

MAINE STATE LEGISLATURE

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

Legislative Document

No. 301

H. P. 273

House of Representatives, February 3, 1953

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

HARVEY R. PEASE, Clerk

Presented by Mrs. Downing of North Kennebunkport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-THREE

AN ACT to Provide for 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 residents of Old Orchard Beach, shall be elected at a special or regular town meeting as soon as convenient after this act shall become effective, 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 first election under this charter, 1 shall be elected for 1 year, 1 for 2 years and 1 for 3 years, and thereafter 1 member shall be elected at the annual town meeting each year. The selectmen may make temporary appointments to fill vacancies, such appointments to be valid until the next annual town meeting, at which time a member shall be elected to fill the unexpired term. The commission shall annually elect one of their number chairman and one of their number clerk. Each member shall qualify after election 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 the 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 fire department, and chief of the fire department. The commission shall examine all applicants for appointment as chief of the fire department and firemen.

Sec. 3. Appointment of fire chief. All appointments to the office of chief of the fire department shall be made by elevating the assistant chief to this office, provided he has completed 10 years or more of satisfactory service as a regular in the department. Appointments to assistant chief shall be made by the commission from an eligibility list made up after examination of applicants. Any applicant shall have 10 points of preference for 10 years or more continuous service in the department. Appointments to the office of chief of the fire department shall be during good behavior, and may terminate when the appointee shall have attained his 65th birthday.

Sec. 4. Departmental appointments. All appointments to the fire department, except the chief and assistant chief of the fire department, shall be made by the chief of the department, subject to the approval of the commission, 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 candidates as it has available. Appointments to the department shall be for a probationary period of 6 months, after which time appointees shall be confirmed or rejected by the commission. All appointments as regular members of the fire department shall be made from those who have been so examined. Veterans shall be given a preference of 5 points on said examination, and veterans with service connected disability shall be given a preference of 10 points.

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. Any person who has taken an examination may make new application for the same service, and his status shall be de-

terminated 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 fire department except assistant chief, shall be made by the chief of the department, 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 the department unfit to ever adequately perform the duties of his office shall be considered as cause for removal, but in every such case such member shall be entitled to an honorable discharge. The demotion, suspension or removal of the chief or assistant chief of the department shall be by the commission. A copy of the action taken, with reasons therefor, shall be forwarded to these officers by the commission. 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 the date of appeal, and the accused shall have the right of representation by counsel. Any member may request a public hearing on his discharge, suspension or demotion. The action of the commission shall be final. Demotion, suspension or removal of any other member of the department shall be by the chief, subject to approval by the commission. The accused member shall have the right to appeal as in the case of the chief or assistant chief. Charges may be preferred against any member of the department by the commission or upon written charges filed with said commission signed by ten 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 commission. The commission may, in the event that it deems any charges made are frivolous and without justification, recommend to the governing body of the town the payment of reasonable counsel and witness fees incurred by any member of the 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 the department whenever the chief of the department shall determine that an emergency exists. All appointments made under this provision shall be for the period of the emergency only, the commission having the right to determine when the emergency has ended.

Sec. 10. Tenure of office. Every member of the department, 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. 11. Retirement. Every member of the department, whose position is subject to civil service under the foregoing provisions of this act, may retire from service in said department when he attains the age of 65 years.

Sec. 12. Meetings of commission. The commission shall meet on call of the chairman at the town hall in the town building.

Sec. 13. Political activity forbidden. No person holding a position under 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. 14. Compensation. The compensation of the men of the fire department shall be fixed by the voters of said town.

Sec. 15. Exemption of present members. All members of the fire department of the town of Old Orchard Beach at the time this act becomes effective shall be continued in office as officers and firemen and shall be exempt from the provisions of this act with respect to examination and qualifying age restrictions. Call firemen shall be included in the provisions of this act. Call firemen shall be appointed by the chief of the fire department, subject to the provisions of section 4, from the eligible list of applicants for firemen, when necessary to make such appointments.

Sec. 16. Order of dismissal. In the event of a reduction of the fire department, the latest to be appointed shall be the first to be removed, and shall be given preference, if still upon the eligible list, in filling the first vacancy.

Sec. 17. Inconsistent acts repealed. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Sec. 18. Constitutionality. If any portion of this act shall be held to be unconstitutional, such decision shall not affect the validity of the remaining portion thereof.

Referendum; effective date. 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

next annual municipal election or at any special election held not later than 1 year after the effective date of this act. Said meeting shall be called, advertised and conducted according to the law relating to municipal elections, a proper article being inserted in the call for said meeting. The town clerk shall prepare the required ballots on which he shall reduce the subject matter of this act to the following question: "Shall the act to Provide for a Civil Service Commission for the Town of Old Orchard Beach, passed by the 96th legislature, be accepted?" and the voters shall indicate by a cross or check mark placed against 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. The result of said vote shall be declared by the municipal officers of the town of Old Orchard Beach and due certificate thereof shall be filed by the town clerk with the secretary of state.