

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES
OF THE
SEVENTY-SECOND LEGISLATURE

OF THE
STATE OF MAINE

1905.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1905.

Chapter 287.

An Act to abolish the Common Council and increase the membership of the Board of Aldermen of the City of Portland.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

Section 2,
chapter 275,
private and
special laws,
1863,
amended.

Section 1. Section two of chapter two hundred seventy-five of the private and special laws of the state of Maine, approved March twenty-four, eighteen hundred sixty-three, is hereby amended, so as to read as follows:

Municipal
affairs
vested in
mayor and
twenty-seven
aldermen.

'Section 2. The administration of all the fiscal, prudential and municipal affairs of said city, with the government thereof, shall be vested in one principal magistrate to be styled the mayor, and one board of twenty-seven to be denominated the board of aldermen, all of whom shall be inhabitants of said city; which board of mayor and aldermen shall constitute and be called the city council; and shall be sworn or affirmed in the form prescribed by the constitution of the state for state officers.'

--shall
constitute
city council.

Section 3,
amended.

Section 2. Section three of said chapter two hundred and seventy-five is hereby amended, so as to read as follows:

Mayor shall
be chief
magistrate.

'Section 3. The mayor of said city shall be the chief executive magistrate thereof. It shall be his duty to be vigilant and active in causing the laws of the state, and ordinances and regulations of the city, to be executed and enforced, to exercise a general supervision over the conduct of all subordinate officers, and to cause violations or neglect of duty on their part to be punished. He shall, from time to time, communicate to the city council such information, and recommend such measures, as the interest of the city may require. He shall preside at all meetings of the city council, but shall have only a casting vote. He shall be compensated for his services by a salary to be fixed by the city council, payable at stated periods, and shall receive therefor no other compensation, which salary, however, shall not be increased or diminished during his term of office.'

--duties
of mayor.

--shall
preside at
meetings.

--salary
of mayor.

Section 4,
amended.

Section 3. Section four of said chapter two hundred and seventy-five as amended by chapter three hundred and eighty-four of the private and special laws of the state of Maine, approved March nineteen, nineteen hundred and one, is hereby amended further, so as to read as follows:

Laws, acts,
ordinances,
etc., shall be
presented to
mayor for
approval.

'Section 4. Every law, act, ordinance, resolve or order, excepting rules and orders of a parliamentary character, shall be presented to the mayor for approval. If not approved by him he shall return it, with his objections, to the city council, at the next stated session, provided that said stated session is held at least one week after the aforesaid law, act, ordinance, resolve

--if not
approved he
shall return
it with his
objections.

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or order is presented to the mayor for his approval. The city council shall enter the objections at large on its journal and proceed to reconsider the same. If upon such reconsideration it shall be passed by a vote of two-thirds of all the members of the board of aldermen, it shall have the same effect as if signed by the mayor. The mayor shall have the right to approve as a whole any resolve or order involving the appropriation and expenditure of money, or to approve or disapprove specific items thereof, and the portions approved shall thereby be in force in like manner as if no part thereof had been disapproved, and the portion or portions disapproved shall thereupon take the same course, as herein provided, as though said resolve or order has been disapproved as a whole. In case of vacancy in the office of mayor when said law, act, ordinance, resolve or order be finally passed, the same shall be valid without approval. In case any ordinance, order, resolution or vote involves the appropriation or expenditure of money to an amount which may exceed three hundred dollars, the laying of an assessment, or the granting to a person or corporation of any right in, over or under any street or other public ground of said city, the affirmative votes of a majority of all the members of the city council shall be necessary for its passage. Every such ordinance, order, resolution or vote shall be read twice, with an interval of at least three days between the two readings, before being finally passed, and the vote upon its final passage shall be taken by roll call.'

Section 4. Section five of said chapter two hundred and seventy-five is hereby amended, so as to read as follows:

'Section 5. The executive powers of said city generally and the administration of police and health departments, with all the powers of selectmen, except as modified by this act, shall be vested in the mayor and aldermen. All the powers of establishing watch and ward, now vested by the laws of the state in the justices of the peace and municipal officers or inhabitants of towns, are vested in the mayor and aldermen, so far as relates to said city; and they are authorized to unite the watch and police departments into one department and establish suitable regulations for the government of the same. The officers of police shall be one chief, to be styled the city marshal, so many deputy marshals as the city council may by ordinance prescribe, and so many watchmen and policemen as the mayor and aldermen may from time to time appoint. All other powers now or hereafter vested in the inhabitants of said city, and all powers granted by this act, as well as all powers relating to the fire department, shall be vested in the city council. The city council shall keep a record of its proceedings and be judge of the election of its

—objections shall be entered in journal.

—may be passed by vote of two-thirds of all the members.

—mayor may approve part of resolve appropriating money.

—orders, etc., shall be read twice.

Section 5, amended.

Mayor and aldermen shall have powers of selectmen.

—watch and ward.

—city marshal.

—city council shall keep record of its proceedings.

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members; and in case of vacancies new elections shall be ordered by the mayor and aldermen.'

Section 6,
amended.

Section 5. Section six of said chapter two hundred seventy-five as amended by chapter three hundred eighty-four of the private and special laws of the state of Maine, approved March nineteenth, nineteen hundred and one, is hereby further amended, so as to read as follows:

Compensation of subordinate officers shall be fixed by city council.

'Section 6. The compensation of all subordinate city officers whatsoever, shall be fixed by the city council. All officers of the police and health departments shall be appointed by the mayor and aldermen and may be removed by them for good cause. All other subordinate officers, now elected by the mayor and aldermen or the city council, shall hereafter be elected by the city council, and such officers may be removed for good cause, by the assent of two-thirds of all the members thereof. Except as otherwise specially provided in this act, all subordinate officers shall be elected annually on the second Monday of December, or as soon thereafter as may be, and their term of office shall be for one year, and until others are qualified in their place. All vacancies may be filled by the city council.'

--election of.

--on second Monday of December.

Section 9,
amended.

Section 6. Section nine of said chapter two hundred and seventy-five is hereby amended, so as to read as follows:

City council shall have authority to lay out streets, etc.

'Section 9. The city council shall have exclusive authority to lay out, widen or otherwise alter, or discontinue any or all streets or public ways in the city of Portland, without petition therefor, and as far as extreme low water mark; and to estimate all damage sustained by the owners of land taken for that purpose; but all locations below high water mark shall be subject to the provisions of the laws relating to the commissioners of Portland harbor. A standing committee shall be appointed, whose duty it shall be to lay out, alter, widen or discontinue any street or way in said city, first giving notice of the time and place of their proceedings to all parties interested, by an advertisement in two daily papers printed in Portland, for one week at least previous to the time appointed. The committee shall first hear all parties interested, and then determine and adjudge whether the public convenience requires such street or way to be laid out, altered or discontinued; and shall make a written return of their proceedings, signed by a majority of them, containing the bounds and descriptions of the street or way, if laid out or altered, and the names of the owners of the land taken, when known, and the damages allowed therefor; the return shall be filed in the city clerk's office at least seven days previous to its acceptance by the city council. The street or way shall not be altered or established until the report is accepted by the city

--standing committee for laying out streets, etc.

--hearings.

--shall make written return of proceedings.

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council, and the report shall not be altered or amended before its acceptance. A street or way shall not be discontinued by the city council, excepting upon the report of said committee. The committee shall estimate and report the damages sustained by the owners of the lands adjoining that portion of the street or way which is so discontinued; their report shall be filed with the city clerk seven days at least before its acceptance. Any person aggrieved by the decision or judgment of the city council in establishing, altering, or discontinuing streets, may, so far as relates to damages, appeal therefrom to the next court having jurisdiction thereof in the county of Cumberland, which court shall determine the same by a committee of reference under a rule of court, if the parties agree, or by a verdict of its jury, and shall render judgment and issue execution for the damages recovered, with costs to the party prevailing in the appeal. Such appeal shall be made to the term of the supreme judicial court which shall first be holden in the county of Cumberland more than thirty days from and after the day the street is finally established, altered or discontinued, excluding the day of commencement of the session of said court. The appellants shall serve written notice of such appeal upon the mayor or city clerk, fourteen days at least before the session of the court, and shall at the first term file a complaint setting forth substantially the facts of the case. On the trial, exceptions may be taken to the rulings of the court, as in other cases. Co-tenants who are appellants shall join in their appeal or shall not recover their costs. If a street or way is discontinued before the damages are paid or recovered for the land taken, the land owner shall not be entitled to recover such damages, but the committee in their report discontinuing the same shall estimate and include all the damages sustained by the land owner, including those caused by the original location of the streets, and in such cases, if an appeal has been regularly taken the appellant shall recover his costs. The city shall not be compelled to construct or open any street or way thus hereafter established, until in the opinion of the city council the public good requires it to be done; nor shall the city interfere with the possession of the land so taken by removing therefrom materials, or otherwise until they decide to open and construct said street. The city council may regulate the height and width of sidewalks in any public square, places, streets, lanes or alleys in said city; and may authorize posts and trees to be placed along the edge of said sidewalks. Nor shall the city be answerable for damages occasioned by telegraph posts and wires erected in the streets.'

--street shall not be discontinued except on report of committee.

--damages, how determined.

--appeals.

--appellants shall serve written notice.

--co-tenants shall join in appeal.

--city not compelled to open streets laid out till public good requires.

--sidewalks.

--posts and trees.

CHAP. 287Section 12,
amended.

Section 7. Section twelve of said chapter two hundred and seventy-five as amended by said chapter three hundred and eighty-four of the private and special laws of the state of Maine, approved March nineteen, nineteen hundred and one, is hereby further amended, so as to read as follows:

Election
of mayor.
--of aldermen.
--ward
officers.
--officers to
be elected
by ballot.
--tenure.

'Section 12. The mayor shall be elected by the inhabitants of the city in their respective wards. Three aldermen, elected as hereinafter provided, a warden and clerk, and two constables shall be elected by each ward, being residents in the ward where elected. All said officers shall be elected by ballot by a plurality of the votes given; and with the exception of the aldermen shall hold their offices for one year from the second Monday in December and until others shall be elected and qualified in their places. All city and ward officers shall be held to discharge the duties of the offices to which they have been respectively elected, notwithstanding their removal after their election, out of their respective wards into any other wards in the city; and they shall not so be held after they have taken up their permanent residence out of the city.'

Section 13,
amended.

Section 8. Section thirteen of said chapter two hundred and seventy-five as amended by said chapter three hundred and eighty-four of the private and special laws of the state of Maine, approved March nineteen, nineteen hundred and one, is hereby further amended, so as to read as follows:

Election shall
be held on the
first Monday
in December
in each year.

'Section 13. On the first Monday in December, nineteen hundred five, the qualified electors in each ward shall ballot for mayor, one alderman to serve for one year, one alderman to serve for two years, and one alderman to serve for three years, or until others are elected and qualified in their places, a warden and clerk and two constables on one ballot, and annually thereafter on the first Monday in December the qualified electors in each ward shall ballot for mayor, one alderman to serve for a term of three years, or until a successor is elected and qualified, a warden and clerk and two constables on one ballot. The ward clerk within twenty-four hours after such election, shall deliver to the persons elected, certificates of their election, and shall forthwith deliver to the city clerk a certified copy of the records of such election, a plain and intelligible abstract of which shall be entered by the city clerk on the city records. If the choice of any such officers is not effected on that day, the meeting shall be adjourned to another day, not more than two days thereafter, to complete such election, and may so adjourn from time to time until the election is completed. The board of aldermen shall as soon as conveniently may be, examine the copies of the records of the several wards, certified as aforesaid, and shall cause

--ward clerk
shall deliver
certificates
of election.

--adjourn-
ment of
elections.

--board of
aldermen
shall examine
the returns.

the person who shall have been elected mayor by a plurality of the votes given in all the wards, to be notified in writing of his election. But if it shall appear that no person shall have been so elected, or if the person elected shall refuse to accept the office, the said board shall issue their warrants for another election; and in case the citizens shall fail on a second ballot to elect a mayor, the city council shall, from the four highest candidates voted for at the second election and returned, elect a mayor for the ensuing year; and in case of a vacancy in the office of mayor, by death, resignation or otherwise, it shall be filled for the remainder of the term by a new election in the manner hereinbefore provided for the choice of said officer. The oath or affirmation prescribed by this act, shall be administered to the mayor by the city clerk or any justice of the peace in said city. The aldermen elect shall meet on the second Monday in December at ten o'clock in the forenoon when the oath or affirmation required by the second section of this act shall be administered to the members present by the mayor or any justice of the peace. The city council shall by ordinance, determine the time of holding stated or regular meetings of the board, and shall also, in like manner, determine the manner of calling special meetings and the persons by whom the same shall be called; but until otherwise provided by ordinance, special meetings shall be called by the mayor by causing a notification to be left at the usual residence or place of business of each member of the board.'

--shall notify person elected.

--when city council shall elect mayor.

--vacancy in office of mayor; how filled.

--aldermen shall meet on second Monday in December.

--time of holding stated or regular meetings.

--special meetings.

Section 9. Section fourteen of said chapter two hundred and seventy-five is amended, so as to read as follows:

Section 14, amended.

'Section 14. After the organization of a city government and the qualification of a mayor, and when a quorum of the board of aldermen shall be present, said board, the mayor presiding, shall proceed to choose a permanent chairman, who, in the absence of the mayor, shall preside at all meetings of the board, and in case of any vacancy in the office of mayor, he shall exercise all the powers and perform all the duties of the office so long as such vacancy shall remain; he shall continue to have a vote in the board, but shall not have the veto power. The board of aldermen in the absence of the mayor and permanent chairman, shall choose a president pro tempore who shall exercise the powers of a permanent chairman.'

Chairman of board of aldermen, choosing of

--duties of permanent chairman.

Section 10. Section seventeen of said chapter two hundred and seventy-five is amended, so as to read as follows:

Section 17, amended.

'Section 17. The city clerk shall be clerk of the city council. He shall perform such duties as shall be prescribed by the city council, and shall also perform all the duties and exercise all the powers now incumbent on him by law. He shall give notice in

City clerk.

--duties.

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two or more of the papers printed in said city, of the time and place of regular ward meetings; the time of such meetings when not fixed by law, shall be determined by the board of aldermen. In case of the temporary absence of the city clerk, the mayor and aldermen may appoint a city clerk pro tempore.'

Section 19,
amended.

Section 11. Section nineteen of chapter two hundred and seventy-five is amended, so as to read as follows:

Aldermen
shall
receive no
compensa-
tion.

'Section 19. The aldermen shall not be entitled to receive any salary or other compensation during the term for which they are elected, nor be eligible to any office of profit or emolument the salary of which is payable by the city; and all departments, boards, officers and committees, acting under the authority of the city and entrusted with the expenditures of public money, shall expend the same for no other purpose than that for which it is appropriated; and shall be accountable therefor to the city in such manner as the city council may direct.'

--moneys
shall be
expended
only for
purpose for
which
appropriated.

Section 3,
chapter 11,
amended.

Section 12. Section three of chapter eleven of the private and special laws of the state of Maine, approved February six, eighteen hundred and ninety, is hereby amended, so as to read as follows:

First election
under this
act.

'Section 3. On the first Monday in December, nineteen hundred and five, the qualified electors in each of the nine wards shall ballot for mayor, one alderman to serve for one year, one alderman to serve for two years, and one alderman to serve for three years, or until others are elected and qualified in their places, a warden and clerk and two constables on one ballot, and annually thereafter on the first Monday in December the qualified electors of each of said nine wards shall ballot for mayor, one alderman to serve for three years or until a successor is elected and qualified, a warden and clerk and two constables on one ballot in the manner provided by law. At said election for one thousand eight hundred and ninety-nine the electors for ward eight shall likewise ballot for a member of the school committee to serve for one year; and the electors of ward nine shall likewise ballot for a member of the school committee to serve for two years, and thereafter the electors in each of said wards by a plurality of the votes cast, shall elect a member of the school committee for two years.'

--subsequent
elections.

Referendum
of this act.

Section 13. At a special election to be held on the twenty-fourth day of April, nineteen hundred and five, the legal voters of the city of Portland shall be called upon to give in their votes upon the acceptance of this act at meetings in the several wards in said city, duly warned by the mayor and aldermen. The vote shall be taken by ballot and shall be in answer to the following question: Shall the act passed by the legislature of the state

of Maine in the year nineteen hundred and five entitled "An Act to abolish the common council and increase the membership of the board of aldermen of the city of Portland" be accepted? Those in favor of the acceptance of said act shall vote 'yes,' and those opposed, 'no.' The same proceedings shall be had for the sorting, counting, declaring and recording of the returns of said votes as is provided for the election of mayor; and the board of aldermen shall compare the returns of the several ward officers of the votes upon the acceptance of this act; and if it appears that a majority of the votes given upon the acceptance of this act are in favor thereof, the mayor shall be so notified and shall forthwith make proclamation of the fact, and this act shall thereupon take full effect.

Section 14. So much of this act as authorizes the submission of the question of its acceptance to the legal voters of the city of Portland, shall take effect upon its passage, but it shall not take further effect unless accepted by the legal voters of said city as hereinbefore provided.

Referendum provisions only, to take effect on passage of this act.

Approved March 18, 1905.

Chapter 288.

An Act granting additional powers to the Eastern Manufacturing Company.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

Section 1. The Eastern Manufacturing Company of Bangor, Maine, its successors and assigns, is hereby specially authorized and empowered to make and generate electricity upon any property now owned, or hereafter acquired, by it situated upon the Penobscot river between the towns of Orono and Bradley, and also upon any dam or dams which it may erect on said property under the provisions of chapter ninety-four, revised statutes of Maine, and to transmit and conduct such electricity to and into any city or town in the county of Penobscot, and to use the same in all ways for its own purposes, and to sell the same for power and manufacturing purposes in units of not less than twenty-five horse power, and also for heating purposes, but not for electric lighting or street railway purposes other than to the Public Works Company, and the Bangor Railway and Electric Company, or to either of them or their successors, or to any railroad company now operated by steam, or its successors, to be used in moving cars or trains.

Authorized to generate electricity.

--upon Penobscot river between Orono and Bradley.

--to transmit same into cities and towns of Penobscot county.

--use and sale of same defined and restricted.