

# MAINE STATE LEGISLATURE

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# ONE HUNDRED AND FOURTH LEGISLATURE

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**Legislative Document**

**No. 760**

H. P. 573

House of Representatives, February 11, 1969

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Temple of Portland.

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## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-NINE

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### AN ACT Creating the Cushing Island Village Corporation.

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

**Sec. 1. Incorporation.** The territory embraced within the limits of Cushing Island in the City of Portland, in the County of Cumberland, together with the inhabitants thereon, owners of real estate thereon and persons entitled to the use or occupation of real estate thereon is hereby created a body politic and corporate by the name of the Cushing Island Village Corporation.

**Sec. 2. Powers.** Said corporation is authorized and vested with the power at any legal meeting called for the purpose to raise money for the following purposes: To create and maintain a fire department with all the necessary equipment, appliances and apparatus for the prevention and extinguishment of fires; to build, repair and maintain roads, streets and ways, sidewalks, sewers and other sanitary works, including the collection and removal of offal and garbage; to purchase, own, hold, sell, convey, lease, mortgage or otherwise dispose of real estate and to build, construct, lease, sell, mortgage or otherwise dispose of improvements thereto; to care for and beautify that portion of the island which has been or may hereafter be reserved for and dedicated to public uses to be enjoyed in common by all the owners of lots on the island and to that end to build roads and walks upon and through said public lands and to plant and care for trees in the roads and streets and upon said public lands; to build, repair and maintain public wharves and landings; to establish and maintain police and night watch; to procure water for fire, domestic and other purposes and to produce or procure light for public use and for the use of the inhabitants of the island, and for such purposes to contract with any individual, firm or corporation to furnish such water or light

for either or both of the purposes named and to establish reasonable rates to be paid by the inhabitants of the island using such water or light for domestic purposes; to construct, maintain and operate telephone or telegraph lines or to aid in such construction, maintenance and operation and to that end and for that purpose to contract with any corporation, firm or individual therefor; and to defray any and all other necessary or proper corporate charges; and to purchase necessary supplies and equipment and employ labor, and to sell such supplies and furnish such equipment and labor for hire to the members of the corporation, and the overseers of the corporation may employ such agents as are necessary to carry out the provisions of this section.

**Sec. 3. Duties of City of Portland.** The City of Portland is relieved from any and all duty to build, repair or maintain roads, streets or ways upon Cushing Island or to build school houses, maintain schools or provide free schooling for any children residing thereon or to perform any of the duties for which said corporation is authorized by section 2 to raise money, and said city shall not be liable for defects in streets, ways or roads on said island nor for failure to perform any duty from which it is relieved by this Act, but said corporation shall assume all of said duties and be liable for said defects in streets, ways and roads and for failure to perform the duties assumed as the City of Portland would have been liable except for this Act, which liability may be enforced under the same conditions, in the same manner and with the same remedies as are provided by law in relation to cities.

**Sec. 4. Roads.** Said corporation and the overseers thereof shall have the same power and duties in laying out, discontinuing and altering ways and roads on Cushing Island which the municipalities of the State now have, to be exercised and performed under the same conditions and limitations and in the same manner that they are now or may hereafter be exercised and performed by said municipalities.

**Sec. 5. Taxes.** The City of Portland shall annually pay over to the treasurer of said corporation out of the taxes collected from the inhabitants and estates on Cushing Island pursuant to sections 6 and 10, a sum equal to 80% of said taxes less the fees entitled to be received by the collector of the City of Portland under section 10 exclusive of the State and county tax, collected from said inhabitants and estates. No city taxes shall be assessed upon or collected from said inhabitants and estates except as provided for in section 6 and section 10.

**Sec. 6. Assessment.** All moneys which shall be raised pursuant to section 10 for the purposes named in section 2 or for any other purpose, for which the corporation may lawfully raise money, shall be assessed upon the taxable polls and estates embraced within the limits of the corporation by the assessors of the City of Portland in the same manner as is provided by law for the assessment of city and county taxes. For the purposes of taxation under this Act, the person or persons entitled to the use or occupation of any lot of land on said island shall be deemed the owner thereof and be taxed for said lot and the improvements, if any, thereon.

**Sec. 7. Officers; bylaws.** The officers of said corporation shall be a clerk, who shall be a resident of this State, a treasurer and 5 overseers, who shall

be chosen by ballot and such other officers as the bylaws of said corporation may require. Said corporation is empowered to adopt at any legal meeting called for that purpose a code of bylaws for the government of the same and for the proper management of its prudential affairs and other purposes connected therewith, provided said bylaws are not repugnant to the laws of the State. Such code of bylaws may be altered or amended at any legal meeting of the corporation in the call for which notice of the proposed change has been given. The officers shall be sworn before the clerk or a justice of the peace and the treasurer shall give bond to said corporation in such sum as the overseers may direct, which bond shall be approved by the overseers and clerk.

**Sec. 8. Eligibility to hold office.** Any person who is a legal voter in said corporation may be elected or appointed to any office therein, but shall cease to hold said office whenever he ceases to be such legal voter.

**Sec. 9. Duties of overseers.** Said overseers shall be the general municipal officers of said corporation and shall have general charge of its affairs and of the expenditure of all money therein except so far as the same may be committed to other officers or persons.

**Sec. 10. Certificate; duties of officers.** Upon a certificate being filed with the assessors of the City of Portland by the clerk of this corporation of the amount of money voted to be raised at any meeting for any of the purposes aforesaid, it shall be the duty of said assessors or their successors in office, at the time of the next annual assessment of city and county taxes in said City of Portland to assess the total amounts certified by the clerk of this corporation upon the polls and estates of persons owning land on said island as defined in section 6 and to certify and deliver the lists of the assessments so made to the collector of the City of Portland, whose duty it shall be to collect the same in like manner as county and city taxes are by law collected on property assessed therein, and said collector shall pay over the amount provided for in section 5 from moneys collected by him to the treasurer of said corporation whenever the overseers shall so direct. It shall be the duty of the treasurer of said corporation to receive all moneys belonging to the corporation and to pay it out only upon the written order or direction of the overseers and to keep a regular account of all moneys received and paid out and to exhibit the same to the overseers whenever requested, and said City of Portland shall have the same power to direct the mode of collecting said taxes as is provided for by law in the collection of city taxes and said collector shall have the same rights and powers to recover any taxes committed to him under this Act by suit as are provided for by law in the collection of city taxes committed to him, and the City of Portland shall have the same right to recover taxes assessed under this Act by suit as is provided for by law to recover city taxes assessed therein. The collector of Portland shall be entitled to receive the same fees in connection with the collection of taxes assessed under this Act as are provided for by law in the collection of the city taxes. The Cushing Island Village Corporation shall have the same power to borrow money in anticipation of taxes or to issue its notes, bonds or other evidence of indebtedness for municipal purposes as towns now have under the general laws.

**Sec. 11. Legal voters.** All persons owning land within the limits of said corporation or entitled to the use or occupation of any lot of land within the limits of said corporation shall be legal voters at any meeting of said corporation at which they are present. The overseers of said corporation shall determine who are the legal voters at any meeting subsequent to acceptance of this charter and shall prepare a list of said voters at least 24 hours before every meeting, which said list they may amend or correct at any time before said meeting or during its progress. The vote upon any propositions at any meeting shall be taken and checked by this list upon the demand of 5 legal voters. Every person, who by virtue of a joint ownership of himself and some other person or persons of land within the limits of said corporation and by agreement with the other joint owners is in possession of a certain aliquot part of a lot of land on said island upon which he has a dwelling house owned and controlled by himself exclusively, shall be deemed a legal voter at any meeting of the corporation at which he is present. The majority in interest of the joint owners of any land within the limits of said corporation may designate in writing one of such owners to represent such land as the legal voter at any meeting of the corporation at which he is present, but no person shall be entitled to more than one vote in any meeting either for himself or as representing the joint owners of any land within the limits of the corporation.

**Sec. 12. Officers; term of office; annual meeting.** The first election of officers shall be at the meeting at which this charter is accepted. Said officers shall hold their respective offices until the next annual meeting of the corporation, at which said meeting officers shall be elected and thereafterwards at each annual meeting but in any event all officers duly elected shall hold office until their successors are elected and duly qualified. The annual meeting of said corporation shall be held at such time and place in the months of June, July, August or September as shall be designated by a majority of the overseers.

**Sec. 13. Meeting called.** W. Bradford Chase, Ellen B. Mann, Herbert W. Nolan and Sidney W. Thaxter, or any one of them, may call the meeting of the corporation for the purpose of voting on the acceptance of the charter and the election of officers, and may notify the legal voters of the corporation as determined by a list prepared by them to meet by mailing written notice of said meeting to said persons at least 10 days before the time of holding said meeting. All subsequent meetings shall be called and notified by the overseers as town meetings are called and notified by the selectmen. Any of the above-named persons are authorized to preside at the meeting called for the purpose of voting on the acceptance of the charter until the meeting is organized and until a moderator shall have been chosen by ballot and sworn. At all meetings of the corporation a moderator shall be chosen in the manner and with the same power as in town meetings.

**Sec. 14. Referendum.** 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 Cushing Island Village Corporation at a meeting called for such purpose. Such meeting shall be called, advertised and conducted according to section 13 of the charter of the Cushing Island Village Corporation, but may be held at any time after said 90-day period.

The persons named in section 13 of the charter of the Cushing Island Village Corporation shall prepare the required ballots, on which they shall reduce the subject matter of this Act to the following question: "Shall the Act Creating the Cushing Island Village Corporation, passed by the 104th Legislature, be accepted?" The voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same.

This Act shall take effect for all the purposes hereof immediately upon its acceptance by a majority of the legal voters voting at said meeting and the filing of the certificate of the results of the vote with the Secretary of State; but only if the total number of votes cast for and against the acceptance of this Act at said meeting equals or exceeds 50% of the number of names on the list of legal voters of said Cushing Island Village Corporation as prepared in accordance with section 13 of the charter of the Cushing Island Village Corporation.

The result of the vote shall be declared by the officers of the corporation and a certificate thereof shall be filed by the clerk of the corporation with the Secretary of State.