

MAINE STATE LEGISLATURE

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No. 303

H.P. 223

House of Representatives, February 21, 1989

Reference to the Committee on State and Local Government suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative WENTWORTH of Wells.

Cosponsored by Representative CARROLL of Gray, Senator GOULD of Waldo and Representative SMITH of Island Falls.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

**An Act to Establish a Process for the Deorganization of Municipalities
and Plantations.**

(EMERGENCY)



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

5 **Whereas,** the provisions of the Maine Revised Statutes, Title
30-A governing Maine municipalities become effective on March 1,
7 1989; and

9 **Whereas,** there is no consistent, objective or carefully
developed process by which municipalities deorganize and become
11 part of the unorganized territory; and

13 **Whereas,** on many occasions, the representative views of the
general public have not been involved in the current informal
15 deorganization process which has created considerable controversy
in these municipalities; and

17 **Whereas,** the current informal process of deorganization
19 substantially taxes the time and resources of the executive and
legislative branches; and

21 **Whereas,** the interest in municipal deorganization has
23 substantially increased in the last 2 years and needs to be
addressed as quickly as possible; and

25 **Whereas,** a consistent and well-conceived municipal
27 deorganization process established by law would make the process
significantly more efficient and much less demanding on the
29 executive and legislative branches of State Government; and

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

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

39 **Sec. 1. 5 MRSA §12004-L, sub-§5** is enacted to read:

41 <u>5. Commission on</u>	<u>Legislative</u>	<u>30-A MRSA</u>
42 <u>Municipal Deorganization</u>	<u>Per Diem</u>	<u>§7206</u>
43 <u>County Commissioner</u>		
44 <u>Only</u>		

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

47 CHAPTER 302
49 DEORGANIZATION OF MUNICIPALITIES AND PLANTATIONS

51 §7201. Definitions

1
3 As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

5 1. Commission. "Commission" means the Commission on
7 Municipal Deorganization.

9 2. Executive director. "Executive director" means the
11 Executive Director of the Legislative Council.

13 3. Local committee. "Local committee" means the appointed
15 local deorganization committee under this chapter.

17 4. Municipality. "Municipality" means a city, town,
19 village or plantation with a population of more than 50 people.

21 **§7202. Petition for deorganization meeting**

23 On the written petition of a number of voters equal to at
25 least 10% of the number of votes cast in the municipality at the
27 last gubernatorial election, but in no case less than 10,
29 requesting a municipal meeting for the purpose of discussing and
31 determining whether the municipality should deorganize, the
33 municipal officers shall call and hold a special meeting in the
35 manner provided for the calling and holding of town meetings or
37 city elections to discuss deorganization of the municipality and
39 to decide whether to develop a deorganization plan.

41 1. Posting and publication of notice. At least 14 days
43 before the meeting, the municipal officers shall post a notice of
45 the meeting in at least 2 conspicuous places visited by a
47 majority of the voting residents on a regular basis. The
49 municipal officers shall also publish notice of the meeting in
51 the newspaper of general circulation in the area. One notice
shall be published as close to the 14th day before the meeting as
possible, and the 2nd notice shall be published as close to the
7th day before the meeting as possible.

§7203. Deorganization meeting

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

1. Discussion and reasons for deorganization. Discussion
of deorganization and its impact on the residents of the area
shall take place and the official reasons for deorganizing shall
be established and placed before the eligible voters.

2. Voting on question to develop deorganization plan. A
vote shall be taken on the question of whether the municipality
shall continue to pursue the process for deorganizing by

1 developing a deorganization plan to be approved by the electorate
2 pursuant to sections 7207 and 7209.

3
4 3. Appointment of local deorganization committee. If the
5 majority of voters present and voting at this meeting approve the
6 question to develop a deorganization plan as provided in
7 subsection 2, the municipal officers shall appoint a committee to
8 consist of no less than 3 and no more than 5 registered voters in
9 the municipality to develop the plan. At a minimum, the local
10 committee shall consist of one person representing the municipal
11 officers, one person representing the school board or committee
12 and one person representing the group filing the petition under
13 this chapter.

14 §7204. Notice to Legislature and fiscal administrator

15
16 If the voters approve the question to develop a
17 deorganization plan, the moderator shall provide notice to the
18 fiscal administrator of the unorganized territory within the
19 Department of Audit and to the Legislature. The notice shall
20 report the results of the deorganization meeting and provide the
21 reasons for deorganization of the municipality.

22
23 1. Notice to the Legislature. Notice to the Legislature
24 shall be provided to the executive director, who shall provide a
25 copy of the notice to the joint standing committee of the
26 Legislature having jurisdiction over local government.

27
28 2. Notice to the commission. The fiscal administrator
29 shall provide a copy of the notice to the commission.

30 §7205. Deorganization plan

31
32 The local committee, with the assistance of the commission,
33 shall develop a deorganization plan which, at a minimum, shall
34 consist of the following components.

35
36 1. Effective date. The deorganization plan shall establish
37 a date on which deorganization shall be effective.

38
39 2. Provision of educational services. The deorganization
40 plan shall provide for educational services, including school
41 transportation services for all students in the municipality for
42 which deorganization is proposed.

43
44 A. The allowable tuition rate for students sent from one
45 municipality to another in the former school administrative
46 district shall be determined under Title 20-A, section 5805,
47 subsection 1, except that it shall not be subject to the
48 state per pupil average limitation in Title 20-A, section
49 5805, subsection 2.
50
51

1 B. School transportation services shall be subject to Title
2 20-A, chapter 215.

3
4 C. The Commissioner of Educational and Cultural Services
5 shall be responsible for the implementation of this
6 subsection for incorporation in the deorganization plan.

7
8 3. Distribution of financial liabilities and assets. The
9 deorganization plan shall provide for the distribution of all
10 financial and other intangible liabilities and assets of the
11 municipality, including liabilities and assets held by the
12 municipality in any other political subdivision that are affected
13 by the deorganization. These assets and liabilities include, but
14 are not limited to, outstanding bonds, notes and any other
15 contractual obligations that extend beyond the proposed date of
16 dissolution.

17 A. This distribution shall be in accordance with chapter
18 303.

19
20 B. The commission shall be responsible for the
21 determination and distribution of these assets and
22 liabilities and incorporation of these provisions in the
23 plan.

24
25 4. Distribution of tangible assets and liabilities. The
26 deorganization plan shall provide for the distribution of all
27 real and personal property and other tangible assets of the
28 municipality, including real and personal property held by the
29 municipality in any other political subdivision that are affected
30 by the deorganization.

31
32 A. The State Tax Assessor shall be responsible for the
33 determination of all real and personal municipal property in
34 the municipality and the appropriate distribution of this
35 property.

36 B. This distribution shall be in accordance with chapter
37 303.

38
39 5. Comprehensive land use planning and zoning. For
40 municipalities not formerly under the jurisdiction of the Maine
41 Land Use Regulation Commission, the Maine Land Use Regulation
42 Commission shall prepare a zoning map of the municipality within
43 one year of the effective date of deorganization. Until such
44 time as a zoning map is prepared, actions by the Maine Land Use
45 Regulation Commission requiring a zone determination shall be
46 based on the prospective zone of the area in question. The
47 determination of the prospective zone shall be based on a
48 decision as to which of the various zones described in the Maine
49 Land Use Regulation Commission's land use districts and standards
50 is most appropriate for the area in question.

1
3 6. Information about the municipality. The deorganization
plan shall include, at a minimum, the following information:

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

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

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

19 D. Property tax assessments and revenues, including amounts
of land subject to reduced tax assessments and changes in
21 tax rates and property valuation;

23 E. An explanation of the current services provided by the
municipality and the impact of deorganization on these
25 services; and

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

31 In developing the deorganization plan, the local committee shall
33 work closely with the commission. The local committee shall
submit the proposed deorganization plan to the commission for
35 review and comments within 90 days following the meeting at which
the voters approved the formulation of a deorganization plan.

37 **§7206. Commission on Municipal Deorganization**

39 The Commission on Municipal Deorganization, as established
41 in Title 5, chapter 379, shall assist local deorganization
committees in the formulation of deorganization plans. In
43 addition, the commission shall review these plans as provided in
this chapter.

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

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

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

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

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

9 E. A county commissioner, selected by the chair of the
11 county commissioners, representing the county of the
 municipality which is considering deorganization.

13 2. Responsibilities and duties. The commission shall:

15 A. Assist municipalities in the preparation of
17 deorganization plans and provide the information as required
 in section 7205;

19 B. Review each deorganization plan and provide comments and
21 suggestions with respect to the plan;

23 C. Recommend alternatives to deorganization if the
 commission deems that feasible alternatives exist; and

25 D. Within 30 days from receipt of the proposed
27 deorganization plans, provide copies of its review and
 comments on the deorganization plan to the municipal
29 officers, the local deorganization committee and the
 Legislature. The committee shall provide the information to
31 the executive director, who shall provide it to the joint
33 standing committee of the Legislature having jurisdiction
 over local government.

35 3. Chair. The commission shall annually elect a chair.

37 §7207. Public hearing on deorganization plan

39 Following receipt of the comments and suggestions from the
41 commission, the local committee may incorporate these comments
 and suggestions into the deorganization plan. The local
43 committee shall hold a public hearing on the proposed
 deorganization plan. If any of the comments and suggestions of
45 the commission have not been incorporated in the deorganization
 plan, the local committee shall present these comments and
 suggestions for discussion at the public hearing.

47 1. Submission of proposed plan. If, at the public hearing,
49 a majority of the resident voters approve the deorganization plan
 as presented or amended, the local deorganization committee shall
51 send a copy of the proposed plan to the commission and to the
 Legislature. If the plan approved at the hearing is not

1 different from the one provided to the commission pursuant to
2 section 7205, the local deorganization committee shall notify the
3 commission that the voters approved the plan as presented by the
4 committee.

5
6 2. Commission review. The commission shall review the
7 deorganization plan. If it is different from the plan presented
8 to the commission pursuant to section 7205, the commission shall
9 send a copy of its comments to the local deorganization
10 committee, the municipal officers and the Legislature.

11
12 3. Notice. At least 14 days before the public hearing, the
13 municipal officers shall post a notice of the meeting in at least
14 2 conspicuous places visited by a majority of the voting
15 residents on a regular basis. The municipal officers shall also
16 publish notice of the meeting in the newspaper of general
17 circulation in the area. One notice shall be published as close
18 as possible to the 14th day before the meeting, and the 2nd
19 notice shall be published as close as possible to the 7th day
20 before the meeting.

21 **§7208. Approval by the Legislature**

22
23 Any municipality which has approved a deorganization plan
24 pursuant to section 7207 shall obtain approval by the Legislature
25 prior to approval by the electorate of the municipality pursuant
26 to section 7209. The Legislature may approve municipal
27 deorganization by a majority vote in the Senate and the House of
28 Representatives.

29
30 **§7209. Approval by the electorate**

31
32 Following approval of deorganization by the Legislature, the
33 question concerning deorganization shall be presented to the
34 voters in the next general election to be held in November. The
35 election shall be called, advertised and conducted according to
36 sections 2528 and 2532.

37
38 1. Question posed to voters. The municipal clerk shall
39 prepare the required ballots on which the clerk shall pose the
40 following question:

41
42 "Shall the (name of municipality or plantation) be
43 deorganized?"

44
45 2. Requirements for approval. The voters shall indicate
46 their opinion on this question by a cross or check mark placed
47 against the word "Yes" or "No." Before becoming effective, the
48 Act must be approved by a majority of 2/3 of the legal voters
49 voting in the general election and the total number of votes cast
50 for and against the acceptance of the Act at the election must
51

1 equal or exceed 50% of the total number of votes cast in the town
2 for Governor at the last gubernatorial election.

3
4 3. Declaration of results. The board of selectmen, the
5 town or city council officers or the assessors of plantations
6 shall declare the result of the vote. The town or city clerk or
7 the assessors of plantations shall file a certificate of the
8 election result with the Secretary of State within 10 days from
9 the date of the election.

11 **§7210. Process for municipalities with a population of 50 or less**

12
13 Municipalities with a population of 50 or less may follow
14 the entire procedure established in this chapter. Following
15 voter approval to pursue the process of deorganization under
16 section 7203, subsection 2, municipalities with a population of
17 50 or less may request the commission to develop the
18 deorganization plan for the municipality. Municipalities which
19 request the commission to develop the deorganization plan shall
20 be subject to sections 7202; 7203, except subsection 3; 7204;
21 7208; and 7209.

22
23 1. Approval by the electorate. The commission shall hold a
24 public hearing for the purpose of presenting information to the
25 voters with respect to deorganization and any alternatives to
26 deorganization prepared by the commission for a municipality. If
27 a majority of the voters approve the deorganization plan at the
28 public hearing, the municipality shall obtain approval by the
29 Legislature as described in section 7208 and approval by resident
30 voters pursuant to section 7209.

31
32 **Emergency clause.** In view of the emergency cited in the
33 preamble, this Act shall take effect when approved.

34
35 **STATEMENT OF FACT**

36
37 This bill provides a process by which municipalities may
38 deorganize. Currently, there is no consistent, well-conceived
39 process for municipal deorganization. In many cases, segments of
40 the population of a municipality are not aware of proposals for
41 deorganization of the municipality. In addition, deorganization
42 under the current approach places great stress on the resources
43 of the executive and legislative branches.

44 This bill proposes the following process.

45
46 1. At least 10% of the resident voters who voted in the
47 last gubernatorial election petition the municipality for a
48 public meeting to consider deorganization.
49

1 2. The meeting is held and the reasons for deorganization
are presented. The voters vote to approve or disapprove pursuit
3 of deorganization and the formulation of a deorganization plan.

5 3. If the voters approve preparation of a deorganization
plan, the municipal officers appoint a local deorganization
7 committee consisting of no less than 3 and no more than 5
members. At a minimum, one person shall represent the municipal
9 officers, one person shall represent the school board or
committee and one person shall represent the group filing the
11 petition.

13 4. The local committee will be assisted in the development
of the plan by the Commission on Municipal Deorganization. The
15 following 5 members or their designees shall compose the
commission: the associate commissioner for the Bureau of School
17 Management, the fiscal administrator of the unorganized territory
within the Department of Audit, the State Tax Assessor, the
19 director of the Maine Land Use Regulation Commission and a county
commissioner representing the county of the municipality which is
21 considering deorganization.

23 The commission will assist the local committee in developing the
plan which will include, but is not limited to:

25 A. The provision of educational services, including school
27 transportation services;

29 B. Distribution of financial liabilities and assets of the
municipality and its commitments to other political
31 subdivisions;

33 C. Distribution of real and personal property and other
tangible assets held by the municipality; and

35 D. Development of data to determine whether feasible
37 alternatives exist to deorganization.

39 5. Following completion of the plan, the local committee
will hold a public hearing on the plan and any comments and
41 suggestions to the plan offered by the Commission on Municipal
Deorganization. If a majority of voters at the public hearing
43 approve the plan, a bill will be submitted to the Legislature for
approval.

45 6. Following legislative approval, the issue will be
47 presented to the voters in the following November election at
which 2/3 of the voting electorate must approve to deorganize.

49 7. The Joint Standing Committee on State and Local
51 Government will be informed of a municipality's vote to prepare a

1 deorganization plan and the municipality's vote to submit a
deorganization bill to the Legislature.

3

5 8. With respect to municipalities with a population of 50
or less, the municipality may delegate responsibility to the
Commission on Municipal Deorganization for developing the plan.
7 The commission will hold public hearings on the plan.