

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 845**

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H. P. 591

House of Representatives, February 18, 1959

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Clark of Scarborough (by request).

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**STATE OF MAINE**

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-NINE

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**AN ACT Establishing a Representative Town Government in  
Town of Scarborough.**

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**Emergency preamble.** Whereas, the inhabitants of the Town of Scarborough have expressed a desire to vote upon a new form of town government; and

Whereas, by accepting such new form of town government, many objectional conditions now existing will be eliminated; and

Whereas, in order for said Town of Scarborough to elect town meeting members thereunder prior to the 1960 annual town meeting, it is necessary that immediate steps be taken to perform the requirements of this act; 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. Representative town government for Town of Scarborough established.** There is hereby established in the Town of Scarborough the form of representative town government as hereinafter set forth.

**Sec. 2. Districts; report of selectmen; meetings; voting.**

**I.** On or before December 15, 1959, the selectmen shall divide the territory of the town into 3 districts, each of which shall be plainly designated. All districts shall contain approximately an equal number of registered voters.

The districts shall be so established as to consist of compact and contiguous territory to be bounded so far as possible by the center line of known streets and ways or by other well defined limits. The boundaries shall be reviewed and if need be, wholly or partially revised by the selectmen in November, 5 years after the next November following the acceptance of this act, and in November every 5 years thereafter, and in November of any year when so directed by vote of a representative town meeting held not later than March 31st of the same year.

**II.** The selectmen shall, on or before December 15, 1959, file a report of their doings with the town clerk, with a map or maps and descriptions of the districts. They shall also, on or before December 15, 1959, cause a copy of such map or maps and descriptions of the districts to be posted at the town hall, and in at least one public and conspicuous place in each district, a map or description of the district. Thereafter, upon any revision of boundaries, as provided in subsection I, the selectmen shall, on or before December 15th following such a revision, file a report of their doings with the town clerk, with a map or maps and descriptions of the districts, and cause a copy of such map or maps and descriptions to be posted at the town hall, and cause to be posted in at least one public and conspicuous place in each district, a map or description of that district. The division of the town into districts and any revision of such districts, shall take effect upon the date of the filing of the report thereof by the selectmen with the town clerk.

**III.** Meetings of the registered voters of the several districts for all town elections, and for voting upon any question to be submitted by the town to all the registered voters, shall be held on the same day and at the same hour and at such place or places within the town as the selectmen shall in the warrant for such meetings direct, and it shall not be necessary for the selectmen to take any proceedings to designate the respective polling places, other than to set forth the polling place for each district in the warrant. The provisions of the Revised Statutes of 1954, chapter 5, sections 13 to 15, and amendments thereto, relating to precinct voting at elections, insofar as they apply to the appointment and duties of election officials, and so far as the same are not inconsistent with this act, shall apply to all town elections.

**IV.** It shall not be necessary that the polling place for district voting be within the district; and 2 or more districts may vote at the same polling place but the voting of each district shall be conducted independently of that of any other district and under separate election officials. The selectmen, during the month of December 1959, shall appoint the election officials provided for in precinct voting under the provisions of the Revised Statutes above set forth, to act until March 31, 1960; and thereafter, the selectmen shall annually in the month of March, between the date following the annual town meeting and the last day of the month, appoint election officials to act for one year from the first day of April following their appointment.

**Sec. 3. Annual town elections; certification of registered voters; town meeting membership; notice; qualifications to vote; registrations.**

**I.** After the acceptance of this act, at a special election to be held the first Monday in January 1960, each district shall elect 24 town meeting members. The first third in each district in order of votes received shall be elected to serve for 38 months; the second third in such order shall be elected to serve for 26 months; and the remaining third in such order shall be elected to serve for 14 months, all to serve from February 1, 1960. Thereafter, at each annual town election the registered voters of each district shall elect for the term of 3 years, 8 town meeting members who shall serve from the first day of April following the annual town meeting.

**II.** The selectmen shall, on or before December 15, 1959, certify to the town clerk the total number of registered voters in each district on November 20, 1959; and thereafter, the selectmen shall annually, in the month of November, revise the list of voters in each district and shall, on or before the 15th day of December, certify to the town clerk the total number of registered voters in each district as of the 20th day of November next preceding.

**III.** The town clerk shall after every election of town meeting members forthwith mail to each member a notice of his election.

**IV.** No person shall be entitled to vote for any town officer or upon any questions submitted to the entire vote of the town unless he is a registered voter as hereinafter provided.

**V.** Every town meeting member shall be a resident and a registered voter in the district from which he is chosen at the time of the election.

**VI.** Any person claiming a right to vote in said town shall, after the acceptance of this act, register as a voter with the selectmen of said town and the selectmen shall, on or before December 15, 1959, prepare a list of registered voters of each district as of November 20, 1959, and shall post in a public and conspicuous place in each district on or before December 15, 1959, a copy of such list, and shall annually thereafter, on or before the 15th day of December, prepare a list of registered voters in each district as of November 20th preceding, and shall, on or before the 15th day of December, post in a public and conspicuous place in each district, a copy of such list. The selectmen may, on or before November 1, 1959, place on such registration list the name of any voters registered at the time of the acceptance of this act and identified as such through the means of the annual poll tax census. The selectmen shall have authority to hire whatever clerical assistance they deem necessary for the purpose of preparing such list.

**VII.** Any voter duly registered at the time of the acceptance of this act and who has continued his residence in the Town of Scarborough to the date of his registration shall be entitled as a matter of right, within 2 years of the acceptance of this act, to register at any time, including the day of election, by filing his registration with the selectmen, and no proof of qualification shall be required except proof of the fact that he was a duly registered voter at the time of the acceptance of this act and has continued his residence in the town since that time. After a period of 2 years from the acceptance of this act, however, all voters shall qualify for registration according to law; and such

registration shall be made in all cases at the latest on the secular day preceding the election. If any voter is registered on the day of election, as above provided, the selectmen shall issue to him a certificate of registration which, upon presentation of same to the warden or presiding election officer of his district, shall constitute authority in the warden or presiding election officer to enter the name of such person on the voting list of such district. Such certificates shall be retained by the presiding election officer or warden and filed with the check lists in the office of the town clerk within 24 hours after such election.

**VIII.** The selectmen may register voters at any time, but they shall be in open session on the 3 secular days next preceding the annual town meeting to receive evidence of the qualifications of persons claiming a right to vote at such election, and they shall correct the list of registered voters in each district and turn the same over, together with 2 copies thereof for each polling district, to the town clerk, who shall cause to be delivered to the presiding officer of each polling district before the opening of the polls on election day, 2 copies of the list applicable to such district, and all provisions of law applicable to check lists for towns and wards shall apply to check lists for such polling districts.

**Sec. 4. Nomination of candidates; preparation and delivery of ballots; return of unused ballots.**

**I.** Nominations of candidates for town meeting members to be elected under this act shall be made by nomination papers which shall bear no political designation, shall be signed by not less than 10 registered voters of the district in which the candidate resides, and shall be filed with the town clerk at least 10 days before the election, provided that any town meeting member may become a candidate for re-election by giving written notice thereof to the town clerk at least 15 days before the election. No nomination papers shall be valid in respect to any candidate whose written acceptance is not thereon or attached thereto when filed.

**II.** The town clerk shall prepare ballots in the manner provided in the Revised Statutes of 1954, chapter 90-A, section 37, subsection V, as enacted by the public laws of 1957, chapter 405, section 1, except that he shall prepare a separate set of ballots for each voting district. In addition to the name of all candidates for the several town offices, each set of ballots shall contain the names of all candidates for town meeting members from that district.

**III.** The town clerk shall cause to be delivered to the presiding officer of each voting district before the opening of the polls on the day of election the set of ballots to be used in such voting district, sealed and marked for such voting district, and a receipt of such delivery shall be returned to him from the presiding election officer, which receipt with a record of the number of ballots sent, shall be kept in the town clerk's office for one year. It shall not be necessary that the town elect a moderator prior to the delivery of said ballots at the annual town meeting in 1960. At the opening of the polls in each polling place, the seals of the packages shall be publicly broken and the packages shall be opened by the presiding election officer or officers, and the unused ballots shall be returned to the town clerk with the check lists and certificates of registration as hereinbefore provided.

**Sec. 5. Resignation of member; vacancy, how filled.**

**I.** A town meeting member may resign by filing a written resignation with the town clerk and such resignation will take effect on the date of such filing. A town meeting member who removes from the town shall cease to be a town meeting member, and a town meeting member who removes from the district from which he was elected to another district may serve only until the first day of April following; provided, however, that the vote of any town meeting member who has been declared elected shall be valid until he shall have resigned or has been declared ineligible to serve by the representative town meeting under the provisions of section 6, subsection III. No elected town meeting member whose official position entitles him to be a town meeting member at large shall act as a town meeting member at large during such time as he remains an elected town meeting member.

**II.** Any vacancy in the full number of town meeting members from any district, whether arising from a failure of the registered voters thereof to elect, or from any other cause, shall be filled until the next annual election by the remaining members of the district from among the registered voters thereof. Upon notification therefor, signed by not less than 5 town meeting members from the district, notice of such vacancy shall promptly be given by the town clerk to the clerk of the district in which the vacancy or vacancies exist, who shall call a meeting of such members for the purpose of filling such vacancy or vacancies. The chairman and clerk shall make a certificate of the choice and forthwith file the same with the town clerk, together with a written acceptance by the member or members so chosen, who shall thereupon be deemed elected and qualified as a town meeting member or members, subject to the right of all the town meeting members to judge of the election and qualifications according to the provisions of this act, of the members as set forth in section 6.

**Sec. 6. Eligible members; to receive no compensation; quorum; warrant.**

**I.** Any representative town meeting held under the provisions of this act, except as otherwise provided herein, shall be limited to the elective town meeting members, together with the following designated as town meeting members at large, to wit: moderator, secretary of the budget committee, and town clerk.

**II.** The town meeting members as such shall receive no compensation.

**III.** The town meeting members as aforesaid shall be the judges of the election and of the qualifications, according to the provisions of this act, of their members.

**IV.** The majority of town meeting members shall constitute a quorum for doing business, but a less number may organize temporarily and may adjourn from time to time.

**V.** The warrant of any town meeting shall be in manner and form provided by law and an attested copy thereof shall be posted in a public and conspicuous place in each voting district in manner provided by law. No town meeting shall adjourn over the date of an election of town meeting members. All

town meetings shall be public. Subject to such conditions as may be determined by the members of the representative town meeting, any registered voter or taxpayer of the town who is not a town meeting member may speak at any representative town meeting, but shall not vote.

**Sec. 7. Articles in warrant; action on.**

**I.** The articles in the warrant for every town meeting so far as they relate to the election of the moderator, town officers and town meeting members, and as herein provided, to referenda and all matters to be acted upon and determined by ballot, shall be so acted upon and determined by the registered voters of the town in their respective polling places. All other articles in the warrant for any town meeting shall be acted upon exclusively by town meeting members at a meeting to be held at such time and place as shall be set forth by the selectmen in the warrant for the meeting, and at any suspended meeting, the newly elected moderator shall announce the result of the elections.

**II.** The business of the annual town meeting or of any special town meeting held prior to the beginning of the term of office of town meeting members on February 1, 1960 shall be conducted by all the voters of the town as heretofore, and at such meetings they shall have the same authority as heretofore with reference to all matters, including authority to pass upon appropriations and money affairs for the fiscal year 1960.

**Sec. 8. Moderator, election.** A moderator shall be elected by ballot as in the case for selectmen at the annual town meeting in 1960, and at each annual town meeting thereafter and shall serve as moderator for the business session following his election and for all town meetings thereafter until his successor is elected and has qualified. Nominations for the election of a moderator shall be as in the case of nominations for selectmen, and any vacancy in the office shall be filled by the town meeting members at a meeting held for that purpose. If the moderator is absent at any meeting, a moderator pro tempore shall be elected by the town meeting members.

**Sec. 9. Town budget committee; organization; caucus; certification of names; vacancy.**

**I.** There shall be a town budget committee which shall be an advisory committee to pass on all articles of the town warrant and make recommendations as to the disposition of said articles. They may also recommend what action the town should take upon all matters placed before the town in referendum.

**II.** Two members of the budget committee shall be chosen from the registered voters of each district by the town meeting representatives of the district in the manner hereinafter set forth, and 3 members at large of this committee shall be appointed by the selectmen. The term of office of the budget committee shall be for one year, beginning on the first day of April next following their election. Before the first town meeting following March 31st of each year, the town clerk shall call a meeting of the budget committee by notifying each member of the time and place of such meeting. At this meeting the budget committee shall organize by choosing a chairman and secretary

and the name of the secretary shall forthwith be certified to the town clerk by the chairman. The town clerk shall act as temporary chairman until a permanent chairman is chosen.

**III.** A caucus of the members of each district for the purpose of electing members of the budget committee shall be called by the district clerk on notification to him by mail by the town clerk of the necessity and object of holding such a meeting. At this caucus there shall be elected from the district representatives a chairman and clerk who shall be available to serve for the period of one year from the date of their election. Such chairman and clerk shall serve without compensation. The call for the holding of the first district caucuses held after the acceptance of this act shall be issued by a representative member of each district who shall have been notified by mail by the town clerk to do so. Such district representative member shall act as district clerk until his successor has been elected.

**IV.** The aforesaid district caucuses shall be held on or before the 20th day of March next following the annual election, and within 48 hours after such caucus each district clerk shall certify to the town clerk the names and addresses of the budget committee members elected from his district. The selectmen shall annually on or before the 30th day of March certify to the town clerk the names and addresses of their appointees to the budget committee; and the town clerk shall forthwith notify all members of the said committee of their election. The present budget committee shall serve as the town budget committee until a budget committee shall have been chosen under the provisions of this act.

**V.** Any vacancy occurring among the membership at large of the budget committee shall be filled by the selectmen. Any vacancy occurring among the district delegations shall be filled by the representative town meeting members of the district affected by the vacancy at a meeting called by the district clerk for that purpose.

**Sec. 10. Referendum provided for.** A vote passed at any representative town meeting authorizing the expenditure of \$10,000 or more as a special appropriation, or establishing a new board or office, or abolishing an old board or office, or merging 2 or more boards or offices, or fixing the term of office of town officers where such term is optional, or increasing or reducing the number of members of a board, or any change in the officers to be chosen by ballot, or in the number of terms thereof, as provided in the Revised Statutes of 1954, chapter 90-A, section 37, as enacted by the public laws of 1957, chapter 405, section 1, or adopting a new by-law, or amending an existing by-law, shall not be operative until the expiration of 5 days, exclusive of Sundays and holidays, from the date of the dissolution of the meeting. If, within said 5 days, a petition, signed by not less than 5% of the registered voters of the town, containing their names and addresses as they appear on the list of registered voters, is filed with the selectmen, asking that the question or questions involved in such vote be submitted to the registered voters of the town at large; then the selectmen shall within 10 days after the filing of such petition call a special meeting for the sole purpose of presenting to the registered voters at large the question or questions involved. The polls shall be opened at 9 o'clock in the forenoon



and shall remain open until 7 o'clock in the evening when they shall be closed; and all votes upon any questions so submitted shall be taken by ballot, and the check list shall be used in the several district meetings in the same manner as in the election of town officers. The questions so submitted shall be determined by a majority vote of the registered voters of the town voting thereon, but no action of the representative town meeting shall be reversed unless at least 20% of all the registered voters of the town shall so vote. Each question so submitted shall be in the form of the following question, which shall be placed upon the official ballot: "Shall the town vote to approve the action of the representative town meeting whereby it was voted (brief description of the substance of the vote)?" If such petition is not filed within the said period of 5 days, the vote of the representative town meeting shall become operative and effective upon the expiration of said period.

**Sec. 11. Interpretation of town acts.** The town, after acceptance of this act, shall continue to have the capacity to act through and to be bound by its town meeting members, who shall, when convened from time to time as herein provided, constitute representative town meetings; and the representative town meetings shall exercise exclusively, so far as will conform to the provisions of this act, all powers vested in the municipal corporation. Action in conformity with all the provisions of law now or hereafter applicable to the transaction of town affairs in town meeting, shall, when taken by any representative town meeting in accordance with the provisions of this act, have the same force and effect as if such action had been taken in a town meeting open to all voters of the town as organized and conducted before the establishment in town of representative town meeting government.

**Sec. 12. Limitations.** This act shall not abridge the right of the inhabitants of the town to hold general meetings, as secured to them by the Constitution of this State; nor shall this act confer upon any representative town meeting member the power to finally commit the town to any measure affecting its municipal existence without action thereon by the voters of the town at large, using the ballot and check list therefor.

**Sec. 13. Applicability of present laws.** The change in the form of government provided herein shall not affect the legal responsibilities and privileges of the Town of Scarborough, and except as herein otherwise provided, the town and town meetings held hereunder shall be subject to the Revised Statutes of the State of Maine and to all private and special acts applicable to town meetings and town elections in the Town of Scarborough and the provisions of the Revised Statutes of 1954, chapter 90-A, section 37, as enacted by the public laws of 1957, chapter 405, section 1, which provisions have been accepted by the said Town of Scarborough.

**Referendum; effective date; emergency clause.** In view of the emergency cited in the preamble, this act shall take effect when approved, only for the purpose of permitting its submission to the legal voters of the Town of Scarborough at a special meeting to be called by the selectmen and held on or before October 1, 1959. Such special meeting shall be called, advertised and conducted according to the law relating to municipal elections; provided that

the selectmen shall not be required to prepare, nor the town clerk to post, a new list of voters, and for the purpose of registration of voters said selectmen shall be in session 2 hours next preceding such special meeting.

The town clerk shall reduce the subject matter of this act to the following question: "Shall the Act Establishing a Representative Town Government in Town of Scarborough, passed by the 99th Legislature, be accepted?" 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; provided the total number of votes cast for and against the acceptance of this act at said meeting equaled or exceeded 20% of the total vote cast for all candidates for Governor in said town at the next preceding gubernatorial election.

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