

MAINE STATE LEGISLATURE

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

Legislative Document

No. 764

H. P. 1206

House of Representatives, February 16, 1951.

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

HARVEY R. PEASE, Clerk

Presented by Mr. Hawkes of Saco by request.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

**AN ACT to Establish a Civil Service Commission for the Town of
Old Orchard Beach.**

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 Old Orchard Beach shall be appointed by the selectmen, 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 town office. Members shall serve for a term of 3 years, except that at the 1st appointment under this charter 1 shall be appointed for 1 year, 1 for 2 years, and 1 for 3 years, and thereafter 1 shall be appointed by the selectmen each year. The selectmen 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 town clerk of said town 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 town clerk.

Sec. 2. Powers and duties of commission. The commission shall supervise and control the selection for appointment and promotion, lay-off, reinstatement, suspension and removal of the members of the police department, fire department, chief of police, chief of the fire department, and all other town employees employed on a full-time basis, except school teachers. The commission shall examine all applicants for appointment as chief of police, chief of the fire department, policemen or firemen.

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

Sec. 4. Departmental appointments. All appointments to the police and fire departments, except the chief of the fire department and chief of police, shall be made by the chief of the respective department subject to the approval of the selectmen 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 candidate 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 selectmen. 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. 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 town clerk. The town 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.

Sec. 6. Promotions. Promotion from one grade to another in the police and fire departments shall be made by the chief of the respective departments, 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. 7. 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 members 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 or chief of police shall be by the selectmen. A copy of the action taken with reasons therefor shall be forwarded to the civil service commission by the selectmen. 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 selectmen, and the accused member shall have right of appeal as in the case of the chief or deputy chief of the fire department and chief of police.

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, or upon written charges filed with said commission signed by 10 or more citizens of the town of Old Orchard Beach, and the party complained of shall be furnished with a written copy of said charges by the civil service commission.

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

Sec. 8. Emergency appointments. Emergency appointments may be made at any time by the chief of his department, whenever the chiefs of the respective departments shall determine that an emergency exists. All appointments made under this provision shall be for the period of the emergency only, the selectmen having the right to determine when the emergency has ended.

Sec. 9. 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. 10. Retirement. Every member of the police and fire departments whose position is subject to civil service under the foregoing provisions of this section may be retired from service in said department when he attains the age of 65 years, as provided in section 3.

Sec. 11. Meetings of commission. The commission shall meet on call of the chairman at the town hall in the town building.

Sec. 12. 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. 13. Compensation. The compensation of the officers and men of the police and fire departments shall be fixed by the voters of said town.

Sec. 14. Exemption of present members. All members and officers of the police and fire department of the town of Old Orchard Beach 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 chief of police 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. 15. Order of dismissal. In the event of a reduction of the police or fire department by the selectmen, 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. 16. Inconsistent acts repealed. All acts or parts of acts, relating to the town of Old Orchard Beach, inconsistent with the provisions of this act are hereby repealed.

Sec. 17. Referendum. This act shall take effect 90 days after the adjournment of the legislature, only for the purpose of permitting its submission to the qualified voters of the town of Old Orchard Beach at the annual municipal election or at any special election called and held for the purpose not later than 1 year after the effective date of this act. Such special election shall be called, advertised and conducted according to law relating to municipal elections; provided, however, that the board of registration in the town of Old Orchard Beach shall not be required to prepare for posting nor the town clerk to post a new list of voters, and for the purposes of registration of voters, said board shall be in session 1 hour preceding such election. The town clerk shall reduce the subject matter of this act to the following question: "Shall the Act to Establish a Civil Service Commission for the Town of Old Orchard Beach, passed by the 95th legislature, be accepted?" and the voters shall indicate by a cross or check mark placed over the words "Yes" or "No" their opinion of the same. This act shall take effect for all the purposes hereof immediately upon its acceptance by a majority of the legal voters voting at said meeting; provided that the total number of votes cast for and against the acceptance of this act at said meeting equals or exceeds 20% of the total vote for all candidates for governor in said town at the next previous gubernatorial election. The result in said town shall be declared by the municipal officers of the town of Old Orchard Beach and due certificate thereof filed by the town clerk with the secretary of state.