

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 1033

S. P. 367

In Senate, February 5, 1963

Referred to Committee on Legal Affairs. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Whittaker of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT Relating to Interlocal Cooperation.

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

Sec. 1. R. S., c. 90-A, § 8-A, repealed. Section 8-A of chapter 90-A of the Revised Statutes, as enacted by section 1 of chapter 405 of the public laws of 1957, is repealed.

Sec. 2. R. S., c. 90-A, § 8-B, additional. Chapter 90-A of the Revised Statutes, as enacted by section 1 of chapter 405 of the public laws of 1957, is amended by adding a new section 8-B, to read as follows:

‘Sec. 8-B. Interlocal cooperation, purpose. It is the purpose of this section to permit municipalities to make the most efficient use of their powers by enabling them to cooperate with other municipalities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities.

I. Public agency defined. For the purposes of this section, the term “public agency” shall mean any political subdivision of this State; any quasi-municipal corporation, including but not limited to School Administrative Districts, Urban Renewal Authority, sewer districts; or any agency of State Government or of the United States.

II. Joint exercise of powers. Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this State may be exercised jointly with any other public agency of this State, or of the United

States to the extent that the laws of the United States permit such joint exercise. Any agency of State Government when acting jointly with any public agency may exercise all of the powers, privileges and authority conferred by this section upon a public agency.

A. Any 2 or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to this section. Appropriate action by ordinance, resolution or other action pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

B. Any such agreement shall specify the following:

1. Its duration;
2. The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created;
3. Its purpose;
4. The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;
5. The method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such termination;
6. Any other necessary and proper matters.

C. In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to items enumerated in paragraph B, contain the following:

1. Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board all public agencies party to the agreement shall be represented.
2. The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.

D. No agreement made pursuant to this section shall relieve any public agency of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder. Said performance may be offered in satisfaction of the obligation or responsibility.

E. Every agreement made hereunder shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall determine whether the agreement is in proper form and compatible with the laws of this State. The Attorney General shall approve any agreement submitted to him hereunder unless he shall find that it does not in substance meet the conditions set forth herein and shall detail in writing

addressed to the governing bodies of the public agencies concerned the specific respects in which the proposed agreement substantially fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within 30 days of its submission shall constitute approval thereof.

III. Agreement filed. Prior to its entry into force, an agreement made pursuant to this section shall be filed with the clerk of each municipality and with the Secretary of State. An action shall be maintainable against any public agency whose default, failure of performance, or other conduct caused or contributed to the incurring of damage or liability by the other public agencies jointly.

IV. Approval of certain state officers. In the event that an agreement made pursuant to this section shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the State Government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the Attorney General pursuant to subsection III, paragraph E. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the Attorney General.

V. Funds, personnel and services. Any public agency entering into an agreement pursuant to this section may appropriate funds and may sell, leave, give or otherwise supply the administrative joint board or other legal or administrative entity created to operate the joint or cooperative undertaking by providing such personnel or services therefor as may be within its power to furnish.

VI. Severability. If any portion of this section shall be held to be invalid, such decision shall not affect the validity of the remaining portions of this section.

VII. Former districts formed remain effective. In municipalities which acted under the repealed section 8-A of chapter 90-A of the Revised Statutes of 1954, the district formed remains effective so far as it conforms with this section and may be continued accordingly.⁷