

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

One Hundred and Fourth Legislature

OF THE

STATE OF MAINE

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PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
ONE HUNDRED AND FOURTH LEGISLATURE
1969

Chapter 438

AN ACT Revising the General Laws Governing the Town Manager Form of Government.

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

Sec. 1. R. S., T. 30, c. 213, sub-c. II-A, additional. Chapter 213 of Title 30 of the Revised Statutes is amended by adding a new subchapter II-A, to read as follows:

SUBCHAPTER II-A

TOWN MANAGERS

§ 2311. Town manager plan

1. **Applicable laws.** The form of government provided in this subchapter shall be known as the "town manager plan" and shall, together with general law not inconsistent, govern any town, the voters of which have adopted this plan at a meeting held at least 60 days prior to the annual meeting.

2. **Government.** The government of each municipality under this subchapter shall consist of a town meeting, an elected board of selectmen, an elected school committee, an appointed town manager and such other officials and employees as may be duly appointed pursuant to this subchapter, general law or ordinance.

3. **Duration.** Once adopted, the town manager plan remains in effect until revoked at a town meeting held at least 60 days prior to the annual meeting unless the voters of the town adopt a charter.

§ 2312. Qualifications of town manager

The town manager shall be chosen by the board of selectmen solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, the duties of office as set forth. At the time of his appointment, he need not be a resident of the municipality or State, but during his tenure of office he may reside outside the municipality only with the approval of the board of selectmen. A town manager may not serve as moderator, selectman, assessor or member of the school committee.

§ 2313. Term, compensation, removal, suspension

1. **Term.** The town manager shall hold office for an indefinite term unless otherwise specified by contract.

2. **Compensation.** The board of selectmen shall determine the compensation of the town manager.

3. Removal, suspension. The town manager may be removed or suspended for cause by the board of selectmen in accordance with the following procedure:

A. The selectmen shall file with the town clerk a written preliminary resolution setting forth the specific reasons for the proposed removal, a copy of which shall be delivered to the manager within 10 days of filing.

B. The manager may within 20 days of receiving the resolution reply in writing and may request a public hearing.

C. Upon request for a public hearing the selectmen shall hold one not earlier than 10 days after the request is filed and not later than 30 days.

D. After the public hearing or at the expiration of the time permitted the manager to request the public hearing, if no such request is made, the selectmen may adopt or reject the resolution of removal.

E. The selectmen may suspend the manager from duty in the preliminary resolution, but in no event shall the manager's salary be affected until the final resolution of removal has been adopted.

§ 2314. Absence or disability of town manager

The town manager may designate a qualified administrative official of the municipality to perform his duties during his temporary absence or disability. In the event of his failure to make such designation, the board of selectmen may appoint an official of the municipality to perform the duties of the manager during such absence or disability and until he shall return or his disability shall cease,

§ 2315. Departments, boards and offices; assistant to the town manager

The municipality shall continue or, by ordinance, create, and determine and define the powers and duties of such executive and administrative departments, boards and offices, in addition to those provided by general law, except the school department, as it may deem necessary for the proper and efficient conduct of the affairs of the municipality, including the office of assistant to the town manager. Any department, board or office so continued or created may at any time be abolished by the municipality.

§ 2316. Board of selectmen to act as a body, administrative service to be performed through town manager, committees

It is the intention of this subchapter that the board of selectmen as a body shall exercise all administrative and executive powers of the town except as provided in this subchapter. The board of selectmen shall deal with the administrative services solely through the town manager and shall not give orders to any subordinates of the manager, either publicly or privately. Nothing contained in this section shall prevent the board of selectmen from appointing committees or commissions of its own members or of citizens to conduct investigations into the conduct of any official or department, or any matter relating to the welfare of the municipality.

§ 2317. Powers and duties of town manager

I. Duties. The town manager shall:

A. Be the chief executive and administrative official of the municipality;

B. Be responsible to the board of selectmen for the administration of all departments and offices over which the board has control;

C. Execute all laws and ordinances of the municipality;

D. Serve in any office as the head of any department under the control of the board of selectmen when so directed by the board of selectmen;

E. Appoint, subject to confirmation by the board of selectmen, supervise, control and remove the heads of departments under the control of the selectmen when the department is not headed by the town manager under paragraph D;

F. Appoint, supervise, control and remove all other officials, subordinates and assistants, except that he may delegate this authority to a head of a department, and report all appointments and removals to the board of selectmen;

G. Act as purchasing agent for all departments, except the school department, provided that the town or the selectmen may require that all purchases greater than a designated amount shall be submitted to sealed bid;

H. Attend all meetings of the board of selectmen, except when his removal is being considered;

I. Make recommendations to the board of selectmen for the more efficient operation of the municipality;

J. Attend all meetings and hearings of the municipality;

K. Keep the board of selectmen and the residents of the municipality informed as to the financial condition of the town;

L. Collect data necessary for the preparation of the budget;

M. Assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governmental practices.

§ 2318. Transitional provisions

The selectmen may by resolve provide for the orderly transition of the town government. Such resolves shall not infringe upon the rights of any official or employee of the town and shall not be inconsistent with the provisions of this subchapter.

§ 2319. Regional cooperation

1. Agreement. Any 2 or more towns may enter into an agreement not inconsistent with this subchapter, with another for the purpose of employing and sharing a manager.

2. Selection of manager. The selectmen of the contracting towns shall act as a joint board for the purposes of selecting and removing for cause the manager, provided that each town shall have a single vote.

3. Compensation. A formula establishing the percentage of the manager's compensation to be contributed by each town shall be stated in the agreement. The selectmen acting as a joint board, each town having a single vote, shall determine the total compensation.

4. Duration. The agreement shall specify the method to be employed in accomplishing the partial or complete termination of the agreement.

§ 2320. Application

All municipalities operating under the repealed subchapter II shall be deemed to have made the adoption under section 2311, subsection 1, as of the effective date of this Act.

Sec. 2. R. S., T. 30, c. 213, sub-c. II, repealed. Subchapter II of chapter 213 of Title 30 of the Revised Statutes is repealed.

Sec. 3. R. S., T. 30, § 2055, amended. Section 2055 of Title 30 of the Revised Statutes is amended to read as follows:

§ 2055. Annual meeting

Each town shall hold an annual meeting ~~in March~~, at which time the following town officials shall be elected by ballot: Moderator, ~~clerk~~ selectmen ~~assessors, overseers of the poor, treasurer~~ and school committee. ~~Other town officials may be elected by ballot or, if not so elected, they shall be appointed by the selectmen.~~ A town may, at a meeting held at least 60 days prior to the annual meeting, designate other town officials to be elected by ballot. The election of officials at the last annual town meeting shall be deemed such a designation until the town otherwise designates. A town official may not be elected on a motion to cast one ballot.

Sec. 4. R. S., T. 30, § 2060, sub-§ 5, ¶ B, repealed and replaced. Paragraph B of subsection 5 of section 2060 of Title 30 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

B. When a town has not elected a full board of assessors, the board shall be appointed by the selectmen. A selectman may serve as a member of the board of assessors.

Sec. 5. R. S., T. 30, § 2256, additional. Title 30 of the Revised Statutes is amended by adding a new section 2256, to read as follows:

§ 2256. Municipal functions

In addition to those offices and departments required by general law, a municipality may provide, by ordinance, for the performance of all necessary

municipal functions. Except where specifically provided, the selectmen shall appoint, for a term of one year, all town officials and employees required by general law or by the municipality and may remove such officials and employees for cause, after notice and hearing.

Effective October 1, 1969

Chapter 439

AN ACT Providing for Implied Consent Law for Operators of Motor Vehicles.

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

Sec. 1. R. S., T. 29, § 1312, repealed and replaced. Section 1312 of Title 29 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 1312. Implied consent to chemical tests; operation while intoxicated or impaired; penalties

Any person who operates a motor vehicle or attempts to operate a motor vehicle within this State shall be deemed to have given consent to a chemical test of the blood alcohol level of his blood or urine for the purpose of determining the alcoholic content of his blood, if arrested for operating or attempting to operate a motor vehicle while intoxicated by the use of intoxicating liquor or while his mental or physical faculties are impaired by the use of intoxicating liquor. He shall be informed by a law enforcement officer of the test available to him, and said accused shall select and designate one of the tests. The person tested shall be permitted to have a physician of his own choosing and at the expense of the State administer a chemical test of the blood alcohol level of his blood or urine in addition to the test administered at the direction of the law enforcement officer.

1. Prerequisites to tests. Before any test specified is given, the law enforcement officer shall inform the arrested person of his right to have a similar test or tests made by a physician of his own choosing, afford him an opportunity to request such additional test and inform him of the consequences of his refusal to permit a test at the direction of the law enforcement officer. If the law enforcement officer fails to comply with this section, the test shall be inadmissible as evidence in any proceeding before any administrative officer or court of this State.

2. Hearing. If a person under arrest refuses upon the request of a law enforcement officer to submit to one of the tests as provided in this section, none shall be given. The Secretary of State, upon the receipt of a report of the arrest for operating or attempting to operate a motor vehicle within