

# MAINE STATE LEGISLATURE

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NINETY - EIGHTH LEGISLATURE

Legislative Document

No. 909

H. P. 642

House of Representatives, February 20, 1957.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Dudley of Enfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-SEVEN

**AN ACT to Provide a Representative-Manager Form of Government for the  
Town of Lincoln, County of Penobscot.**

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

**Sec. 1. Date of municipal elections; election of officers.** On and after the passage of this act and its adoption by the town as hereinafter provided, annual municipal elections shall be held in the town of Lincoln, in the county of Penobscot, on the first Monday of March in each year; said elections being held in compliance with the statutes governing the election of elective municipal officers in the town of Lincoln as now in use, meaning the year 1957.

At such annual elections the voters shall choose by ballot, in compliance with statutes, members of the town council as hereinafter provided, a town clerk, a town treasurer, and a member of the superintending school committee for 3 years. The present members of the superintending school committee shall serve until the expiration of their present terms, and during the balance of their respective terms of office, together with the new member or members chosen in accordance with this act, shall constitute the superintending school committee of said town until all members of said committee shall have been chosen hereunder.

At the first election held under the provisions of this act 9 councilors shall be chosen as follows: 3 for the term of 1 year, 3 for the term of 2 years and 3 for the term of 3 years, who shall constitute the town council; and thereafter at each of said annual elections 3 councilors shall be chosen as herein provided, each for a term of 3 years; provided, however, that vacancies in the office of coun-

cilor, due to death, resignation or other cause, shall be filled at the next annual election for the unexpired term.

The town council shall select annually a tax collector, and once in 3 years a health officer, subject to the approval of the Commissioner of Health and Welfare as provided by general law; and shall annually select a town manager, with the duties hereinafter defined. Except as hereinafter provided, all other necessary town officers provided by this act, or now or hereafter provided under any statute or by-law, shall be appointed by the town manager, subject to the approval of a majority of the town council.

**Sec. 2. Powers and duties of the council.** The administration of all the fiscal, prudential and municipal affairs of said town, with the government thereof, except the general management, care, conduct and control of the schools of said town, which shall be vested in the superintending school committee in accordance with general statutes, and also except as otherwise provided by this act, shall be and are vested in one body of 9 members, which shall constitute and be called the town council, all of whom shall be inhabitants of said town and shall be sworn in the manner hereinafter provided. Said town council shall exercise its powers in the manner hereinafter provided.

**Sec. 3. Councilors serve ex-officio as certain officers.** The town councilors shall serve instead of selectmen and overseers of the poor provided by general statutes and shall have the same powers and be subject to the same duties.

**Sec. 4. Council to serve as road commissioners.** The town council shall serve instead of board of road commissioners, road commissioner or road commissioners as provided by general statutes and shall have the same powers in relation to the duties of board of road commissioners, road commissioner or road commissioners under general statutes, and be subject to the same duties.

**Sec. 5. Organization meeting of council.** The town council elected as hereinbefore provided shall meet within 24 hours after each annual municipal election and shall choose by ballot one of its members to be chairman, and shall appoint a secretary. An affidavit of such choice of chairman and the appointment of the secretary, signed by a majority of the town council, shall be recorded by the town clerk in the records of said town and thereafter records shall be kept of all the doings of said town council. Said records shall be public records and shall be open at all times to the inspection of any citizen of the town.

**Sec. 6. Council to elect board of assessors.** The town council shall elect from its own membership 3 members who shall constitute the board of assessors of the town of Lincoln, said board of 3 assessors having all the powers of assessors of taxes for towns provided by general statutes or otherwise, and shall perform all the duties required of said assessors of taxes. The term of office of a member of the board of assessors shall be for 3 years, as herein provided; it being hereby stipulated that the first members to be elected by the first town council shall be one of the 3-year term councilors for a term of 3 years; one of the 2-year term councilors for a term of 2 years; and one of the 1-year term councilors for a term of 1 year; and thereafter, annually, one of the 3-year term councilors shall be elected to said board of assessors for a term of 3 years. Any vacancy on the

board of assessors by death, resignation or otherwise shall be filled by the election of a councilor whose remaining term of office is the same as the vacancy term to be filled.

**Sec. 7. Salaries of councilors.** Each member of the town council shall receive as salary the sum of \$200 per year, payable quarterly, and shall not be eligible while a member of the town council to any office of emolument or profit in the town government, nor to hold the office of town manager or act as town manager, during the term for which he was elected; except that the 3 councilors elected to the board of assessors shall be entitled to receive compensation for services as assessors, said compensation to be affixed by the town council.

**Sec. 8. Regular meetings of town council.** The town council shall meet in regular sessions at the usual place for holding meetings at least twice each month. The town council shall at its first meeting, or as soon thereafter as possible, establish by ordinance or resolution a regular place and time for holding meetings.

**Sec. 9. Special meetings of council.** Special meetings of the town council may be called by the chairman and in case of his absence, disability or refusal may be called by a majority of the members of the town council. Notice of such meeting shall be served in person or left at the residence of each member of the town council at least 24 hours before the time for the holding of said special meeting.

**Sec. 10. Quorum required for council meeting.** A majority of the town council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least 24 hours' notice shall be given to all members who were not present at the meeting from which the adjournment was taken.

**Sec. 11. Council procedure.** The town council shall determine its own rule of procedure and make lawful regulations for enforcing the same. The meetings of the town council shall be open to the public. The town council shall only act 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 order or resolve making appropriations of money shall be passed on until it has been read on 2 separate days, with a lapse of at least 3 days between readings. The yeas and nays shall be taken on the passage of any order or resolve when called for by any member of the town council. The final passage of every ordinance and every order or resolve making appropriations of money shall require the affirmative vote of 5 members of the town council. The final passage of every ordinance shall require a yea and nay vote of the councilors. Every ordinance before final passage shall be posted, marked "Proposed Ordinance," in a public place within said town where it can be generally seen and shall take effect and be in full force 30 days from and after it shall have received final passage by the town council. Within 10 days after the approval of said council, said ordinance shall be published in full in a daily or weekly newspaper within the county of Penobscot.

No order or resolve shall take effect until 10 days after its passage, except that the town council may by the affirmative vote of 6 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.

**Sec. 12. Duties of chairman of council.** The chairman of the town council, chosen as hereinbefore provided, shall preside at all the meetings of the town council and shall perform all other duties, consistent with the office, as the council may provide. He shall be entitled to vote and his vote shall be counted on all matters and things as a vote of the other members of the council. The chairman shall be recognized as the official head of the town for ceremonial purposes. In the temporary absence of the chairman, the town council may select a chairman pro tempore from among its number and he shall exercise all the powers of the chairman.

**Sec. 13. Initiative and referendum; how invoked.** The submission to the vote of the people of any proposed ordinance, order or resolve, or any ordinance, order or resolve enacted by the town council of the town of Lincoln which has not yet gone into effect, may be accomplished by the presentation of a petition therefor to the town council in the manner hereinafter provided. Any 3% of the qualified voters of the town of Lincoln may originate a petition, putting in operation the initiative or the referendum, by signing such petition at the office of the town clerk. Whenever requested by 10 such voters, the town clerk shall prepare the proper petition with a copy of the ordinance, order or resolve to be submitted attached thereto, and upon it being signed by said 10 voters, the town clerk shall file the petition and shall, during office hours for 30 days thereafter, keep the same open for signature by qualified voters of the town, and no such petition shall be signed or presented for signature at any place other than the office of the town clerk. At the expiration of said 30 days, the town clerk shall declare the petition closed and shall, at the first regular meeting of the town council thereafter, present to that body the petition with verification of the number of valid signatures thereto attached. If the number of valid signatures to said petition shall amount to 3% or more of the qualified voters of said town, the town council shall immediately take the necessary steps to submit to the voters of the town the question proposed in said petition; provided that in the case of the referendum, the entire repeal of the ordinance, order or resolve sought to be referred; and in case of the initiative, the passage by the town council of the desired ordinance, order or resolve, shall put an end to all proceedings under said petition.

**Sec. 14. Effect of referendum petition.** Whenever there has been completed as aforesaid, a petition for the reference to the people of any ordinance, order or resolve passed by the town council, which ordinance, order or resolve has not yet gone into effect, the same shall be suspended from going into operation until it has been submitted to a vote of the people and has received the affirmative vote of a majority of the voters voting on said question.

**Sec. 15. Time of election on initiative or referendum.** Within 10 days after an initiative or referendum petition with the required number of valid signatures is presented by the town clerk, the town council shall set a time for the holding

of a special election at which the proposed or suspended ordinance, order or resolve shall be submitted to the voters of the town, which special election shall be held not less than 30 days nor more than 60 days after such presentation; provided that if a petition shall be so presented within 4 months next preceding a regular annual municipal election, no special election shall be called but the question shall be submitted at said regular election.

**Sec. 16. Form of ballot for initiative or referendum election; result of election.** The ballots used when voting at an election upon such proposed ordinance, order or resolve, originated by the initiative and referendum provisions of this act, shall be in the form provided by general statutes when an initiative or a referendum question is submitted to a vote of the electorate of the State of Maine.

If a majority of the qualified voters voting on said proposed initiative ordinance, order or resolve or said referred ordinance, order or resolve shall vote in favor thereof, such ordinance, order or resolve shall take effect 5 days after the declaration of the official canvass of the return of such election.

**Sec. 17. Conflicting ordinances, orders or resolves in initiative or referendum election; order of questions upon ballot.** Any number of proposed or referred ordinances, orders or resolves may be voted upon at the same election. In the event that two or more ordinances, orders or resolves adopted at the same election shall contain conflicting provisions, the ordinance, order or resolve receiving the highest number of votes at such election shall be paramount and all questions of construction shall be determined accordingly.

In the event that 2 or more ordinances, orders or resolves are submitted at the same election, they shall be placed in order of the priority of the filing of the respective petitions and shall be given precedence upon the ballot over any and all questions submitted by the town council on its own initiative.

**Sec. 18. Repeal of popular ordinances, orders or resolves enacted by the people.** The town council may submit, on its own initiative, a proposition for the enactment, repeal or amendment of any ordinance, except as herein otherwise provided, to be voted upon at any municipal election; and should such proposition receive a majority of the votes cast thereon at any election, such ordinance, order or resolve shall be enacted, repealed or amended accordingly. An ordinance, order or resolve proposed by petition or adopted by a vote of the people shall not be repealed or amended except by a vote of the people, unless such ordinance, order or resolve shall otherwise expressly provide.

**Sec. 19. Further regulations for initiative or referendum; exceptions.** The town council shall by ordinance make such further regulations as may be necessary to carry out the provisions of the initiative and referendum as provided in this act.

The provisions, as hereinbefore provided, relating to initiative or referendum proceedings shall not apply to permits granted to or regulations made for public utilities under the statutes.

**Sec. 20. Town manager; powers and duties; salary.** The town council, as hereinbefore provided, shall annually by ballot vote select a town manager, a

majority vote of the councilors being necessary for a selection. Said selection of a town manager shall be made not later than 7 days previous to April 1st. The office of town manager is hereby created; the town manager selected, as herein provided, taking office for one year from April 1st.

The town manager shall be subject to such powers and duties as set forward by the town council, but not to be inconsistent with provisions of this act or with general statutes.

The town manager shall be the managing administrative head of the town government, and shall be responsible for the administration of all departments of the town over which the town council, under this act and the general statutes, has control.

The town manager shall act as purchasing agent for all departments of the town, except for the school department, and submit to competitive bids any transaction involving more than \$100, unless the town council directs otherwise.

The town manager shall serve in the capacity of superintendent of highways.

The town manager shall serve as agent and clerk for the overseers of the poor.

The town manager shall keep the town council fully advised as to the business, financial condition and future needs of the town.

The town council shall fix the salary to be paid the town manager, with the time and manner of payment.

**Sec. 21. Removal of town manager for just cause.** The town council shall have the power to remove a town manager from office before the expiration of his term of office for just cause.

**Sec. 22. Office of tax collector may be combined with that of town manager.** The town council may combine the office of tax collector with that of town manager.

**Sec. 23. Compensation of officers.** When not otherwise provided in this act, the compensation of and fees of all officers of said town, both elective and appointive, shall be fixed by the town council.

**Sec. 24. Officers to be sworn in.** All the officers, elected or appointed, and committee members legally named shall be sworn into office by the town clerk to the faithful performance of their respective duties, and same shall be filed in the records of the town.

**Sec. 25. Payments from treasury listed.** No money shall be paid out of the town treasury except by order issued and signed by a majority of the town council members or the representative legally authorized by the town council to do so act; said order to be presented to the treasurer of said town at the time of payment.

**Sec. 26. Bonds of officials.** The town council shall require a bond with sufficient surety or sureties, satisfactory to said town council, from all persons trusted with the collection, custody or disbursement of any of the moneys of said town; and may require such bonds from such other officials as it may deem

necessary; and shall see that all officials required by general statutes are sufficiently bonded.

**Sec. 27. Budget to be submitted.** Not later than one month before the end of the fiscal year, the town manager shall submit to the town council budget estimates for the ensuing fiscal year. Such budget shall be submitted in such form and with such information as set forward by the town council.

The town council shall fix a time and place for holding a public hearing upon the budget and shall give a public notice of such hearing, which shall be at least 10 days before the final passage of the appropriation resolve.

**Sec. 28. Appropriation resolve.** As early as possible after the beginning of the fiscal year, the town council shall pass an annual appropriation resolve, which shall be based upon the budget submitted by the town manager. The total amount shall not exceed the estimated revenue of the town. Before the annual appropriation resolve has been passed, the town council may make appropriations for current departmental expenses, chargeable to the appropriation for the year, when passed, to an amount sufficient to cover the necessary expenses of the various departments until the annual appropriation resolve is in force.

**Sec. 29. Bond issues.** Final passage by the town council of any order providing for the issue of bonds shall require the affirmative vote of 6 members of the council. Said order shall also contain a provision submitting said order to a referendum vote of the people at a special or regular election of said town. If a majority of the qualified voters voting on said order for the issue of bonds shall vote in favor thereof, such order shall take effect 5 days after the declaration of the official canvass of the return of such election.

**Sec. 30. Nomination of candidates; petitions.** The nomination of all candidates for elective office provided for in this act shall be by petition. The petition of a candidate for office shall be signed by not less than 50 nor more than 75 qualified voters of said town. No voter shall sign a petition for more than one candidate for each office to be filled at the election. The town clerk shall provide the necessary petitions for candidates, said petitions to be furnished by the town.

The nomination petitions for any one candidate shall be assembled and united into one petition and filed with the town clerk not earlier than 30 nor later than 16 calendar days before the day of election. No nomination shall be valid unless the candidate shall file with the town clerk in writing not later than 16 calendar days before the day of election, his consent, accepting the nomination, and, if elected, to qualify.

**Sec. 31. List of candidates to be posted.** The town clerk shall certify the list of candidates and cause to be posted in 3 or more public places in said town, conspicuously located, the names and office to which nominated, of the candidates who have duly filed petitions and acceptances for nomination. Said list shall be posted at least 7 days before the day of election.

**Sec. 32. Ballots to be prepared by the town clerk.** Specimen ballots and official ballots for use in all town elections shall be prepared by the town clerk and furnished by the town.



**Sec. 33. Holding of special elections.** Special elections of said town shall be held in compliance with the provisions for the holding of annual municipal elections, as hereinbefore provided.

**Sec. 34. No personal interest.** No town manager, no member of the town council, no subordinate town officer, no member of any board or commission charged with the expenditure of any money appropriated by the town council or belonging to the town, no officer or employee of the town, elected or appointed, shall be interested, directly or indirectly, in any contract entered into by or in behalf of the town for work or material, or the purchase thereof, to be furnished to or performed for the town, and all contracts made in violation hereof are void and the town treasurer is forbidden to pay any money out of the town treasury on account of such contract.

**Sec. 35. Ordinances not inconsistent continued in force.** All ordinances in force at the time when this act takes effect, not inconsistent with the provisions of this act, shall continue in force until amended or repealed.

**Sec. 36. Rules and regulations not inconsistent continued.** All rules and regulations of the municipal officers of the town of Lincoln in force when this act takes effect, not inconsistent with the provisions of this act, shall continue in force until amended or repealed.

**Sec. 37. Existing contracts not invalidated unless inconsistent.** All rights, actions, proceedings, prosecutions and contracts of the town, pending or unexecuted when this act takes effect, not inconsistent with the provisions of the act, shall be enforced, continued or completed in all respects as though begun or executed hereunder.

**Sec. 38. Term of office, officers, boards.** All officials, officers, trustees, members of committees or departments now in office holding positions hereafter to be filled under the provisions of this act by the town council or the town manager shall not serve out their present terms, but shall continue in office only until their successors are appointed or elected and qualified as provided in this act.

**Sec. 39. Municipal year and fiscal year.** The municipal year and the fiscal year of the town shall be fixed by the town council.

**Sec. 40. Annual reports.** The town manager shall prepare and publish, in accordance with general statutes, an annual report of the transactions of said town for general distribution. Said report shall be prepared and published at the close of the municipal year and before the beginning of the fiscal year.

**Sec. 41. Repealing clause.** In event this act is approved in the manner hereinafter provided, all acts and parts of acts inconsistent herewith are hereby repealed.

**Referendum; effective date; certificate to Secretary of State.** This act shall take effect 90 days after adjournment of the Legislature, only for the purpose of permitting its submission to the legal voters of the town of Lincoln at an election to be held in said town not later than the 2nd Monday of October, 1957, the date to be set by the municipal officers of said town. Warrants shall be issued for such election in the manner now provided for municipal elections, notify-

ing and warning the qualified voters of said town to meet at the polling place in said town, there to cast their ballots for the rejection or approval of this act; the polls to be open in compliance with the general statutes for the holding of state elections. The provisions of law relating to the preparation of voting lists for municipal elections shall apply to said election and said election shall in all other respects be conducted as municipal elections in said town are now conducted under the general law. 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 a Representative-Manager Form of Government for the Town of Lincoln, County of Penobscot, passed by the 98th Legislature, be accepted?" and the voters shall indicate in the usual manner 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 election, provided that the total number of votes cast for and against acceptance of this act equals or exceeds 20% of the total vote for all candidates for Governor cast in said town at the next previous gubernatorial election.

The result of the vote shall be declared by the municipal officers of said town and due certificate thereof shall be filed by the town clerk with the Secretary of State.