

# MAINE STATE LEGISLATURE

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(Governor's Bill)  
FIRST REGULAR SESSION

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 1618**

H. P. 1412

House of Representatives, May 16, 1979

The Committee on Local and County Government suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Michael of Auburn.

Cosponsors: Mr. D. Brown of Livermore Falls and Ms. Lund of Augusta.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

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**AN ACT to Require County Charters and to Transfer Approval for County Budgets  
from the Legislature to the Counties.**

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

**Sec. 1.** 30 MRSA § 601, as amended by PL 1975, c. 771, § 315, is repealed.

**Sec. 2.** 30 MRSA § 601-A is enacted to read:

**§ 601-A. Treasurer; appointment**

**A treasurer shall be appointed by the executive or manager with the approval of the county council under conditions prescribed by the county charter. Neither the Attorney General, district attorney, clerk of courts, sheriff of the county nor any of his deputies shall be county treasurer.**

**Sec. 3.** 30 MRSA § 602, as amended by PL 1975, c. 771, § 316, is repealed.

**Sec. 4.** 30 MRSA § 603 is amended to read:

**§ 603. Bond and tenure of office**

The person so elected **appointed** and accepting the office of county treasurer shall give bond to the county for the faithful discharge of his duties in such sum as

~~the commissioners councillors order and with such sureties as they approve in writing thereon, and shall hold his office for 4 years from the first day of the next January and until another is chosen and qualified in this place.~~

**Sec. 5.** 30 MRSA § 604, as repealed and replaced by PL 1977, c. 67, § 6, is repealed.

**Sec. 6.** 30 MRSA § 1551, sub-§ 1, as enacted by PL 1977, c. 486, is repealed and the following enacted in its place:

**1. Charter commission.** The county commission shall, by order, provide for the establishment of a charter commission to carry out such purpose as provided in this chapter within 90 days from the effective date of this subsection.

**Sec. 7.** 30 MRSA § 1552, sub-§ 1, as enacted by PL 1977, c. 486, is repealed and the following enacted in its place:

**1. Membership.** The charter commission shall consist of 9 members, 6 of whom shall be elected by district if the county commissioners are so elected, except that they shall be elected without party designation, and 3 of whom shall be appointed by the county officers. Only one appointive member shall be a county officer. Appointments shall be made in accordance with county custom or bylaws and shall be made by the county commissioners within 30 days after the adoption of the charter commission.

**Sec. 8.** 30 MRSA § 1552-A is enacted to read:

**§ 1552-A. Responsibility of charter commission**

The charter commission shall submit to public referendum a charter which includes, but is not limited to, provisions relating to the following:

- 1. Size of Council.** Size of council and terms of office;
- 2. Council districts.** Council districts in accordance with section 1627;
- 3. Chief executive.** Type of chief executive, whether elected or appointed, and term of office;
- 4. Treasurer and register of deeds.** Qualifications, term of office and filling of vacancies of treasurer and register of deeds;
- 5. County councillors.** Procedure for establishing salaries of the county councillors;
- 6. Municipal Finance Review Board.** Need to create a Municipal Finance Review Board, comprised of municipal officials, for the purpose of reviewing the proposed county budget prior to adoption;
- 7. County ordinances.** Procedure for the formulation and adoption of county ordinances and for certifying petitions; and
- 8. Transition.** Procedures to insure an orderly transition from existing forms of government.

The referendum may be held in general election or in a special election as determined by the charter commission. The charter commission may recommend the adoption of a council-executive or council-manager form of government or shall provide for the voters to choose which form of government is desired. The charter commission shall by resolution provide for the adoption of the form of government selected in the referendum, which shall be filed in the Office of the Secretary of State, and shall be immediately effective upon such filing. All resolutions which adopt a form of county government shall be printed in the Acts and Resolves of the State of Maine and shall remain a part thereof until amended or repealed.

Sec. 9. 30 MRSA § 1554-A is enacted to read:

§ 1554-A. Legislative approval

After a charter has been adopted or amended, in accordance with this chapter, it shall be submitted by the charter to the Legislature for final approval. If a county fails to adopt a charter within 3 years from the effective date of this Act, the Legislature shall establish a minimum structure as outlined in the enabling legislation. The county structure may be changed by the adoption or amendment of a county charter.

Sec. 10. 30 MRSA c. 13 is enacted to read:

CHAPTER 13

FORMS OF COUNTY GOVERNMENT

SUBCHAPTER I

GENERAL PROVISIONS

§ 1621. Intent

It is the intent of the Legislature to reform the current structure of county governments to increase their public accountability and effectiveness as units of government. With reform legislation the approval of county budgets can be transferred to the restructured county governments and thereby increase local control over the use of public funds. The reforms outlined in this chapter will authorize municipalities to transfer functions to counties, revise the policy and administrative structure of counties and require the adoption of new county charters.

Finally, it is legislative policy to have a uniform system of substate districts in the State in order to coordinate federal, state and regional planning and development programs; to increase public visibility and accountability relative to such programs and the expenditure of taxpayer dollars; to develop a uniform base of information to ensure sound problem identification and needs analyses in the decision making processes of government; and to deter the proliferation of new substate districts and agencies. Therefore, given that county or multiple county boundaries encompass areas of political, social and economic cohesion, it is the

policy of the Legislature that such areas be used as the basis for the designation of state, regional and federal planning, development and administrative districts for the State.

**§ 1622. Referendum; transition**

1. Procedure for referendum on county charter; effect of referendum. After the ratification of a new charter, the form, number and composition of the county, adopted in accordance with this chapter, shall not be changed for a period of 4 years from the effective date of the charter. Following the expiration of this 4-year period, changes in this form, number and composition may be made only as a result of a referendum as provided in this chapter. Referenda may be called by the governing body or upon petition of not less than 20% of the votes cast in the last preceding gubernatorial election. Petitions shall be certified as valid or rejected by the municipal boards of voter registration within 60 days after they have been delivered to the boards and, if certified, shall be filed with the governing body which shall provide for a referendum at the next general election or a special election as determined by the governing body. If more than one petition is filed concerning the same issue within the time allowed for filing, the petition bearing the largest number of signatures of registered electors shall be the proposal presented in the manner set forth in this chapter. No change to an alternate form of government as a result of a referendum shall become effective unless such proposed form receives a favorable vote of a majority of those persons voting on the referendum. After a referendum has been held and whether or not a change in the form results therefrom, no additional referenda shall be held for a period of 4 years.

2. Transition for members of governing bodies. All members of the governing bodies of the respective counties serving terms of office on the date on which a particular form of county government becomes effective shall continue to serve terms for which they were elected or appointed and until their successors are elected or appointed and have qualified.

**§ 1623. Alternate forms of government**

The alternate forms of government which may be adopted pursuant to this chapter shall be one of the following:

1. Council-executive form. Council-executive form as set forth in this subchapter; or
2. Council-manager form. Council-manager form as set forth in this subchapter.

**§ 1624. Powers**

Under each of the alternate forms of government listed in section 1623, each county government within the authority granted by this chapter, and subject to the general law of this State, shall have the following enumerated powers which shall be exercised by the respective governing bodies thereof:

1. **Policy decisions.** The council shall be responsible for any policy decisions pertaining to county matters;

A. **Seal.** To adopt, use and revise a corporate seal;

2. **Property.** To acquire real property by purchase or gift; to lease, sell or otherwise dispose of real and personal property; and to acquire tangible personal property and supplies;

3. **Contracts.** To draw and execute contracts;

4. **Budget.** To prepare and adopt operational and capital budgets;

5. **Taxation.** To assess property and levy advalorem property taxes and uniform service charges, including the power to tax different areas at different rates related to the nature and level of governmental services provided and make appropriations for functions and operations provided that prior to the creation of any special tax district for the purposes enumerated herein, the following procedure shall be required;

A. An election, initiated by a petition of 20% of the votes cast at the last preceeding gubernatorial election for the proposed tax district, shall be held in which a majority of the voters in that area shall approve the creation of the special tax district, the nature of the services to be rendered and the level of taxes to be levied;

B. After the procedures in paragraph A have been completed and the result is favorable for creation of a special tax district, such district shall be created by council ordinance; provided that the governing body of a county shall not finance any service not being rendered on the effective date of this chapter by a countywide tax where such service is being provided by any municipality within such municipality or where such service has been budgeted or funds have been applied for as certified by municipal governing body, except upon written concurrence of the municipal officers of the governing body;

6. **Internal organization.** To organize the internal structure of county government;

7. **Personnel.** To develop personnel system policies and procedures for county employees;

8. **Manager.** To appoint the manager, if the council-manager form of government is adopted;

9. **Accounting and reporting system.** To provide for an accounting and reporting system whereby funds are received, safely kept, allocated and disbursed;

10. **Revenue and general obligations.** To establish and implement policies and procedures for the issuance of revenue and general obligations subject to any bonded debt limitation;

11. **Multicounty projects and programs.** To participate in multicounty projects and programs authorized by general law and appropriate funds therefor;

12. **Ordinances.** To enact ordinances for the implementation and enforcement of the powers granted in this section and provide penalties for violations thereof, not to exceed the penalty jurisdiction of the courts. Alleged violations of such ordinances shall be heard and disposed of in courts created by the general law. County officials are further empowered to seek and obtain compliance with ordinances and regulations issued pursuant thereto through injunctive relief in courts of competent jurisdiction. No ordinance including penalty provisions shall be enacted with regard to matters provided for by the general law or by a municipality except as specifically authorized by such general law or by the municipality;

13. **Advisory referenda.** To conduct advisory referenda; and

14. **Other powers.** To exercise such other powers as may be authorized for counties by the general law. The governing body of any county shall not create a special tax district, any portion of which falls within the corporate boundaries of a municipality, except upon written concurrence of the governing body of the municipality.

§ 1625. **Functions and services.**

1. **Functions and services by contract.** Any county may perform any of its functions, or furnish any of its services within the corporate limits of a municipality situated within the county, by contract with any individual, corporation, municipal governing body, State or Federal Government subject to the general law and the Constitution of Maine regarding such matters; provided that where such service is being provided, or has been authorized, by the municipality such service may not be rendered without the written concurrence of the municipality.

2. **Funding for the implementation of general law and state regulations.** Whenever the Legislature shall provide by general law for the use of county personnel, facilities or equipment to implement such general law, or rules or regulations promulgated pursuant thereto, the state agency or department responsible for administering such general law or service shall provide sufficient funds for county implementation from appropriations to that agency or department; provided that this section shall not apply to construction of or improvement to county capital improvements or other permanent county facilities required by the general law or regulations promulgated pursuant thereto.

3. **Unexpired terms.** Officials serving unexpired terms when a form of government provided for in this chapter is adopted by a particular county shall continue to serve until successors are appointed or elected.

§ 1626. **Special purpose districts**

This chapter shall not be construed to devolve any additional powers upon county councils with regard to public service districts, water and sewer authorities, or other political subdivisions by whatever name designated, which are in existence on the date one of the forms of government provided for in this chapter becomes effective in a particular county, and such political subdivisions shall continue to perform their statutory functions prescribed in laws creating such districts or authorities, except as they may be modified by an Act to the Legislature, and any such Act which dissolves a district or absorbs its function entirely within county government shall provide that such Act shall be effective only upon approval of such abolition or absorption by favorable referendum vote of a majority of the qualified electors of the district voting in such referendum. Upon the dissolution of any district within the county and the assumption of its function by the county government, the county shall take title to the property of the district and assume all of its debts and obligations which shall be retrieved by charges or assessment of taxes in those areas of the county receiving benefits from the facilities of the district.

§ 1627. Districts

The members of the county governing body are required to be elected from defined single member election districts; they shall be residents of the district and elected by qualified voters of the district in which they reside. The districts shall be as nearly equal in population as practical and shall be reapportioned as to population within one year of the adoption by the State of each Federal Decennial Census.

Vacancies in the governing body shall be filled in the manner of original election for the unexpired terms in the next general election after the vacancy occurs or in a special election if the vacancy occurs 180 days or more prior to the next general election.

§ 1628. Public hearings before final council action

Public hearings, upon reasonable public notice, shall be held before final council action is taken to:

1. Budgets. Prepare and adopt annual operational and capital budgets;
2. Appropriations. Make appropriations, including supplemental appropriations;
3. Taxes. Levy taxes; and
4. Real property. Sell, lease or contract to sell or lease real property owned by the county.

Not less than 15 days before the time and place of such hearings, notice thereof shall be submitted in writing to each municipality and published in one or more newspapers of general circulation in the county.



To meet public emergencies affecting life, health, safety or the property of the people, the council may adopt emergency ordinances, but such ordinances shall not levy taxes, grant, renew or impose or change a service rate. Every emergency ordinance shall be designated as such and shall contain a declaration that an emergency exists and describe the emergency. Every emergency ordinance shall be enacted by affirmative vote of at least  $\frac{2}{3}$  of the members of the council. An emergency ordinance is effective immediately upon its enactment without regard to any reading, public hearing, publication requirements or public notice requirements. Emergency ordinances shall expire automatically as of the 61st day following the date of enactment.

**§ 1629. County funds; fiscal report**

All county officers, departments, boards, commissions, agencies or institutions receiving county funds shall make a full detailed annual fiscal report to the council at the end of the fiscal year. The county council shall adopt annually, and prior to the beginning of the fiscal year, operating and capital budgets for the operation of county government and shall in such budgets identify the sources of anticipated revenue, including taxes necessary to meet the financial requirements of the budgets adopted. The council shall further provide for the levy and collection of taxes necessary to meet all budget requirements, except as provided by other revenue sources. The council may make supplemental appropriations which shall specify the source of funds for such appropriations. The procedure for approval of supplemental appropriations shall be the same as that prescribed for enactment of ordinances.

In the preparation of annual budgets or supplemental appropriations, the council may require such reports, estimates and statistics from any county agency or department as may be necessary to perform its duties as the responsible fiscal body of the county.

**§ 1630. Audit**

The council shall provide for an independent annual audit or a state audit of all financial records and transactions of the county or any agency funded in whole by county funds, and may provide for more frequent audits as it deems necessary. Independent audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the county government or any of its officers.

The council may, without requiring competitive bids, designate such accountant firm annually or for a period not exceeding one year, provided that the designation shall be made no later than 30 days after the beginning of such fiscal year. The report of the audit shall be made available for public inspection.

**§ 1631. Centralized purchasing system**

The council shall provide for a centralized purchasing system for procurement of goods and services required by the county government.

**§ 1632. Appointments to boards, committees and commissions**

The council shall provide by ordinance for appointment to all county boards, committees and commissions whose appointment is not provided by the general law or the Constitution of Maine. This authority shall not extend to school districts, special purpose districts or political subdivisions created by the Legislature.

**§ 1633. Conflicts of interest**

Any county officer or employee who has a substantial financial interest in any business which contracts which the county for sale or lease of land, materials, supplies, equipment or services or who personally engages in such matters shall make known that interest and refrain from voting upon or otherwise participating in this capacity as a county officer or employee in matters related thereto. Any county officer or employee who willfully violates the requirements of this section shall be deemed guilty of malfeasance in office and upon conviction shall forfeit his office or position.

**§ 1634. County council**

The responsibility for policy making and administration of county governments shall be vested in the county council which shall consist of 5, 7 or 9 members who are qualified electors of the county.

**§ 1635. Executive or manager**

Under the council-executive form of government the executive shall be a qualified elector of the county, elected at large from the county in the general election for a term established by the county charter. Under the council-manager form of government the manager shall be appointed by the council with regard to executive and administrative qualifications only, and need not be a resident of the county. The term of employment of the manager shall be as specified in the county charter.

**§ 1636. Powers and duties of manager or executive**

The powers and duties of the manager or executive shall include, but not be limited to the following:

1. Chief administrative officer. To serve as the chief administrative officer of the county government;
2. Executor of policies. To execute the policies, directives and legislative actions of the council;
3. Direction and coordination of agencies. To direct and coordinate operational agencies and administrative activities of the county government;
4. Preparation of budgets. To prepare annual operation and capital improvement budgets for submission to the council;

5. **Supervision of expenditures.** To supervise the expenditure of funds appropriated by the council;

6. **Report preparation.** To prepare annual, monthly and other reports for the council on finances and administrative activities of the county;

7. **Responsibility of employment and discharge.** To be responsible for employment and discharge of personnel, and subject to the appropriation of funds by the council for that purpose;

8. **Recommendation of measures.** To recommend measures for adoption;

9. **Executive to serve as presiding officer.** The executive, to serve as presiding officer of the council and vote in case of council ties;

10. **Inspection of certain records.** To inspect books, accounts, records or documents pertaining to the property, money or assets of the county; and

11. **Administration of personnel policies.** To be responsible for the administration of county personnel policies approved by the council.

#### § 1637. County consolidation

Two or more counties may consolidate into a new single county. A multicounty charter commission shall be created in accordance with sections 1551 and 1552. The size of the commission shall be the number of counties seeking consolidation times the size provided in section 1551. The adopted charter shall be sent to the Legislature to approve such consolidation.

#### § 1638. County taxes

No new form of countywide taxes shall be levied except in accordance with state statute and unless first approved by a countywide referendum. The referendum shall be held at the next general election or the council may, in its discretion, and if no regular election is to be held within one year, provide for a special election.

### SUBCHAPTER II

#### INITIATIVE AND REFERENDUM

#### § 1641. Proposals of ordinance

The qualified electors of any county may propose any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, and adopt or reject the ordinance at the polls. Any initiated ordinance may be submitted to the council by a petition signed by the qualified electors of the county equal in number to at least 10% of the votes cast in the last preceeding gubernatorial election.

#### § 1642. Filing of petition

Within 60 days after the enactment by the council of any ordinance authorizing the issuance of bonds, notes or other evidence of debt, the repayment of which requires the approval of the issuance of bonds by a public service district within

the county, a petition signed by the qualified electors of the county equal in number to at least 10% of the votes cast at the last preceeding gubernatorial election, or if such ordinance relates to a bond issue for a public service district, 10% of the qualified electors of the district voting in such election, may be filed with the clerk of the council requesting that any such ordinance be repealed.

**§ 1643. Failure or repeal of ordinance; special election**

If the council shall fail to pass an ordinance proposed by initiative petition or shall pass it in a form substantially different from that set forth in the petition therefor or if the council shall fail to repeal an ordinance for which a petition for repeal has been presented, the adoption or repeal of the ordinance concerned shall be submitted to the electors not less than 30 days nor more than one year from the date the council takes its final vote thereon. The council may, in its discretion, and if no regular election is to be held within such period, provide for a special election.

**SUBCHAPTER III**

**TRANSITION**

**§ 1651. Procedures**

Composition of the council need not conform to the numerical requirements prescribed for the form adopted until such unexpired terms are completed. Persons serving terms may serve out their unexpired terms or may seek election to the council and assume office if elected prior to the expiration of their terms.

All operations, agencies and offices of county government, appropriations and laws related thereto in effect on the date the change in form becomes effective shall remain in full force and effect until otherwise implemented by ordinance of the council pursuant to this chapter; provided that county councils shall not enact ordinances in conflict with existing law relating to their perspective counties and all such laws shall remain in full force until repealed by the Legislature, except that when an optional form of government shall have been selected and an initial election of council held, this proviso shall not apply to appropriation matters.

Sec. 11. 33 MRSA § 601, as amended by PL 1975, c. 771, § 374, is repealed and the following enacted in its place:

**§ 601. Register of deeds; appointment**

A register of deeds shall be appointed by the executive or manager with the approval of the county council under conditions prescribed by the county charter.

Sec. 12. 33 MRSA § 602, as amended by PL 1975, c. 771, § 375, is repealed.

Sec. 13. 33 MRSA § 604 is repealed.

## STATEMENT OF FACT

This bill is submitted to implement the recommendations of the Task Force on Regional and District Organizations as outlined in their final report entitled "A More Responsive Government: The Need for a Focus," November 15, 1978. The task force was created by Executive Order on October 17, 1977. Its basic purposes were to: Inventory substate organizations in Maine; evaluate the degree of duplication among these organizations; and recommend changes in institutions and legislation in order to increase the public accountability and effectiveness of these organizations. The study included an analysis of federal, state and regional organizations including such units as counties, regional planning and economic development agencies, environmental and human service districts and other organizations which receive or disburse public funds at the substate level. In developing its recommendations the task force met with over 150 public officials, held public hearings in all 16 counties, surveyed local officials and interested organizations and conducted extensive research regarding the operations of substate organizations.