of Article III of chapter 109 of the private and special laws of 1923 is hereby amended to read as follows:

'I, . . . . ., the city clerk of the City of Portland, do solemnly affirm that ~~I witnessed the signing of each of the above signatures and~~

that, at the time of said signing, I made certain that the person affixing his name thereto had reasonable knowledge of the purpose of the petition the signatures appended hereto are the signatures of the persons whose names they purport to be.

.....  
City Clerk

Date .....

Sec. 5. P. & S. L., 1923, c. 109, Art. VI, § 1, amended. Section 1 of Article VI of chapter 109 of the private and special laws of 1923 is hereby amended to read as follows :

'Sec. 1. **Titles and appointment.** There shall be the following administrative officers and boards :

(a) The following officers and boards shall be appointed by ballot by ~~a majority~~ the vote of ~~the voting~~ 5 members of the city council: city manager, city clerk, corporation counsel, treasurer and tax collector, auditor, ~~gas agent~~ assessors of taxes, health officer, ~~city hall music commission~~ trustees of Evergreen cemetery, 2 members of the board of registration under section ~~6 11~~, chapter ~~5 3~~ of the revised statutes of 1944, and they may elect 9 constables at large.

(b) The following officers shall be appointed by the city manager, subject to confirmation by the city council: commissioner of public works, **director of parks and recreation**, city electrician, chief of police, chief of the fire department, ~~secretary to overseers of the poor~~ **director of public welfare**, city physician upon recommendation of the health officer, inspector of buildings who shall give all his time to the work of his office and who shall not have any interest, direct or indirect, in any building or material concern, **personnel director**, and all other department heads whose position may from time to time be created by ordinance; ~~and, except as herein otherwise provided, upon recommendation of the heads of their departments, all minor officers and employees.~~

(c) Except as herein otherwise provided, all assistant department heads, deputies and division heads shall be appointed by the city manager, subject to confirmation by the city council, upon recommendation of the heads of their departments. All other employees shall be appointed by the city manager upon recommendation of the heads of their departments.'

Sec. 6. P. & S. L., 1923, c. 109, Art. VI, § 4, amended. The 3rd paragraph of section 4 of Article VI of chapter 109 of the private and special laws of 1923 is hereby amended to read as follows :

'The term of office of members of ~~city hall music commission~~ trustees of Evergreen cemetery, **city planning board**, and members of the board of registration of voters shall be as now provided by law, except as otherwise specifically provided in this act.'

**Sec. 7. P. & S. L., 1923, c. 109, Art. VI, § 10, amended.** Section 10 of Article VI of chapter 109 of the private and special laws of 1923 is hereby amended to read as follows :

'**Sec. 10. Assessors of taxes.** There shall be **not less than 1 nor more than 3** assessors of taxes appointed for terms of 3 years by the city council, and until their successors are appointed and qualified, except that the first city council to be elected under this charter, shall appoint 3 assessors for 1, 2, and 3 years respectively, and until their successors are appointed and qualified. If for any reason a vacancy shall exist in the membership of the board of assessors, the vacancy ~~shall may~~ be filled ~~forthwith~~ by the city council for the unexpired term. The assessors appointed as above provided shall exercise the same powers and be subject to the same duties and liabilities that similar officers of the several towns and cities in the state may exercise, and may now or hereafter be subject to under the laws of the state. The assessors may appoint one assistant assessor in each ward and one additional assistant assessor in each ward, if the city council shall so direct, whose duty it shall be to furnish the assessors with all the necessary information relative to persons and property taxable. The compensation of such assistant assessors shall be fixed by the city council but such assistant assessors shall hold office during the pleasure of the assessors.'

**Sec. 8. P. & S. L., 1923, c. 109, Art. VI, § 11, amended.** Section 11 of Article VI of chapter 109 of the private and special laws of 1923 is hereby repealed and the following enacted in place thereof :

'**Sec. 11. Powers and duties of park commission.** The director of parks and recreation shall be the park commissioner and shall have and exercise all the powers and perform all the duties conferred or imposed by law upon the park commission of the city of Portland, except the power to acquire land, which shall be exercised by the city council.'

**Sec. 9. P. & S. L., 1923, c. 109, Art. VI, § 12, amended.** Section 12 of Article VI of chapter 109 of the private and special laws of 1923 is hereby amended to read as follows :

'**Sec. 12. Additional areas.** To enable said ~~commission council~~ to extend the work of the Back Bay and Fore River commission and to make improvements, to enlarge the park areas, to maintain the public grounds

and cemeteries under their charge, ~~and~~ to pay for additions to grounds and cemeteries already acquired, or to be acquired by the city of Portland **and to construct and maintain streets or public ways known as Baxter boulevard, Eastern promenade, Western promenade, and Bates street, a minimum tax of 1 mill on the dollar shall be assessed annually by the assessors of said city of Portland upon all estates and property subject to taxation in said city, to be taken at the last regular valuation. The amount of said tax, when raised, shall be set aside as a special fund to be expended by said ~~commission~~ council for the purposes specified in this charter; provided, however, that 1% of the amount of the above tax shall be reserved by the city treasurer each year to cover any uncollected portion of this tax and carried to the credit of the account known as overlayings and abatements.'**

**Sec. 10. P. & S. L., 1923, c. 109, Art. VI, § 13, amended.** Section 13 of Article VI of chapter 109 of the private and special laws of 1923 is hereby repealed and the following enacted in place thereof:

**'Sec. 13. Director of public welfare. The director of public welfare shall be the overseer of the poor and shall have and exercise all powers and perform all the duties conferred or imposed by law upon overseers of the poor.'**

**Sec. 11. P. & S. L., 1923, c. 109, Art. VI, § 15, amended.** Section 15 of Article VI of chapter 109 of the private and special laws of 1923 is hereby amended to read as follows:

**'Sec. 15. Powers and duties of recreation commission. The ~~members of the city council~~ director of parks and recreation shall be and constitute the recreation ~~commission~~ commissioner for the city of Portland and they shall have and exercise all the powers and authority and be subject to perform all the ~~same~~ duties and liabilities as are now possessed by conferred or imposed by law upon the recreation commission of the city of Portland.**

Funds for the purpose of carrying out ~~the said~~ duties and work of said ~~recreation commission~~ shall be supplied in the same way and to the same amount as are now provided and supplied, or may be fixed hereafter.'

**Sec. 12. P. & S. L., 1923, c. 109, Art. VII, § 1, amended.** Section 1 of Article VII of chapter 109 of the private and special laws of 1923 is hereby amended to read as follows:

**'Sec. 1. Accounts and records. Accounts shall be kept by the auditor, showing the financial transactions of all departments of the city. ~~Forms~~**

~~for all such accounts~~ The general accounting system shall be recommended by the auditor and prescribed by the ~~auditor~~ city manager, with the approval of the city council. Accounts shall be kept in such a manner as to show fully at all times the financial condition of the city. The auditor shall furnish to the city manager ~~prior to the first regular meeting of the city council in each month~~ each month a report containing in detail the receipts and disbursements of the city on all accounts, and for each appropriation item, the expenditures made and the obligations incurred during the preceding calendar month, and a balance sheet showing the financial condition of the city, of the several funds and the total unexpended unencumbered balance ~~to the credit of each department.~~

Sec. 13. P. & S. L., 1923, c. 109, Art. VII, § 5, amended. Section 5 of Article VII of chapter 109 of the private and special laws of 1923 is hereby amended by adding at the end thereof a new paragraph to read as follows:

'The city council may by resolution appropriate to any purpose or object for which there shall have been no appropriation for the current year or for which the appropriation for the current year has proved insufficient any accruing revenue of the city not appropriated as hereinbefore provided and any unencumbered appropriation balance, or portion thereof, remaining after the purposes of the appropriation shall have been satisfied or abandoned.'

Sec. 14. P. & S. L., 1923, c. 109, Art. VII, § 6, amended. Section 6 of Article VII of chapter 109 of the private and special laws of 1923 is hereby amended to read as follows:

'Sec. 6. Transfers. The city council in the annual appropriation resolve shall provide for a reserve fund from which transfers shall be made only by vote of the city council and ~~no transfer of any money shall be made from any fund other than this reserve fund until the end of the fiscal year, at which time.~~ At the end of the fiscal year, after all warrants have been paid out of the various funds against which such warrants have been drawn, the auditor shall transfer to the reserve fund any balance or balances then remaining in the various other funds, except balances in the school fund; the city council shall then transfer the full balance then in the reserve fund to the sinking fund of the city; provided, however, that the city council may, in special cases, continue any particular fund without transfer temporarily pending the completion of expenditures in process or in contemplation.'

Sec. 15. P. & S. L., 1923, c. 109, Art. VII, § 8, amended. The 2nd sentence of section 8 of Article VII of chapter 109 of the private and special

laws of 1923 is hereby amended to read as follows:

'No order providing for the issue of bonds shall be passed without public notice given by posting notice of the same in 2 public places in the city of Portland, and publishing said notice in at least 2 daily newspapers published in said Portland at least 2 weeks before final action by the city council, and the approval of ~~four-fifths~~ 7 of all the members of the city council.'

**Sec. 16. P. & S. L., 1923, c. 109, Art. VIII, § 1, amended.** The 1st sentence of section 1 of Article VIII of chapter 109 of the private and special laws of 1923 is hereby amended to read as follows:

'All public utility franchises, hereafter granted, and all renewals, amendments, and extensions thereof shall be granted or made only by ~~a four-fifths~~ the vote of ~~the voting~~ 7 members of the council.'