

MAINE STATE LEGISLATURE

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Chapter 102.

Emergency Municipal Finance Board. Deorganized Towns and Plantations.

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Emergency Municipal Finance Board.

Sec. 1. Board of emergency municipal finance.—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 commissioner of finance and administration, 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. (R. S. c. 90, § 1. 1947, c. 26. 1951, c. 165. 1953, c. 265, § 6.)

Cited in Waterville Realty Corp. v. Eastport, 136 Me. 309, 8 A. (2d) 898.

Sec. 2. Purpose.—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. (R. S. c. 90, § 2.)

Sec. 3. Audit.—The board is authorized and empowered, in the event that a 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 this section. (R. S. c. 90, § 3.)

Sec. 4. Board may take over local government.—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. (R. S. c. 90, § 4.)

Sec. 5. Powers and duties of commissioners.—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. (R. S. c. 90, § 5.)

Sec. 6. Temporary officials. — 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 2 or more cities, towns or plantations. (R. S. c. 90, § 6.)

Sec. 7. Loans; assessments.—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. (R. S. c. 90, § 7.)

Former provision of section.—For a case concerning the constitutionality of a former provision of this section forbidding actions to enforce obligations of municipalities taken over by the board, see *Waterville Realty Corp. v. Eastport*, 136 Me. 309, 8 A. (2d) 898.

Sec. 8. Duration of power of board.—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. (R. S. c. 90, § 8.)

Quoted in *Waterville Realty Corp. v. Eastport*, 136 Me. 309, 8 A. (2d) 898.

Sec. 9. Bill in equity; notice.—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 herein 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 aggrieved 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. (R. S. c. 90, § 9.)

Sec. 10. Voluntary compromise settlements.—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 32 of chapter 16, 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. (R. S. c. 90, § 10.)

Direct Relief and Work Programs.

Sec. 11. Direct relief and work programs.—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 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. (R. S. c. 90, § 11.)

Deorganized Towns and Plantations.

Sec. 12. Debts of deorganized towns and school districts therein.—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. (R. S. c. 90, § 12.)

See c. 36, § 55, re school lands and funds of deorganized towns; c. 36, § 95, re fire protection in unorganized territory; c. 94, § 1, sub-§ VII, re acquiring settlement in unincorporated place; c. 112, § 19, re service on municipal, foreign and other corporations.

Sec. 13. Power and authority of state tax assessor.—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 for not more than 5 years. Such state tax assessor shall have the power and authority to assess taxes 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 state taxes in unorganized territory, and the state tax assessor shall have the same power and authority to enforce the collection of said taxes as is now provided for the collection of state taxes. 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 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 65 of chapter 89. 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.

The state tax assessor shall have the authority to sell or otherwise dispose of

any property, the title of which rests in the town at the time of deorganization or may come to the town subsequent to deorganization, provided that he shall first obtain written permission from the commissioner of education before disposing of any property formerly used or still being used for school purposes. Such sale or disposal may take place at any time subsequent to deorganization and the proceeds from the sale shall be expended as is provided for in this section. (R. S. c. 90, § 13. 1945, c. 41, § 38; c. 182, § 1; c. 378, § 74.)

Sec. 14. Cemetery trust funds.—The state tax assessor shall be authorized to transfer any cemetery trust funds held by the town at the time of deorganization to a cemetery association provided such association is formed under the laws of the state; and in the event that no such association exists, he may transfer such funds to the county commissioners. Such funds are to be retained for the purpose of allowing the interest only to be used in the same manner and for the same purposes for which the fund was originally accepted by the deorganized town. In the event that such funds are in the care and custody of the county commissioners and a cemetery association is subsequently formed, the county commissioners shall have the authority to transfer such funds to the cemetery association if they deem it advisable. (1945, c. 182, § 2.)

Sec. 15. Records surrendered.—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. (R. S. c. 90, § 14.)

Sec. 16. Sections 1-16 to apply to unincorporated areas.—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. (R. S. c. 90, § 15.)