

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. 999

H. P. 1644

House of Representatives, February 23, 1949.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Dufresne of Bar Harbor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

**AN ACT to Provide a Town Manager Form of Government for the Town
of Bar Harbor.**

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

Sec. 1. Annual town meeting. The annual town meeting shall be held in the town of Bar Harbor, in the county of Hancock, on the 3rd Monday of March in each year, and the voters shall then choose by ballot, as now provided by law, a moderator to preside at said meeting, after which the polls shall be open for the balloting for town officers named in section 2.

Sec. 2. Elective officers. The officers of the town, who shall be nominated and elected by the qualified voters of the town of Bar Harbor, as hereinafter provided, shall be: 5 councilors comprising a town council, and 3 members comprising the superintending school committee. To be qualified for nomination and election to such position, a person must be a qualified voter of said town. At the 1st town meeting held under the provisions of this act, said councilors shall be chosen as follows: 2 for a term of 3 years, 2 for a term of 2 years and 1 for a term of 1 year, and thereafter at each of said annual meetings, shall elect as many councilors, each for a

term of 3 years, as may be necessary, so that the board of councilors, as elected, shall consist of 5 members; and provided further that vacancies in the office of town councilor due to death, resignation or other cause shall be filled at the next annual meeting for the unexpired term. Said council may fill vacancies in its members, occurring between the annual meetings, and the term of office of any member of the council so chosen shall expire at the next annual 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 terms of office. The 3rd member shall be chosen in the manner provided for in this section, for a term of 3 years, and annually thereafter 1 member shall be chosen by the voters for a term of 3 years. All other necessary town officers, including a town manager, shall be appointed as hereinafter provided.

Sec. 3. Nominations. Nomination of candidates for the office of councilors and members of the superintending school committee shall be made by nomination papers properly signed by the required number of qualified voters of the town of Bar Harbor, and filed with the town clerk as set forth in the general statutes.

Sec. 4. Elections. The election of all elective officers provided for in this act shall be by Australian ballot as provided by sections 46 to 60, inclusive, of chapter 80 of the revised statutes of 1944 and acts additional thereto and amendatory thereof. Voting for town office may be by absentee ballot in accordance with the procedure under the provisions of chapter 6 of the revised statutes of 1944, as amended.

Sec. 5. Councilors, powers and duties. Said councilors, elected as herein provided, shall serve instead of selectmen, overseer or overseers of the poor, board of road commissioners, road commissioner or road commissioners as provided for by the general statutes and shall have the same powers in relation to the poor of said town, and the construction and repair of roads, bridges, sidewalks and sewers of said town, as the overseer or overseers of the poor and board of road commissioners, road commissioner or commissioners, as municipal officers have under the general statutes, and be subject to the same duties in relation thereto. Councilors, as overseers of the poor, may authorize the town manager at the time of his appointment, or at any time thereafter, to be clerk or agent for them as 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 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 councilors as overseers of the poor themselves.

Sec. 6. Organization meeting of the council. The councilors, elected as herein provided, shall meet within 24 hours after their election, and shall choose by written ballot one of their number to be chairman, and one of their number to be clerk or secretary. A record of said meeting as above set forth, signed by a majority of the councilors and acknowledged as true before a notary public or justice of the peace, shall be recorded by the town clerk in the records of said town; and thereafter, records shall be kept of the doings of all future meetings of said councilors. Said records shall be public records, and shall be open at all times for inspection by the public.

Sec. 7. Regular and special meetings of the council. The councilors shall meet at least once each month, at such time as they may designate in their organization meeting provided for in section 6, and 3 members of said council shall constitute a quorum for the transaction of business. Special meetings of said councilors may be called by the chairman of said councilors, or by a majority of all the members of said council. Notice of such special meeting shall be delivered to, served upon or left at the usual dwelling place of said councilors and the town manager, at least 24 hours before such meeting.

Sec. 8. Compensation of councilors. The councilors shall serve for all regular and special meetings without pay, but shall be paid all actual and necessary expenses incurred in the performance of their duty. Councilors when acting as a board of registration of voters or in their capacity as election officials shall be paid \$5 per day.

Sec. 9. Superintending school committee, powers and duties. The superintending school committee, elected as herein provided, shall have the same powers in relation to the schools of such town as is now provided by the revised statutes and acts additional thereto and amendatory thereof.

Sec. 10. Appointive officers. The councilors, as soon as may be after the organization meeting provided in section 6, shall by ballot, by majority vote, appoint: (1) a town clerk; (2) a town treasurer; (3) a board of assessors, consisting of 3 members; and (4) a town manager, none of whom shall be a member of the board of councilors. The town manager, at the time of his appointment, need not be a citizen of the town of Bar Harbor, and need not be a citizen of the state of Maine. The councilors may appoint said town manager for a term not to exceed 3 years. The powers and duties of the town manager, during any vacancy in this office, shall be exercised by the town council.

Sec. 11. Treasurer and tax collector. The duties of the treasurer shall

include those of the tax collector, and shall be the duties as prescribed by the revised statutes and acts additional thereto and amendatory thereof.

Sec. 12. Board of assessors. The members of the board of assessors, appointed as provided in section 10, shall be appointed, 1 for a term of 1 year, 1 for a term of 2 years, and 1 for a term of 3 years, and thereafter each year one assessor shall be appointed for a term of 3 years. This board of assessors shall have the same powers and shall be subject to the same duties as provided by the revised statutes and acts additional thereto and amendatory thereof.

Sec. 13. Town manager. The town manager shall be chosen as provided in section 10, within 60 days of the organization meeting of the council, on the basis of his training, executive and administrative qualifications, ability and experience, and his technical knowledge of municipal management.

Sec. 14. Powers and duties of the town manager. The town manager 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 has control under this act and under the general statutes. He shall provide the council with information which enables it to determine municipal policies, advise the council in matters of policy, if the council so desires, and execute the policies determined by the council. He shall introduce the best principles of advanced administrative organization and practice, and be held responsible for the proper co-ordination of all administrative activities under his direction. His powers and duties when not otherwise provided, shall be generally as follows:

- (a) To appoint all other necessary town officers or agents now or hereafter provided by general statute or town ordinance, whose election or appointment has not been otherwise provided for by this charter. In the appointment of a health officer, the appointment shall be for a period of 3 years and subject to the approval of the state commissioner of health and welfare. All these appointments shall be subject to confirmation by the council. All appointed officers and boards shall hold office at the pleasure of the appointing power, except that of the town manager, assessors, fire chief, police chief and health officer, who can only be removed upon written charges, and after a public hearing before the council, upon the question; previous to the date of their removal, but pending such hearing they may be suspended from office.
- (b) To see that the laws and ordinances are enforced.
- (c) To exercise control over all departments created herein or that

may hereafter be created, either by general law or by ordinance and to supervise or remove department heads and subordinate employees of the town, subject to the confirmation by the council.

(d) To fix the compensation of his appointees and designate the times of payment, subject to confirmation by the council. To act as purchasing agent for all departments of the town, except for the school department, and to submit to competitive bids any transaction designated by the council involving more than \$500. As purchasing agent of said town, the town manager shall see to the delivery of such supplies and materials to each department, 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 accounts of the school department, shall bear the approval of the town manager when presented to the council for payment.

(e) To attend the meetings of the council, except when his removal is being considered, and recommend for adoption such measures as he may deem expedient.

(f) To keep the council fully advised as to the business, financial condition and future needs of the town.

(g) To perform such other duties as may be prescribed by the council or by the town by-laws. To prepare and submit to the council the annual budget. To prepare and submit to the council such reports as may be required by that body. To keep the public informed, through reports to the council, concerning the operation of the town government.

Sec. 15. Salary of the town manager. The town manager shall devote his entire time to his office and shall receive for his services a rate of compensation to be fixed by the council, together with the actual and necessary expenses in the performance of his duties outside the boundaries of the town of Bar Harbor, to be paid by the town treasurer in monthly payments on the 1st day of each month. He shall maintain an office at such place as the councilors deem advisable and shall be provided with such clerical assistance as the council may decide.

Sec. 16. Compensation of officers and employees. When not otherwise provided by general law or by this act, the compensation of officers and employees of the town, except those of the superintending school committee, shall be recommended by the town manager and fixed by a majority vote of the councilors.

Sec. 17. Payments. No money shall be paid out of the town treasury, except by order issued and signed by a majority of the councilors of said town and presented at the time of payment to the treasurer of said town.

Sec. 18. Officers to be sworn. All town officers elected or appointed before entering upon the performance of their official duties shall be sworn by the town clerk to the faithful performance of the duties of their respective offices.

Sec. 19. Bonds of officers. The councilors of said town shall require a corporate surety bond, satisfactory to said councilors, from the town treasurer and town manager, and may require such bond from such other officials as they may deem advisable. The premiums on said bonds shall be paid by the town.

Sec. 20. Inconsistent acts repealed. All acts and parts of acts inconsistent herewith in so far as they relate to the town of Bar Harbor in the county of Hancock are hereby repealed.

Sec. 21. Referendum; effective date. This act shall take effect 90 days after the adjournment of the legislature, only for the purpose of permitting its acceptance or rejection by a majority of the legal voters of the town of Bar Harbor, present and voting at any regular town meeting, or at any special town meeting legally called and held at least 60 days before any annual town meeting, an appropriate article being included in the call for such meeting. The vote shall be by written "Yes" and "No" ballot and the issue shall be considered separately and there shall be no limit of debate. If the majority of the qualified voters of the town, present and voting, vote for acceptance of this act, it shall become operative and fully effective at the next annual town meeting. The town clerk shall file with the secretary of state a certificate of the action of the town thereon.

If this act is accepted at any annual town meeting, it shall become fully effective at the next annual town meeting. After such acceptance, and until said annual town meeting, it shall be effective as to the nominating procedure for officers to be elected hereunder at the annual meeting of said town, and the warrant of the selectmen for such meeting shall contain articles appropriate to elections and the transaction of other business in accordance herewith.