

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

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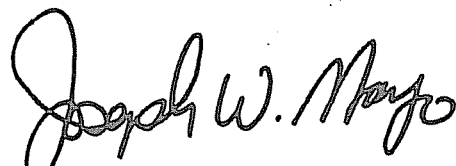
H.P. 1056

House of Representatives, May 3, 1993

**An Act to Create a Body Politic and Corporate by the Name of Great  
Diamond Island Village Corporation.**

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

  
JOSEPH W. MAYO, Clerk

Presented by Representative ADAMS of Portland.

Cosponsored by Representatives: GRAY of Sedgwick, KILKELLY of Wiscasset, RAND of  
Portland, Senator: CONLEY of Cumberland.

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

2  
4       **Sec. 1. Separation and incorporation.** Subject to referendum  
6 election as set forth in section 16 of this Act and as otherwise  
8 specified in this Act, the following territory now within the  
10 City of Portland, County of Cumberland, together with the  
12 inhabitants of that territory, are separated and set off from the  
City of Portland and incorporated into a separate body politic  
and corporate by the name of Great Diamond Island Village  
Corporation, referred to in this Act as the "village  
corporation," within the Town of Long Island, County of  
Cumberland, and bounded as follows.

14       Town of Long Island boundary: 148.5° SE from true North,  
16 starting at 43° 42' 00" N 70° 12' 00" W to the "existing  
18 point" where the Portland-Falmouth boundary turns 90° NW; SE  
20 between Great Diamond Island and Little Diamond Island 43°  
40' 00" N 70° 12' 00" W; NE to a point on the Long Island  
boundary 43° 40' 50" N.

22       By virtue of this separation, Great Diamond Island is also  
24 removed from the jurisdiction of the Board of Harbor  
Commissioners of the Port of Portland.

26       **Sec. 2. Powers and duties.** The village corporation shall  
28 perform the following duties and may, at any legal meeting of the  
village corporation called for the purpose, raise money for the  
following purposes:

30       1. To create and amend a budget, at the annual meeting or  
32 at a meeting called for this purpose, for the allocation of its  
funds;

34       2. To provide as mandated by state and federal law for the  
36 education of minor children residing on Great Diamond Island  
during the school year;

38       3. To create, maintain and equip a fire company for the  
40 prevention and extinguishment of fires;

42       4. To build, repair and maintain public roads, streets and  
44 ways, sewers and other sanitary works, including the collection  
and removal of offal and garbage;

46       5. To acquire, purchase, own, hold, manage, operate, sell,  
48 convey, lease, mortgage or otherwise dispose of real estate and  
personal property and to build, construct, lease, manage,  
operate, sell, mortgage or otherwise dispose of improvements to  
property;

6. To care for and beautify that portion of the island that is or may be served for and dedicated to public uses to be enjoyed in common by all the owners of lots on the island and, to that end, to build roads and walks upon and through the public lands and to plant and care for trees on public lands;

7. To build, repair and maintain public wharves and landings, except those owned and maintained by the State;

8. To establish, maintain and equip a service for public health and safety or to contract for that service;

9. To procure water for fire, domestic and other purposes and to produce or procure electricity for public use and for the use of the inhabitants of the village corporation and, for those purposes, to contract with any individual, firm or corporation to furnish water or electricity;

10. To provide, as required by state law, for general assistance for legal residents and their immediate family members residing on the island or to contract for general assistance;

11. To purchase necessary supplies and equipment, employ labor, sell supplies and furnish equipment and labor for hire to the members of the village corporation; and

12. To defray expenses and all other necessary or proper corporate charges.

The village corporation shall assume all of the duties under subsections 1 to 12 and is liable for failure to perform those duties and for defects in streets, ways and roads for which the Town of Long Island would have been liable except for this Act, which liability may be enforced under the same conditions, in the same manner and with the same remedies as are provided by law in relation to municipalities.

The village corporation may borrow money in anticipation of taxes or to issue its notes, bonds or other evidences of indebtedness for municipal purposes.

**Sec. 3. Duties of Town of Long Island.** The Town of Long Island shall assess property, collect taxes, maintain records and perform any other duties mandated by law, except for those duties relieved by this Act.

The Town of Long Island is relieved from the duty to build, repair or maintain roads, streets or ways on Great Diamond Island; to build or maintain schools, or to provide free schooling for children residing on Great Diamond Island; or to

perform any of the duties the village corporation shall perform under section 2 of this Act.

The Town of Long Island is not liable for defects in streets, ways or roads on Great Diamond Island or for failure to perform the duties from which it is relieved by this Act.

**Sec. 4. Roads.** The village corporation and the overseers of the village corporation may lay out, discontinue and alter ways and roads on Great Diamond Island under the same conditions and limitations and in the same manner as other municipalities in the State.

**Sec. 5. Assessment.** Additional money raised pursuant to this Act for the purposes under section 2 of this Act or for any other purpose for which the village corporation may lawfully raise money must be assessed on the taxable polls and estates contained within the limits of the village corporation by the assessors of the Town of Long Island in the same manner as provided by law for the assessment of municipal and county taxes.

The Town of Long Island shall pay the assessment to the treasurer of the village corporation as soon as practicable but not later than 30 days after receipt of the assessment.

The Town of Long Island shall direct the method of collecting the assessment as provided for by law in the collection of municipal taxes.

**Sec. 6. Taxes.** Property owners within the territory of the village corporation shall pay taxes as mandated by law to the tax collector of the Town of Long Island.

The Town of Long Island shall pay to the treasurer of the village corporation, out of the taxes, interest and penalties collected from the inhabitants and estates on Great Diamond Island pursuant to sections 6 and 13 of this Act, a certain percentage of the amount as agreed to every 5 years between the Town of Long Island and the village corporation, less the fees entitled to be received by the tax collector of the Town of Long Island.

The Town of Long Island shall direct the method of collecting the taxes as provided by law for the collection of municipal taxes.

The Town of Long Island may recover taxes assessed under this Act by suit as provided by law for the recovery and collection of municipal taxes assessed.

2 Town taxes may not be assessed on or collected from the  
inhabitants and estates, except as provided for in sections 6 and  
4 13 of this Act.

6 **Sec. 7. Arbitration.** If a dispute arises between the village  
corporation and the Town of Long Island that is unresolvable  
8 through negotiations, the parties shall submit the dispute to an  
arbitrator, who shall act in accordance with the standards of the  
10 American Arbitration Association. If the parties are unable to  
agree on an arbitrator, the dispute must be referred to the  
12 American Arbitration Association. The parties shall bear equally  
the costs of arbitration, unless the arbitrator rules otherwise  
14 and awards costs to the prevailing party due to bad faith acts of  
the other.

16 **Sec. 8. Officers; elections.** The officers of the village  
corporation are 5 overseers. The overseers, as well as other  
18 officers that the bylaws of the village corporation may require,  
must be chosen by written ballot at the annual village  
20 corporation meeting by a simple majority of all eligible voters  
casting ballots. Absentee ballots may be obtained from the clerk  
22 of the village corporation before the election of officers.

24 One of the overseers must be designated as clerk and one as  
treasurer; these overseers must be residents of the State. At  
26 least 2 of the overseers must be elected from among the resident  
voters pursuant to section 11 of this Act.

28 The officers must be sworn before the clerk or a justice of  
the peace and the treasurer shall give bond to the village  
30 corporation in such sum as the overseers may direct. The bond  
must be approved by the clerk.

32 When a vacancy occurs, the overseers shall appoint an  
interim overseer or officer within 30 days of the vacancy to  
36 complete that term of office.

38 **Sec. 9. Bylaws.** The village corporation may adopt, at an  
annual meeting called for that purpose, a code of bylaws for the  
40 government of the village corporation, for the proper management  
of its prudential affairs and for other related purposes, so long  
42 as those bylaws are not repugnant to the laws of the State. The  
bylaws may be altered or amended at the annual meeting of the  
44 village corporation. Notice of the proposed change to the bylaws  
must be given to the eligible voters before the meeting is called.

46 **Sec. 10. Voters.** For the purpose of voting on village  
corporation matters, "person" means an individual 18 years of age  
48 or older who otherwise qualifies to vote according to this Act.

2 Eligible voters are either resident voters or corporate  
3 voters. "Resident voter" means a person residing within the  
4 limits of the village corporation who would be a legal voter in  
5 the Town of Long Island. "Corporate voter" means a person who  
6 owns a part or the whole of one or more lots of land with a  
7 dwelling within the limits of the village corporation. The  
8 ownership of tracts or parcels of land does not entitle the owner  
9 or owners of the land to more than one vote, either for the owner  
10 or as representing the joint owners of land within the limits of  
11 the village corporation. When a lot or lots of land is owned by  
12 2 or more persons, those persons may sign a written agreement  
13 that states which of the owners is designated as the corporate  
14 voter at meetings of the village corporation. That agreement  
15 must be filed with the clerk of the village corporation.

16 A written vote on a measure at a meeting must be taken and  
17 checked against the list of eligible voters prepared by the clerk  
18 of the village corporation upon the demand of 7 eligible voters.

20 For a measure to be approved by the village corporation,  
21 more than 50% of the corporate voters present must approve the  
22 measure and the measure must be ratified by more than 50% of the  
23 resident voters present at the same meeting.

24 In any year in which there are fewer than 5 resident voters  
25 in the village corporation, the resident vote is not required for  
26 approval of a measure.

28 **Sec. 11. Eligibility to hold office.** A person who is an eligible  
29 voter of the village corporation may be elected or appointed to  
30 an office, but ceases to hold that office when that person ceases  
31 to be an eligible voter or fails to fulfill the duties of the  
32 office as specified in the bylaws of the village corporation.

34 The clerk and the treasurer must be residents of the State.  
35 The treasurer must give bond.

38 At least 2 of the overseers must be elected from among the  
39 resident voters pursuant to the procedure under section 8 of this  
40 Act. In a year that a resident voter is not a candidate for  
41 office, this restriction does not apply.

42 **Sec. 12. Duties of overseers.** The overseers are the municipal  
43 officers of the village corporation. They have charge of its  
44 affairs and expenditure of money as authorized by the village  
45 corporation at a meeting called for that purpose.

48 The overseers shall call meetings and notify the residents  
49 of the village corporation as town meetings are called and  
50 announced.

2           **Sec. 13. Duties of officers.** The clerk of the village  
4           corporation shall prepare a list of eligible voters at least 24  
6           hours before a meeting. The clerk may correct that list at any  
8           time before or during a meeting.

10           The clerk of the village corporation shall file with the  
12           assessors for the Town of Long Island a certificate of any  
14           additional assessment voted at the annual meeting of the village  
16           corporation.

18           Upon the filing of the certificate, the assessors, or their  
20           successors in office, at the time of the next annual tax  
22           assessment in the Town of Long Island, shall assess the total  
24           amount certified by the clerk of the village corporation upon the  
26           polls and estates of persons owning land on Great Diamond Island  
28           as provided in section 5 of this Act and shall certify and  
30           deliver the list of the assessments made to the tax collector of  
32           the Town of Long Island.

34           The tax collector shall collect taxes on assessed property  
36           in the same manner as county and town taxes are collected.

38           The treasurer of the village corporation shall receive money  
40           belonging to the village corporation and pay it out only upon the  
42           written order or direction of the overseers. The treasurer shall  
44           keep a regular account of money received and dispersed and  
46           exhibit that accounting to the overseers upon request.

48           **Sec. 14. Officers; term of office.** The first election of officers  
50           is at the first annual meeting.

            The term of office is 3 years except that, at the first  
annual meeting, 2 overseers must be elected for one year, 2  
overseers for 2 years and one overseer for 3 years. At  
subsequent annual meetings, officer positions must be filled for  
3-year terms.

            All officers continue to hold office until their successors  
are elected and duly qualified.

42           **Sec. 15. Annual meeting.** The annual meeting of the village  
44           corporation must be held between July 1st and September 1st  
46           within the territory of the village corporation as designated by  
48           the overseers.

50           **Sec. 16. Acceptance; referendum.** This Act takes effect 90  
days after adjournment of the First Regular Session of the 116th  
Legislature for the purpose of permitting its acceptance by the  
Town of Long Island and the voters of the village corporation.

2 In order for the separation and incorporation described in  
this Act to take effect, the following referendum must be passed.

4 1. The Town of Long Island must vote to accept the village  
6 corporation described in this Act.

8 2. The legal residents of Great Diamond Island must vote in  
a general election to secede from the City of Portland and form  
10 the village corporation on or before the general election in  
November 1995. The referendum question to be placed on the  
12 November ballot is:

14 "Do you favor the separation of the territory of Great  
Diamond Island from the City of Portland to form a body  
16 politic and corporate by the name of Great Diamond Island  
Village Corporation?"

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

22 **Sec. 17. Meeting called.** The steering committee or any member  
of the steering committee of the Great Diamond Island Committee  
24 for Self-Determination may call meetings of the village  
corporation for the purpose of voting on the acceptance of the  
26 charter or bylaws. The steering committee shall notify the  
eligible voters, as determined in a list prepared by them of the  
28 current property owners on Great Diamond Island, by mailing  
written notice of the meeting to those persons at least 30 days  
30 before the meeting. Only one meeting for voting on the charter  
or bylaws may be called in any calendar year; this meeting must  
32 be held between July 1st and September 1st within the territory  
of the village corporation.

34 Any member of the steering committee may preside at a  
36 meeting called for the purpose of voting on the acceptance of the  
charter or bylaws and organization of the village corporation  
38 until the first annual village meeting, at which time, officers  
must be elected.

40 After acceptance, meetings must be called and announced by  
42 the overseers in the same manner as town meetings are called and  
announced by municipal officers. At all meetings of the village  
44 corporation, a moderator must be chosen in the manner and with  
the same power as in town meetings.

46 **Sec. 18. City of Portland property.** If the Great Diamond Island  
48 Village Corporation is incorporated within the Town of Long  
Island and is separated from the City of Portland, all real  
50 property owned by the City of Portland and located within the

Great Diamond Island territory must be conveyed to the Great Diamond Island Village Corporation on the effective date of the separation. The village corporation shall assume its share of indebtedness to the City of Portland for that real property based on fair market value.

Before the effective date of separation, the City of Portland must remove from the territory of Great Diamond Island all personal property owned by the City of Portland that is customarily located on Great Diamond Island.

**Sec. 19. Allocation of debts and assets.** If Great Diamond Island separates from the City of Portland, the village corporation shall assume its just and due proportion of the debts of the City of Portland and is entitled to its just and due proportion of the assets of the City of Portland. The just and due debts and assets must be derived from nationally accepted standards.

If the village corporation and the City of Portland are unable to resolve issues related to the proposed separation of Great Diamond Island from the City of Portland through negotiation, 90 days before the general election referendum, both parties shall submit the dispute to a panel of arbitrators and reduce to writing all agreed-upon matters. The panel of arbitrators consists of one arbitrator selected by the City of Portland, one arbitrator selected by the Great Diamond Island Committee for Self-Determination and one neutral arbitrator selected jointly by the 2 other arbitrators. The arbitration must be administered under the auspices of the American Arbitration Association and, except for the selection of arbitrators, is governed by the rules and procedures of the American Arbitration Association. Determination of disputed matters by the panel of arbitrators is final and binding on both parties. The issues must be resolved no later than 45 days before the general election.

**Sec. 20. Proration of property taxes; escrow account.** If the legal residents of Great Diamond Island approve the question in the referendum election, the City of Portland shall place in an escrow account a prorated share of the property taxes collected from the property owners on Great Diamond Island with respect to the September property tax bill in the year of the referendum and all of the property taxes collected from the property owners on Great Diamond Island with respect to the March property tax bill in the year following the referendum. The City of Portland shall maintain this escrow account for the Town of Long Island to be held for the benefit of the village corporation. The City of Portland shall disburse funds from this escrow account only to

2 pay the direct cost of municipal services provided by the City of  
Portland to Great Diamond Island, which services must be  
4 maintained at their customary level. On July 1st in the year  
following the referendum, the City of Portland shall disburse to  
6 the Town of Long Island for the village corporation the balance  
remaining in the escrow account.

8 **Sec. 21. Dissolution of the village corporation.** The village  
corporation may be dissolved by a 2/3 majority vote of the legal  
10 residents in a general election, provided the Legislature has  
approved an alternative form of government.  
12

14 **STATEMENT OF FACT**

16 This bill allows Great Diamond Island to separate from the  
18 City of Portland and to incorporate as a village corporation  
within the Town of Long Island.  
20