

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 223, L.D. 303, Bill, "An Act to Establish a Process for the Deorganization of Municipalities and Plantations"

Amend the bill by striking out all of section 2 and inserting in its place the following:

Sec. 2. 30-A MRSA c. 302 is enacted to read:

CHAPTER 302

DEORGANIZATION OF MUNICIPALITIES AND PLANTATIONS

§7201. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

- 1. Commission. "Commission" means the Commission on Municipal Deorganization as described in section 7206.
- 2. Executive director. "Executive director" means the Executive Director of the Legislative Council.
- 3. Local committee. "Local committee" means the local deorganization committee created under section 7203.
- 4. Municipality. "Municipality" means a city, town, village or plantation with a population of more than 50 people.

§7202. Petition for deorganization meeting

The voters of any municipality may petition for consideration of deorganization of the municipality by following the petition procedure of section 2528, subsection 5. On the written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial election, but in no case less than 10, requesting a

1 municipal meeting for the purpose of discussing and determining
2 whether the municipality should deorganize, the municipal
3 officers shall call and hold a special meeting in the manner
4 provided for the calling and holding of town meetings or city
5 elections to discuss deorganization of the municipality and to
6 decide whether to develop a deorganization procedure.

7
8 The municipal officers shall also publish notice of the
9 meeting in a newspaper of general circulation in the area. One
10 notice shall be published as close to the 14th day before the
11 meeting as possible, and the 2nd notice shall be published as
12 close to the 7th day before the meeting as possible.

13 §7203. Deorganization meeting

14
15 The deorganization meeting shall be conducted in accordance
16 with section 2524. The agenda of the meeting shall consist
17 exclusively of the following.

18
19 1. Discussion and reasons for deorganization. Discussion
20 of deorganization and its impact on the residents of the
21 municipality shall take place and the reasons for deorganizing
22 shall be established and placed before the voters.

23
24 2. Voting on question to develop deorganization procedure.
25 A vote shall be taken on the question of whether the municipality
26 shall continue to pursue the process for deorganizing by
27 developing a deorganization procedure which must be approved by
28 the voters under sections 7207 and 7209.

29
30 3. Creation of local deorganization committee. If the
31 majority of voters present and voting at this meeting approve the
32 question to develop a deorganization procedure as provided in
33 subsection 2, a local deorganization committee shall be created
34 to develop the deorganization procedure. The local committee
35 shall consist of the following 5 members:

36
37 A. One municipal officer selected by the municipal officers;

38
39 B. One member of the local school board or committee
40 selected by that board or committee, if one exists, or one
41 member of a school board or committee who represents the
42 municipality in a multi-municipality school administrative
43 unit, selected by those members who represent the
44 municipality upon that board or committee; and

45
46 C. Three voters of the municipality, nominated and elected
47 by the voters at the same town meeting or election which
48 approved the development of a deorganization procedure.
49

1 §7204. Notice to Legislature and fiscal administrator

3 If the voters approve the question to develop a
5 deorganization procedure, the moderator shall notify the fiscal
7 administrator of the unorganized territory within the Department
9 of Audit and the executive director. The notice shall report the
11 results of the deorganization meeting and provide the reasons for
13 deorganization of the municipality.

15 1. Notice to Legislature. The executive director shall
17 provide a copy of the notice to the joint standing committee of
19 the Legislature having jurisdiction over local government matters.

21 2. Notice to commission. The fiscal administrator shall
23 provide a copy of the notice to the commission.

25 §7205. Deorganization procedure

27 The local committee, with the assistance of the commission,
29 shall develop a deorganization procedure which, at a minimum,
31 shall consist of the following components.

33 1. Effective date. The deorganization procedure shall
35 establish a date on which deorganization will be effective.

37 2. Provision of educational services. The deorganization
39 procedure shall provide for educational services, including
41 school transportation services for all students in the
43 municipality for which deorganization is proposed.

45 A. The Commissioner of Educational and Cultural Services is
47 responsible for implementing this subsection for
49 incorporation in the deorganization procedure.

51 B. The allowable tuition rate for students sent from one
53 municipality to another in the former school administrative
district shall be determined under Title 20-A, section 5805,
subsection 1, except that it is not subject to the state per
pupil average limitation in Title 20-A, section 5805,
subsection 2.

C. School transportation services are subject to Title
20-A, chapter 215.

3. Distribution of financial liabilities and assets. The
deorganization procedure shall provide for the distribution of
all financial and other intangible liabilities and assets of the
municipality, including liabilities and assets held by the
municipality in any other political subdivision that are affected
by the deorganization. These assets and liabilities include, but
are not limited to, outstanding bonds, notes and any other
contractual obligations that extend beyond the proposed date of
deorganization.

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A. The commission is responsible for determining these assets and liabilities and incorporating these provisions in the deorganization procedure.

B. Distribution of these assets and liabilities shall be in accordance with chapter 303.

4. Distribution of tangible assets and liabilities. The deorganization procedure shall provide for the distribution of all real and personal property and other tangible assets of the municipality, including real and personal property held by the municipality in any other political subdivision that is affected by the deorganization.

A. The State Tax Assessor is responsible for the determination of all real and personal municipal property in the municipality and the appropriate distribution of this property.

B. This distribution shall be in accordance with chapter 303.

5. Comprehensive land use planning and zoning. For municipalities not under the jurisdiction of the Maine Land Use Regulation Commission, the Maine Land Use Regulation Commission shall prepare a zoning map of the municipality within one year of the effective date of deorganization. Until a zoning map is prepared, actions by the Maine Land Use Regulation Commission requiring a zone determination shall be based on the prospective zone of the area in question. The determination of the prospective zone shall be based on a decision as to which of the various zones described in the Maine Land Use Regulation Commission's land use districts and standards is most appropriate for the area in question.

6. Information about municipality. The deorganization procedure shall include, at a minimum, the following information:

A. An explanation of the road network and costs to the municipality for road construction and maintenance for the most recent fiscal year;

B. Population information, consisting of population changes since the latest Federal Decennial Census and any other population information, including ages of the population, numbers of households and similar information;

C. Personal income, including individual and household income and changes in personal income derived from the United States Bureau of Census data and state agency estimates;

1
3 D. Property tax assessments and revenues, including amounts
5 of land subject to reduced tax assessments and changes in
7 tax rates and property valuation;

9 E. An explanation of the current services provided by the
11 municipality and the impact of deorganization on these
13 services; and

15 F. The status of leadership in the municipality, including
17 municipal officers, school board members, planning board
19 members, road commissioners, social welfare officials and
21 similar officials.

23 In developing the deorganization procedure, the local committee
25 shall work closely with the commission. The local committee
27 shall submit the proposed deorganization procedure to the
29 commission for review within 90 days of the meeting at which the
31 voters approved the formulation of a deorganization procedure.
33 If the local committee fails to develop a deorganization
35 procedure within this period, the commission shall develop a
37 procedure for the municipality and perform the duties of the
39 local committee in submitting the procedure to the voters of the
41 municipality.

43 §7206. Commission on Municipal Deorganization

45 The Commission on Municipal Deorganization, as established
47 in Title 5, chapter 379, shall assist local deorganization
49 committees in formulating deorganization procedures. In
51 addition, the commission shall review these deorganization
procedures as provided in this chapter.

1. Membership. The commission shall consist of the
following 5 members:

A. The associate commissioner for the Bureau of School
Management or the associate commissioner's designee within
the Department of Educational and Cultural Services;

B. The fiscal administrator of the unorganized territory
within the Department of Audit or the administrator's
designee;

C. The State Tax Assessor or the assessor's designee;

D. The director of the Maine Land Use Regulation Commission
or the director's designee; and

E. The county commissioner whose district includes the
municipality which is considering deorganization.

1 2. Responsibilities. The commission shall:

3 A. Assist municipalities in preparing deorganization
5 procedures and provide the information required in section
6 7205:

7 B. Review each deorganization procedure and provide
9 comments and suggestions with respect to the procedure:

11 C. Recommend alternatives to deorganization if the
12 commission finds that feasible alternatives exist:

13 D. Within 30 days after receiving the proposed
15 deorganization procedure, provide copies of its review and
17 comments on the deorganization procedure to the municipal
19 officers, the local deorganization committee and to the
20 executive director, who shall provide it to the joint
21 standing committee of the Legislature having jurisdiction
22 over local government matters; and

23 E. Develop a deorganization procedure, as provided in
24 section 7205, subsection 6, for a municipality whose local
25 deorganization committee fails to do so.

26 3. Chair. The 4 commission members who are state officials
27 shall annually elect a chair from among those state officials.

28 4. Fiscal agent. The fiscal administrator of the
29 unorganized territory within the Department of Audit shall be the
30 fiscal agent for the commission.

31 §7207. Public hearing and meeting on deorganization procedure

32 The local committee may incorporate the comments and
34 suggestions received from the commission into the deorganization
36 procedure. The local committee shall immediately notify the
37 municipal officers when the deorganization procedure has been
38 completed.

39 1. Public hearing. The municipal officers shall hold a
40 public hearing on the proposed deorganization procedure at least
41 14, but not more than 30, days before the municipal meeting or
42 election called by the municipal officers under subsection 2.

43 A. At least 14 days before the public hearing, the
44 municipal officers shall announce the public hearing in the
45 same manner as provided for the calling of town meetings or
46 city elections. The municipal officers shall also publish
47 notice of the hearing in a newspaper of general circulation
48 in the area. One notice shall be published as close as
49 possible to the 14th day before the hearing, and the 2nd
50 notice shall be published as close as possible to the 7th
51 day before the hearing.
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B. If any of the comments and suggestions of the commission have not been incorporated in the deorganization procedure, the local committee shall present these comments and suggestions for discussion at the public hearing.

2. Deorganization approval vote. After receiving notice from the local committee that the deorganization procedure is complete, the municipal officers shall immediately call and hold a special meeting in the manner provided for the calling and holding of town meetings or city elections to vote on the proposed deorganization. The municipal officers shall also publish notice of the meeting in a newspaper of general circulation in the area. One notice shall be published as close as possible to the 14th day before the meeting, and the 2nd notice shall be published as close as possible to the 7th day before the meeting. If a majority of the voters approve the deorganization procedure as presented or amended, the local deorganization committee shall send a copy of the proposed procedure to the commission and to the executive director who shall forward the comments to the joint standing committee of the Legislature having jurisdiction over local government matters. If the deorganization procedure approved at the hearing is not different from the one provided to the commission under section 7205, the local deorganization committee shall notify the commission that the voters approved the procedure as presented by the committee.

3. Commission review. The commission shall review the deorganization procedure. If it is different from the procedure presented to the commission under section 7205, the commission shall send a copy of its comments on the amended procedure to the local deorganization committee, the municipal officers and the executive director who shall forward the comments to the joint standing committee of the Legislature having jurisdiction over state and local government matters.

§7208. Approval by the Legislature

Any municipality which has approved a deorganization procedure under section 7207 shall request and must obtain approval by the Legislature before seeking approval by the voters of the municipality under section 7209.

§7209. Final approval by the voters

If the Legislature approves the deorganization, the question concerning deorganization shall be presented to the voters of the municipality in the next general election to be held in November. The election shall be called, advertised and conducted according to section 2528 or 2551.

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1. Question posed to voters. The municipal clerk shall prepare the ballots on which the following question shall appear:

"Shall the (name of municipality) be deorganized?"

2. Requirements for approval. The voters shall indicate their opinion on this question by a cross or check mark placed against the word "Yes" or "No." Before becoming effective, the deorganization must be approved by at least 2/3 of the voters voting in the general election and the total number of votes cast for and against deorganization at the election must equal or exceed 50% of the total number of votes cast in the municipality for Governor at the last gubernatorial election.

3. Declaration of results. The municipal officers shall declare the result of the vote. The municipal clerk or the assessors of plantations shall file a certificate of the election result with the Secretary of State within 10 days of the election.

§7210. Process for municipalities with a population of 50 or fewer

Municipalities with a population of 50 or fewer may follow the entire process established in this chapter. Following voter approval to pursue the process of deorganization under section 7203, subsection 2, municipalities with a population of 50 or fewer may request the commission to develop the deorganization procedure for the municipality. Municipalities which request the commission to develop the deorganization procedure are subject to sections 7202; 7203, except subsection 3; 7204; 7208; and 7209.

1. Approval by voters. The commission shall notify the municipal officers that a deorganization procedure has been developed. The municipal officers shall immediately call and hold a public hearing and municipal meeting as provided in section 7207 for the purpose of presenting information to the voters with respect to deorganization and any alternatives to deorganization prepared by the commission for a municipality. If a majority of the voters approve the deorganization procedure at the municipal meeting, the municipality shall request and must obtain approval by the Legislature as described in section 7208 and approval by the municipal voters under section 7209.

§7211. Calling of meeting if officers refuse

If the municipal officers refuse to call any municipal meeting required by this chapter, a meeting may be called as provided in section 2521, subsection 4.'

1 Further amend the bill by inserting before the statement of
fact the following:

3

FISCAL NOTE

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7 The fiscal administrator of the unorganized territory within
the Department of Audit will be able to pay from existing
budgeted resources the per diem and expenses of the county
9 commissioner in the event of a proposed deorganization. Should
the number of proposed deorganizations increase, the fiscal
11 administrator may have to transfer funds from All Other to
Personal Services to cover the additional per diem or may require
13 an additional General Fund appropriation. However, any
additional General Fund appropriations would be reimbursed
15 through the Unorganized Territory Education and Services Tax.'

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STATEMENT OF FACT

21

23 This amendment makes several technical drafting corrections
while preserving the basic process for deorganization contained
in the original bill. The following major changes are made by
this amendment.

25

27 1. The requirements for posting notice of hearings or
meetings are amended to follow the standard requirements for
calling a town meeting or city election.

29

31 2. A local deorganization committee formed under the bill
will be composed of 5 members, including 3 members elected by the
voters of the municipality at the same meeting where it is
33 decided by vote to pursue deorganization.

35

37 3. If the local deorganization committee fails to develop a
deorganization procedure as required under the bill, the
Commission on Municipal Deorganization will prepare the
deorganization procedure for the municipality and present it to
39 the voters for their approval. This prevents a local
deorganization committee from frustrating the will of a majority
41 of the municipality's voters by refusing to develop a
deorganization procedure.

43

45 4. The county commissioner member of the Commission on
Municipal Deorganization must represent the district in which the
municipality considering deorganization is located.

47

49 5. A separate public hearing is required before the
election at which voters will decide whether to approve or
disapprove the proposed deorganization procedure. This ensures
51 that the deorganization procedure will be available for
sufficient public review before the voters actually vote on the
53 procedure.