

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1992

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Legislative Document

No. 2142

S.P. 838

In Senate, January 9, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.  
Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator CONLEY of Cumberland  
Cosponsored by Representative RAND of Portland.

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STATE OF MAINE

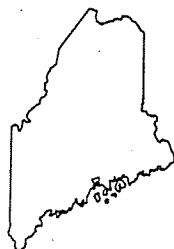
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-TWO

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**An Act to Create the Cushings Island Village Corporation.**

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

2  
3       **Sec. 1. Incorporation.** The territory comprised within the  
4 limits of Cushings Island in the City of Portland, in the County  
5 of Cumberland, together with the inhabitants of the island,  
6 owners of real estate on the island and persons entitled to the  
7 use or occupation of real estate on the island constitute a body  
8 politic and corporate by the name of Cushings Island Village  
9 Corporation, referred to in this Act as "the corporation."

10       **Sec. 2. Powers.** The corporation is authorized and vested  
11 with the power, at any legal meeting called for the purpose, to  
12 raise money for the following purposes: to create and maintain a  
13 fire department with all the necessary equipment, appliances and  
14 apparatus for the prevention and extinguishment of fires; to  
15 build, repair and maintain roads, streets and ways, sidewalks,  
16 sewers and other sanitary works, including the collection and  
17 removal of offal and garbage; to purchase, own, hold, sell,  
18 convey, lease, mortgage or otherwise dispose of real estate and  
19 to build, construct, lease, sell, mortgage or otherwise dispose  
20 of improvements to the real estate; to care for and beautify that  
21 portion of the island that has been or may be reserved for and  
22 dedicated to public uses to be enjoyed in common by all the  
23 owners of lots on the island and to that end to build roads and  
24 walks upon and through those public lands and to plant and care  
25 for trees on the roads and streets and upon those public lands;  
26 to build, repair and maintain public wharves and landings; to  
27 establish and maintain police and night watch; to procure water  
28 for fire, domestic and other purposes and to produce or procure  
29 electricity for public use and for the use of the inhabitants of  
30 the island, and for purposes of procuring water and electricity  
31 to contract with any individual, firm or corporation to furnish  
32 water or electricity for either or both of the purposes named and  
33 to establish reasonable rates to be paid by the inhabitants of  
34 the island using such water or electricity for domestic purposes;  
35 to construct, maintain and operate telephone or telegraph lines  
36 or to aid in construction, maintenance and operation and to  
37 contract with any corporation, firm or individual for the  
38 construction, maintenance and operation of telephone and  
39 telegraph lines; to defray any and all other necessary or proper  
40 corporate charges; and to purchase necessary supplies and  
41 equipment and employ labor, and to sell supplies and furnish  
42 equipment and labor for hire to the members of the corporation,  
43 and the overseers of the corporation may employ agents to carry  
44 out the provisions of this section.

45       **Sec. 3. Duties of City of Portland.** The City of Portland is  
46 relieved from any and all duty to build, repair or maintain  
47 roads, streets or ways upon Cushings Island; to build and  
48 maintain schools or provide free schooling for any children  
49 residing on the island; or to perform any of the duties for which  
50 the  
51 corporation is

2 authorized by section 2 to raise money. The City of Portland is  
not liable for defects in streets, ways or roads on the island  
4 nor for failure to perform any duty from which it is relieved by  
this Act, but the corporation assumes all of these duties and is  
6 liable for defects in streets, ways and roads and for failure to  
perform the duties assumed as the City of Portland would be  
8 liable except for this Act, which liability is enforced under the  
same conditions, in the same manner and with the same remedies as  
are provided by law in relation to cities.

10  
**Sec. 4. Roads.** The corporation and the overseers of the  
12 corporation have the same power and duties in laying out,  
discontinuing and altering ways and roads on Cushings Island that  
14 the municipalities of the State now have, to be exercised and  
performed under the same conditions and limitations and in the  
16 same manner that they are now or may be exercised and performed  
by the municipalities of the State.

18  
**Sec. 5. Taxes.** The City of Portland shall annually pay over  
20 to the treasurer of the corporation out of the taxes collected  
from the inhabitants and estates on Cushings Island pursuant to  
22 sections 6 and 10 a sum equal to 80% of those taxes less the fees  
entitled to be received by the collector of the City of Portland  
24 under section 10 exclusive of the state and county tax collected  
from the inhabitants and estates on Cushings Island. City taxes  
26 may not be assessed upon or collected from the inhabitants and  
estates on Cushings Island except as provided for in sections 6  
28 and 10.

30  
**Sec. 6. Assessment.** All money raised pursuant to section 10  
for the purposes named in section 2, or for any other purpose for  
32 which the corporation may lawfully raise money, is assessed upon  
the taxable polls and estates within the limits of the  
34 corporation by the assessors of the City of Portland in the same  
manner provided by law for the assessment of city and county  
36 taxes. For the purposes of taxation under this Act, the person  
or persons entitled to the use or occupation of any lot of land  
38 on the island are determined to be the owner of the lot and may  
be taxed for the lot and the improvements on the lot.

40  
**Sec. 7. Officers; bylaws.** The officers of the corporation who  
42 are chosen by ballot are a clerk, who must be a resident of this  
State, a treasurer and 5 overseers and any other officers the  
44 bylaws of the corporation may require. The corporation may adopt  
at any legal meeting called for that purpose a code of bylaws for  
46 the government of the corporation and for the proper management  
of the corporation's prudential affairs and other purposes  
48 connected with the operation of the corporation. The bylaws may  
be altered or amended at any legal meeting of the corporation in  
50 the call for which notice of the proposed change has been given.  
The officers are sworn before the clerk or a justice of the peace

2 and the treasurer must give bond to the corporation in a sum the  
3 overseers may direct, which bond must be approved by the  
4 overseers and clerk.

6 **Sec. 8. Eligibility to hold office.** Any person who is a legal  
7 voter in the corporation may be elected or appointed to any  
8 office, but ceases to hold that office whenever that person  
ceases to be a legal voter of the corporation.

10 **Sec. 9. Duties of overseers.** The overseers are the general  
11 municipal officers of the corporation and have general charge of  
12 the corporation's affairs and the expenditure of all money,  
13 except so far as these may be committed to other officers or  
14 persons.

16 **Sec. 10. Certificate; duties of officers.** Upon a certificate being  
17 filed with the assessors of the City of Portland by the clerk of  
18 the corporation of the amount of money voted to be raised at any  
19 meeting for any of the purposes stated in sections 2 and 6, it is  
20 the duty of the assessors or their successors in office, at the  
21 time of the next annual assessment of city and county taxes in  
22 the City of Portland, to assess the total amounts certified by  
23 the clerk of the corporation upon the polls and estates of  
24 persons owning land on the island as defined in section 6 and to  
25 certify and deliver the lists of the assessments made to the  
26 collector of the City of Portland, whose duty it is to collect  
27 the taxes in the same manner as county and city taxes are by law  
28 collected on property assessed in the county and city, and the  
29 collector shall pay over the amount provided for in section 5  
30 from money collected by the collector to the treasurer of the  
31 corporation whenever the overseers so direct. It is the duty of  
32 the treasurer of the corporation to receive all money belonging  
33 to the corporation and to pay out the money only upon the written  
34 order or direction of the overseers and to keep a regular account  
35 of all money received and paid out and to exhibit the account to  
36 the overseers whenever requested, and the City of Portland has  
37 the same power to direct the mode of collecting taxes as is  
38 provided for by law in the collection of city taxes and the  
39 collector has the same rights and powers to recover any taxes  
40 committed to the collector under this Act by suit as are provided  
41 for by law in the collection of city taxes committed to the  
42 collector, and the City of Portland has the same right to recover  
43 taxes assessed under this Act by suit as is provided for by law  
44 to recover city taxes assessed in the city. The collector of the  
45 City of Portland is entitled to receive the same fees in  
46 connection with the collection of taxes assessed under this Act  
47 as are provided for by law in the collection of city taxes. The  
48 corporation has the same power to borrow money in anticipation of  
49 taxes or to issue its notes, bonds or other evidence of  
50 indebtedness for municipal purposes as towns have under the laws  
51 of this State.

2           **Sec. 11. Legal voters.** All persons owning land within the  
3 limits of the corporation or entitled to the use or occupation of  
4 any lot of land within the limits of the corporation are legal  
5 voters at any meeting of the corporation at which they are  
6 present. The overseers of the corporation shall determine who  
7 are the legal voters at any meeting subsequent to acceptance of  
8 this charter and shall prepare a list of the voters at least 24  
9 hours before every meeting, which list the overseers may amend or  
10 correct at any time before or during the meeting. The vote upon  
11 any propositions at any meeting must be taken and checked by this  
12 list upon the demand of 5 legal voters. Every person, who by  
13 virtue of a joint ownership with another person or persons of  
14 land within the limits of the corporation and by agreement with  
15 the other joint owner or owners is in possession of a certain  
16 aliquot part of a lot of land on the island upon which the legal  
17 voter has a dwelling house owned and controlled by the legal  
18 voter exclusively, is deemed a legal voter at any meeting of the  
19 corporation at which the legal voter is present. The majority in  
20 interest of the joint owners of any land within the limits of the  
21 corporation may designate in writing one of the owners to  
22 represent such land as the legal voter at any meeting of the  
23 corporation at which the legal voter is present, but no person is  
24 entitled to more than one vote in any meeting either for the  
25 legal voter or as representing the joint owners of any land  
26 within the limits of the corporation.

27           **Sec. 12. Officers; term of office; annual meeting.** The first  
28 election of officers must be at the meeting at which the charter  
29 is accepted. The officers hold their respective offices until  
30 the next annual meeting. New officers are elected at each annual  
31 meeting. Terms of office are for one year. All officers hold  
32 office until their successors are elected and duly qualified.  
33 The annual meeting must be held at such time and place in the  
34 months of June, July, August or September as designated by a  
35 majority of the overseers.

36           **Sec. 13. Meeting called.** Robert Chase, Howard Dana, Stephanie  
37 Weaver, Robert Neilsen and Sidney St. F. Thaxter, or any one of  
38 them, may call the meeting of the corporation for the purpose of  
39 voting on the acceptance of the charter and the election of  
40 officers, and may notify the legal voters of the corporation as  
41 determined by a list prepared by them to meet by mailing written  
42 notice of the meeting to the legal voters at least 10 days before  
43 the meeting. All subsequent meetings are called and notified by  
44 the overseers, as town meetings are called and notified by the  
45 city officials. Any of the above-named persons are authorized to  
46 preside at the meeting called for the purpose of voting on the  
47 acceptance of the charter until the meeting is organized and  
48 until a moderator is chosen by ballot and sworn. At all meetings  
49 of the corporation a moderator is chosen in the manner and with  
50 the same power as in town meetings.  
51  
52

2           **Sec. 14. Referendum; certificate to Secretary of State.** This Act  
3 takes effect 90 days after adjournment of the Legislature, only  
4 for the purpose of permitting its submission to the legal voters  
5 of the Cushings Island Village Corporation at a meeting called  
6 for that purpose. The meeting must be called, advertised and  
7 conducted according to section 13 of this Act, but may be held at  
8 any time after the 90-day period.

9  
10           The persons named in section 13 of this Act shall prepare  
11 the required ballots, on which they shall reduce the subject  
12 matter of this Act to the following question:

13                   "Do you favor the creation of the Cushings Island Village  
14                   Corporation?"

15           The voters shall indicate by a cross or check mark placed  
16 against the word "Yes" or "No" their opinion of the same.

17  
18           The result of the vote must be declared by the officers of  
19 the corporation and a certificate of the vote results must be  
20 filed by the clerk of the corporation with the Secretary of State.

21  
22           This Act takes effect upon its acceptance by a majority of  
23 the legal voters voting at the meeting and the filing of the  
24 certificate of the results of the vote with the Secretary of  
25 State; but only if the total number of votes cast for and against  
26 the acceptance of this Act equals or exceeds 50% of the number of  
27 names on the list of legal voters of the Cushings Island Village  
28 Corporation as prepared in accordance with section 13 of this Act.

29  
30  
31                                   **STATEMENT OF FACT**

32                                   This bill creates the Cushings Island Village Corporation.  
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35  
36