

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

One Hundred and Fifth 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

AT THE
SPECIAL SESSION

January 6, 1970
to
February 7, 1970

date the insolvency is determined, to permit proper defense by the association of all pending causes of action. As to any covered claims arising from a judgment under any decision, verdict or finding based on the default of the insolvent insurer or its failure to defend an insured, the association either on its own behalf or on behalf of such insured may apply to have such judgment, order, decision, verdict or finding set aside by the same court or administrator that made such judgment, order, decision, verdict or finding and shall be permitted to defend against such claim on the merits.

§ 4450. Termination of association

The commissioner shall by order terminate the operation of the association as to any kind of insurance with respect to which he has found, after notice and hearing, that there is in effect a statutory plan of the United States government to avoid excessive delay or financial loss to claimants or policyholders because of insurer insolvency and which provides for protection and benefits to residents of this State not materially less favorable than provided under this subchapter. Such order for termination shall continue the operation of this subchapter with respect to prior insurer insolvencies not covered by such plan. The order shall also provide for a proportionate distribution of the assets of the association to insurers which will cease to be members of the association on the effective date of the order.

Effective May 9, 1970

Chapter 562

AN ACT Relating to the Taxation of Farm Machinery.

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

R. S., T. 36, § 655, sub-§ 1, ¶ M, additional. Subsection 1 of section 655 of Title 36 of the Revised Statutes, as amended, is further amended by adding a new paragraph M, to read as follows:

M. All farm machinery used exclusively in production of hay and field crops to the aggregate actual market value not exceeding \$5,000, excluding motor vehicles. Motor vehicle shall mean any self-propelled vehicle.

Effective May 9, 1970

Chapter 563

AN ACT to Implement the Powers of Municipal Home Rule.

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

R. S., T. 30, c. 201-A, additional. Title 30 of the Revised Statutes is amended by adding a new chapter 201-A, to read as follows:

CHAPTER 201-A
HOME RULE

§ 1911. Purpose

The purpose of this chapter is to implement the home rule powers granted to municipalities by Article VIII-A of the Constitution of the State of Maine.

§ 1912. Charter revisions, adoptions, procedure

1. Municipal officers. The municipal officers may determine that the revision of the municipal charter is necessary or that adoption of a new municipal charter is necessary and, by order, provide for the establishment of a charter commission to carry out such purpose as provided in this chapter.

2. Alternative method, initiative. On the written petition of a number of voters equal to at least 20% of the number of votes cast in the municipality at the last gubernatorial election, but in no case less than 10, the municipal officers shall, by order, provide for the establishment of a charter commission for the revision of the municipal charter or for the preparation of a new municipal charter in the form and manner provided in this chapter.

3. Petition procedure. The following procedure shall be used in the alternative method set out in subsection 2:

A. Committee. Any 5 voters of the municipality may file with the municipal clerk an affidavit stating they will constitute the petitioners' committee, circulate the petition and file it in proper form. The affidavit shall state the names and addresses of the members and specify the address to which all notices to the committee are to be sent.

Promptly after the affidavit is filed, the clerk shall issue petition blanks to the committee.

B. Petition, form and content. The petition forms shall be printed on paper of uniform size and may consist of as many individual sheets as are reasonably necessary. Petition forms shall be prepared by the municipal clerk at the expense of the municipality.

(1) Petition forms shall carry the following legend in bold lettering at the top of each form on the face thereof.

Municipality of.....

“Each of the undersigned voters respectfully requests the municipal officers to establish a Charter Commission for the purpose of revising the Municipal Charter or preparing a New Municipal Charter.”

Each signature affixed to a petition shall be in ink or other indelible instrument and shall be followed by the place of residence of the voter with street and number, if any. No petition shall contain any party or political designation.

(2) The clerk shall note the date of each petition form issued and all petitions, unless sooner filed, shall become null and void for every purpose on the 120th day after the date of issue.

(3) Each petition form shall have printed on its back an affidavit to be executed by the circulator, stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be genuine signatures of the persons whose names they purport to be, that each signer has signed no more than one petition, and that each signer had an opportunity before signing to read the petition.

(4) Petition forms shall be assembled as one instrument and filed at one time with the clerk. The clerk shall note thereon the date of filing.

4. Procedure after filing. Within 20 days after the petition is filed, the clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective, shall promptly send a copy of the certificate to the petitioners' committee by mail, and shall file a copy with the municipal officers.

A. Amendment. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within 2 days after receiving the copy of his certificate.

Within 10 days after the date of filing of the notice of intention, the committee may file a supplementary petition to correct the deficiencies in the original petition. Such supplementary petition shall in form and content comply with the requirements for an original petition under subsection 3.

B. Within 5 days after the filing of a supplementary petition the clerk shall complete and file a certificate as to its sufficiency in the manner provided for an original petition.

C. When an original or supplementary petition has been certified insufficient, the committee may, within 2 days after receiving the copy of the clerk's certificate, file a request with the municipal officers for review.

The municipal officers shall inspect the petitions in substantially the same form, manner and time as a recount hearing under section 2064 and shall make due certificate thereof, copies of which shall be filed with the municipal clerk and mailed to the committee. The certificate of the municipal officers shall be a final determination of the sufficiency of the petitions.

D. Any petitions finally determined to be insufficient shall become null and void and of no further force or effect. Such petitions shall be stamped void by the clerk and shall be sealed and retained by the clerk in the manner required for secret ballots.

5. Election procedure. Within 30 days after the adoption of an order under subsection 1 or the receipt of a certificate or final determination of sufficiency under subsection 4, the municipal officers shall by order submit

the question for establishment of a charter commission to the voters at the next regular or special municipal election held not less than 60 days thereafter.

A. The question to be submitted to the voters shall be in substance as follows:

“Shall a Charter Commission be established for the purpose of revising the Municipal Charter or establishing a New Municipal Charter?”

§ 1913. Charter commission, membership, procedure

1. Membership. The charter commission shall consist of 9 members, 6 of whom shall be voters of the municipality elected as hereinafter provided and 3 of whom shall be appointed by the municipal officers.

A. Voter members shall be elected in the same manner as the municipal officers except that they shall be elected at large and without party designation. Election of voter members shall be held at the same municipal election as the referendum for the charter commission. The names of the candidates shall be arranged alphabetically by surname immediately below the question relating to the charter commission.

B. Appointive members need not be residents of the municipality, but only one may be a municipal officer. Appointments shall be made in accordance with municipal custom or bylaws and shall be made by the municipal officers within 30 days after the adoption of the charter commission.

2. Organization. The municipal clerk shall immediately after receiving notice of the appointment of the members by the municipal officers notify the appointed and elected members of the charter commission of the date, time and place of the organizational meeting of the charter commission. Such date, time and place shall be fixed by the clerk and 7 days' notice thereof shall be given.

The charter commission shall organize by electing from its members a chairman, vice chairman and a secretary and shall file notice thereof with the municipal clerk. Vacancies occurring on the commission shall be filled by vote of the commission from the voters of the municipality except that a vacancy among appointive members shall be promptly filled by the municipal officers. Members shall serve without compensation but shall be reimbursed from the commission's account for expenses lawfully incurred by them in the performance of their duties.

3. Rules, regulations, staff. The charter commission may adopt rules and regulations governing the conduct of its meetings and proceedings and may employ such legal, research, clerical or other employees and consultants as are deemed necessary within the limits of its budget.

4. Funding. A municipality shall provide its charter commission, free of charge, with suitable office space and with reasonable access to facilities for holding public hearings, may contribute clerical and other assistance to such commission, and shall permit it to consult with and obtain advice and infor-

mation from municipal officers, officials and employees during ordinary working hours. Within 20 days after the election of a charter commission, the municipal officers shall credit to the charter commission account the sum of \$100. A municipality may from time to time appropriate additional funds to the charter commission account. Such funds may be raised by taxation, borrowed or transferred from surplus.

In addition to funds made available by a municipality, the charter commission account may receive funds from any other source, public or private, provided, that no contribution of more than \$5 shall be accepted from any source other than the municipality unless the name and address of the person or agency making the contribution and the amount of the contribution are disclosed in writing filed with the clerk. Within 30 days after submission of its final report the charter commission shall file with the clerk a complete account of all its receipts and expenditures for public inspection. Any balance remaining in its account shall be credited to the municipality's surplus account.

5. Hearings, reports, time limits. Within 30 days after its organizational meeting the charter commission shall hold a public meeting for the purpose of receiving information, views, comments and other pertinent material relative to its functions.

Within 8 months after its election, the charter commission shall prepare a preliminary report including the text of the charter or charter revision which the commission intends shall be submitted to the voters and any explanatory information the commission deems desirable, shall cause such report to be printed and circulated throughout the municipality, and shall provide sufficient copies of the preliminary report to the municipal clerk to permit its distribution to each voter requesting same.

Within 10 months after its election, the charter commission shall submit to the municipal officers its final report, which shall include the full text and an explanation of the proposed new charter or charter revision, such comments as the commission deems desirable, an indication of the major differences between the current and proposed charters and a written opinion by an attorney admitted to the bar of this State that the proposed charter or charter revision is not in conflict with the Constitution or the general laws. Minority reports if filed shall not exceed 1,000 words.

All public hearings before a charter commission shall be held within the municipality at such times and places as may be specified in a notice published at least 10 days prior to the hearing in a newspaper having general circulation in the municipality, but hearings may be adjourned from time to time without further published notice.

6. Election. Upon the filing of the final report, the municipal officers shall order the proposed new charter or charter revision to be submitted to the voters at the next regular or special municipal election held at least 30 days after the filing of the final report.

7. Termination. The charter commission shall continue in existence for 30 days after submission of its final report to the municipal officers for the purpose of winding up its affairs.

§ 1914. Charter amendments, procedure

1. Municipal officers. The municipal officers may determine that amendments to the municipal charter are necessary and, by order, provide that such proposed amendments be placed on a ballot at the next regular municipal election held not less than 60 days after such order is passed.

- A. Each amendment shall be limited to a single subject matter.
- B. Alternative statements of a single amendment are prohibited.

2. Alternative method, initiative. On the written petition of a number of voters equal to at least 20% of the number of votes cast in a municipality at the last gubernatorial election, but in no case less than 10, the municipal officers shall, by order, provide that proposed amendments to the municipal charter be placed on a ballot in accordance with the procedures set out below.

- A. Each amendment shall be limited to a single subject matter.
- B. Alternative statements of a single amendment are prohibited.

3. Petition procedure. The petition forms shall carry the following legend in bold lettering at the top of each form on the face thereof.

Municipality of.....

“Each of the undersigned voters respectfully requests the municipal officers to provide for the amendment of the municipal charter as set out below.”

No more than one single proposed amendment may be placed on any petition.

In all other respects the form, content and procedures governing amendment petitions shall be the same as provided for charter revision and adoption petitions under section 1912 including procedures relating to filing, sufficiency and amendments.

4. Action on petition

A. Within 30 days of receipt of a report that a petition is sufficient, the municipal officers shall by order provide for a public hearing on the proposed amendment. The notice of the hearing shall be posted, at least 7 days prior to the hearing, in the same way that ordinances are posted, and shall contain the text of the proposed amendment and a brief explanation. The hearing shall be conducted by the municipal officers or a committee appointed by them. The hearing may be adjourned from time to time without further notice.

B. Within 7 days after final adjournment of the public hearing, the municipal officers or the committee appointed by them shall file with the municipal clerk a report containing the final draft of the proposed amendment and a written opinion by an attorney admitted to the bar of this State that the proposed ordinance is not in conflict with the general laws or the Constitution. In the case of a committee report, a copy shall be filed with the municipal officers.

C. Upon the filing of the final report, the municipal officers shall order the proposed amendment to be submitted to the voters at the next regular or special municipal election held at least 30 days after the filing of the final report. Unrelated charter amendments shall be submitted to the voters as separate questions.

Where the municipal officers, with the advice of an attorney, determine that it is not practical to print the proposed amendment on the ballot and that a summary would not misrepresent the subject matter of the proposed amendment, the municipal officers shall include in the order a summary of the proposed amendment and instruction to the clerk to include on the ballot the summary in lieu of the text of the proposed amendment.

§ 1915. Submission to voters

The method of voting at municipal elections when a question relating to a charter revision, a charter adoption or a charter amendment is involved shall be in the manner prescribed for municipal elections under sections 2061 to 2065, even though the municipality has not accepted the provisions of section 2061.

1. In the case of a charter revision or a charter adoption the question to be submitted to the voters shall be in substance as follows:

“Shall the municipality approve the (charter revision) (new charter) recommended by the charter commission?”

2. In the case of a charter amendment the question to be submitted to the voters shall be in substance as follows:

“Shall the municipality approve the charter amendment reprinted (summarized) below?”

3. Voter information

A. In the case of a charter revision or charter adoption, at least 2 weeks prior to the date of the election the municipal officers shall cause the final report of the charter commission to be printed, shall make copies available to the voters in the clerk's office and shall post the report in the same manner that proposed ordinances are posted.

B. In the case of a charter amendment, at least 2 weeks prior to the date of the election the municipal officers shall cause the proposed amendment and any summary thereof to be printed, shall make copies available to the voters in the clerk's office and shall post the amendment and any summary thereof in the same manner that proposed ordinances are posted.

4. Effective date. If a majority of the ballots cast on any question under subsection 1 favor acceptance, the new charter, charter revision or charter amendment becomes effective as provided below, provided the total number of votes cast for and against the question equals or exceeds 30% of the total votes cast in the municipality at the next previous gubernatorial election.

A. Charter revisions or new charters adopted by the voters shall become effective immediately but only for the purpose of conducting necessary elections, otherwise charter revisions and new charters become effective on the first day of the next succeeding municipal year.

B. Charter amendments adopted by the voters shall become effective immediately.

§ 1916. Recording

All charter revisions, new charters and charter amendments shall, within 3 days after the results of the election have been declared, be certified by the clerk and a certified copy thereof forthwith filed in the office of the Secretary of State, a copy deposited in the Law Section of the Maine State Library, and a copy recorded in the municipal clerk's office.

§ 1917. Ordinance, power limited

Any municipality may, by the adoption, amendment or repeal of ordinances or bylaws, exercise any power or function which the Legislature has power to confer upon it, which is not denied either expressly or by clear implication, and exercise any power or function granted to the municipality by the Constitution, general law or charter. No change in the composition, mode of election or terms of office of the legislative body, the mayor or the manager of any municipality may be accomplished by bylaw or ordinance.

§ 1918. Private and special laws, effect of

Private and special laws applying to a municipality shall remain in effect until repealed or amended by a charter revision, adoption or amendment under this chapter.

§ 1919. Judicial review

1. Petition. The Superior Court may, upon petition of 10 voters of the municipality or on petition of the Attorney General, enforce this chapter.

2. Declaratory judgment. A petition for declaratory relief under Title 14, chapter 707, may be brought on behalf of the public by the Attorney General or, by leave of the court, by 10 voters of the municipality. In the case of the petition of 10 voters, the Attorney General shall be served with notice of the preliminary petition for leave, and may intervene as a party at any stage of the proceedings; and the petitioners shall be liable for, but may in the court's discretion also be awarded costs, which may include reasonable attorney's fees.

3. Judicial review. Judicial review to determine the validity of the procedures whereby any charter is adopted, revised or amended may be had by petition of 10 voters of the municipality brought within 30 days after the election at which such charter, revision or amendment is approved. If no such petition is filed within such period, compliance with all the procedures required by this chapter and the validity of the manner in which such charter adoption, revision or amendment was approved shall be conclusively pre-

sumed. No charter adoption, revision or amendment shall be deemed invalid on account of any procedural error or omission unless it is shown that the error or omission materially and substantially affected such adoption, revision or amendment.

§ 1920. Liberal construction

This chapter, being necessary for the welfare of the municipalities and their inhabitants, shall be liberally construed to effect the purposes thereof.

Effective May 9, 1970

Chapter 564

AN ACT to Clarify and Amend the State Housing Authority Law.

Emergency preamble. Whereas, Acts of the Legislature do not take effect until 90 days after adjournment unless enacted as emergencies; and

Whereas, thousands of Maine citizens of low income occupy unsafe, unsanitary, and substandard dwellings; and

Whereas, the 104th Legislature recognized that such Maine housing conditions would be ameliorated through the purchase of mortgages by the State Housing Authority and empowered that authority to issue bonds to provide housing for these persons of low income as a public purpose; and

Whereas, the recent and continuing increase of unprecedented interest rates in the municipal bond market both prevent the sale of bonds within the 6% interest limit provided by Title 30, section 4751, paragraph 2 and necessitate an increase in that limit; and

Whereas, the housing authority has received requests to purchase several million dollars worth of mortgages and thereby alleviate the shortage of such mortgages to low income families; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. R. S., T. 30, § 4601-A, sub-§ 1, ¶ H, repealed and replaced. Paragraph H of subsection 1 of section 4601-A of Title 30 of the Revised Statutes, as enacted by section 7 of chapter 470 of the public laws of 1969, is repealed and the following enacted in place thereof:

H. Issue revenue bonds or notes to carry out the purposes set forth in this Act in order to provide housing for persons of low income;

Sec. 2. R. S., T. 30, § 4601-A, sub-§ 1, ¶ I, repealed and replaced. Paragraph I of subsection 1 of section 4601-A of Title 30 of the Revised Statutes,