

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1421

S.P. 454

In Senate, May 3, 1993

An Act to Separate Cushings Island in Casco Bay from the City of Portland and to Create the Cushings Island Village Corporation as Part of the Town of Long Island.

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

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CONLEY of Cumberland.
Cosponsored by Representative: ADAMS of Portland.

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

2

PART A

4

6 **Sec. A-1. Separation and incorporation.** Subject to a referendum
8 election as set forth in section 20 of this Part, the following
10 territory now within the City of Portland and Cumberland County,
12 together with the inhabitants of that territory, is hereby
14 separated and set off from the City of Portland as a separate
village corporation to be known as the Cushings Island Village
Corporation as part of the Town of Long Island. By virtue of
this separation, Cushings Island is also removed from the
jurisdiction of the Board of Harbor Commissioners of the Port of
Portland, but remains within Cumberland County.

16

18 **Sec. A-2. Boundaries.** The territory included in the Cushings
Island Village Corporation includes the land and the submerged
lands as follows:

20

22 Beginning at a point South of Peaks Island at 43° 38' 50"
24 and 70° 11' 00" and running Southwest between Ram Island to
26 the intersection of the Town of Cape Elizabeth boundary at
28 43° 37' 05" and 70° 12' 00". Running from that point
Northwest along the existing Town of Cape Elizabeth and then
existing City of South Portland boundary to the point of
intersection with line of latitude 43° 38' 30" and then
continuing east through Whitehead passage between Cushings
Island and Peaks Island to the beginning point of 43° 38'
50" and 70° 11' 00".

30

32 **Sec. A-3. Effective date.** This Part takes effect 90 days after
34 the adjournment of the First Regular Session of the 116th
36 Legislature for the purpose of permitting its submission to the
38 voters of Cushings Island and Long Island at special referendum
elections to be held on those islands, respectively, as set forth
in section 20 of this Part. Warrants must be issued for these
elections notifying the qualified voters to vote on the approval
or rejection of this Part.

40

42 **Sec. A-4. Effective date of separation.** The effective date of
44 separation is July 1st following the time the voters of Long
Island vote to accept the Village of Cushings Island and the
voters of Cushings Island vote to create the Cushings Island
Village Corporation.

46

48 **Sec. A-5. Allocation of debts and assets.** If Cushings Island is
separated from the City of Portland, the Cushings Island Village
Corporation shall assume its just and due

2 proportion of the debts of the City of Portland and shall receive
its just and due proportion of the assets of the City of Portland.

4 **Sec. A-6. Proration of property taxes; escrow account.** If a
majority of those voting in the Long Island and Cushings Island
6 referendum election approves the questions set forth in section
20 of this Part, then the City of Portland shall place in an
8 escrow account a pro rata share of the property taxes collected
from property owners in the Cushings Island territory with
10 respect to the previous property tax bill. The City of Portland
shall maintain this escrow account for the benefit of the
12 Cushings Island Village Corporation, and the City of Portland may
disburse funds from this escrow account only to pay the direct
14 cost of municipal services provided by the City of Portland to
the Cushings Island Village Corporation territory, which services
16 must be maintained at their customary level. On the effective
date of the establishment of the Cushings Island Village
18 Corporation, the City of Portland must disburse to the Cushings
Island Village Corporation the balance remaining in the escrow
20 account.

22 **Sec. A-7. Incorporation.** The territory embraced within the
limits of Cushings Island in the Town of Long Island, in
24 Cumberland County, together with the inhabitants, owners of real
estate and persons entitled to the use or occupation of real
26 estate on the island is hereby created a body politic and
corporate by the name of Cushings Island Village Corporation as
28 part of the Town of Long Island.

30 **Sec. A-8. Powers.** The Cushings Island Village Corporation is
authorized and vested with the power at any legal meeting called
32 for the purpose to raise money for the following purposes: to
create and maintain a fire department with all the necessary
34 equipment, appliances and apparatus for the prevention and
extinguishment of fires; to build, repair and maintain roads,
36 streets and ways, sidewalks, sewers and other sanitary works,
including the collection and removal of offal and garbage; to
38 acquire by gift or purchase, own, hold, sell, convey, lease,
mortgage or otherwise dispose of real estate and to build,
40 construct, lease, sell, mortgage or otherwise dispose of
improvements thereto; to care for and beautify that portion of
42 Cushings Island that has been or may hereafter be reserved for or
dedicated to public uses to be enjoyed in common by all the
44 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
46 trees in the roads and streets and upon the public lands; to
build, repair and maintain public wharves and landings; to
48 establish and maintain police and night watch; to procure water
for fire, domestic and other purposes and to produce or procure
50 light for public use and for the use of the inhabitants of the

island, and for such purposes to contract with any individual,
2 firm or corporation to furnish such water or light for either or
both of the purposes named and to establish reasonable rates to
4 be paid by the inhabitants of the island using such water or
light for domestic purposes; to construct, maintain and operate
6 telephone or telegraph lines or to aid in the construction,
maintenance and operation of telephone and telegraph lines and to
8 that end and for that purpose to contract with any corporation,
firm or individual therefor; to provide for the education of
10 students whose parents are legal residents of Cushings Island to
the extent required by state law; to arrange for boat and ferry
12 service to or from the island; to defray any and all other
necessary or proper corporate charges; and to purchase necessary
14 supplies and equipment and employ labor and to sell such supplies
and furnish such equipment and labor for hire to the members of
16 the corporation. The overseers of the corporation may employ the
agents as are necessary to carry out the provisions of this
18 section. The corporation is further authorized to borrow funds
to accomplish the purposes of this section.

20
Sec. A-9. Duties of Town of Long Island. The Town of Long
22 Island is relieved from any and all duties to build, repair or
maintain roads, streets or ways upon Cushings Island or to
24 perform any of the duties for which the corporation is authorized
by section 8 of this Part to raise money, and the town is not
26 liable for defects in streets, ways or roads on Cushings Island
nor for failure to perform any duty from which it is relieved by
28 this Part, but the Cushings Island Village Corporation shall
assume all of the duties and is liable for the defects in
30 streets, ways and roads and for failure to perform the duties
assumed as the Town of Long Island would have been liable except
32 for this Part, which liability may be enforced under the same
conditions, in the same manner and with the same remedies as are
34 provided by law in relation to towns.

36
Sec. A-10. Roads. The Cushings Island Village Corporation
and the overseers of the corporation have the same power and
38 duties in laying out, discontinuing and altering ways and roads
on Cushings Island that the municipalities of the State now have,
40 to be exercised and performed under the same conditions and
limitations and in the same manner that they are now or may
42 hereafter be exercised and performed by the municipalities.

44
Sec. A-11. Taxes. The Town of Long Island shall annually pay
over to the treasurer of the Cushings Island Village Corporation
46 out of the taxes collected from the inhabitants and estates on
Cushings Island pursuant to sections 12 and 16 of this Part a sum
48 to be determined by agreement of the parties every 5 years in
consideration of the municipal duties assumed by the Cushings
50 Island Village Corporation. If the parties are unable

2 to reach an agreement 180 days prior to the onset of any 5-year
4 period, they shall engage in the arbitration process as set forth
6 in Part B, section 2. Town taxes may not be assessed upon or
8 collected from the inhabitants and estates except as provided for
10 in sections 12 and 16 of this Part.

12 **Sec. A-12. Assessment.** All money that is raised pursuant to
14 section 16 of this Part for the purposes named in section 8 of
16 this Part or for any other purpose for which the corporation may
18 lawfully raise money must be assessed upon the taxable real and
20 personal property embraced within the limits of the corporation
22 by the assessors of the Town of Long Island in the same manner as
24 is provided by law for the assessment of town and county taxes.

26 **Sec. A-13. Offices; bylaws.** The officers of the Cushings Island
28 Village Corporation are a clerk, who must be a resident of this
30 State, a treasurer and 5 overseers, who must be chosen by ballot,
32 and such other officers as the bylaws of the corporation
34 require. The corporation is empowered to adopt at any legal
36 meeting called for that purpose bylaws for the government of the
38 corporation and for the proper management of its prudential
40 affairs and other purposes connected with its affairs if the
42 bylaws are not repugnant to the laws of the State. The bylaws
44 may be altered or amended at any legal meeting of the corporation
46 in the call for which notice of the proposed change has been
48 given. The officers must be sworn before the clerk or a justice
of the peace and the treasurer shall give bond to the corporation
in a sum that the overseers may direct, which bond must be
approved by the overseers and clerk.

30 **Sec. A-14. Eligibility to hold office.** Any person who is a legal
32 voter in the Cushings Island Village Corporation may be elected
34 or appointed to any office in the corporation but must cease to
36 hold that office whenever the person ceases to be a legal voter.

38 **Sec. A-15. Duties of overseers.** The overseers are the general
40 municipal officers of the corporation and have general charge of
42 its affairs and of the expenditure of all money in the
44 corporation except so far as the same may be committed to other
46 officers or persons. The overseers have all the same powers and
48 duties of other municipal officers under the law.

42 **Sec. A-16. Certificate; duties of officers.** Upon a certificate being
44 filed with the assessors of the Town of Long Island by the clerk
46 of the Cushings Island Village Corporation of the amount of money
48 voted to be raised at any meeting for any of the purposes
aforesaid, the assessors or their successors in office, at the
time of the next annual assessment of town and county taxes in
the Town of Long Island, shall assess in addition

2 the total amounts certified by the clerk of this corporation upon
the real and personal property of persons owning land on Cushings
4 Island as defined in section 12 of this Part and to certify and
deliver the lists of the assessments so made to the collector of
6 the Town of Long Island who shall collect the assessments in like
manner as county and town taxes are by law collected on assessed
8 property. The collector shall pay over the amount provided for
in section 11 of this Part from money collected by the assessor
10 to the treasurer of the corporation whenever the overseers so
direct. The treasurer of the corporation shall receive all money
12 belonging to the corporation, pay it out only upon the written
order or direction of the overseers, keep a regular account of
14 all money received and paid out and exhibit the accounting to the
overseers whenever requested. The Town of Long Island has the
16 same power to direct the mode of collecting taxes as is provided
for by law in the collection of town taxes committed to the
18 assessor. The Town of Long Island has the same right to recover
taxes assessed under this Part by suit as is provided for by law
20 to recover town taxes assessed. The collector of Long Island is
entitled to receive the same fees in connection with the
22 collection of taxes assessed under this Part as are provided for
by law in the collection of the town taxes. The Cushings Island
24 Village Corporation has the same power to borrow money in
anticipation of taxes or to issue its notes, bonds or other
26 evidence of indebtedness for municipal purposes as towns now have
under the general laws.

28 **Sec. A-17. Legal voters.** All individuals over 18 years of age
owning taxable real property within the limits of the corporation
30 may be legal voters at any meeting of the corporation at which
they are present. The overseers of the corporation shall
32 determine who are the legal voters at any meeting subsequent to
acceptance of this charter and shall prepare a list of the voters
34 at least 24 hours before every meeting, which list they may amend
or correct at any time before the meeting or during its
36 progress. The vote upon any propositions at any meeting must be
taken and checked by this list upon the demand of 5 legal
38 voters. Every person who has joint ownership with some other
person or persons of taxable real property within the limit of
40 the corporation and who by agreement with the other joint owners
is in possession of a certain part of the lot of land on the
42 island upon which that person has a dwelling house owned and
controlled by that person exclusively is deemed a legal voter at
44 any meeting of the corporation at which that person is present.
The majority in interest of the joint owners of any land within
46 the limits of the corporation may designate in writing one of the
owners to represent that property as a legal voter at any meeting
48 of the corporation at which that person is present, but a person
may not be entitled to more than one vote in any meeting either

2 for that person or as representing the joint owners of any
property within the limits of the corporation.

4 **Sec. A-18. Officers; term of office; annual meeting.** The first
election of officers must be at the meeting at which this charter
6 is accepted. Officers hold their respective offices until the
next annual meeting of the corporation, at which meeting and
8 thereafter at each annual meeting, officers must be elected, but
in any event all officers duly elected hold office until their
10 successors are elected and duly qualified. The annual meeting of
the corporation must be held at such time and place in the month
12 of June, July, August or September as designated by a majority of
the overseers.

14 **Sec. A-19. Meeting called.** The Board of Directors of Cushings
16 Island Associates, Incorporated may call the meeting of the
Cushings Island Village Corporation for the purpose of voting on
18 the acceptance of the charter and the election of officers and
may notify the legal voters of the Cushings Island Village
20 Corporation as determined by a list prepared by them to meet by
mailing written notice of the meeting to the persons at least 10
22 days before the time of holding the meeting. All subsequent
meetings must be called and notified by the overseers as town
24 meetings are called and notified by the overseers. Any of the
above-named persons are authorized to preside at the meeting
26 called for the purpose of voting on the acceptance of the charter
until the meeting is organized and until a moderator is chosen by
28 ballot and sworn. At all meetings of the corporation a moderator
must be chosen in the manner and with the same power as in town
30 meetings.

32 **Sec. A-20. Referenda.** This Part takes effect 90 days after
adjournment of the Second Regular Session of the 116th
34 Legislature only for the purpose of permitting its submission to
the voters of Long Island and the legal voters of the Cushings
36 Island Village Corporation as follows:

38 **1. Long Island vote.** Within 5 years of the effective date
of this Part, the voters of Long Island at a town meeting shall
40 vote on the following question:

42 "Shall 'An Act to Separate Cushings Island in Casco Bay from
the City of Portland and to Create the Cushings Island
44 Village Corporation as Part of the Town of Long Island' as
passed by the 116th Legislature be accepted?"

46
48 The voters shall indicate by a cross or check mark placed against
the word "Yes" or "No" their opinion of the same.

2 3. The allocation of other duties and responsibilities
4 among the City of Portland, the Town of Long Island and the
Cushings Island Village Corporation as the parties determine
necessary.

6 **Sec. B-2. Agreement binding; binding arbitration.** Negotiations
8 under section 1 of this Part must be completed within 60 days
after this Part takes effect. If the parties reach agreement by
10 that date, the agreement must be reduced to writing and is final
and binding on the City of Portland, the Town of Long Island and
12 the Cushings Island Village Corporation if the referendum in Part
A, section 20 is approved.

14 If the parties do not reach agreement within 60 days after
16 this Part takes effect, the parties shall submit any matters
remaining in dispute to a panel of arbitrators and shall reduce
18 to writing all agreed-upon matters. The panel of arbitrators
consists of one arbitrator selected by the City of Portland, one
20 arbitrator selected by the representatives of the Cushings Island
Village Corporation and one neutral arbitrator selected jointly
22 by the 2 other arbitrators. Determination of disputed matters by
the panel of arbitrators is final and binding on the parties.
24 The arbitration must be administered under the auspices of the
American Arbitration Association and except for the selection of
26 arbitrators is governed by the rules and procedures of the
American Arbitration Association, unless the parties otherwise
28 agree.

30 **STATEMENT OF FACT**

32 Subject to referenda, this bill authorizes the separation of
34 Cushings Island from the City of Portland and allows the creation
of the Cushings Island Village Corporation in the Town of Long
36 Island.