

MAINE STATE LEGISLATURE

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CHAPTER 90.

EMERGENCY MUNICIPAL FINANCE BOARD. DEORGANIZED TOWNS AND PLANTATIONS.

Sections 1-10 Emergency Municipal Finance Board.
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Emergency Municipal Finance Board

Sec. 1. Board of emergency municipal finance. 1933, c. 284, § 1. The board of emergency municipal finance, as heretofore established, and hereinafter designated in this chapter as the "board", shall be composed of the 3 persons who legally hold the offices of state auditor, treasurer of state, and state tax assessor. Upon the succession of any person to any of these respective offices, he or she shall immediately become a member of the board, and the person who formerly held such office shall cease to be such a member. The person holding the office of state tax assessor shall be the chairman of the board. The members of the board shall not receive any compensation for their services as such members except their expenses.

Sec. 2. Purpose of the board. 1933, c. 284, § 2. The purpose and object of the establishment of the board is to enable the cities, towns, and plantations that have fallen into financial difficulties to receive assistance from the state, and to be reestablished on a sound financial basis; and to assure to the state the collection of the taxes due from the said cities, towns, and plantations to the state. All of the provisions of this chapter shall be liberally construed so as to carry out these intentions.

All powers and duties necessary to carry out the purposes set forth in this chapter are conferred on the board.

Sec. 3. Audit may be made by the board. 1933, c. 284, § 3. 1937, c. 233 § 1. 1939, c. 256, § 2. The board is authorized and empowered, in the event that city, town, or plantation becomes 1 year and 6 months in arrears in the payment of its taxes to the state in full or in part or defaults on any bond issue or payment of interest due thereon or refuses or neglects to pay school and other salaries due and has also received, from the state, funds in support of its poor, to cause to be made an audit of the financial condition of said city, town, or plantation at the expense of said city, town, or plantation, or an investigation of the financial affairs of such municipality that will reveal whether or not its affairs are in such condition that the interest of the state and public necessity in its judgment require that its affairs be taken over and administered under the provisions of this chapter, and to make such other investigation of the affairs thereof as it shall deem wise to determine the reason for such failure to pay such taxes and indebtedness and the reason for the need for state relief of its poor.

Whenever any city, town, or plantation shall make application to the state for funds in support of its poor, the board is authorized and directed to cause to be made the audit and investigation provided for in the 1st paragraph of this section.

Sec. 4. Board may take over local government. 1933, c. 284, § 4. The board is authorized and empowered, in the event that after having made the

audit or investigation provided for in the preceding section, it decides by a majority vote of the board that such delinquency is not due to disbursements for emergency relief not reasonably to be anticipated or to other unavoidable misfortune, to take over and regulate the administration of the government of said city, town, or plantation and the management of the financial affairs thereof and administer the same to the exclusion of or in cooperation with any other local government or governmental agency, as otherwise provided by law or by direction thereof, and in cases of cities, towns, or plantations under 5,000 inhabitants to appoint 1 man as commissioner and in cases of cities, towns, or plantations over 5,000 inhabitants to appoint 3 men as commissioners, one of whom shall be designated as chairman, which commissioner or commissioners shall act under the direction of said board with relation to the government and management of the governmental and financial affairs of the said city, town, or plantation, and be responsible to said board.

Sec. 5. Powers and duties of commisisoners. 1933, c. 284, § 5. The commissioner or commissioners appointed under the provisions of section 4 may employ such experts, counsel, and other assistants and incur such other expenses as they may deem necessary, subject to the control of the board. A sum sufficient to cover such expenses and a reasonable compensation for the commissioner or commissioners to be set by the board shall be appropriated each year by the city, town, or plantation and shall be paid by said city, town, or plantation upon requisition of the commissioner or commissioners. The commissioner or commissioners shall have the same right to incur expenses in anticipation of its appropriation as if it were a regular department of said city, town, or plantation and in the event that no such appropriation shall be made, may expend such necessary amount as is provided herein, and the same shall be a lawful obligation of the said city, town, or plantation. The commissioner or commissioners shall have supervision over the financial affairs of said city, town, or plantation and no appropriation shall be made and no debt incurred except with the approval or upon the recommendation or requisition of the commissioner or commissioners which shall be made in writing. No department or officer of said city, town, or plantation shall expend any money or incur any liability except with the written approval of the commissioner or commissioners; provided that the commissioner or commissioners may at any time and from time to time authorize in writing any department or officer of said city, town, or plantation to make expenditures or incur liabilities without such approval until further notice. The commissioner or commissioners may make recommendations in writing to any department or officer of said city, town, or plantation.

Sec. 6. May appoint temporary officials. 1933, c. 284, § 6. 1937, c. 233, § 2. 1943, c. 133, § 1. The commissioner or commissioners appointed under the provisions of section 4 may, if in their opinion it would be advantageous to said city, town, or plantation, declare the offices of auditor, treasurer, collector, and assessors, or any other offices in said municipality, vacant temporarily and appoint successors to any or all of the said offices to serve at the pleasure of the commissioner or commissioners. The appointees shall receive such compensation as the commissioner or commissioners shall fix, and the former incumbents shall receive no compensation during their absence from office. The choice of managers, officers, and agents shall be and remain with the board and their compensation shall be fixed by such board, any other statute to the contrary notwithstanding. The board may, however, if it deems it expedient, appoint the

commissioner or commissioners to serve as any official in said municipalities and fix the compensation for serving in such capacity. In the event that the board shall consider it advisable, it may appoint 1 officer, commissioner, or agent to administer two or more cities, towns, or plantations.

Sec. 7. May make loans; may make assessments to pay deficiencies and overdrafts; municipalities to be exempt from certain legal processes. 1933, c. 284, § 7. 1937, c. 233, § 3. 1943, c. 133, § 2. The board is authorized after having taken over the administration of government and control of the financial affairs of any city, town, or plantation, as provided hereinbefore, through the commissioner or commissioners in charge thereof, to make temporary loans to the extent of the constitutional debt limit of said city, town, or plantation, and he or they are further empowered to issue negotiable commissioners' certificates, such certificates to be a preferred claim against all the assets of said city, town, or plantation operated by the commissioner or commissioners, and to borrow from the state, if and when an amendment to the constitution of the state is adopted authorizing the same, in a sufficient amount to pay the outstanding state taxes of said city, town, or plantation and such expenses of said board as shall be allocated thereto, and for other lawful purposes; said obligations to be signed by said commissioner or commissioners and otherwise to be issued in the same manner and form as provided by law upon the terms to be determined by said board, and to thereby become the valid debt of such city, town, or plantation. In issuing temporary commissioners' certificates or any other acts pursuant to their duties in connection with the government of any city, town, or plantation, the board shall have the same authority as is vested in the municipal officers, and shall further have the right to issue the same as if authorized by the vote of the inhabitants of any such city, town, or plantation at a regular election called for the purpose. Said board shall also have authority to lay assessments upon the property in said city, town, or plantation and to collect the same for the purpose of paying deficiencies and accounts previously contracted by said city, town, or plantation. During the period of the control by said commissioner or commissioners, the statute of limitations shall not run on any obligations of the city, town, or plantation.

Sec. 8. Duration of power of board. 1933, c. 284, § 8. 1937, c. 233, § 4. The board shall continue in charge of the government and financial affairs of said city, town, or plantation until such time as its taxes due the state, or loans made therefor, or expenses or obligations incurred by the commissioner or commissioners appointed under the provisions of section 4 or the board shall have been paid and until in the opinion of the commissioner or commissioners, or the board, the financial affairs of said city, town, or plantation may be resumed under local control.

Sec. 9. May bring bill in equity; notice. 1939, c. 55. If the commissioner or commissioners who are in charge of the affairs of any such city, town, or plantation under the provisions of this chapter are of the opinion that said city, town, or plantation has incurred, prior to the date on which the administration of the affairs of said city, town, or plantation were taken over by the board, debts and obligations in excess of the debt limit fixed by the constitution of the state for such city, town, or plantation, and that but for the provisions of section 7, said city, town, or plantation would be subjected to a multiplicity of suits, said commissioner or commissioners may bring in the name of the inhabitants of said city, town, or plantation a bill in equity in the superior or supreme judicial court in the

county in which said city, town, or plantation is located, in term time or in vacation against all of the known persons, firms, or corporations holding any debts or obligations against the inhabitants of said city, town, or plantation, to have the validity of all the debts and obligations of said city, town, or plantation therein determined.

The attorney-general shall appear for and on behalf of the petitioner in such proceedings and the expense thereof shall be paid from any funds in the hands of said commissioner or commissioners in charge of the affairs of said city, town, or plantation. The court may fix a time within which all persons, firms, or corporations holding claims or demands against the inhabitants of such city, town, or plantation shall file their claim or demand for adjudication of its validity as an obligation of said city, town, or plantation. The court shall also order public notice to creditors of the inhabitants of the city, town, or plantation to file their claims within the time specified, by publication in a newspaper published or printed in the county in which said city, town, or plantation is located, and if no newspaper is published or printed in said county, then in the state paper, for at least 3 successive weeks, the last publication to be at least 30 days before the final date set by the court for filing claims against the inhabitants of said city, town, or plantation, and the court may also order such additional notice to be given as in its discretion may be proper and necessary.

After such notice has been given and before the date for filing claims against the inhabitants of said city, town, or plantation has expired, the court shall fix the time for hearing upon the claims so filed, which hearing may be adjourned from time to time, to determine the validity of the obligation and the amount thereof. Any party grieved by the finding of said court may appeal to the next term of the superior court to be held in the county where such city, town, or plantation is located. The judgment of the single justice shall be binding upon all parties unless appealed from as aforesaid. All obligations determined by said court not to be valid claims against the inhabitants of said city, town, or plantation shall be forever barred in any action against the inhabitants of said city, town, or plantation and the finding of the court may be pleaded as a bar to any action brought upon said claim or claims. All indebtedness adjudicated to be valid against the inhabitants of said city, town, or plantation by the finding of the single justice or on appeal, if such appeal is taken by either party, shall be thereafter considered as a valid outstanding indebtedness against the inhabitants of said city, town, or plantation.

Sec. 10. Voluntary compromise settlements. 1943, c. 16. The board, at any time prior to the commencement of proceedings under the provisions of section 9, during the pendency of such proceedings or after the termination thereof, when in its judgment it seems advisable to do so for the purpose of reestablishing upon a sound financial basis any municipality under its control by virtue of such action taken prior to January 1, 1943, may in behalf of such municipality offer compromise settlements to any or all of its creditors upon claims, demands, or obligations of whatever nature which accrued prior to the assumption of such control by the board, and upon all interest thereon whenever accrued.

Such an offer may be made to the state upon obligations due the state, whether arising from taxes, bonds, notes, or otherwise by presentation to the treasurer of state; and upon recommendation, certification, and approval in the manner prescribed in section 30 of chapter 14, the treasurer of state shall thereupon accept and receipt for the sum or sums so offered in full and final settlement, and the balance of any such obligation shall be charged off the books of account of the state.

With respect to such obligations due any county, whether arising from taxes, bonds, notes, or otherwise, such offer may be made to its county commissioners and upon acceptance of such offer by them and tender of the sum agreed upon to the county treasurer, he shall accept and receipt for the same in full and final settlement. The balance of any such obligation shall thereupon be charged off the books of account of said county.

Provided, however, that nothing herein contained shall be construed as requiring any creditor or the holder of any obligation of such municipality to accept any offer of settlement made under the provisions hereof, nor shall his refusal to accept in any manner derogate from his existing rights or remedies.

Acceptance of any such offer by any creditor and payment of the sum agreed upon shall in all cases be and constitute a full and complete discharge of any such claim, demand, or obligation, whether arising from taxes, bonds, notes or otherwise, and no attachment, levy, suit, action or other process or proceeding shall thereafter be commenced, maintained, or prosecuted for the collection of any part thereof.

Direct Relief and Work Programs

Sec. 11. Direct relief and work programs. 1935, c. 1, § 1. 1939, c. 256, § 1. 1943, c. 313, §§ 1, 2. Any city, town, or plantation, which is financially unable to provide for its direct relief and work programs or its contributory share of public assistance programs of any nature, may make application to the department of health and welfare for funds from the state for said purpose. The application shall be made by the municipal officers in writing and a copy thereof shall be forwarded to the board. No such funds shall be expended until the management of its affairs has been taken over by the board. The state through the department of health and welfare may provide for direct relief and work programs and/or the necessary share for the said city, town, or plantation of its contributory share of public assistance programs of any nature in said cities, towns, and plantations. The inability of such cities, towns, and plantations, and unorganized territories to provide for their direct relief and work programs or their contributory share of public assistance programs of any nature shall be decided by the department of health and welfare and the state auditor.

Deorganized Towns and Plantations

Sec. 12. Debts of deorganized towns collectable; also of school districts therein. R. S. c. 5, § 135. Where towns are deorganized by a repeal of their charters, and their liabilities are excepted and reserved by the repealing act, legal service of process to collect such liabilities may be made on any inhabitant of lawful age resident in the territory included in said town, as provided for service of such process against towns; provided that there are no legal officers in said territory on whom service can be made. The provisions of this section extend to school districts in said towns so far as applicable.

See c. 32, § 40, re school lands and funds of deorganized towns; c. 32, § 73, re fire protection in unorganized territory; c. 82, § 1, sub-§ VII, re acquiring settlement in unincorporated place; c. 99, § 19, re service on municipal, foreign, and other corporations.

Sec. 13. Power and authority of state tax assessor. 1937, c. 73, § 1. 1941, c. 137, § 1. 1943, c. 136. Whenever the organization of any town or plantation has been terminated by act of the legislature, the powers, duties, and obligations relating to the affairs of said town or plantation shall be vested in the

state tax assessor until such time as said town or plantation is reorganized but in no event for more than 5 years. Said state tax assessor shall have the power and authority to assess taxes at any time after the act terminating the organization of the town or plantation becomes operative, by making assessment once a year under the laws now relating to the assessment of taxes in towns by assessors, and committing the same to the treasurer of state for collection, and said treasurer of state shall have the same power and authority to enforce the collection of said taxes as is now provided for the collection of state taxes so committed. All moneys received by virtue of said assessment and collection as aforesaid shall be applied to the payment of necessary expenses of the state tax assessor in making such assessment, and to the payment of any obligations of said town or plantation outstanding at the time of termination of its organization, and to the payment of state and county taxes assessed against such town or plantation, and for the completion of any public works of said town or plantation already begun, and when in the best judgment of said state tax assessor final payment of all known accounts against said town, which has been heretofore or may be deorganized, has been made, or at the end of said period of 5 years, any funds unexpended, if any exist, shall be deposited by the former town, if still in its possession, or by the treasurer of state if in his possession, with the county commissioners as an offset against future road taxes in such deorganized town, as already set forth in section 62 of chapter 79. If no road maintenance as above described exists in said town, said unexpended funds shall be expended on repairs, maintenance, or restoration of such town enterprise as may be designated by the state tax assessor in his capacity as hereinbefore described in this section.

Sec. 14. Records of deorganized municipalities to be surrendered. 1941, c. 161. 1943, c. 222. Whenever any city, town, or plantation within this state shall become deorganized, the city, town, or plantation records shall be surrendered: all records of birth, marriage, and death to the state registrar of vital statistics at Augusta, and all other municipal records to the county commissioners in the county in which the municipality was located.

Sec. 15. Sections 1-15 to apply to unincorporated areas. 1937, c. 233, § 5. The provisions of this chapter shall apply to any towns or plantations that may be or may have been deorganized by act of the legislature.

CHAPTER 91.

SUPREME JUDICIAL COURT.

Sections 1-7 Supreme Judicial Court; Constitution and General Jurisdiction.

Sections 8-19 Law Court.

Supreme Judicial Court; Constitution and General Jurisdiction

See 1931, c. 216, Art. I, § 1, re judiciary not affected by code.

Sec. 1. Constitution of the court. R. S. c. 91, § 1. The supreme judicial court, as heretofore established, shall consist of a chief justice and 5 associate justices and such active retired justices as may be appointed and serving on said court, learned in the law and of sobriety of manners.

See Const. of Me., Art. V, Part 1, § 8, re appointment; Const. of Me., Art. VI, § 1, re court system; Const. of Me., Art. VI, § 4, re term of office; 73 Me. 224; 98 Me. 130.