

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

Published by the Revisor of Statutes in accordance
with the Resolves of the Legislature approved June
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PROPERTY OF THE
STATE OF MAINE
NOT TO BE SOLD

Private and Special Laws

OF THE

STATE OF MAINE

As Passed by the Ninetieth Legislature

(Effective July 26, 1941)

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cisions shall not affect the validity of the remaining portions of this act; it being the intention that the remaining portions of this act shall stand, notwithstanding the unconstitutionality and invalidity of any section, sentence, clause or phrase.

Sec. 9. Repealing clause. All acts or parts of acts, either public or private concerning the subject matter of pensions for members of the Waterville police and fire departments, are hereby repealed in their entirety.

Sec. 10. Withdrawal of monies. Any contributing member who ceases to be a member of the police or fire department of the city of Waterville before retirement date, may withdraw from the pension fund monies which he has contributed while a member, plus interest at 2% per year upon that fund.

Sec. 11. Referendum. This act shall take effect for the purpose of permitting its acceptance or rejection by the legally qualified voters of the city of Waterville at any general election held therein or at any special election called for that purpose under the provisions of law relating to calling of special elections in said city, which special election is hereby authorized. If a majority of the qualified voters vote in favor of the acceptance of this act, this act shall become finally operative. The question shall be "Shall an act entitled 'An Act to Provide a Pension for Members of the Police and Fire Departments of the City of Waterville' be accepted." Otherwise said ballot shall be in form provided by law when a constitutional amendment is submitted to the vote of the people. The city clerk shall forthwith file with the secretary of state a certificate of the action of the city thereon.

Approved April 26, 1941

Chapter 89

AN ACT to Provide a Pension for Members of the Police Department of the City of Auburn.

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

P. & S. L., 1917, c. 201, Art. VI-A, additional. Chapter 201 of the private and special laws of 1917 is hereby amended by adding thereto a new article to be numbered VI-A, and to read as follows:

'ARTICLE VI-A

Police Department Pension

Sec. 1. Pensions provided for. Pensions are hereby authorized and

provided for, to be paid by the city of Auburn to members of the police department of said city in accordance with the following provisions of this article.

Sec. 2. Creation of pension fund. The city of Auburn is hereby authorized to and shall appropriate money for the payment of said pensions, which sum shall be known as the "police pension fund" and which shall be created to provide for the monthly payment of such pensions as may become due under the terms of this article.

Sec. 3. Creation of police pension commission. A police pension commission hereby is created for the administration of the provisions of this article, and shall consist of the following members: the mayor, one member to be selected by the members of the police department, and one other member to be chosen by the other aforesaid members. As soon as possible after the determination of the selection or choosing of a member, notice shall be filed with the city clerk by the body so selecting or choosing of its action. The mayor shall serve during his term of office; the member representing the police department and the 3rd member shall serve for a period of 5 years from the date that notice thereof has been filed with the city clerk. All members shall serve without salary. The pension commission herein established shall have custody and complete jurisdiction in the setting up and in the administration of the police pension fund and in the drafting of such rules and regulations as may be necessary to make effective the operation of this system, subject however to the limitations of this article. Said police pension commission shall invest said police pension fund only in such securities as are enumerated in the first 10 subdivisions under section 27 of chapter 57 of the revised statutes of 1930. The members of said police pension commission shall give bond to the city of Auburn in such sum and with such sureties as the city council shall approve for the faithful performance of their duties as herein set forth, the cost thereof to be paid out of said fund.

Sec. 4. Eligibility. 1. When any regular member of the said police department, including the department chief, shall have arrived at the age of 65 years, he shall be deemed to be incapacitated for further useful service in said department, and his honorable discharge shall be given him by the city council upon receipt of a proper certificate from said pension commission whereupon he shall automatically become eligible for all the benefits of said pension.

2. When any regular member of the said police department, including the department chief, shall have arrived at the age of 60 years, he may petition for the benefits of this article, and his honorable discharge shall

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be given him by the city council upon receipt of a proper certificate from said pension commission whereupon he shall automatically become eligible for all benefits of said pension.

3. When any member of said department shall become totally disabled, he may petition for the benefits of this article, and his honorable discharge shall be given him by the city council, and he shall automatically become eligible for all benefits of said pension. Total disability shall be construed to mean disability resulting from an injury or the contracting of any disease or illness while a member of said department in the course of his employment and without willful negligence on his part which shall permanently prevent such person from performing his duties in said department. Three reputable physicians, one to be appointed by the said pension commission, one by the petitioner and a 3rd to be chosen by the 2 physicians, aforesaid, shall determine whether such disability exists. They shall certify their findings to the said pension commission, whose findings shall be final, and if said physicians are unable to agree, then in such event, the findings of the majority shall be controlling.

4. In the event a member of said department shall lose his life in the performance of his duty, his widow shall receive all benefits of this pension during such time as her widowhood status is maintained, but in no case to exceed the sum of \$4,000.

Sec. 5. Amount of pension. Said pension shall be equal, at any given time, to $\frac{1}{2}$ the regular salary at that time received by the member of the said department serving in the same capacity as the pensioner was serving at the time he was retired; all pension payments made under the provisions of this section shall be automatically increased or diminished in amount as increases or reductions in the daily pay are allowed by the city council to the regular members of the said department. When, as a result of disability as set forth in section 4 hereof, such member receives compensation payments therefor from any other source, payments hereunder shall not commence until such other compensation payments have been terminated.

Sec. 6. Contributions to fund. The sum of 2% shall be deducted from the salaries paid to the members of the department which shall be paid into the said pension fund and be available for the purposes of this article. In case of the death, resignation or discharge of any member contributing to this fund before the member receives or is entitled to receive any benefits from this article, the amounts paid in by him shall be paid back to him or his estate plus interest at the prevailing savings bank rate. Said deductions of 2% as aforesaid shall not be mingled with other funds of the city of Auburn, but shall be kept in a separate cash fund and paid over to the police pension commission quarter-annually.

Sec. 7. Pensions not attachable, etc. No portion of said pension fund shall, either before or after its order of distribution to any pensioned member of said department, be held, seized, taken or levied upon, by virtue of any attachment, injunction, writ, interlocutory, or other order or decree, or any process or proceedings whatever, issued out of or by any court, for the payment or satisfaction in whole or part of any debt, damage claim, demand or judgment against any said member, except orders of support of minor children, separate support of wife or alimony, and no pensioner shall have the legal right to assign his or her pension, or any part thereof.

Sec. 8. Constitutionality. If any section, sentence, clause or phrase of this act is for any reason, held to be unconstitutional or invalid, such decisions shall not affect the validity of the remaining portions of this article; it being the intention that the remaining portions of this article shall stand, notwithstanding the unconstitutionality and invalidity of any section, sentence, clause or phrase.

Sec. 9. Repealing clause. All acts or parts of acts, either public or private, concerning the subject matter of pensions for members of the Auburn police department, are hereby repealed in their entirety.

Sec. 10. Referendum. This act shall take effect 90 days after the adjournment of the legislature only for the purpose of permitting its acceptance or rejection by the legal voters of the city of Auburn at a special election which shall be held within 30 days after the effective date of this act, which special election shall be notified and called by the mayor and council 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 a Pension for Members of the Police Department of the City of Auburn’ 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.’