

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Eighty-fourth Legislature

OF THE

STATE OF MAINE

1929

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Private and Special Laws

OF THE

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Otherwise said ballot shall be in the form provided by law when a constitutional amendment is submitted to the vote of the people. The provisions of law relating to the preparation of voting lists for municipal elections shall apply to such election and said election shall in all other respects be conducted as municipal elections in said city are now conducted by law, and the results thereof shall be determined in the manner now provided by law for the determination of the election of mayor. If a majority of the valid ballots deposited as aforesaid shall favor the adoption of plan two, so called, on said ballot, then this act shall take effect as herein provided and the chairman of the city council shall forthwith make proclamation of the fact.

Approved April 9, 1929.

Chapter 113.

An Act to Amend the Charter of the City of Westbrook, in Reference to Reducing the Number of Its Aldermen, and Increasing the Time of Their Office as Well as That of the Mayor and the Board of Assessors.

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

Sec. 1. P. & S. L., 1907, c. 257, sec. 2; relating to municipal affairs vested in mayor and board of aldermen, amended. Section two of chapter two hundred and fifty-seven of the private and special laws of nineteen hundred and seven, being the charter of the city of Westbrook, is hereby amended, by striking out the whole of said section thereof, and substituting the following:

‘Sec. 2. Municipal affairs vested in mayor and city council of seven members. The government of said city, with the administration of all its fiscal, prudential and municipal affairs shall be vested in one principal magistrate, to be called the mayor, and in one council of seven, to be called the city council, the members whereof shall be called aldermen. The general management and control of the public schools and the school property, including the school buildings and grounds, shall be vested in a school committee to consist of seven members. The members of said school committee shall continue to be elected in the manner and for the terms provided in section two of chapter three hundred and forty-six of the private and special laws of eighteen hundred and ninety-seven, which is hereby kept in force for that purpose, except that each member so elected, shall hold office for the term of two years from the first Monday of January succeeding the time when elected, and until a successor is elected and qualified. All vacancies occurring in the school committee by death, resignation or removal from the city, shall be filled for the unexpired term

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by the remaining members; and in case such vacancy is caused by the death, resignation or removal from the city, of a member elected by a ward, such vacancy shall be filled from the ward where it occurs. Said school committee may effect such insurance upon the school buildings and property as they may deem expedient, and shall have charge of all repairs on the same.'

Sec. 2. P. & S. L., 1907, c. 257, sec. 4; relating to election of officers, amended. Section four of said chapter is hereby amended by striking out the entire section and substituting the following:

'**Sec. 4. Mayor, city clerk and two aldermen elected from citizens at large; tenure of office.** The mayor, the city clerk, and two aldermen shall be elected from the citizens at large, by the legal voters of the city voting in their respective wards. One alderman, a warden, a ward clerk and one constable shall be elected by each ward, being residents of the ward where elected. All of said officers shall be elected by ballot by a plurality of the votes given, and shall hold their offices for two years from the first Monday in January, next succeeding the time of their election and until others shall be elected and qualified in their places. All city and ward officers shall be held to discharge the duties of their respective offices, notwithstanding their removal after their election, into any other wards in the city; but they shall not be so held after they have taken up their permanent residence out of the city.'

Sec. 3. P. & S. L., 1907, c. 257, sec. 5; relating to municipal elections when held and how called, amended. Section five of said chapter is hereby amended by striking out the first sentence thereof, and substituting therefor the following: 'The municipal elections, after this act has been approved by a majority of the votes cast by those qualified to vote in said city, shall take place biennially on the second Monday in December, beginning with the year nineteen hundred and thirty, except that there shall be a municipal election on the second Monday of December, nineteen hundred and thirty-one for the sole purpose of electing two members of the school committee,' so that said section as amended shall read as follows:

'**Sec. 5. Biennial election on second Monday in December; exception; presiding officers at ward meetings.** The municipal elections, after this act has been approved by a majority of the votes cast by those qualified to vote in said city, shall take place biennially on the second Monday in December, beginning with the year nineteen hundred and thirty, except that there shall be a municipal election on the second Monday of December, nineteen hundred and thirty-one for the sole purpose of electing two

members of the school committee. All meetings of the citizens for municipal purposes shall be notified and called in their respective wards, by the mayor and aldermen, in the manner provided by the laws of this state for notifying and calling town meetings by the selectmen of the several towns. The wardens shall preside at all ward meetings, with the powers of moderators at town meetings; and if at any ward meeting the warden shall not be present, the clerk shall preside till a warden, pro tempore, shall be chosen. If neither the warden or clerk is present, any legal voter in the ward shall preside till a clerk, pro tempore, shall be chosen and qualified. The legal voters in each ward may choose two persons to assist the warden in receiving, sorting and counting votes. If from any cause there shall be a vacancy in the office of warden or ward clerk in any of the wards of the city, the same shall be filled by appointment by the mayor for the unexpired term.'

Sec. 4. P. & S. L., 1907, c. 257, sec. 9; relating to how officers shall be sworn, amended. Section nine of said chapter is hereby amended by striking out the entire section thereof, and substituting the following:

'Sec. 9. Oath shall be administered by city clerk or justice of the peace; oath of city clerk. The mayor-elect, and the aldermen-elect, shall biennially, on the first Monday in January, at seven o'clock and thirty minutes in the afternoon, meet and be sworn to a faithful discharge of their duties. The oath shall be administered at their first meeting after the acceptance of this act, by the city clerk or any justice of the peace, and shall be duly certified on the journal of the city council. The city clerk shall be sworn by the city clerk of the previous year or any justice of the peace. In case of the absence of the mayor-elect on the first Monday in January, or if the mayor shall not then have been elected, the oath of office may at any time thereafter be administered to him in the presence of the city council; and at any time thereafter in like manner the oath of office may be administered to any member of the city council who has been previously absent, or has been subsequently elected; and every such oath shall be duly certified as aforesaid.'

Sec. 5. P. & S. L., 1907, c. 257, sec. 10; relating to organization of board of aldermen, amended. Section ten of said chapter is hereby amended by striking out the entire section thereof, and substituting the following:

'Sec. 10. Presiding officer at first meeting; choice for president; president may be removed by five votes. After the oath has been administered to the aldermen present, they shall be called to order, at their first organization, by the city clerk, or in case of the absence of the clerk, by the

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oldest member present. The person so calling the city council to order shall proceed to call the roll of the members and each member shall declare his choice for president of the city council, who shall be a member thereof. If no quorum is present an adjournment shall be taken to a later hour, or to the next day, and thereafter the same proceedings shall be had from day to day, until a quorum shall be present. If any person receives a majority of the votes of all the members of the city council present, such person shall be declared chosen president thereof. If, on the first day on which a quorum is present no person receives such majority, the roll call shall be repeated until some person receives the vote of such majority, or an adjournment is taken to the succeeding day, and on such succeeding day when a quorum is present, a plurality of those voting shall be sufficient for an election. The president may be removed from office by the affirmative vote of five members of the city council taken by roll call. The city clerk shall be, ex-officio, clerk of the city council and shall keep a journal containing a record of the proceedings of the city council and a record at large of all votes taken by roll call, and shall sign and attest all ordinances and resolutions of the city council. In case of a vacancy in the office of president of the city council by death, resignation or otherwise the same shall be filled for the unexpired term by a plurality vote of the members voting by roll call.'

Sec. 6. P. & S. L., 1907, c. 257, sec. 13; relating to election of auditor, amended. Section thirteen of said chapter is hereby amended by striking out the entire section thereof, and substituting the following:

'**Sec. 13. Auditor chosen for two years; majority vote.** The city council shall as soon as may be after its organization, biennially, choose an auditor of accounts, who shall hold office for the term of two years, and until his successor is chosen and qualified. A majority of the votes of all the members of the city council, taken by roll call, shall be necessary for the choice of such auditor; and he may be removed by an affirmative vote of a majority of all the city council taken by roll call.'

Sec. 7. P. & S. L., 1907, c. 257, sec. 22; relating to compensation of members of city council, amended. Section twenty-two of said chapter is hereby amended by inserting in the second line thereof after the word "services" the words 'except that the council elected in the year nineteen hundred and twenty-nine and councils subsequently elected may fix the compensation of the members of the council for the term next following and; when so fixed, it shall not be increased or diminished during the term for which it has been so established,' so that said section as amended shall read as follows:

Sec. 22. Compensation, how fixed. The members of the city council shall receive no compensation for their services, except that the council elected in the year nineteen hundred and twenty-nine and councils subsequently elected may fix the compensation of the members of the council for the term next following and, when so fixed, it shall not be increased or diminished during the term for which it has been so established; nor shall any member during the time for which he is elected, hold any other office in or under the city government, have the expenditure of any money appropriated by the city council, or act as counsel in any matter before the city council or any committee thereof; and no person shall be eligible for appointment to any municipal office established by the city council during any municipal year within which he was a member thereof, until the expiration of the succeeding municipal year.'

Sec. 8. P. & S. L., 1907, c. 257, sec. 29; relating to assessors, amended. Section twenty-nine of said chapter is hereby amended by striking out the whole of said section thereof, and substituting the following:

Sec. 29. One assessor from each ward; tenure of office; compensation; vacancies, how filled. There shall be a board of five assessors, one from each ward, to be elected on the second Monday in January, annually or as soon as may be thereafter by the city council by a majority of all its members by roll call. The manner of their election, and the time of their office shall be as follows: The first assessor elected shall be from ward one and his term of office shall be for five years, the next assessor elected shall be from ward two, and his term of office shall be for four years, the next assessor elected shall be from ward three, and his term of office shall be for three years, the next assessor elected shall be from ward four, and his term of office shall be for two years, and the next assessor elected shall be from ward five, and his term of office will be for one year. After having completed one year in office, the assessor from ward five will be replaced by an assessor from the same ward whose term of office will be for five years, and at future elections to the board of assessors, which shall be held annually, the vacancy to be filled, will be supplied from the ward wherein the retiring member resides. The compensation of the assessors shall be fixed by the city council and shall not be increased or diminished during the municipal term in which the change is made for which they are elected. All taxes shall be assessed, apportioned and collected in the manner prescribed by the laws of this state relative to town taxes; but the city council may establish further or additional provisions for the collection thereof. All vacancies occurring in said board by death, resignation, or removal from the city shall be filled for the

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unexpired term by the city council, from the ward where such vacancy occurs.'

Sec. 9. P. & S. L., 1907, c. 257, sec. 21; relating to removal of mayor for official misconduct, amended. Section twenty-one of said chapter is hereby amended by striking out the whole of said section and inserting in place thereof the following:

'Sec. 21. Recall and removal of city officers. The mayor, city clerk, any member of the city council or school committee may be recalled and removed therefrom by the electors of the city as herein provided.

Filing of petition. Any voter of the city may make and file with the city clerk an affidavit containing the name or names of the member or members whose removal is sought and a general statement of the reasons why his removal is desired. The clerk shall thereupon deliver to the voter making such affidavit copies of petition blanks for such removal, printed forms of which he shall keep on hand. Such blanks shall be issued by the clerk with his signature and official seal thereto attached; they shall be dated and addressed to the city council, shall contain the name of the persons to whom issued, the number of blanks so issued, and the name of the person or persons whose removal is sought. A copy of the petition shall be entered in a record book to be kept in the office of the city clerk. The recall petition, to be effective, must be returned and filed with the city clerk within forty-five days after the filing of the affidavit. The petition before being returned and filed shall be signed by voters of the city to the number of at least ten per cent of the number of registered voters as determined at the time of the last preceding regular municipal election and to every such signature shall be added the place or residence of the signer, giving the street and number or other description sufficient to identify the place. Such signatures need not all be on one paper but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. All such recall papers shall be filed as one instrument, with the endorsements thereon of the names and addresses of three persons designated as filing the same.

If petition is insufficient. Within ten days after the filing of the petition the clerk shall ascertain whether or not the petition is signed by the requisite number of voters and shall attach thereto his certificate showing the result of such examination. If his certificate shows the petition to be insufficient, he shall forthwith so notify in writing one or more of the persons designated on the petition as filing the same; and the petition may be amended at any time within the ten days after the giving of said notice, by the filing of a supplementary petition upon additional papers,

issued, signed and filed as provided herein for the original petition. The clerk shall, within ten days after such amendment, make like examination of the amended petition, and attach thereto his certificate of the result. If then found to be insufficient, or if no amendment was made, he shall file the petition in his office and shall notify each of the persons designated thereon as filing it of that fact. The final finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

When petition is sufficient. If the petition, or amended petition, shall be certified by the city clerk to be sufficient, he shall submit the same with his certificate to the city council at its next meeting and shall notify the member or members whose removal is sought of such action. The city council, shall thereupon, within ten days of the receipt of the city clerk's certificate, order an election to be held not less than forty nor more than sixty days thereafter; provided, that if a regular municipal election is to occur within ninety days after the receipt of such certificate, the city council may in its discretion provide for the holding of the removal election on the date of such other municipal election. The removal election shall be called and held and nominations made as in other elections under this charter except for the specific limitations of this section.

Form of ballot for removal. Unless the member or members whose removal is sought shall have resigned within ten days after the receipt by the city council of the city clerk's certificate, the form of the ballot at such election shall be as nearly as may be: "Shall A be recalled? Shall B be recalled?" etc., the name of the member or members whose recall is sought being inserted in place of A, B, etc., and the ballot shall also contain the name of candidates in place of the men recalled, as follows: "Candidates for the place of A, if recalled; Candidates for the place of B, if recalled," etc., but the men whose recall is sought shall not themselves be candidates upon such a ballot. The names shall be determined in the same manner as in regular municipal elections.

Majority necessary. In case a majority of those voting for and against the recall of any officials shall vote in favor of recalling such official he shall be thereby removed, and in that event the candidate to succeed him for the balance of the unexpired term shall be determined in the same manner as in regular municipal elections.

Resignation provided for. If the person or persons sought to be removed shall have resigned within ten days after the receipt by the city council of the city clerk's certificate referred to in this section above, the form of ballot at the election shall be the same, as nearly as may be, as the form in use at a regular municipal election and all other procedure shall be the same.

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Ordering of election. Should the city council fail or refuse to order an election as herein provided, such election may be ordered by any justice of the supreme court.

County commissioners may act. Should any of said officials, against whom proceedings for removal have been begun under the provisions of this section, be required to perform any acts to effectuate the requirements made hereunder, refuse or neglect faithfully to perform such official duties in relation thereto, upon petition signed by twenty or more of the legal voters of said city who have signed a petition or petitions for such removal of such official, addressed to the board of county commissioners of Cumberland county or to any justice of the supreme judicial court; such board or justice, with or without notice, may appoint a qualified voter of said city to perform the same acts required hereunder of such official against whom such removal proceedings have been commenced and the duties of such appointee shall cease after the declaration of the 'vote in such recall election.'

Sec. 10. Inconsistent acts repealed. All acts and parts of acts inconsistent with this act, are hereby repealed.

Sec. 11. Referendum provided for. This act shall be submitted for approval or rejection to the voters of the city of Westbrook qualified to vote in municipal elections at the regular annual election to be held on the ninth day of December, nineteen hundred and twenty-nine. The city clerk shall reduce the subject matter of this act to the following question and cause same to be printed on the official election ballot: "Shall the act relating to amendment of the charter of the city of Westbrook in reference to reducing the number of its aldermen and increasing the time of their office as well as that of the mayor, the board of assessors and the school committee, be adopted?" and the voters shall indicate their preference by a cross within a square upon their ballots, said ballots to contain squares for answer of said question, marked "Yes" and "No" respectively. If this act is approved at said election, then the same shall take effect and be in full force on and after the first Monday in December, nineteen hundred and thirty, except that the officers elected at the annual election in December, nineteen hundred and twenty-nine shall continue in office until the first Monday in January, nineteen hundred and thirty-one.

Sec. 12. When act takes effect. So much of this act as authorizes the submission of the question of its acceptance or rejection to the legal voters of said city of Westbrook shall take effect ninety days after the recess of the present legislature.

Approved April 13, 1929.