

MAINE STATE LEGISLATURE

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N I N E T Y - S E V E N T H L E G I S L A T U R E

Legislative Document

No. 1166

H. P. 1001

House of Representatives, March 2, 1955

Referred to the Committee on Legal Affairs, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Willey of Ellsworth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-FIVE

AN ACT Amending the Charter of the City of Ellsworth.

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

Sec. 1. P. & S. L., 1933, c. 34, Art. II, § 1, amended. The 2nd sentence of the 3rd paragraph of section 1 of article II of chapter 34 of the private and special laws of 1933 is hereby repealed and the following enacted in place thereof :

'As overseers of the poor they may delegate to the city manager or any other person all or any part of the duties of overseers of the poor including the sending of written notices and answers under the revised statutes.'

Sec. 2. P. & S. L., 1933, c. 34, Art. II, § 2, amended. Section 2 of article II of chapter 34 of the private and special laws of 1933 is hereby amended to read as follows :

'Sec. 2. Terms of members. The city council shall consist of 5 members, who shall be elected at large by and from the qualified voters of the city for a term of 2 years from the ~~second Monday in March~~ **1st Monday in January** next following the date of their election **unless said day is a holiday in which case the term shall commence the following day**, and until their successors are elected and qualified; except that at the 1st election after the adoption of this charter the 3 candidates having the largest number of votes shall serve for 2 years and the 2 candidates having the next largest number of votes shall serve for 1 year, and until their successors are elected and qualified. Thereafter at each annual municipal election there shall be chosen at large 2 or 3 members (as the case may be) of the city council to fill the office of the members of the city council whose

terms of office expire that year. ~~At the said first election of members of the city council, in the event that two or more candidates shall receive the same number of votes for member of the city council, the terms of office of said candidates shall be determined by lot by the city clerk after reasonable notice to said candidates by said city clerk of the time and place of said determination. Members of the city council shall serve without compensation. The terms of present members of the city council (including members elected at the election at which this Act becomes effective) hithertofore to expire in March shall expire in January of the same year. Members of the city council shall each receive \$150 per year in full for their services.'~~

Sec. 3. P. & S. L., 1933, c. 34, Art. II, § 5, amended. The 1st sentence of section 5 of article II of chapter 34 of the private and special laws of 1933 is hereby amended to read as follows:

'The city council shall meet at the usual place for holding meetings at 10 o'clock A. M. on the ~~second Monday of March~~ **first Monday in January** next following the regular city election, **unless said day is a holiday in which case they shall meet the following day**, at which time the council-elect shall be sworn to the faithful discharge of their duties by a justice of the peace or by the city clerk.'

Sec. 4. P. & S. L., 1933, c. 34, Art. II, § 6, amended. The 2nd sentence of section 6 of article II of chapter 34 of the private and special laws of 1933 is hereby repealed and the following enacted in place thereof:

'Notice of such meetings shall be given according to the method to be fixed each year by the city council. Whenever all of the members of the city council are present at a meeting, or a majority are present and each absent member in writing waives notice of the meeting or approves in writing the record thereof, the acts of such meeting shall be valid in all respects as if it had been regularly called and held.'

Sec. 5. P. & S. L., 1933, c. 34, Art. III, § 1, amended. The 1st paragraph of section 1 of article III of chapter 34 of the private and special laws of 1933 is hereby repealed and the following enacted in place thereof:

'A regular municipal election shall be held each year on the 1st Monday of December and the qualified voters of the city shall ballot for councilmen to fill the office of the councilmen whose terms of office expire the following January and the qualified voters of each ward shall, at the same time, ballot for a warden and a ward clerk for their ward.'

Sec. 6. P. & S. L., 1933, c. 34, Art. III, § 2, amended. The 1st sentence of section 2 of article III of chapter 34 of the private and special laws of 1933 is hereby amended to read as follows:

'The warden and ward clerk, chosen as provided in the preceding section, shall be residents of the ward for which they are elected and shall hold their office for 1 year from the ~~second Monday in March~~ **1st Monday in January, unless said day is a holiday in which case from the following day**, following their election, and until others have been chosen and qualified in their stead.'

Sec. 7. P. & S. L., 1933, c. 34, Art. IV, § 1, repealed and replaced. Section 1 of article IV of chapter 34 of the private and special laws of 1933 is hereby repealed and the following enacted in place thereof:

'Sec. 1. Title and appointment. There shall be the following administrative officers and boards:

(a) The following officers and board shall be appointed by ballot by a majority vote of the members of the city council: city manager, city clerk, members of the board of assessors, members of the superintending school committee, two members of the board of registration, trustees of the public library, members of the planning board, and members of the board of appeals.

(b) The following officers shall be appointed by the city manager subject to the confirmation by the city council: treasurer, tax collector, police chief, fire chief, street commissioner, inspector of buildings, health officer, librarian and all other department heads, officers or employees whose position may from time to time be created by ordinance or resolve. The city manager may make the above appointments or may delegate any or all of the duties of such officers to others, including to himself.'

Sec. 8. P. & S. L., 1933, c. 34, Art. IV, § 8, repealed. Section 8 of Article IV of chapter 34 of the private and special laws of 1933 is hereby repealed.

Sec. 9. P. & S. L., 1933, c. 34, Art. IV, § 9, amended. The 1st sentence of section 9 of article IV of chapter 34 of the private and special laws of 1933 is hereby repealed and the following enacted in place thereof:

'The superintending school committee of the city of Ellsworth shall consist of 5 members appointed by the council, to serve for terms of 2 years, and until their successors are chosen and qualified. The following procedure shall be adopted so that the terms of either 2 or 3 members (as the case may be) expire each year. Members of said committee at the time this Act becomes effective shall serve out the balance of the term for which each was elected; and upon the expiration of the term of office of each, a successor shall be appointed for said term of 2 years. Two additional members of said committee shall be appointed after this Act becomes effective, one to serve for a term of 1 year and the other to serve for 2 years. Thereafter, as the terms of members expire, appointments shall be for said term of 2 years.'

Sec. 10. P. & S. L., 1933, c. 34, Art. V, § 1, amended. Section 1 of article V of chapter 34 of the private and special laws of 1933 is hereby amended to read as follows:

'Sec. 1. Accounts; how kept. Full and accurate accounts of all the departments of the city shall be kept. The city manager shall prescribe the forms for such accounts. Said accounts, however, shall be kept in such manner as to show fully at all times the financial condition of the city and of each department thereof. ~~The city manager shall furnish to the city council at the regular monthly meeting of the city council in each month a detailed report showing receipts and disbursements of the city on all accounts and also showing expenditures made and obligations incurred during the preceding calendar month. Said~~

~~city manager shall also furnish the city council a balance sheet showing the financial condition of the city and of the several funds, together with the unexpended balance to the credit of each department.~~

Sec. 11. P. & S. L., 1933, c. 34, Art. V, § 2, repealed and replaced. Section 2 of article V of chapter 34 of the private and special laws of 1933 is hereby repealed and the following enacted in place thereof:

'Sec. 2. Audit. Prior to the end of each fiscal year, the city council shall designate the State Department of Audit or private qualified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government and shall submit their report to the city council and the city manager. Such accountants shall not maintain any accounts or records of the city business, but, within specifications approved by the city council shall post-audit the books and documents kept by any office, department or agency of the city government.'

Sec. 12. P. & S. L., 1933, c. 34, Art. V, § 3, amended. The headnote to section 3 of article V of chapter 34 of the private and special laws of 1933 is hereby repealed and the following enacted in place thereof:

'Annual reports.'

Sec. 13. P. & S. L., 1933, c. 34, Art. V, § 4, amended. The 1st sentence of section 4 of article V of chapter 34 of the private and special laws of 1933 is hereby amended to read as follows:

'Not later than 1 month before the end after the beginning of the fiscal year, the city manager shall submit to the city council budget estimates for the ensuing current fiscal year, which estimates before passage and not later than 2 weeks after submission shall be published and the council shall give notice of the time and place of public hearing thereon.'

Sec. 14. P. & S. L., 1933, c. 34, Art. V, § 5, amended. Section 5 of article V of chapter 34 of the private and special laws of 1933 is hereby amended to read as follows:

'Sec. 5. Reserve fund. In the annual appropriation resolve, the city council ~~shall~~ **may** provide for a reserve fund, and an appropriation for the same ~~shall~~ **may** therein be made. Transfers from said fund shall be made only by vote of the city council, and no transfer of any money shall be made from any **appropriated** fund other than the reserve fund until the end of the year, at which time, after all warrants have been paid out of the various funds against which such warrants have been drawn, the treasurer shall transfer to said reserve fund any balance or balances then remaining in the various other funds, except balances in the school fund; the city council ~~shall~~ **may** then apply the full balance in the reserve fund to the reduction of the ~~unfunded~~ debt of the city, in case there is such debt, ~~otherwise the city council shall transfer the full balance in the reserve fund to the sinking fund and the balance, if any, to surplus;~~ **provided, however, that before doing so the city council may authorize a transfer from the reserve fund to any other fund or account in which there is an overdraft created by an actual emergency.'**

Sec. 15. P. & S. L., 1933, c. 34, Art. V, § 6, amended. The 1st sentence of section 6 of article V of chapter 34 of the private and special laws of 1933 is hereby amended to read as follows:

'Until the funded indebtedness, not provided for by serial bonds, of the city of Ellsworth in force at the time of the adoption of this charter, together with any renewal thereof, is fully paid, the city council ~~shall~~ **may** raise and set apart each year for a sinking fund a sum equal to not less than 2% of the total of appropriations for that year, excluding the amount of the item of the appropriation resolve provided for by this section.'

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 Ellsworth at a special election called and held for the purpose or at an annual municipal election of the city. Such special election or annual municipal election shall be held not later than the regular annual municipal election for the year 1956. In the event a special election is called for the purpose, it shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, that the board of registration in said city shall not be required to prepare for posting, 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 special election, the 1st and 2nd days thereof to be devoted to the registration of voters, and the 3rd day to enable the board to verify the corrections of said list and to complete and close up their records of said sessions. 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 Amending the Charter of the City of Ellsworth, passed by the 97th Legislature, be accepted?" and the voters shall indicate by across or check mark placed against the words "Yes" or "No" their opinion of the same. This act shall take effect for all purposes thereof immediately upon its acceptance by a majority vote 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 such election shall be declared by the municipal officers of the city of Ellsworth, and due certificate filed by the city clerk with the Secretary of State.