

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES  
AS PASSED BY THE  
Eighty-ninth and Ninetieth  
Legislatures

OF THE  
STATE OF MAINE

From April 21, 1939 to April 26, 1941  
AND MISCELLANEOUS STATE PAPERS

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Published by the Revisor of Statutes in accordance  
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1941

PROPERTY OF THE  
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Private and Special Laws

OF THE

STATE OF MAINE

As Passed by the Ninetieth Legislature

(Effective July 26, 1941)

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the first day of the second January thereafter and a third commissioner elected to serve until the first day of the third January thereafter. One member of the board of police shall thereafter be elected at each regular election for a term of three years.

**Sec. 13. Constitutionality.** If any section, subsection, sentence, clause or phrase of this act is, for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act.

**Sec. 14. Repealing clause.** Chapter 110 of the private and special laws of 1939, is hereby specifically repealed, excepting section 18 thereof. All acts or parts of acts inconsistent herewith are hereby repealed.

Approved April 25, 1941

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## Chapter 85

### AN ACT to Provide for the Appointment of a Board of Commissioners of Fire Department for the City of Gardiner.

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

**Sec. 1. Organization.** The fire department of the city of Gardiner shall consist of a chief, 1st assistant, 2nd assistant and firemen to the number determined by the mayor and aldermen of said city of Gardiner.

**Sec. 2. Board of fire commissioners.** A board of commissioners of fire department, consisting of 3 resident citizens of Gardiner shall be appointed by the mayor and aldermen of said city, as soon as conveniently may be after this act shall take effect, all of whom shall serve without pay. In the first instance, 1 shall be appointed for a term of 3 years, 1 for a term of 2 years, and 1 for a term of 1 year. At the expiration of each of said terms, a commissioner shall be appointed for a full term of 3 years. In case of any vacancy in said board, the mayor and aldermen shall appoint a member thereto for the balance of the unexpired term.

**Sec. 3. Qualification.** Each member of said board shall qualify after this appointment as aforesaid by being sworn by the city clerk of said city, or by a justice of peace, to the faithful discharge of his duties. In the event that a member qualifies before a justice of the peace, a certificate thereof shall be forthwith filed by said justice with said city clerk.

**Sec. 4. Appointing power.** The board of commissioners of fire department hereby created shall have full power and authority, subject to the

provisions of this act, to select and appoint the members of the fire department of said city of Gardiner, as hereinafter provided, and shall have such other powers as are given them by the terms of this act.

**Sec. 5. Procedure.** When said board of commissioners shall have qualified, they shall meet and elect a chairman and clerk of their own number, and shall forthwith select and appoint in the manner hereinafter provided said firemen, 1 of whom shall be designated by them as chief of fire department, 1 as 1st assistant chief and 1 as 2nd assistant chief; all of whom shall constitute the fire department of said city of Gardiner.

**Sec. 6. Applications by candidates.** Candidates for appointment as firemen shall make application therefor to said board of commissioners of fire department upon blanks furnished by it. All such candidates to fill any vacancies occurring in said department, or for any new places in said department occasioned by an increase in the number thereof, shall submit to such qualification tests as may be prescribed by said board. The board by such qualification tests shall inquire into the physical, mental and moral fitness of each of the applicants for appointment. It shall place upon an eligible list all applicants who shall satisfactorily meet such tests, and every appointment shall be from persons upon said eligible list. Each applicant shall remain upon said list for the period of 1 year from the date of examination. The physical examination prescribed by said board shall be conducted by the city physician.

**Sec. 7. Eligibility; term of service.** Any male voter of Gardiner between the ages of 21 and 40 shall be eligible to appointment as a fireman, provided he shall have made written application therefor and shall have satisfactorily passed the qualification tests prescribed by said board. Each fireman shall be appointed to serve until he shall arrive at the age of 65, when he shall be retired, unless sooner removed by a reduction in the membership of the department by the mayor and aldermen or unless previously removed by said board as hereinafter authorized. In the event of a reduction in said fire department the latest to be appointed thereto, shall be first removed, and shall be given preference, if still upon said list, in filling the first vacancy.

**Sec. 8. Officers; powers and duties.** The officers of the fire department shall be a chief, 1st assistant chief and 2nd assistant chief. The chief of fire department shall be qualified by being sworn by the city clerk of Gardiner or by a justice of the peace to the faithful discharge of his duties. In the event that he qualifies before a justice of the peace, a certificate thereof shall be forthwith filed by said justice with said city clerk. The chief of fire department shall have and exercise all the powers and authority now given to and be subject to all duties imposed upon the fire chief

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by the charter and ordinances of Gardiner and by the general statutes of the state. The 1st and 2nd assistant chiefs shall have and exercise all the powers and authority and be subject to all the duties imposed upon the 1st and 2nd assistant chiefs by the charter and ordinances of Gardiner and by the general statutes of the state. They shall also have and exercise such special powers and be subject to such special duties as may from time to time be delegated to them by the mayor and aldermen of said city.

**Sec. 9. Officers; demotion or removal.** The commissioners may demote any officer of any rank for cause without hearing and may promote any member of said department to fill the vacancy thereby created. The chief of fire department, 1st assistant and 2nd assistant chiefs may be removed by the commissioners for cause. He shall upon request be furnished with a written copy of the charges against him, and shall be given a public hearing before action by the commissioners. Such hearing shall be held upon charges made by said commissioners or by the mayor and aldermen of said city or upon written charges being filed with said commissioners by 50 or more citizens of Gardiner.

**Sec. 10. Discipline of firemen.** Firemen, when guilty of misconduct, shall be punished by said commissioners by a fine, not to exceed \$25 or by suspension without pay for a period not to exceed 3 months, or by assignment to extra duty without pay, or by removal for cause, on complaint of the chief of fire department to said board, or upon written complaint signed by any 50 citizens of said city, or upon charges filed by the board itself, except that the chief of fire department may suspend any fireman for misbehavior or neglect of duty for a period not exceeding 3 months, without pay, without preferring charges to said board. In all cases, firemen when notified of such charges, shall be entitled to a copy thereof and to a public hearing thereon, at such time and place as said board shall designate and the findings of said board upon such charges shall be final. When fines shall have been imposed, such fines shall be paid to the city treasurer and the fireman so fined shall stand suspended, without pay, until the order shall be complied with.

**Sec. 11. Examination of members.** The board shall from time to time examine into the mental and physical fitness of any members appointed under the provisions of this act and may remove any member who has become, due to physical or mental impairment of a permanent nature, unfitted for further service.

**Sec. 12. Compensation.** The compensation of the chief of fire department, 1st assistant chief, 2nd assistant chief, and firemen shall be fixed by the mayor and aldermen of said city.

**Sec. 13. No participation in politics.** No person holding an office authorized by the provisions of this act shall hold any other public office or take any active part in politics. Any violation of the provisions of this section shall be considered cause for removal.

**Sec. 14. Present members continued.** All members of the fire department of the city of Gardiner at the time this act becomes effective shall be continued in office as firemen and shall be exempt from provisions of this act with respect to examination and qualifying age restrictions, subject, however, to the provisions of section 5 of this act relative to the election by said commissioners of the chief of fire department, 1st assistant chief and 2nd assistant chief.

**Sec. 15. Retirement of members.** The city of Gardiner is hereby authorized to provide for the retirement of all members of its fire department who have served in said department for a term of at least 20 years and who may have been honorably discharged from said department, by reason of having attained the age of 65 years or by reason of permanent injuries or permanent physical incapacity, which is the result of an incident of service in said fire department upon a pension of half pay.

**Sec. 16. Repealing clause.** All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

**Sec. 17. Referendum.** This act shall be submitted for approval or rejection to the qualified voters of the city of Gardiner at the annual municipal election or at any special election held, notified and called by the mayor and aldermen, in the manner prescribed by law.

The question proposed on said ballot shall be substantially in the following form:

“Shall an act passed by the legislature in the year 1941 approved (insert date) entitled, ‘An Act to Provide for the Appointment of a Board of Commissioners of Fire Department for the City of Gardiner’ be accepted?” otherwise said ballot shall be in form provided by law when a constitutional amendment is submitted to the vote of the people.

If a majority of the votes cast by the qualified voters of the city favor the acceptance of this act, it shall become operative. The city clerk shall forthwith file with the secretary of state a certificate of the action of the city thereon.