

MAINE STATE LEGISLATURE

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

Legislative Document

No. 18

H. P. 55

House of Representatives, January 13, 1949.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. McClure of Bath.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

AN ACT to Amend the Charter of the City of Bath.

Emergency preamble. Whereas, the charter of the city of Bath was granted by the 93rd legislature, being chapter 82 of the private and special laws of 1947; and

Whereas, there is no legal authority granted in said charter to the city council to enact ordinances regulating persons engaged in the carrying on of certain businesses and as to the granting of licenses and permits therefor upon the payment of fees; and

Whereas, there is no provision in said charter which requires final publication of an ordinance within a specified time after the city council gives final passage of an ordinance in order that the effective date of the ordinance may be definite; and

Whereas, there is no provision in the charter as to the borrowing of money in anticipation of taxes in any municipal fiscal year; and

Whereas, the provisions contained in chapter VII of the charter as to permanent financing are inadequate, impracticable and one provision obsolete which must be amended in order for the issuance of bonds for the construction of an annex to the Huse school, which is imperative because of the need for at least 6 additional classrooms for housing of students; and

Whereas, chapter IV of the charter is in conflict with chapter 115 of the private and special laws of 1915, which it incorporates as to nominations and elections to the school board, and there is no stated time when the term of office of a school board member shall commence; and

Whereas, there are other conflicts and inconsistencies in the charter that should be immediately reconciled and settled; and

Whereas, in the judgment of the legislature these facts create an emergency within the meaning of the constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. P. & S. L., 1947, c. 82, c. I, § 2, amended. Section 2 of chapter I of chapter 82 of the private and special laws of 1947 is hereby amended to read as follows:

'Sec. 2. Powers of the city. The city shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise pertaining to or incumbent upon said city as a municipal corporation, or the inhabitants or municipal authorities thereof; and may enact by-laws, regulations and ordinances not inconsistent with the constitution and laws of the state of Maine, and ~~impose penalties for the breach thereof not exceeding \$100 in any one case, to be recovered to the use of said city on complaint or by other appropriate action before the municipal court of said city provide therein for punishment by fine or by imprisonment for the violation thereof, and whoever violates any provision of such by-laws, ordinances and regulations shall be punished by a fine of not more than \$100, payable to the court for the use of the city of Bath, or by imprisonment for not more than 30 days, or by both such fine and imprisonment.~~

The city may acquire property within or without its corporate limits for any city purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require. The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated ~~therein herein~~ or implied ~~thereby hereby~~, or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all powers, **not inconsistent with the provisions hereof, which are granted to cities by the revised statutes of 1944, as amended and as they may from time to time be amended, and which,**

under the constitution of this state, it would be competent for this charter specifically to enumerate.'

Sec. 2. P. & S. L., 1947, c. 82, c. II, § 205, amended. Section 205 of chapter II of chapter 82 of the private and special laws of 1947 is hereby amended to read as follows:

'Sec. 205. Ward revision. The said city shall continue to be divided into 7 wards with the now existing boundaries; except that it shall be the duty of the city council each 10th year commencing with the year 1950 inclusive to review, and if needful to alter, the ward lines in such manner as to preserve as nearly as may be convenient, consistent with well-defined boundaries, an equal number of voters in each ward. ~~The council shall have the power to enact an ordinance decreasing the number of wards, provided that the above rule regarding "an equal number of voters" shall be observed, and provided that there shall be at least one ward.'~~

Sec. 3. P. & S. L., 1947, c. 82, c. II, § 206, amended. Section 206 of chapter II of chapter 82 of the private and special laws of 1947 is hereby amended to read as follows:

'Sec. 206. City property; care and management. The city council shall have legal custody of all the city public buildings and lands, but the care, superintendence and management thereof shall be under the administrative direction of the manager except as otherwise provided ~~herein~~ by law.'

Sec. 4. P. & S. L., 1947, c. 82, c. II, § 208, amended. Section 208 of chapter II of chapter 82 of the private and special laws of 1947 is hereby amended to read as follows:

'Sec. 208. Regulation of persons and businesses. The city council is hereby authorized to enact ordinances regulating the following classes of persons, businesses, and purposes and ~~shall designate the city manager (who may delegate the power)~~ to grant licenses and permits therefor for such periods of time and in accordance with such rules and regulations, not inconsistent with law, upon payment by the licensee of such fees, and filing of such bonds as said city council may establish and make provisions for by ordinance, to wit: auctioneers, airports, the maintenance and operation of garages, filling stations, sidewalk tanks and pumps for the sale or distribution of gasoline and other volatile inflammable liquids for fuel or power, the manufacture, storage, sale, transportation, disposition and use of explosives and flammable liquids, billiard tables, pool tables, bowling alleys, roller skating rinks, junk dealers, dealers in secondhand parts and salvage of automobiles, dealers in secondhand merchandise, hawkers and peddlers,

plumbers, employment agencies, itinerant vendors, public automobiles, taxicabs and motor buses, public wagons and trucks, amusements, exhibitions and performances, theatres, moving picture houses, inns, victualers, pawnbrokers, lodging houses of 10 lodging rooms or more, public shooting galleries, the manufacture, storage, sale, disposition and use of fireworks, dance halls, circuses, and the erection and maintenance of signs, flags, banners, awnings, marquees and all other things within the limits of the sidewalk, roads, ways and streets of said city, and no such objects placed within said limits in accordance with such ordinances shall be deemed defects in such sidewalk, roads, ways and streets. The provisions of this section shall also apply in full to the erection or enlargement of any building within any city fire district presently established or to be established by the city council; and to the erection or enlargement of any building upon any of the wharves, piers or docks in said city.'

Sec. 5. P. & S. L., 1947, c. 82, c. II, § 212, repealed and replaced. Section 212 of chapter II of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 212. Compensation. No salary shall be paid to members of the city council. The city council by order shall fix the salaries and/or other compensation of the appointees of the city manager and of officials elected by the city council, including the salary of the city manager for his services as such and for all other services rendered by him, also of appointees of officials elected by the city council.'

Sec. 6. P. & S. L., 1947, c. 82, c. II, § 216, amended. Section 216 of chapter II of chapter 82 of the private and special laws of 1947 is hereby amended to read as follows:

'Sec. 216. Regular meetings. The city council shall, at its first meeting or as soon thereafter as possible, establish by ordinance or by resolution a regular place and times for holding its regular meetings, and shall meet regularly at least once a month. All meetings of the city council ~~as a whole or in committee~~ shall be open to the public.'

Sec. 7. P. & S. L., 1947, c. 82, c. II, § 223, amended. Section 223 of chapter II of chapter 82 of the private and special laws of 1947 is hereby amended by adding at the end thereof the following sentence:

'All clerical help in the office of the city clerk shall be appointed by and work under the direction and supervision of the city clerk.'

Sec. 8. P. & S. L., 1947, c. 82, c. II, § 225, repealed and replaced. Section 225 of chapter II of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

‘Sec. 225. Procedure for passage of ordinance; first reading. Every ordinance shall be introduced in writing and after a passage on first reading, ordinances providing for the issuance of bonds or notes, together with notice of time and place when and where they will be given public hearing, shall be published one time, at least 7 days prior to the time advertised. All other ordinances or a summary thereof, together with notice of time and place when and where they will be given public hearing, shall be published one time, at least 7 days prior to the time advertised.’

Sec. 9. P. & S. L., 1947, c. 82, c. II, § 228, repealed and replaced. Section 228 of chapter II of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof :

‘Sec. 228. Publication of ordinances after final passage; effective date. After final passage, all ordinances shall be given one full publication within 15 days after final passage. Every ordinance, unless it shall specify a later date, shall become effective on the 21st day after such publication following final passage, or if the ordinance be submitted at a referendum election, then upon a favorable vote of a majority of those voting thereon, except as otherwise expressly provided by this charter.’

Sec. 10. P. & S. L., 1947, c. 82, c. II, § 229. Section 229 of chapter II of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof :

‘Sec. 229. Independent annual audit. Prior to the end of each fiscal year, the council shall designate the appropriate state auditing agency or private qualified public accountants who, as of the end of each fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government and shall submit their report to the council and the manager. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. They shall not maintain any accounts or records of the city business, but, within specifications approved by the council, shall post-audit the books and documents kept by the department of finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.’

Sec. 11. P. & S. L., 1947, c. 82, c. II, § 232, repealed and replaced. Section 232 of chapter II of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof :

‘Sec. 232. Council confirmation and non-interference in appointments. The appointments of all officers and employees appointed by the city man-

ager under the authority granted by sections 305, 306, 307, 308, 309, 310, 311 and 312 of chapter III of this charter shall be confirmed by the city council. Neither the city council nor any of its committees or members shall dictate the appointment of any other person to office or employment by the city manager or in any manner interfere with the city manager or prevent him from exercising his own judgment in the appointment of officers and employees in the administrative service under his jurisdiction, except the confirmations hereinbefore mentioned. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any members thereof shall give orders to any subordinate of the city manager, either publicly or privately.'

Sec. 12. P. & S. L., 1947, c. 82, c. II, § 234, repealed and replaced. Section 234 of chapter II of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof :

'Sec. 234. City solicitor; election; salary; powers and duties. The city council shall elect, by majority vote of its members, a city solicitor who shall hold office at its pleasure and for such salary and/or compensation as may be determined by the council.

He shall be the legal advisor for the city manager and city council, and shall give legal advise pertaining to their official problems to the various departments, commissions, boards and city officials provided for herein.

He shall prosecute and defend all suits to which the city may be a party, and shall perform such other duties as ordinarily appertain to the office.'

Sec. 13. P. & S. L., 1947, c. 82, c. III, § 302, sub-§ (1), repealed and replaced. Subsection (1) of section 302 of chapter III of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof :

'(1) Appoint, prescribe the duties of, and, when necessary for the good of the service, remove all officers and employees of the city, subject to his appointment, except as otherwise provided by this charter and except as he may authorize the head of a department to appoint and remove subordinates in such department. Any such administrative officer removed may request a hearing under such rules and regulations as the council may promulgate.'

Sec. 14. P. & S. L., 1947, c. 82, c. III, § 312, amended. The last paragraph of section 312 of chapter III of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof :

'Under the direction of the city manager, the city constable and messenger shall have charge of the city hall and the adjoining rooms, and shall see

that they are kept clean and in good condition at all times. He shall be subject to these and such other duties as the council may promulgate.'

Sec. 15. P. & S. L., 1947, c. 82, c. IV, repealed and replaced. Chapter IV of chapter 82 of the private and special laws of 1947, as established by chapter 115 of the private and special laws of 1915, is hereby repealed and the following enacted in place thereof:

CHAPTER IV

Department of Education

Sec. 401. Board of education. A board of education shall be established for the city of Bath, and said board shall have all the powers and perform all the duties as regards the public schools of said city, which are now or hereafter may be conferred upon superintending school committees by the laws of the state.

Sec. 402. Ex officio member. The board shall consist of 5 members, including the chairman of the city council, who shall be a member ex officio.

Sec. 403. Membership; qualifications; election; terms. The other 4 members shall be citizens of Bath, of legal age, of either sex, who shall be elected by the voters on the 2nd Monday of February, 1 to be elected each year on a separate ballot, to serve for 4 years, from the 1st Monday in March following his election and until his successor has been chosen and qualified.

Sec. 404. Nominations. Nominations of candidates for election to this board shall be made as hereinafter provided in chapter VIII.

Sec. 405. Vacancies. Any vacancy occurring in the board, otherwise than by expiration of term of office, may be filled for the period remaining prior to the 1st Monday in March, next ensuing, by ballot of the city council, and at the next municipal election, a member shall be elected to fill the vacancy for the unexpired term.

Sec. 406. Limitation of membership. No member of the city council or teacher in the public schools shall be eligible for membership upon this board.

Sec. 407. Organization; secretary; duties. The board shall, on the 1st Monday in March, organize by electing one of its members, other than the chairman of the city council, chairman and shall elect a secretary whose duty it shall be to keep a record of the proceedings of the board to notify members of meetings and perform such other duties as the board may direct.

Sec. 408. Superintendent of schools; election; term. The board shall also elect a superintendent of schools, who may also be secretary of the board. They shall fix his term of service and may remove him upon a majority vote of the board. Said superintendent of schools shall act under the direction of and be amenable to said board.

Sec. 409. Compensation of superintendent of schools and secretary of board. The compensation of the secretary of the board and of the superintendent of schools shall be fixed by the board and shall be paid from the appropriation made for school purposes.

Sec. 410. Budget estimates; reports; compensation of members. The board shall, before the 15th day of February of each year, submit to the city manager for his guidance in preparing the budget, approximate estimates of amounts needed for current expenses and other requirements, and such other information regarding its department as the city manager may call for, and shall at the close of each municipal fiscal year, or at any other time when requested by the city manager or the city council, make a full, detailed report to the city council of the receipts and expenditures and of the work done; but shall have no authority to incur liabilities in excess of the amount appropriated for its use by the city council, and no appropriations shall be paid to any members of the board for services as a member of the board.

Sec. 411. Election of present members validated. Any person elected to membership on the board of education in pursuance to chapter VIII of chapter 82 of the private and special laws of 1947 is legally elected.'

Sec. 16. P. & S. L., 1947, c. 82, c. V, § 501, amended. Section 501 of chapter V of chapter 82 of the private and special laws of 1947 is hereby amended by adding thereto a new sentence to read as follows:

'All clerical help in the office of the board of tax assessors shall be appointed by and work under the direction and supervision of said board of tax assessors.'

Sec. 17. P. & S. L., 1947, c. 82, c. V, § 502, amended. The 1st paragraph of section 502 of chapter V of chapter 82 of the private and special laws of 1947 is hereby repealed and the following 3 paragraphs enacted in place thereof:

'The council shall elect by a majority vote of its members an officer of the city to serve at its pleasure, who shall have the title of city treasurer and tax collector.

All clerical help in the office of the city treasurer shall be appointed by and work under the direction and supervision of the city treasurer.

In the administration of the financial affairs of the city, the treasurer shall have the authority and be required to:

Sec. 18. P. & S. L., 1947, c. 82, c. V, § 502, sub-§ (9), repealed and replaced. Subsection (9) of section 502 of chapter V of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'(9) Have control and management of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration or exchange;'

Sec. 19. P. & S. L., 1947, c. 82, c. V, § 515, amended. The 1st sentence of section 515 of chapter V of chapter 82 of the private and special laws of 1947 is hereby amended to read as follows:

'At any time in any budget year, the council may, pursuant to this section, make emergency appropriations to meet a pressing need for public expenditure ~~for other than a regular or recurring requirement~~ to protect the public health, safety or welfare.'

Sec. 20. P. & S. L., 1947, c. 82, c. V, § 516-A, additional. Chapter V of chapter 82 of the private and special laws of 1947 is hereby amended by adding thereto a new section to be numbered 516-A, to read as follows:

'Sec. 516-A. Borrowing in anticipation of taxes. In any fiscal year, in anticipation of taxes for such year, whether levied or to be levied in such year, the council may by resolution adopted by majority of all its members authorize the borrowing of money by the issuance of negotiable notes of the city, the amount of which outstanding at any one time shall not exceed in the aggregate the total tax levy of the preceding year. Such notes shall be paid during the fiscal year in which they were issued out of the money raised during such year by taxes and the resolution authorizing such notes and the notes shall state that they are to be paid out of money so raised.'

Sec. 21. P. & S. L., 1947, c. 82, c. V, § 517, repealed and replaced. Section 517 of chapter V of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 517. Issuance and sale of notes. All notes issued pursuant to this charter shall bear the city seal, shall be signed by the city treasurer and countersigned by the chairman of the city council and the city manager. Such notes may be sold by the city treasurer at discount or with interest to follow and in the latter event at not less than par and accrued interest. Such notes may, in the discretion of the city treasurer, be sold at public sale after at least 5 days notice published in a newspaper published in or having a circulation in the city of Bath or at private sale without previous advertisement.'

Sec. 22. P. & S. L., 1947, c. 82, c. V, § 519, repealed. Section 519 of chapter V of chapter 82 of the private and special laws of 1947 is hereby repealed.

Sec. 23. P. & S. L., 1947, c. 82, c. VI, § 602, amended. The last sentence of section 602 of chapter VI of chapter 82 of the private and special laws of 1947 is hereby amended to read as follows:

'In preparing the budget, the city manager shall review the estimates, and may ~~revise~~ revise them as he may deem advisable.'

Sec. 24. P. & S. L., 1947, c. 82, c. VI, § 620, repealed and replaced. Section 620 of chapter VI of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 620. Surplus. Surplus shall include receipts during the previous fiscal year from taxes or liens against which a complete reserve has been established.'

Sec. 25. P. & S. L., 1947, c. 82, c. VII, caption, repealed and replaced. The caption, "Borrowing for Capital Improvements", of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Permanent Financing'

Sec. 26. P. & S. L., 1947, c. 82, c. VII, § 701, repealed and replaced. Section 701 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 701. Definitions. As used in this charter: "Capital project", or "project", means, (a) any physical public betterment or improvement and any preliminary studies and surveys relative thereto; (b) the acquisition of property of a permanent nature; (c) the purchase of equipment for or furnishing any public betterment or improvement when first erected or ac-

quired; and (d) the purchase of administrative departmental equipment which has an estimated useful period of 5 years or more. "Pending", when applied to capital project, means authorized, but not yet completed.'

Sec. 27. P. & S. L., 1947, c. 82, c. VII, § 702, repealed and replaced. Section 702 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 702. Power to incur indebtedness by issuing bonds and notes. The city may incur indebtedness by issuing its negotiable bonds, and notes in anticipation of bonds, pursuant to this charter, to finance any capital project which it may lawfully construct or acquire, and for any other purpose for which a city is authorized by the revised statutes of 1944, as amended and as they may be amended, to raise money, provided that no bonds shall be issued to pay for current expenses.'

Sec. 28. P. & S. L., 1947, c. 82, c. VII, § 704, repealed and replaced. Section 704 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 704. Form and content of bond ordinance. A bond ordinance shall contain in substance at least the following provisions:

(1) An appropriation of a sum of money to be raised in whole or in part by the issuance of bonds for a purpose or capital project, described in brief and general terms sufficient for reasonable identification;

(2) To finance the said appropriation, an authorization of the incurring of indebtedness by the issuance of bonds in a stated amount, pursuant to this charter;

(3) A statement that a current financial statement of the debt of the city, prepared and certified by the city treasurer, is on file with the city clerk showing:

(a) The total gross outstanding debt of the city itemized in summary form, including bonds, notes, tax notes and other liabilities or obligations contractual or otherwise (except such as have been entered into in connection with the ordinary running expenses of the city to be met out of the tax levy of the current fiscal year),

(b) Any fund or loan which under Article XXXIV of the amendments to the constitution of the state of Maine is not included in the debts or liabilities to which the constitutional limitation of municipal indebtedness is applicable,

(c) The total net debt, e.g., the excess of (a) over (b),

(d) The last regular assessed valuation of property in the city, plus a computation of the city's constitutional limit of indebtedness,

(e) The difference between the total net debt and the city's debt limit,

(f) The total bonds and notes authorized but not issued, described in reasonable detail, and

(g) A computation of the amount of debt which the city may issue within its constitutional debt limit;

(4) A statement of the maximum rate of interest the bonds shall bear and the maximum period within which they shall mature;

If the bonds are authorized to finance a capital project, the bond ordinance shall also contain:

(5) A statement of the estimated maximum cost of the capital project, including any sums theretofore or thereby appropriated;

(6) A statement of the amount of the down payment appropriated in the budget of that year in anticipation of such bond issue;

(7) A determination of the period of usefulness of the project, within the limitations of sections 718 and 719.'

Sec. 29. P. & S. L., 1947, c. 82, c. VII, § 705, repealed and replaced. Section 705 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 705. Title of bond ordinance; citation. The title of a bond ordinance shall state the amount appropriated for an indicated project or purpose and the amount of bonds authorized to finance the appropriation. Bond ordinances shall be cited in bonds and notes in anticipation of bonds by title and date of final passage.'

Sec. 30. P. & S. L., 1947, c. 82, c. VII, § 706, repealed and replaced. Section 706 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 706. Form and content when two or more projects are combined. A bond ordinance may combine two or more capital projects, in which event it shall, for each such project, establish a separate appropriation and state separately the estimated maximum costs and amounts of down payments,

but shall authorize a single issue of bonds to finance the aggregate of the appropriations thereby made. The title of such bond ordinance may state the aggregate of the appropriation, instead of the respective amounts.'

Sec. 31. P. & S. L., 1947, c. 82, c. VII, § 707, repealed and replaced. Section 707 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 707. Form and content; average period of usefulness. If a bond ordinance authorizing bonds for a capital project combines two or more projects, it shall, in addition to determining the respective periods of usefulness, determine the average period, taking into consideration the respective amounts of bonds for the several projects.'

Sec. 32. P. & S. L., 1947, c. 82, c. VII, § 708, repealed and replaced. Section 708 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 708. Procedure for passage of bond ordinance; publication after final passage. The procedure for passage of a bond ordinance shall be the same as that prescribed by sections 225, 226, 227 and 228 of this charter, except that it shall be published not later than 15 days after final passage and when so published, each bond ordinance shall be accompanied by a notice in substantially the following form:

NOTICE

The bond ordinance published herewith has been finally passed and the 20-day period of limitation within which a suit, action or proceeding questioning the validity of such ordinance can be commenced, as provided in the city charter, has begun to run from the date of the first publication of this notice.

.....
City Clerk'

Sec. 33. P. & S. L., 1947, c. 82, c. VIII, § 711, repealed and replaced. Section 711 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 711. Requirement for down payment. No bond ordinance authorizing bonds for a capital project shall be passed unless it states separately for each purpose the amount of the "down payment" specifically appropriated to that purpose in the previously adopted budget. The down payment shall be a sum of money equal to at least 5% of the amount of bonds authorized. For the purposes of down payments, all street improvements expected to be

partly financed by the issuance of bonds during a single fiscal year may be considered a single project; so also may all extensions of the sewer system.'

Sec. 34. P. & S. L., 1947, c. 82, c. VII, § 712, repealed and replaced. Section 712 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 712. Down payment not required in certain cases. The provisions of section 711 shall not apply to a bond ordinance which authorizes bonds which are not to finance a capital project or bonds solely to finance a capital project or projects made necessary as the result of fire, flood or other disaster, or authorizes bonds solely to finance a capital project of which any part of the cost is to be met in cash, labor or materials, by any agency of the government of the United States of America, or of this state and the provisions of section 704, subsection (6) shall not apply to such a bond ordinance.'

Sec. 35. P. & S. L., 1947, c. 82, c. VII, § 713, repealed and replaced. Section 713 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 713. Authorization of notes in anticipation of bonds; maturity. In anticipation of the issuance of bonds, the council may by resolution authorize the issuance of negotiable notes, when it shall have theretofore authorized the issuance of the bonds. Each such note shall be designated "bond anticipation note" and, including renewals, shall bear the city seal, be signed by the treasurer, countersigned by the chairman of the city council and by the city manager and shall mature and be paid not more than 14 calendar months after the date of issuance of the first such bond anticipation note to be issued, but the time within which the bonds shall become due and payable shall not be extended by reason of the issuing of such bond anticipation notes. Such notes may be sold at discount or with interest to follow and in the latter event at not less than par and accrued interest. Unless otherwise provided by ordinance or resolution, all bond anticipation notes may be sold by the city treasurer at private sale without previous offering.'

Sec. 36. P. & S. L., 1947, c. 82, c. VII, § 715, repealed and replaced. Section 715 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 715. All bonds paid in annual installments. All bonds issued after the adoption of this act shall be made payable in substantially equal annual serial installments and in denominations of five hundred (\$500) or one thousand (\$1,000) dollars.'

Sec. 37. P. & S. L., 1947, c. 82, c. VII, § 716, repealed and replaced. Section 716 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 716. First annual installment. The first annual installment shall be paid not more than 2 years after the date the bond ordinance by virtue of which they are issued becomes effective.'

Sec. 38. P. & S. L., 1947, c. 82, c. VII, § 717, repealed and replaced. Section 717 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 717. Last annual installment. The last annual installment of each authorized issue of bonds to finance a capital project shall be paid not later than the date of expiration of the period of usefulness of the project for the financing of which such bonds are issued, or of the average period of 2 or more combined projects, as determined in the bond ordinance authorizing the issuance of the bonds.'

Sec. 39. P. & S. L., 1947, c. 82, c. VII, § 718, repealed and replaced. Section 718 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 718. Period of usefulness computed from effective date of passage. The period of usefulness of each capital project, and the average period in the case of 2 or more such projects combined in one authorized issue, shall be computed from the date of final passage of the bond ordinance by virtue of which the bonds are issued becomes effective.'

Sec. 40. P. & S. L., 1947, c. 82, c. VII, § 719, repealed and replaced. Section 719 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 719. Term of bonds. Every issue of bonds shall be payable within a fixed term of years which shall not exceed 30 years in the case of bonds issued to finance a capital project or 10 years in the case of bonds issued for purposes other than a capital project.'

Sec. 41. P. & S. L., 1947, c. 82, c. VII, § 720, repealed and replaced. Section 720 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 720. Determination of period of usefulness. Within the foregoing maximum periods, bonds to finance a capital project shall mature not later than the expiration of the period of the probable usefulness of the capital

project for which they are issued, as determined by the council, and stated in the bond ordinance; provided, however, that in determining, for the purposes of this section, the probable period of the usefulness of a capital project, the council shall not deem said period to exceed the following periods for the following projects, respectively, viz.:

(a) Acquisition of real estate, 30 years,

(b) Construction or improvement for original equipping and furnishing of fire proof buildings, or other structures, widening roads, highways or streets, general water works and improvements, sanitary and surface sewers, sewage disposal works, and bridges, 25 years,

(c) Construction or improvement of non-fire proof buildings or other structures, police and fire alarm systems, 15 years,

(d) Fire apparatus, road rollers, furniture and furnishings, playground apparatus, sidewalks, curbs, gutters and the construction, reconstruction, resurfacing and drainage of roads, highways and streets, 10 years, and

(e) Motor vehicles, other than fire apparatus, 5 years.'

Sec. 42. P. & S. L., 1947, c. 82, c. VII, § 721, repealed and replaced. Section 721 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 721. Determination of council conclusive. The determination of the council, in the bond ordinance, as to the classification of the capital projects or purposes for which bonds are authorized and as to the period of usefulness of a capital project or the average period of usefulness of 2 or more capital projects, shall be conclusive in any action or proceeding involving the validity of the bonds, if within the limitation of section 720.'

Sec. 43. P. & S. L., 1947, c. 82, c. VII, § 722, repealed and replaced. Section 722 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 722. Public sale. All bonds issued under this charter shall, except as hereinafter provided, be sold upon sealed proposals. At least 10 days' notice of such sale published not less than 10 days prior to such sale at least once in a daily newspaper customarily carrying financial news published in Boston, Massachusetts, and at least once in a newspaper published in or having a general circulation in the city of Bath. Such notice shall set forth where sealed bids for the bonds will be received and opened, specify the amount and kind thereof to be sold and reserve the right to reject any

or all bids. The bid of the responsible party or parties which provides the lowest net interest cost for the city for the aggregate amount of the bonds offered shall be accepted but if, in the opinion of the treasurer, no bid is satisfactory, all bids may be rejected. Nothing in this section shall prevent negotiation for the sale and sale of such bonds for an adequate price after failure to obtain a satisfactory bid on sealed proposals after public notice.'

Sec. 44. P. & S. L., 1947, c. 82, c. VII, § 723, repealed and replaced. Section 723 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 723. Determination of interest rates, place of payment, maturities and form of bonds. The rate or rates of interest that bonds shall bear, the time and place or places of payment of principal and interest on the bonds, their maturities (within limitations of this charter) and the form thereof shall be fixed by resolution of the council within the limitations prescribed by the ordinance; provided, however, that the bond ordinance may authorize such matters to be determined by the city treasurer with the approval of the chairman of the city council and the city manager.'

Sec. 45. P. & S. L., 1947, c. 82, c. VII, § 724, repealed and replaced. Section 724 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 724. Bonds valid notwithstanding change of city officials. Bonds executed and sealed as herein provided shall be valid notwithstanding any change in the officers of the city incurred after the signing and sealing of the bonds. Bonds issued under this charter may be issued either in registered or coupon form. If issued as coupon bonds, they may be made registerable as to principal only or as to both principal and interest. Interest coupons shall bear the facsimile signature of the city treasurer.'

Sec. 46. P. & S. L., 1947, c. 82, c. VII, § 725, repealed and replaced. Section 725 of chapter VII of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 725. Application of proceeds of sale. The proceeds of any sale of bonds, except premiums, shall be used only for the purposes specified in the bond ordinance, except as otherwise authorized by this section. If a balance remains after the completion of the capital project or purpose for which the bonds were authorized, such balance shall be applied to the payment of the principal of said bonds. Any premium received on such bonds, less the cost of preparing, issuing and marketing them, shall be applied to the payment of the principal of the first of such bonds to mature.'

Sec. 47. P. & S. L., 1947, c. 82, c. 8, title, repealed and replaced. The title, "Chapter 8, Nominations and Elections", of chapter 8 of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'CHAPTER VIII

Nominations and Elections'

Sec. 48. P. & S. L., 1947, c. 82, c. 9, title, repealed and replaced. The title, "Chapter 9, Initiative and Referendum", of chapter 9 of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'CHAPTER IX

Initiative and Referendum'

Sec. 49. P. & S. L., 1947, c. 82, c. 10, title, repealed and replaced. The title, "Chapter 10, General Provisions", of chapter 10 of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'CHAPTER X

General Provisions'

Sec. 50. P. & S. L., 1947, c. 82, c. 11, title, repealed and replaced. The title, "Chapter 11, Succession in Government", of chapter 11 of chapter 82 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'CHAPTER XI

Succession in Government'

Emergency clause. In view of the emergency cited in the preamble, this act shall take effect when approved.