

MAINE STATE LEGISLATURE

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M A J O R I T Y
STATE & LOCAL GOVERNMENT

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1056, L.D. 1408, Bill, "An Act to Create a Body Politic and Corporate by the Name of Great Diamond Island Village Corporation"

Amend the bill by striking out the title and substituting the following:

'An Act to Allow Certain Islands to Join the Town of Long Island'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. Separation and incorporation. Subject to referendum elections as set forth in section 3 of this Act and as otherwise specified in this Act, the territories in section 2, now within the City of Portland, County of Cumberland, together with the inhabitants of those territories, are separated and set off from the City of Portland and incorporated into the Town of Long Island, County of Cumberland.

By virtue of the separation, the territories in section 2 of this Act are also removed from the jurisdiction of the Board of Harbor Commissioners of the Port of Portland.

COMMITTEE AMENDMENT

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2 **Sec. 2. Boundaries.** The boundaries of the territories
affected by this Act are as follows.

4 **1. Great Diamond Island.** The territory included in Great
Diamond Island includes the land and the submerged lands as
6 follows:

8 Encompassing Great Diamond Island and adjacent waters, a
boundary beginning at the intersection of the Town of Long
10 Island and Town of Falmouth boundary at 43°42'00"N and
70°12'00"W, and running 148.5° SE from true North to a point
12 in Hussey Sound of 43°40'50"N and 70°11'00"W. Thence
running approximately SW between Great Diamond Island and
14 Peaks Island to 43°40'00"N and 70°12'00"W and then turning
NW and continuing between Little Diamond Island and Great
16 Diamond Island to an "existing point" of 43°40'50"N and
70°13'05"W approximately half-way between Mackworth Island
18 and Great Diamond Island where the City of Portland-Town of
Falmouth boundary turns 90°NE/NW. From that "existing
20 point" continue NE on the curving existing City of
Portland-Town of Falmouth boundary to the original
22 coordinates of 43°42'00"N and 70°12'00"W at the Town of Long
Island and Town of Falmouth boundary.

24 **2. Cushings Island.** The territory included in Cushings
26 Island includes the land and the submerged lands as follows:

28 Encompassing Cushings Island and adjacent waters, a boundary
beginning South of Peaks Island at 43°38'55"N and 70°11'00"W
30 and running approximately SW between Cushing Island and Ram
Island to an intersection with the existing Town of Cape
32 Elizabeth boundary at 43°37'35"N and 70°12'00"W and then
continuing NW and then NNW along the existing Town of Cape
34 Elizabeth then City of South Portland boundary to the
intersection of latitude 43°38'55"N. At that point a line
36 continuing due East between House Island then Peaks Island
and Cushings Island out Whitehead Passage to the beginning
38 coordinates of 43°38'55"N and 70°11'00"W.

40 **3. Little Diamond Island.** The territory included in Little
Diamond Island includes the land and the submerged lands as
42 follows:

44 Encompassing Little Diamond Island and adjacent waters, a
boundary beginning at the "existing point" where the City of
46 Portland-Town of Falmouth boundary turns 90° NE/NW
approximately half-way between Mackworth Island (Falmouth)
48 and Little Diamond Island at 43°40'50"N and 70°13'05"W and
running approximately SE between Little Diamond and Great
50 Diamond Island to 43°40'00"N and 70°12'00"W, approximately

halfway between Peaks Island and Little Diamond Island and then running SW to a point North of House Island of 43°39'30"N and 70°12'30"W, then running West to 43°39'30"N and 70°13'00"W and then running approximately due North to the original "existing point" of 43°40'50"N and 70°13'05"W.

Sec. 3. Referendum elections. In order for the separation and incorporation described in this Act to take effect, each island respectively must vote in an election to secede from the City of Portland and join the Town of Long Island on or before the statewide election in November 1995 and further, the Town of Long Island must vote to accept any territory after that territory has voted in the affirmative for secession and incorporation on or before the general election in November 1996.

This Act does not require the City of Portland to hold an election unless it receives, collectively and in advance, from Great Diamond Island, represented by the Committee on Self Determination, Little Diamond Island, represented by the Little Diamond Island Association or Cushings Island, represented by Cushings Associates, Inc., the reasonable cost to the City of Portland of placing the referendum on the ballot in the statewide election so that the City of Portland bears no cost or expense attributable to this Act and provided that the Town of Long Island, irrespective of the vote of Great Diamond Island, Little Diamond Island and Cushings Island, is not required by this Act to hold an election.

The effective date of separation from the City of Portland is July 1st in the year following the referendum.

1. Cushings Island; secession vote. For the purposes of this referendum election, all persons resident and legally registered to vote within Cushings Island as set out in section 2 of this Act are eligible to vote on the question with respect to the separation of that territory from the City of Portland.

The city clerk of the City of Portland shall prepare the required ballot that must include the following question:

"Do you favor the separation of Cushings Island, which now lies within the boundaries of the City of Portland, and the surrounding waters from the City of Portland and its incorporation into the Town of Long Island?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their vote on this question.

The referendum election must be conducted by the city clerk of the City of Portland, who shall declare the result of the

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1 election. The city clerk's declaration of the election results
2 is final, subject to review by the Superior Court for the County
of Cumberland. The results of the referendum election must be
4 filed by the city clerk with the Secretary of State.

6 **2. Great Diamond Island; secession vote.** For the purposes
of this referendum election, all persons resident and legally
8 registered to vote within Great Diamond Island as set out in
section 2 of this Act are eligible to vote on the question with
10 respect to the separation of that territory from the City of
Portland.

12 The city clerk of the City of Portland shall prepare the
14 required ballot that must include the following question:

16 "Do you favor the separation of Great Diamond Island, which
now lies within the boundaries of the City of Portland, and
18 the surrounding waters from the City of Portland and its
incorporation into the Town of Long Island?"

20 The voters shall indicate by a cross or check mark placed
22 against the word "Yes" or "No" their vote on this question.

24 The referendum election must be conducted by the city clerk
of the City of Portland, who shall declare the result of the
26 election. The city clerk's declaration of the election results
is final, subject to review by the Superior Court for the County
28 of Cumberland. The results of the referendum election must be
filed by the city clerk with the Secretary of State.

30 **3. Little Diamond Island; secession vote.** For the purposes
32 of this referendum election, all persons resident and legally
registered to vote within Little Diamond Island as set out in
34 section 2 of this Act are eligible to vote on the question with
respect to the separation of that territory from the City of
36 Portland.

38 The city clerk of the City of Portland shall prepare the
required ballot that must include the following question:

40 "Do you favor the separation of Little Diamond Island, which
42 now lies within the boundaries of the City of Portland, and
the surrounding waters from the City of Portland and its
44 incorporation into the Town of Long Island?"

46 The voters shall indicate by a cross or check mark placed
against the word "Yes" or "No" their vote on this question.

48 The referendum election must be conducted by the city clerk
50 of the City of Portland, who shall declare the result of the

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COMMITTEE AMENDMENT "A" to H.P. 1056, L.D. 1408

2 election. The city clerk's declaration of the election results
3 is final, subject to review by the Superior Court for the County
4 of Cumberland. The results of the referendum election must be
5 filed by the city clerk with the Secretary of State.

6 **4. Town of Long Island vote for acceptance.** For the
7 purposes of this referendum election, all persons resident and
8 legally registered to vote within the Town of Long Island are
9 eligible to vote on each question with respect to the acceptance
10 of each territory set forth in section 2 of this Act.

12 The town clerk of the Town of Long Island shall prepare the
13 required ballots for each territory previously having voted in
14 the affirmative that must include the following questions, if
15 appropriate:

16 "Do you favor the acceptance of Great Diamond Island, which
17 now lies within the boundaries of the City of Portland, and
18 the surrounding waters to become incorporated into the Town
19 of Long Island?"

22 "Do you favor the acceptance of Little Diamond Island, which
23 now lies within the boundaries of the City of Portland, and
24 the surrounding waters to become incorporated into the Town
25 of Long Island?"

26 "Do you favor the acceptance of Cushings Island, which now
27 lies within the boundaries of the City of Portland, and the
28 surrounding waters to become incorporated into the Town of
29 Long Island?"

32 The voters shall indicate by a cross or check mark placed
33 against the word "Yes" or "No" their vote on each question.

34 The referenda election must be conducted by the town clerk
35 of the Town of Long Island, who shall declare the result of the
36 election. After the polls close and after a ballot inspection
37 and recount, if one is necessary, the town clerk's declaration of
38 the election results is final, subject to review by the Superior
39 Court for the County of Cumberland. The results of the referenda
40 election must be filed by the town clerk with the Secretary of
41 State.

44 **Sec. 4. Acceptance.** This Act takes effect 90 days after
45 adjournment of the Legislature, for the purpose of permitting its
46 acceptance by the Town of Long Island and the voters of Great
47 Diamond Island, Little Diamond Island and Cushings Island.

48 **Sec. 5. City of Portland property.** If Great Diamond Island,
49 Little Diamond Island or Cushings Island separates from
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2 the City of Portland and is incorporated within the Town of Long
3 Island, all real property owned by the City of Portland for each
4 island and located within the territory of each island must be
5 conveyed to the Town of Long Island on the effective date of
6 separation.

7 With respect to that real property, the Town of Long Island
8 shall assume its share of indebtedness to the City of Portland
9 based on fair market value.

10 Before the effective date of separation, the City of
11 Portland shall remove from the territory all personal property
12 owned by the City of Portland that is customarily located on each
13 of the islands.

14 This section does not limit the authority of the arbitration
15 panel to allocate other debts to the Town of Long Island as a
16 result of the arbitration process.

17 **Sec. 6. Allocation of debts and assets.** If Great Diamond Island,
18 Little Diamond Island or Cushings Island separates from the City
19 of Portland and the Town of Long Island approves the annexation,
20 the Town of Long Island shall assume its just and due proportion
21 of the debts of the City of Portland and receives its just and
22 due proportion of the assets of the City of Portland for each
23 island.

24 If Great Diamond Island, represented by the Committee on
25 Self Determination, Little Diamond Island, represented by the
26 Little Diamond Island Association, or Cushings Island,
27 represented by Cushings Associates, Inc., and the City of
28 Portland are unable to resolve issues related to the proposed
29 separation of the island from the City of Portland through
30 negotiation, by April 30th in the year of a referendum, the
31 parties shall submit the dispute to a panel of arbitrators and
32 shall reduce to writing all agreed-upon matters. The panel of
33 arbitrators for each island consists of one arbitrator selected
34 by the City of Portland, one arbitrator selected by the
35 respective island and one neutral arbitrator selected jointly by
36 the 2 other arbitrators. The arbitration must be administered
37 under the auspices of the American Arbitration Association and is
38 governed by the labor rules and procedures of the American
39 Arbitration Association, except for the selection of arbitrators
40 and except that the concept of "last best offer" must be used.
41 Determination of disputed matters by the panel of arbitrators is
42 final and binding on both parties. These issues must be resolved
43 no later than July 31st in the year of a referendum.

44 **Sec. 7. Portland Water District.** The Portland Water District
45 shall continue to provide water service to those

2 customers currently being served in a territory that separates
3 from the City of Portland. In the event of a separation from the
4 City of Portland, the Portland Water District may charge island
5 users a separate rate from the rates charged users located on the
6 mainland, in accordance with the Maine Revised Statutes, Title
7 35-A, chapter 61.'

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STATEMENT OF FACT

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11 The amendment replaces the original bill and provides the
12 legal residents of Cushings Island, Great Diamond Island and
13 Little Diamond Island with the ability to vote on secession from
14 the City of Portland. The amendment also changes the original
15 bill by incorporating the islands as a part of the Town of Long
16 Island, provided that the residents of the Town of Long Island
17 vote to accept the islands, and the legal residents of each
18 island vote to secede.