

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1809

H. P. 1601

House of Representatives, May 25, 1977

Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 25. Referred to Committee on Local and County Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Valentine of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Repealing the York Beach Village Corporation.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the following legislation is necessary to carry into effect the intent of the citizens of York Beach Village Corporation to consolidate the corporation with the Town of York; and

Whereas, in the interests of good government and the welfare of the people within the York Beach Village Corporation the following legislation is necessary; and

Whereas, it is vital that the duties and responsibilities of the Town of York with respect to the future of York Beach Village Corporation be carefully spelled out; and

Whereas, it is vital that the voters of the entire Town of York, including the voters of York Beach Village Corporation, be permitted to vote upon the merits of the proposed legislation as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now therefore,

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

Sec. 1. P&SL 1901, c. 455, repealed. Subject to the provisions of section 14 of this Act, chapter 455 of the private and special laws of 1901, as amended, entitled "An Act to Incorporate the York Beach Village Corporation," is repealed.

Sec. 2. Rights, etc., of the York Beach Village Corporation vested in the Town of York. Upon the acceptance of this Act as provided in section 14 hereof, all real and personal property, or any interests therein, then owned by the York Beach Village Corporation, together with all accounts receivable, choses in action and all other rights and benefits that may be either then due and payable to, or would accrue to, or for the benefit of the York Beach Village Corporation, but for this Act, shall be and become the property of the Town of York without the payment of any consideration; the town being hereby vested with all rights and powers of holding, disposing of or enforcing of such rights so acquired. All litigation pending in any court involving the York Beach Village Corporation shall not abate and shall be prosecuted or defended, as the case may be, by the Town of York and the Town of York shall, in all instances, be held to be the successor in interest to the York Beach Village Corporation. The Town of York shall prosecute the litigation in accordance with the intention of the Overseers of York Beach Village Corporation, which intention shall be expressed in a document to be signed by the overseers and directed to the selectmen to be filed with them after the effective date of this Act, it being the Legislature's intention that the litigation shall proceed according to the original intention of the Overseers of York Beach Village Corporation.

Sec. 3. Contracts, etc., to be assumed by the Town of York. Upon the acceptance of this Act, as provided in section 14, all responsibilities, duties, contracts, obligations and liabilities of the York Beach Village Corporation incurred or undertaken prior to the acceptance of this Act, shall be assumed and performed by the Town of York. The term "liabilities" shall include, but not be limited to, the maintenance and snowplowing of all roads and ways in the York Beach and the provision and construction of drains according to a vote of the York Beach Village Corporation and to the plans and specifications drawn in response to the vote. The York Beach Village Corporation will submit to the Town of York a map outlining such roads and ways. "Obligations" shall include obligations voted at the 1977 meeting of the York Beach Village Corporation.

Sec. 4. Police department. The Town of York shall maintain the staffing level of the York Beach Police Department at York Beach based on the minimal level of staffing existing at York Beach in the summer of 1977, it being the intention of the Legislature that at a minimum the current level and types of police protection and the maintenance of sufficient numbers of police personnel to provide adequate protection to citizens at York Beach be maintained so as to provide adequate police protection for the geographical area, particularly during the summer months of each year. In connection with the provision of police services to York Beach, the Town of York shall maintain and provide sufficient equipment and a physical facility at York Beach to be used as a base for police operations. The reserve officers of York Beach

Police Department shall be placed on the list of reserve officers of the Town of York for consideration for appointment by the selectmen of the Town of York at their last meeting to be held in March of 1978.

The present Chief of the Police Department of York Beach shall be integrated into the Police Department of the Town of York at the level of Sergeant. His salary shall continue at its present level until the normal end of the York Beach Village Corporation fiscal year, at which time his salary will be commensurate with a sergeant position in the Town of York Police Department.

The present Sergeant of the Police Department of York Beach shall be integrated into the Town of York Police Department at the level of a patrolman.

Police personnel at York Beach now paid by CETA funds or part-time funds need not be integrated into the Town of York Police Department, except for reserve officers as above.

Sec. 5. Fire department. The Town of York shall maintain and provide financial support for the York Beach Fire Department at least as on its present basis and shall continue the practice of the York Beach Village Corporation in making incremental payments of such financial support of at least \$1,000 per payment until funds are exhausted. The Town of York shall assume any and all existing obligations of York Beach Village Corporation with respect to the York Beach Fire Department. The Town of York shall appoint, as Chiefs, persons elected by the York Beach Fire Department. Existing trucks and equipment of the York Beach Fire Department will remain in the York Beach Fire Department station. The York Beach Fire Department will continue to have its existing sphere of key availability for fire zones C and D according to the map entitled "Territorial Responsibility of Fire Departments" in accordance with an agreement between the municipal officers and the fire department chiefs of York, York Beach and Ogunquit. The present building utilized by the York Beach Fire Department will be continued in its present use and may also be used for public purposes for a public meeting hall area, except for that portion of the building known as the "firemen's room." It is understood that the Fire Department itself may determine the applicability and use of the permanent-man concept.

The Legislature recognizes that there exists certain deed restrictions with respect to real estate owned by the York Beach Village Corporation and used by the York Beach Fire Department. A certain portion of land has been given by the York Beach Village Corporation to the York Beach Fire Department. The Legislature intends that the town abide by any and all restrictions, covenants and conditions with respect to gifts, conveyances and other transfers to the end that the Legislature's intention be carried out that the Fire Department is to remain and continue as on the present basis.

Sec. 6. Existing ordinances to remain in force. Upon the acceptance of this Act as provided in section 14 hereof, all ordinances then in force in the York Beach Village Corporation, including the zoning bylaws, the building code and those relating to traffic and parking control, to the bathing beaches

and to public health and safety, shall become valid and enforceable ordinances within the Town of York. All such ordinances of the York Beach Village Corporation as set forth in the pamphlet entitled "York Beach Village Corporation, York Beach, Maine, Charter and Ordinances as of 1972," as further amended from time to time by York Beach Village Corporation, are hereby ratified, confirmed and declared valid and a copy of the ordinances shall be filed with the Town of York by the York Beach Village Corporation as of the effective date of this Act, except that such filing shall not be construed as a prerequisite to validation. As between such ordinances and the ordinances of the Town of York existing as of the effective date of this Act, the stricter of the ordinances shall control. All building permits, variances, special permits and other licenses issued or granted by the York Beach Village Corporation prior to the acceptance of this legislation by the voters of the Town of York shall remain in full force and effect in accordance with their terms when issued or granted.

Sec. 7. Existing facilities to be maintained. Upon and after the acceptance of this Act as provided in section 14 hereof, the Town of York shall maintain all street lights and signs, fire hydrants, parking meters, traffic signals and signs, public beaches, public walks, sewer and drainage systems and public parks as they exist at the time of such acceptance or as they may be from time to time improved. The Town of York shall maintain the parking meters at York Beach at least at their present level and placement.

With respect to Short Sands Park, so-called, located in York Beach, the town shall continue the cooperative arrangement which Short Sands Park enjoys with York Beach in sharing duties and responsibilities similar to the 1977 agreement which the park has with the York Beach Village Corporation. The Town of York shall continue the practice of York Beach in enforcing police power ordinances over the park.

With respect to Sohier Park, the town shall assume the duties and responsibilities of York Beach concerning the park and the town shall abide by all restrictions, covenants and impositions of trust contained in conveyances with respect to the park. The town shall specifically assume the duties and responsibilities under a certain lease now existing with respect to the use of facilities at the park. The town shall continue a representative from the York Beach geographical area on the park Committee. The town shall further carry forward and discharge the responsibilities of York Beach with respect to the so-called "Five-Year Plan" with respect to improvements on the park. The Overseers of York Beach Village Corporation shall provide the Selectmen of the Town of York with documentation of the "Five-Year Plan" after the effective date of this Act.

The town shall maintain all restrooms, lifeguards and beach cleaning at the level existing during the summer of 1977 so as to continue the favorable economic impact of such activities in the York Beach geographical area.

Sec. 8. Employees; personnel. The existing full-time Highway Department employees of York Beach shall be continued as employees of the Town of York.

Sec. 9. Administrative services. The Town of York shall provide adequate personnel and facilities to carry out all administrative duties of the Town of York, including functions relating to police protection and administration at a location within the York Beach geographical area, it being the intention of the Legislature that because of the press of administrative problems at York Beach, particularly in the summer, the town place an administrator, at least on a part-time basis, after the effective date of this Act, to handle matters relating to police protection and other administrative matters.

Sec. 10. Planning Board and Board of Appeals appointments. The Town of York shall maintain at least one member on its Planning Board and one member on its Appeals Board from the York Beach geographical area.

Sec. 11. Park next to fire station. The Town of York shall continue to maintain the land next to the fire station presently used for recreational purposes and as a park area in the same fashion. The Board of Overseers of York Beach Village Corporation shall furnish the Selectmen of the Town of York with a statement concerning the mode and type of use of the park area and the Selectmen shall follow the mode of use insofar as possible, giving preference to those organizations indicated to be entitled to such preference by the Overseers of York Beach Village Corporation.

Sec. 12. Deeds, documents town to abide by. The Town of York shall abide by all restrictions, covenants, trusts and any and all encumbrances or limitations upon the use of land with respect to real estate which it acquires pursuant to the terms of this Act.

Sec. 13. Authority and documents. The Overseers of York Beach Village Corporation are authorized and empowered to execute any and all such documents, including but not limited to, instruments of conveyance and assignments, as may be necessary to carry this Act into effect and their authority to so act shall extend until such date as their terms would have expired but for the passage and acceptance of this Act. The town shall use the Overseers of the York Beach Village Corporation as they are constituted on the effective date of this Act as an advisory board to its Board of Selectmen in order that any transition with respect to the consolidation operates as smoothly as possible and the town shall involve those overseers actively in the transition in any problems occurring as a result thereof and shall fully consider their advice and recommendations with respect to solutions.

Sec. 14. Referendum; effective date; certificate to Secretary of State. This Act shall be submitted to the legal voters of the Town of York at a special meeting thereof held on or before September 1, 1977, provided that the warrant calling such meeting contains an appropriate article for that purpose. The meeting shall be called and conducted according to the law governing annual and special meetings of the town, except voting on the article relating to this action shall be accomplished by written ballot to be prepared for the meeting by the town clerk. The town clerk shall prepare proper ballots upon which this action shall be reduced to the following question:

“Shall ‘An Act Repealing the York Beach Village Corporation,’ as passed by the First Regular Session of the 108th Legislature, be accepted?”

Qualified voters of the town shall record by a cross or check mark placed in the box next to the words "Yes" or "No" their opinion of the same.

In view of the emergency cited in the preamble, this Act shall take effect for all purposes hereof on October 15, 1977, if accepted by the inhabitants of the Town of York by a majority of the legal voters present and voting at the meeting.

The results of the vote taken at the meeting as specified shall be declared in open meeting by the municipal officers of the town and a certificate of the result of the voting shall be filed by the clerk of the town with the Secretary of State.

STATEMENT OF FACT

The purpose of this bill is to repeal the York Beach Village Corporation Act.