

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
SENATE  
108TH LEGISLATURE  
FIRST REGULAR SESSION

(Filing No. S-266)

SENATE AMENDMENT "A " to S.P. 437, L.D. 1648, Bill,  
"AN ACT Recognizing County Charters and Establishing County  
Charter Commissions."

Amend the Bill by striking out all of the title and  
inserting in its place the following: 'AN ACT to Authorize  
the Establishment of County Charters."

Further amend the Bill by striking out everything after  
the enacting clause and inserting in its place the following:

'30 MRSA c. 11 is enacted to read:

CHAPTER 11

COUNTY CHARTERS

SUBCHAPTER I

GENERAL PROVISIONS

§1501. Purpose

The purpose of this chapter is to provide a method for  
each county, by vote of its voters, to determine the structure  
of county government in that county. The county charter  
adopted in each county may determine the officers of the  
county, their relationship, the administrative structure  
necessary to perform county functions and the organization of  
county government, subject to the limits of the Constitution  
of Maine. The county charter may alter the powers or duties  
of county government as established by general law.

§1502. Definitions

As used in this chapter, the following words shall have  
the following meanings, unless the context clearly indicates  
otherwise.

1. County officers. "County officers" shall mean the county commissioners in a county, or the officers, under a charter, who exercise legislative powers within the county.

SUBCHAPTER II

PROCEDURES

§1551. Charter adoptions; revisions; procedure

1. County officers. The county officers may determine that the adoption of a county charter should be considered or that revision of a county charter already adopted under this chapter should be considered and, by order, provide for the establishment of a charter commission to carry out such purpose as provided in this chapter.

2. Alternative method initiative. On the written petition of a number of voters equal to at least 20% of the number of votes cast in the county at the last gubernatorial election, but in no case less than 10, the county officers shall, by order, provide for the establishment of a charter commission for the revision of the county charter or for the preparation of a new county charter in the form and manner provided in this chapter.

3. Petition procedure. The following procedure shall be used in the alternative method set out in subsection 2.

A. Any 5 voters of the county may file with the county clerk an affidavit stating they will constitute the petitioner's committee, circulate the petition and file it in proper form. The affidavit shall state the names and addresses of the members and specify the address to which all notices to the committee are to be sent.

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Promptly after the affidavit is filed, the clerk shall issue petition blanks to the committee.

The petitioner's committee may designate additional voters of the county, who are not members of the committee, to circulate the petition.

B. ~~\_\_\_\_\_~~ The petition forms shall be printed on paper of uniform size and may consist of as many individual sheets as are reasonably necessary. Petition forms shall be prepared by the clerk at the expense of the county.

(1) Petition forms shall carry the following legend in bold lettering at the top of each form on the face thereof.

County of.....

"Each of the undersigned voters respectfully requests the county officers to establish a Charter Commission for the purpose of revising the County Charter or preparing a New County Charter." Each signature affixed to a petition shall be in ink or other indelible instrument and shall be followed by the place of residence of the voter with street and number, if any. No petition shall contain any party or political designation.

(2) The clerk shall note the date of each petition form issued and all petitions, unless sooner filed, shall become null and void for every purpose on the 120th day after the date of issue.

(3) Each petition form shall have printed on its back an affidavit to be executed by the circulator, stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be genuine signatures of the persons whose names they purport to be, that each signer has signed no more than one petition, and that each signer had an opportunity before signing to read the petition.

(4) Petition forms shall be assembled as one instrument and filed at one time with the clerk. The clerk shall note thereon the date of filing.

4. Procedure after filing. Within 20 days after the petition is filed, the clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective, shall promptly send a copy of the certificate to the petitioners' committee by mail, and shall file a copy with the county officers.

A. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within 2 days after receiving the copy of his certificate.

Within 10 days after the day of filing of the notice of intention, the committee may file a supplementary petition to correct the deficiencies in the original petition. Such sup-

plementary petition shall in form and content comply with the requirements for an original petition under subsection 3.

B. Within 5 days after the filing of a supplementary petition, the clerk shall complete and file a certificate as to its sufficiency in the manner provided for an original petition.

C. When an original or supplementary petition has been certified insufficient, the committee may, within 2 days after receiving the copy of the clerk's certificate, file a request with the county officers for review. The county officers shall inspect the petitions in substantially the same form, manner and time as a municipal recount hearing under section 2064 and shall make due certificate thereof, copies of which shall be filed with the clerk and mailed to the committee. The certificate of the county officers shall be a final determination of the sufficiency of the petitions.

D. Any petitions finally determined to be insufficient shall become null and void and of no further force or effect. Such petitions shall be stamped void by the clerk and shall be sealed and retained by the clerk in the manner required for secret ballots.

5. Election procedure. Within 30 days after the adoption of an order under subsection 1 or the receipt of a certificate or final determination of sufficiency under subsection 4, the county officers shall by order submit the question for establishment of a charter commission to the voters at the next regular or special county election held not less than 60 days thereafter.

A. The question to be submitted to the voters shall be in substance as follows.

"Shall a Charter Commission be established for the purpose of revising the County Charter or establishing a New County Charter?"

§1552. Charter commission; membership; procedure

1. Membership. The charter commission shall consist of 9 members, 6 of whom shall be voters of the county, elected as hereinafter provided, and 3 of whom shall be appointed by the county officers.

A. Voter members shall be elected in the same manner as county officers and shall be elected by district if the county officers are so elected, except that they shall be elected without party designation. Election of voter members may be held at the same election as the referendum for the charter commission, but shall be held within 60 days of such referendum election. The names of the candidates shall be arranged alphabetically by last/<sup>name</sup> immediately below the question relating to the charter commission.

B. Appointive members need not be residents of the county, but only one may be a county officer. Appointments shall be made in accordance with county custom or bylaws and shall be made by the county officers within 30 days after the adoption of the charter commission.

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2. Organization. The county clerk shall, immediately after receiving notice of the appointment of the members by the county officers, notify the appointed and elected members of the charter commission of the date, time and place of the organizational meeting of the charter commission. Such date, time and place shall be fixed by the clerk and 7-days' notice thereof shall be given.

The charter commission shall organize by electing from its members a chairman, vice-chairman and a secretary and shall file notice thereof with the county clerk. Vacancies occurring on the commission shall be filled by vote of the commission from the voters of the county, except that a vacancy among appointive members shall be promptly filled by the county officers. Members shall serve without compensation, but shall be reimbursed from the commission's account for expenses lawfully incurred by them in the performance of their duties.

3. Rules; regulations; staff. The charter commission may adopt rules and regulations governing the conduct of its meetings and proceedings and may employ such legal, research, clerical or other employees and consultants as are deemed necessary within the limits of its budget.

4. Funding. A county shall provide its charter commission, free of charge, with suitable office space and with reasonable access to facilities for holding public hearings, may contribute clerical and other assistance to such commission, and shall permit it to consult with and obtain advice and information from county officers, officials and employees during ordinary working hours. Within 20



days after the election of a charter commission, the county officers shall credit to the charter commission account the sum of \$100.

A county may, from time to time, appropriate additional funds to the charter commission account. Such funds may be transferred from surplus or from other accounts in the county budget.

In addition to funds made available by a county, the charter commission account may receive funds from any other source, public or private, provided that no contribution of more than \$5 shall be accepted from any source other than the county or a municipality in the county unless the name and address of the person or agency making the contribution and the amount of the contribution are disclosed in writing<sup>and</sup>/filed with the clerk. Prior to the termination of its existence, the charter commission shall file with the clerk a complete account of all its receipts and expenditures for public inspection. Any balance remaining in its account shall be credited to the county's surplus account.

5. Hearings; reports; time limits. Within 30 days after its organizational meeting, the charter commission shall hold a public meeting for the purpose of receiving information, views, comments and other pertinent material relative to its functions.

Within 9 months after its election, the charter commission shall prepare a preliminary report including the text of the charter or charter revision which the commission intends shall be submitted to the voters and any explanatory information the commission deems

desirable, shall cause such report to be printed and circulated throughout the county, and shall provide sufficient copies of the preliminary report to the county clerk to permit its distribution to each voter requesting same.

Within 12 months after its election, the charter commission shall submit to the county officers its final report, which shall include the full text and an explanation of the proposed new charter or charter revision, such comments as the commission deems desirable, an indication of the major differences between the current and proposed charters and a written opinion by an attorney admitted to the bar of this State that the proposed charter or charter revision is not in conflict with the Constitution or the general laws. Minor reports, if filed, shall not exceed 1,000 words.

The time limits on the preparation and submission of preliminary and final reports of the charter commission may be extended by the county officers, but in no event for longer than 24 months after the election of the charter commission, if such extension shall be necessary to properly complete such reports, or to have them printed or circulated or to secure the written opinion of an attorney.

All public hearings before a charter commission shall be held within the county at such times and places as may be specified in a notice published at least 10 days prior to the hearing in a newspaper having general circulation in the county, but hearings may be adjourned from time to time without further published notice.

6. Election. Upon the filing of the final report, the county officers shall order the proposed new charter or charter revision to be submitted to the voters at the next regular or special county election held at least 30 days after the filing of the final report.

7. Termination. The charter commission shall continue in existence for 30 days after submission of its final report to the county officers for the purpose of winding up its affairs; unless judicial review is sought under section 1555, subsection 3, in which event the charter commission shall continue in existence until such review and any appeals therefrom are finally completed for the purpose of intervening in such proceedings.

§1553. Charter amendments; procedure

1. County officers. The county officers may determine that amendments to the county charter should be considered and, by order, provide for notice and hearing on them in the same manner as provided in subsection 4, paragraph A. Within 7 days after the hearing, the county officers may order the proposed amendment to be placed on a ballot at the next regular county election held not less than 30 days after the order is passed; or they may order a special election to be held not less than 30 days from the date of the order for

the purpose of voting on the proposed amendments.

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A. Each amendment shall be limited to a single subject, but more than one section of the charter may be amended as long as it is germane to that subject.

B. Alternative statements of a single amendment are prohibited.

2. Alternative method; initiative. On the written petition of a number of voters equal to at least 20% of the number of votes cast in a county at the last gubernatorial election, but in no case less than 10, the county officers shall, by order, provide that proposed amendments to the county charter be placed on a ballot in accordance with the following procedures.

A. Each amendment shall be limited to a single subject, but more than one section of the charter may be amended as long as it is germane to that subject.

B. Alternative statements of a single amendment are prohibited.

3. Petition procedure. The petition forms shall carry the following legend in bold lettering at the top of each form on the face thereof.

County of.....

"Each of the undersigned voters respectfully requests the county officers to provide for the amendment of the county charter as set out below."

No more than one subject may be included in a petition.

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In all other respects the form, content and procedures governing amendment petitions shall be the same as provided for charter revision and adoption petitions under section 1551, including procedures relating to filing, sufficiency and amendments.

4. Action on petition.

A. Within 10 days of receipt of a report that a petition is sufficient, the county officers shall, by order, provide for a public hearing on the proposed amendment. The notice of the hearing shall be published in a newspaper having general circulation in the county at least 7 days prior to the hearing, and shall contain the text of the proposed amendment and a brief explanation. The hearing shall be conducted by the county officers or a committee appointed by them.

B. Within 7 days after public hearing, the county officers or a committee appointed by them shall file with the county clerk a report containing the final draft of the proposed amendment and a written opinion by an attorney admitted to the bar of this State that the proposed amendment is not in conflict with the general laws or the Constitution. In the case of a committee report, a copy shall be filed with the county officers.

C. On all petitions filed more than 120 days prior to the end of the current county fiscal year, the county officers

shall order the proposed amendment to be submitted to the voters at the next regular or special county election held within that year after the filing of the final report. If there is no such election to be held before the end of the current county fiscal year, the county officers shall order a special election to be held before the end of the current county fiscal year for the purposes of voting on the proposed amendment. Unrelated charter amendments shall be submitted to the voters as separate questions.

When the county officers, with the advice of an attorney, determine that it is not practical to print the proposed amendment on the ballot and that a summary would not misrepresent the subject matter of the proposed amendment, the county officers shall include in the order a summary of the proposed amendment and instruction to the clerk to include on the ballot the summary in lieu of the text of the proposed amendment.

§1554. Submission to voters

1. Voting procedure. The method of voting at county elections, when a question relating to a charter revision, a charter adoption or a charter amendment is involved, shall be by secret ballot in the manner prescribed for state elections. The county officers shall notify the city alderman, town selectmen and plantation assessors of the county of the date on which the election

will be held. The city aldermen, town selectmen and plantation assessors of the county shall notify the inhabitants of their respective cities, towns and plantations in that county to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of these recommended charter revisions by voting on the following question:

⌘ A. In the case of a charter revision or a charter adoption the question to be submitted to the voters shall be in substance as follows:

"Shall the county approve the (charter revision) (new charter) recommended by the charter commission?"

⌘ B. In the case of a charter amendment, the question to be submitted to the voters shall be in substance as follows:

"Shall the county approve the charter amendment reprinted (summarized) below?"

⌘ The legal voters of each city, town and plantation in the county shall vote by ballot on this question, and shall designate their choice by a cross or check mark placed within a corresponding square below the words "Yes" or "No." The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings in the county and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall re-

view the returns, and, if it appears that a majority of the legal votes in the county are in favor of the recommended adoption, <sup>amendment or</sup> revision, the Governor shall proclaim that fact without delay, and the adoption, amendment or revision shall become part of that county's charter 30 days after the date of his proclamation.

← The Secretary of State shall prepare and furnish to each city, town and plantation all ballots and returns necessary to carry out the purpose of this referendum.

2. Voter information.

A. In the case of a charter revision or charter adoption, at least 2 weeks prior to the date of the election, the county officers shall cause the final report of the charter commission to be printed, shall make copies available to the voters in the clerk's office and shall post the report in at least one public place in each municipality in the county.

B. In the case of a charter amendment, at least 2 weeks prior to the date of the election, the county officers shall cause the proposed amendment and any summary thereof to be printed, shall make copies available to the voters in the clerk's office and shall post the amendment and any summary thereof in the same manner as required under paragraph A.



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§1555. Judicial review

1. Petition. The Superior Court may, upon petition of 10 voters of the county or on petition of the Attorney General, enforce this chapter. The charter commission may intervene as a party in any such proceeding.

2. Declaratory judgment. A petition for declaratory relief under Title 14, chapter 707, may be brought on behalf of the public by the Attorney General or, by leave of the court, by 10 voters of the county. In the case of the petition of 10 voters, the Attorney General shall be served with notice of the preliminary petition for leave, and may intervene as a party at any stage of the proceedings; and the petitioners shall be liable for <sup>cost</sup> but may in the court's discretion also be awarded costs, which may include reasonable attorney's fees. The charter commission shall be served with notice of the petition for declaratory judgment or with notice of the preliminary petition for leave and may intervene as a party in any proceeding.

3. Judicial review. Judicial review to determine the validity of the procedures whereby any charter is adopted, revised or amended may be had by petition of 10 voters of the county brought within 30 days after the election at which such charter, revision or amendment is approved. The charter commission shall be served with notice of the petition for judicial review and may intervene as a party in such proceeding. If no such petition is filed within such period, compliance with all the procedures required by this

chapter and the validity of the manner in which such charter adoption, revision or amendment was approved shall be conclusively presumed. No charter adoption, revision or amendment shall be deemed invalid on account of any procedural error or omission unless it is shown that the error or omission materially and substantially affected such adoption, revision or amendment.

4. Resubmission upon judicial invalidation for procedural error. Upon a determination that the procedures whereby any charter was adopted, revised or amended are invalid, the Superior Court may, on its own motion or the motion of any party, order the resubmission of such charter adoption, revision or amendment to the voters. Such order shall require only the minimum procedures on resubmission to the voters that are necessary to cure the material and substantial errors or omissions. The Superior Court may also recommend or order other curative procedures to provide for valid charter adoption, revision or amendment.

### SUBCHAPTER III

### CHARTER POWERS

#### §1601. Charter powers; limits

1. Charter powers. The charter for any county may provide for the organization of county government, the election or appointment of a county legislative body, and officers, officials and employees, the establishment of county departments, agencies, boards or commissions, and their description, powers and duties, and the

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powers and authority of county officers or officials to direct, regulate and control these agencies, departments, boards and commissions and the activities of county government.

2. Limits. No county charter shall change the method of selecting county officers where this method is determined by the Constitution. A county may, by the adoption, amendment or revision of a charter, exercise any power or function which the Legislature has power to confer upon it and which has not been denied that county either expressly or by clear implication. The charter shall not alter the statutory powers of the county to raise or appropriate money.

§1602. Application <sup>of</sup> / general law; duties designated.

1. Application. In those counties that adopt county charters, the following general statutes shall not apply:

- A. Title 30, sections 2, 51 and 52;
- B. Title 30, chapter 1, subchapter II, sections 101 to 202;
- C. Title 30, chapter 1, subchapter IV, sections 601 to 651;
- D. Title 30, chapter 1, subchapter V, section 801; and
- E. Title 33, sections 601 to 608.

2. Duties designated. The county charter shall designate the county officers, officials or employees, who shall carry out the duties required of county commissioners, county treasurers and registers of deeds under general statute.

§1603. Vote charters

Any county charter that may be in effect on the effective date of this chapter may be revised and amended.'

Statement of Fact

The purposes of this amendment are:

1. To permit a county charter to alter the powers and duties of county government as established by general law;
2. To permit a county by the adoption, amendment or revision of a charter, to exercise any power or function which the Legislature has power to confer upon it and which has not been denied that county either expressly or by clear implication; and
3. Provides that a charter shall not alter the statutory powers of counties to raise or appropriate money.

(Mangan)

NAME:

*Thomas M. Mangan*

COUNTY: Androscoggin