

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

One Hundredth Legislature

OF THE

STATE OF MAINE

Published by the Director of Legislative Research in accordance with
the Revised Statutes of 1954, Chapter 10, Section 27, Subsection VI.

KENNEBEC JOURNAL

AUGUSTA, MAINE

1961

Private and Special Laws

OF THE

STATE OF MAINE

As Passed by the One Hundredth Legislature

1961

articles for that purpose, but the right to submit this question to said towns as aforesaid shall not extend beyond the annual meetings of said towns for the year 1967.

Effective September 16, 1961

Chapter 171

AN ACT to Provide for a Civil Service Commission for the Fire Department of the City of Biddeford.

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

Sec. 1. Civil service commission. A civil service commission, consisting of 3 residents and voters of Biddeford, shall be appointed by the mayor and confirmed by the city council as soon as convenient after this act shall become effective, all of whom shall serve without pay. The members of the civil service commission shall hold no other elective or appointive city office. Members shall serve for a term of 3 years or until their successors have been appointed and qualified; except for the first appointment, one shall be appointed for 3 years, one for 2 years and one for one year. At the expiration of each term, a commissioner shall be appointed each year for a full term of 3 years. All terms shall expire on the first day of the first, 2nd and 3rd January following thereafter. Vacancies in said commission shall be filled by the mayor and confirmed by the city council for the balance of the unexpired term.

The commission shall annually elect one of their members chairman and one of their members clerk, who shall be sworn and keep a record of all proceedings, issue all notices and attest all such papers and orders as the commission direct, and make a report of its doings annually to the city council at the close of the fiscal year.

Sec. 2. Powers and duties of commission. The commission shall supervise and control the selection for appointment, promotion, layoff, reinstatement, suspension and removal of the members of the fire department and chief of the fire department. The commission shall examine all applicants for appointment as chief and assistant chief of the fire department and firemen. The commission is empowered to subpoena witnesses and administer oaths and to adopt and promulgate reasonable standards for examination and qualification for appointments, establishing preference based upon years of continuous service in the department. The commission may make such rules or regulations, not inconsistent with law, the city charter and the city ordinances, for the government efficiency of the department as they may deem advisable.

Sec. 3. Appointments. The appointments of chief of the fire department and assistant chief, firemen and call firemen shall be made by the commission from an eligibility list made up after examination of applicants, subject to the approval of city council. Appointments to the office of chief, assistant chief and firemen of the fire department shall be during good behavior and may terminate when appointee shall have attained the age of 65 years, subject only to the right of removal for cause as herein provided. The commission shall set compensation of the employees of the fire department subject to the approval of the mayor and council.

Sec. 4. Departmental appointments. At the request of the appointing officer, the commission shall submit 3 names for one vacancy; 4 names for 2 vacancies; 5 names for 3 vacancies; 6 names for 4 vacancies and 7 names for 5 vacancies; provided that if there be an insufficient number of candidates on the eligible list, the commission shall present the names of such candidates as it has available. Appointments to the department shall be for a probationary period of one year, after which time appointees shall be confirmed or rejected by the commission.

Sec. 5. Promotion. Promotion from one grade to another in the fire department shall be based on the years of service in said department as a permanent man. It shall be the duty of the board of engineers to furnish written report covering the qualifications and fitness of applicant.

Sec. 6. Demotion, layoff, reinstatement, suspension and removal. The commission shall have the power and authority to demote, lay off, suspend and remove members of the fire department for cause and upon the presentation of charges and hearing. They shall reinstate any member of the fire department who has been found not guilty of the charges preferred against him after a hearing or by a withdrawal of the charges.

The chief may, for cause, suspend any member of his department; such suspension to be without pay and to continue until the next succeeding meeting of the commission.

The chief shall present charges to the commission at the time of suspension; and hearing on such charges shall be held by the commission at its next meeting after the charges have been presented to it, providing sufficient time to the person suspended to prepare his defense. In the event sufficient time is not given between the presentation of charges and the next meeting of the commission to enable the person suspended to prepare his defense, the commission shall call a session for the hearing on the charge as soon as possible.

All hearings for demotion, layoff, suspension and removal, save suspensions pending a meeting of the commission, shall be on charges presented to the commission in writing. Such charges shall specifically state the cause of the complaint.

Any officer or member of the department on trial before the commission shall have the right of representation by counsel.

The commission may, in event that it deems any charges made frivolous and without justification, recommend to the city council the payment of reasonable counsel and witness fees incurred by any member of the fire department in the defense of such frivolous and unjustified charges. The commission may recommend to the city council that the member of the fire department suspended be reimbursed for the wages lost during such time of suspension.

The commission may make its own rules for the conduct of hearing before it.

Sec. 7. Emergency appointments. Emergency appointments may be made at any time by the chief of the department whenever the chief of the department shall determine that an emergency exists. All appointments made under this provision shall be for the period of the emergency only, the commission having the right to determine when the emergency has ended.

Sec. 8. Meetings of commission. The commission shall meet on call of the chairman at such place and time designated by vote of commission.

Sec. 9. Exemption of present members. All members of the fire department of the City of Biddeford at the time this act becomes effective shall be continued in office as officers and firemen and shall be exempt from the provisions of this act with respect to examination and qualifying age restrictions. Call firemen shall be included in the provisions of this act.

Sec. 10. Expenses. All expenses incident to the operation of the commission shall be paid by the city, subject to the provision of section 6 of the city charter, and be chargeable to the department for which the expense may have been incurred.

Sec. 11. Amendatory clause. All acts or parts of acts inconsistent herewith are repealed or amended to conform to the provisions of this act.

Sec. 12. Constitutionality. If any portion of this act shall be held to be unconstitutional, such decision shall not affect the validity of the remaining portions thereof.

Referendum; effective date; certificate to Secretary of State. This act shall take effect 90 days after adjournment of the Legislature, only for the purpose of permitting its submission to the legal voters of the City of Biddeford, present and voting at a special election called and held for the purpose on or before December 11, 1961. Such special election shall be called, advertised and conducted according to the law relating to municipal elections; provided that the board of registration of the City of Biddeford shall not be required to prepare, nor the city clerk to post, a new list of voters; and for the purpose of registration of voters said board shall be in session the 3 secular days next preceding such election, the first 2 days thereof to be devoted to the registration of voters, and the last day to enable the board to verify the corrections of said lists and to complete and close up its records of said sessions. A check list shall be used at such election.

The city clerk shall prepare the required ballots on which he shall reduce the subject matter of this act to the following question: "Shall the Act to Provide for a Civil Service Commission for the Fire Department of the City of Biddeford, passed by the 100th 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 election; provided that the total number of votes cast for and against the acceptance of this act at said election equals or exceeds 20% of the total vote for all candidates for Governor in said city at the next previous gubernatorial election.

The result of the vote shall be declared by the municipal officers of the City of Biddeford and due certificate filed by the city clerk with the Secretary of State.