

(NEW DRAFT OF H.P. 1568, L.D. 2135)

(NEW TITLE)

SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE.

Legislative Document

NO. 2583

H.P. 1888 House of Representatives, March 24, 1988
Reported by Representative PRIEST from the Committee on
Legal Affairs and printed under Joint Rule 2.

EDWIN H. PERT, Clerk

Original bill sponsored by Representative VOSE of
Eastport.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-EIGHT

1 **AN ACT Concerning Charter Changes in**
2 **Quasi-Municipal Corporations or**
3 **Districts.**
4

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

7 **30 MRSA c. 250 is enacted to read:**

8 CHAPTER 250

1 QUASI-MUNICIPAL CORPORATIONS OR DISTRICTS

2 §5501. Definitions

3 As used in this chapter, unless the context
4 indicates otherwise, the following terms have the
5 following meanings.

6 1. Affected municipalities. "Affected
7 municipalities" means the municipalities of which part
8 or all is embraced by the quasi-municipal corporation
9 or district.

10 2. Charter amendment. "Charter amendment" means
11 a change in the charter of a quasi-municipal
12 corporation or district of insufficient magnitude to
13 require a referendum on the change.

14 3. Charter revision. "Charter revision" means a
15 change in the charter of a quasi-municipal corporation
16 or district of sufficient magnitude to require a
17 referendum on the change.

18 4. Quasi-municipal corporation or district.
19 "Quasi-municipal corporation or district" means any
20 governmental unit embracing a portion of a
21 municipality, a single municipality or several
22 municipalities which is created by law to deliver
23 public services but which is not a general purpose
24 governmental unit. Quasi-municipal corporation or
25 district does not include School Administrative
26 Districts or hospital districts.

27 5. Quasi-municipal corporation or district
28 voters. "Quasi-municipal corporation or district
29 voters" means the voters within the boundaries of the
30 quasi-municipal corporation or district.

31 §5502. Charter amendments

32 If, after the board of trustees of the
33 quasi-municipal corporation or district holds a public
34 hearing on the proposed amendment, the board
35 unanimously votes in favor of an amendment to the

1 charter of the quasi-municipal corporation or
2 district, the board shall submit that amendment to the
3 joint standing committee of the Legislature having
4 jurisdiction over utilities to be included in the
5 annual omnibus legislation as provided in section
6 5505. The amendment is effective upon the effective
7 date of the omnibus legislation.

8 §5503. Charter revisions

9 1. Board of trustees and municipal legislative
10 bodies. If, after the board of trustees of the
11 quasi-municipal corporation or district holds a public
12 hearing on the proposed revision, a majority of the
13 board and a majority of each municipal legislative
14 body of the affected municipalities vote in favor of a
15 revision of the charter of the quasi-municipal
16 corporation or district, the proposed revision shall
17 be submitted to the quasi-municipal corporation or
18 district voters in each affected municipality
19 according to the procedures in section 5504. If the
20 charter revision passes, the trustees of the
21 quasi-municipal corporation or district shall submit
22 that change to the joint standing committee of the
23 Legislature having jurisdiction over utilities to be
24 included in the annual omnibus legislation as provided
25 in section 5505. The revision is effective upon the
26 effective date of the omnibus legislation.

27 2. Alternative method, initiated petition. On
28 the written petition of a number of voters equal to at
29 least 20% of the total number of the votes cast in the
30 affected municipalities in the last gubernatorial
31 election, but in no case less than 10 voters, the
32 proposed revision shall be submitted to the
33 quasi-municipal corporation or district voters in each
34 affected municipality according to the procedures in
35 section 5504. If the charter revision passes, the
36 trustees of the quasi-municipal corporation or
37 district shall submit that change to the joint
38 standing committee of the Legislature having
39 jurisdiction over utilities to be included in the
40 annual omnibus legislation as provided in section
41 5505. The revision is effective upon the effective
42 date of the omnibus legislation.

1 §5504. Procedure for referenda on charter changes

2 1. Board of trustees of quasi-municipal
3 corporation or district. When a referendum on a
4 charter revision is required under section 5503, the
5 board of trustees of the quasi-municipal corporation
6 or district shall initiate a corporation or district
7 referendum and place before the voters the specific
8 charter revision which has been proposed by the board
9 or the petitioners.

10 2. Method of calling a corporation or district
11 referendum. A corporation or district referendum
12 shall be initiated by a warrant prepared and signed by
13 a majority of the board of trustees. The warrant
14 shall be countersigned by the municipal officers in
15 each municipality where the warrants are posted.

16 A. The warrant shall direct the municipal
17 officers of the affected municipalities to call a
18 referendum on a date and time determined by the
19 board of trustees. A warrant shall be prepared
20 and distributed at least 30 days prior to the date
21 of the referendum.

22 (1) The warrant shall be directed to a
23 resident of one of the affected
24 municipalities by name ordering the resident
25 to notify the municipal officers of each of
26 the affected municipalities to call a town
27 meeting or city election on the date
28 specified by the board of trustees. No other
29 date may be used. The person who serves the
30 warrant shall make a return on the warrant
31 stating the manner of service and the time
32 when it was given.

33 (2) The warrant shall be served on the
34 municipal clerk of each of the affected
35 municipalities by delivering an attested copy
36 of the warrant in hand within 3 days of the
37 date of the warrant. The municipal clerk, on
38 receipt of the warrant, shall immediately
39 notify the municipal officers within the

1 municipality. The municipal officers shall
2 forthwith meet, countersign and have the
3 warrant posted.

4 (3) The warrants and other notices for the
5 referendum shall be in the same manner as
6 provided in Title 21-A.

7 B. The warrant shall set forth the articles to be
8 acted on in each municipal referendum. The
9 articles shall have the following form.

10 "Shall the charter of the quasi-municipal
11 corporation or district of _____
12 _____ be revised to _____
13 _____
14 (insert summary of revision)?

15 Yes No "

16 3. Referendum procedures. The following
17 procedures shall apply to a corporation or district
18 referendum.

19 A. The board of trustees shall prepare and
20 furnish the required number of ballots for
21 carrying out the referendum as posted, including
22 absentee ballots. It shall prepare and furnish
23 all other materials necessary to fulfill the
24 requirements for voting procedures.

25 B. Voting shall be held and conducted as follows.

26 (1) The voting at referenda held in towns
27 shall be held and conducted in accordance
28 with Title 30, sections 2054 and 2061 to
29 2065, even though the town has not accepted
30 the provisions of Title 30, sections 2061 and
31 2062. The facsimile signature of the clerk
32 under Title 30, section 2061, subsection 5,
33 paragraph F, shall be that of the chairman of
34 the board of trustees. If a corporation or
35 district referendum is called to be held
36 simultaneously with any statewide election,
37 the voting in towns shall be held and

1 conducted in accordance with Title 21-A,
2 except that the duties of the Secretary of
3 State shall be performed by the board. The
4 absentee voting procedure of Title 21-A shall
5 be used, except that the duties of the
6 Secretary of State shall be performed by the
7 board.

8 (2) The voting at referenda in cities shall
9 be held and conducted in accordance with
10 Title 21-A, including the absentee voting
11 procedure, except that the duties of the
12 Secretary of State shall be performed by the
13 board of trustees.

14 C. The return and counting of votes shall be as
15 follows.

16 (1) The municipal clerk shall, within 24
17 hours of the determination of the results of
18 the vote in the municipality, certify and
19 send to the board of trustees the total
20 number of votes cast in the affirmative and
21 in the negative on the article.

22 (2) As soon as all of the results from all
23 of the municipalities have been returned to
24 the board of trustees, the board shall meet
25 and compute the total number of votes cast in
26 all of the affected municipalities in the
27 affirmative and in the negative on the
28 article.

29 (3) If the board of trustees determines that
30 there were more votes cast in the affirmative
31 than in the negative on the article, it shall
32 declare that the article has passed.

33 (4) If the board of trustees determines that
34 the total number of votes cast on the article
35 in the affirmative is equal to or less than
36 those cast in the negative, it shall declare
37 that the article has not passed.

38 (5) The board of trustees shall enter its

1 declaration and computations in its records
2 and send certified copies of it to the clerk
3 of each affected municipality.

4 4. Reconsideration. The procedure to reconsider
5 votes taken at a corporation or district referendum
6 shall be as follows.

7 A. The board of trustees shall, within 60 days,
8 initiate a new corporation or district referendum
9 to reconsider the vote of the previous referendum
10 if, within 7 days of the first referendum, at
11 least 10% of the number of voters voting for the
12 gubernatorial candidates in the last gubernatorial
13 election in the affected municipalities petition
14 to reconsider a prior corporation or district
15 referendum vote.

16 B. A reconsideration referendum is not valid
17 unless the number of persons voting in that
18 referendum is at least equal to the number who
19 voted in the prior corporation or district
20 referendum.

21 C. If the margin of the vote being reconsidered
22 was between 10% and 25%, the petitioners shall
23 post a bond with the petition equal to the actual
24 and reasonable costs of the new referendum. If
25 the margin of the vote being reconsidered exceeded
26 25%, the petitioners shall post an additional bond
27 equal to the actual and reasonable costs which may
28 be incurred as a result of the delay of an
29 authorization or approval granted in the prior
30 corporation or district referendum. If the
31 petitioners are successful, the bonds shall be
32 canceled.

33 §5505. Annual omnibus legislation

34 The joint standing committee having jurisdiction
35 over utilities shall report each year an omnibus bill
36 including all amendments to and revisions of the
37 charters of quasi-municipal corporations or districts
38 which have been submitted to the committee as provided
39 in this chapter.

1 §5506. General provisions

2 1. Other legislation not precluded. This chapter
3 does not preclude the introduction of any legislation
4 concerning quasi-municipal corporation or district
5 charter amendments or revisions.

6 2. Effect of contrary charter provisions. Any
7 portion of the charter of any quasi-municipal
8 corporation or district which is contrary to this
9 chapter has no effect.

10 3. Trustees' compensation; water districts and
11 sewer districts. This chapter does not affect the
12 procedures concerning changes in the compensation of
13 trustees of water districts and sewer districts as
14 provided in Title 35-A, section 6303, subsection 4,
15 and Title 38, section 1252, subsection 5.

16 STATEMENT OF FACT

17 This new draft provides simplified methods for
18 changing the charters of quasi-municipal corporations
19 or districts.

20 The methods for changing the charters of
21 quasi-municipal corporations or districts depend on
22 whether the proposed change is considered substantive,
23 and therefore a revision of the charter, or
24 non-substantive, and therefore considered an amendment
25 to the charter. This distinction is made in the
26 methods of changing the charters of municipalities,
27 and the same concepts are to be used in changing the
28 charters of quasi-municipal corporations or districts.

29 If an amendment is proposed, the change will be
30 effective after two steps are followed. First, the
31 board of trustees, after holding a public hearing,
32 must unanimously vote in favor of the proposed
33 amendment. Second, the Legislature must ratify the
34 amendment. This may be accomplished by the board of
35 trustees submitting the proposed amendment to the
36 joint standing committee of the Legislature having
37 jurisdiction over utilities which will include it in

1 an omnibus bill on charter changes. If the proposed
2 change is substantive and thus considered a charter
3 revision, the revision must have the backing of a
4 majority of the board of trustees and a majority of
5 each municipal legislative body of the municipalities
6 covered by the quasi-municipal corporation, must be
7 approved by the voters and then must be ratified by
8 the Legislature. As an alternative, a charter
9 revision may be initiated by citizens' petition, which
10 then requires a referendum vote and enactment by the
11 Legislature before becoming effective. The referendum
12 procedures mirror those of School Administrative
13 Districts provided in Title 20-A.

14 A public meeting of the board of trustees may
15 serve as a public hearing if the public is notified in
16 advance of the meeting that the proposed charter
17 change is on the agenda.

18 These provisions are not intended to preclude any
19 Legislator from introducing legislation to effect a
20 charter change without first going through the local
21 voting procedures.

22 The Maine Revised Statutes, Title 30, section
23 5506, subsection 2, clarifies what would happen in the
24 rare situation when the charter of a quasi-municipal
25 corporation or district actually spells out a method
26 for making changes in that charter. If the situation
27 does occur, this section provides that, if the charter
28 provisions conflict with the method for charter
29 changes provided in this Act, this Act will govern.
30 This avoids the question of whether a general law,
31 such as this Act, or a Private and Special Law, which
32 creates these corporations and districts, governs when
33 they conflict.

34 Title 30, section 5506, subsection 3, clarifies
35 that changes in the compensation of trustees of water
36 districts and sewer districts can still be made
37 through the procedures provided in Title 35-A and
38 Title 38 without amending the districts' charters.
39 This chapter is not intended to eliminate that avenue
40 of change, but actual amendments or revisions of the

1 charters can be made through the procedures provided
2 in this chapter.

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