

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

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Legislative Document

No. 1425

S.P. 458

In Senate, May 4, 1993

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

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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 Representatives: ADAMS of Portland, RAND of Portland.

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

PART A

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

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

Beginning at the "Existing Point" where the City of Portland/Falmouth boundary 90° NE/NW (approximately halfway between Macworth Island (Falmouth) and Little Diamond Island) -- 43° 40' 50" N and 70° 13' 05" and running approximately SE between Little Diamond and Great Diamond Island to 43° 40' 00" and 70° 12' 00" approximately halfway between Peaks Island and Little Diamond Island and then running SW to 43° 39' 30" and 70° 12' 30" to a point north of House Island then running West to 43° 39' 30" and 70° 13' 00" and then running approximately due north to the original "existing point" of 43° 40' 50" and 70° 13' 05".

**Sec. A-3. Effective date.** This Part takes effect 90 days after the adjournment of the First Regular Session of the 116th Legislature for the purpose of permitting its submission to the voters of Little Diamond 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.

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

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

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

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

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

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

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

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

40 **Sec. A-11. Taxes.** The Town of Long Island shall annually pay  
41 over to the treasurer of the Little Diamond Island Village  
42 Corporation out of the taxes collected from the inhabitants and  
43 estates on Little Diamond Island pursuant to sections 12 and 16  
44 of this Part a sum to be determined by agreement of the parties  
45 every 5 years in consideration of the municipal duties assumed by  
46 the Little Diamond Island Village Corporation. If the parties  
47 are unable to reach an agreement 180 days prior to the onset of  
48 any 5-year period, they shall engage in the arbitration process  
49 as set forth in Part B, section 2. Town taxes may not be  
50

2 assessed upon or collected from the inhabitants and estates  
except as provided for in sections 12 and 16 of this Part.

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

12 **Sec. A-13. Offices; bylaws.** The officers of the Little Diamond  
14 Island Village Corporation are a clerk, who must be a resident of  
16 this State, a treasurer and 5 overseers, who must be chosen by  
18 ballot, and such other officers as the bylaws of the corporation  
20 require. The corporation is empowered to adopt at any legal  
22 meeting called for that purpose bylaws for the government of the  
24 corporation and for the proper management of its prudential  
26 affairs and other purposes connected with its affairs if the  
bylaws are not repugnant to the laws of the State. The bylaws  
may be altered or amended at any legal meeting of the corporation  
in the call for which notice of the proposed change has been  
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.

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

34 **Sec. A-15. Duties of overseers.** The overseers are the general  
36 municipal officers of the corporation and have general charge of  
38 its affairs and of the expenditure of all money in the  
40 corporation except so far as the same may be committed to other  
officers or persons. The overseers have all the same powers and  
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 Little Diamond Island Village Corporation of the amount of  
48 money voted to be raised at any meeting for any of the purposes  
aforesaid, the assessors or their successors in office, at the  
50 time of the next annual assessment of town and county taxes in  
the Town of Long Island, shall assess in addition the total  
amounts certified by the clerk of this corporation upon the real  
and personal property of persons owning land on Little Diamond  
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

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

24 **Sec. A-17. Legal voters.** All individuals over 18 years of age  
26 owning taxable real property within the limits of the corporation  
28 may be legal voters at any meeting of the corporation at which  
30 they are present. The overseers of the corporation shall  
32 determine who are the legal voters at any meeting subsequent to  
34 acceptance of this charter and shall prepare a list of the voters  
36 at least 24 hours before every meeting, which list they may amend  
38 or correct at any time before the meeting or during its  
40 progress. The vote upon any propositions at any meeting must be  
42 taken and checked by this list upon the demand of 5 legal  
44 voters. Every person who has joint ownership with some other  
46 person or persons of taxable real property within the limit of  
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  
island upon which that person has a dwelling house owned and  
controlled by that person exclusively is deemed a legal voter at  
any meeting of the corporation at which that person is present.  
The majority in interest of the joint owners of any land within  
the limits of the corporation may designate in writing one of the  
owners to represent that property as a legal voter at any meeting  
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  
for that person or as representing the joint owners of any  
property within the limits of the corporation.

48 **Sec. A-18. Officers; term of office; annual meeting.** The first  
50 election of officers must be at the meeting at which this charter  
52 is accepted. Officers hold their respective offices until the  
next annual meeting of the corporation, at which meeting and  
thereafter at each annual meeting, officers must be

2 elected, but in any event all officers duly elected hold office  
3 until their successors are elected and duly qualified. The  
4 annual meeting of the corporation must be held at such time and  
5 place in the month of June, July, August or September as  
6 designated by a majority of the overseers.

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

23 **Sec. A-20. Referenda.** This Part takes effect 90 days after  
24 adjournment of the Second Regular Session of the 116th  
25 Legislature only for the purpose of permitting its submission to  
26 the voters of Long Island and the legal voters of the Little  
27 Diamond Island Village Corporation as follows:  
28

29 **1. Long Island vote.** Within 5 years of the effective date  
30 of this Part, the voters of Long Island at a town meeting shall  
31 vote on the following question:  
32

33 "Shall 'An Act to Separate Little Diamond Island in Casco  
34 Bay from the City of Portland and to Create the Little  
35 Diamond Island Village Corporation as Part of the Town of  
36 Long Island' as passed by the 116th Legislature be accepted?"  
37

38 The voters shall indicate by a cross or check mark placed against  
39 the word "Yes" or "No" their opinion of the same.  
40

41 **2. Little Diamond Island vote.** The Board of Directors of  
42 Little Diamond Island Association shall, within 3 years of the  
43 effective date of this Part, advertise and conduct a meeting  
44 according to the bylaws of Little Diamond Island Association.  
45 The board shall prepare the required ballots, on which it shall  
46 reduce the subject matter of this Part to the following question:  
47

48 "Shall 'An Act to Separate Little Diamond Island in Casco  
49 Bay from the City of Portland and to Create the Little  
50



2 Diamond Island Village Corporation as Part of the Town of  
Long Island' as passed by the 116th Legislature be accepted?"

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

6  
8 This Part takes effect for all purposes immediately upon its  
acceptance by a majority of the legal voters voting at the  
10 meetings of Little Diamond Island Association and the Town of  
Long Island and the filing of the certificates of the results of  
12 the votes with the Clerk of the Town of Long Island and the  
Secretary of State; but only if the total number of votes cast  
14 for and against the acceptance of this Part at the meeting equals  
or exceeds 50% of the number of names on the list of legal voters  
16 of the Little Diamond Island Village Corporation as prepared in  
accordance with section 19 of this Part.

18 The result of the Little Diamond Island vote must be declared by  
the officers of the Little Diamond Island Village Corporation and  
20 a certificate filed by the clerk of the corporation with the  
Clerk of the Town of Long Island and the Secretary of State.

22 **PART B**

24  
26 **Sec. B-1. Agreement among Town of Long Island, Little Diamond  
Island and the City of Portland.** In anticipation of the separation  
28 of Little Diamond Island to become the Little Diamond Island  
Village Corporation, pursuant to this Part, the City of Portland,  
30 the Town of Long Island and a representative of Little Diamond  
Island as designated by Little Diamond Island Association shall  
negotiate in good faith to reach a mutual determination of:

32  
34 1. The just and due proportion of debts of the City of  
Portland to be assumed by the Little Diamond Island Village  
36 Corporation;

38 2. The just and due proportion of any assets of the City of  
Portland to be received by the Little Diamond Island Village  
40 Corporation; and

42 3. The allocation of other duties and responsibilities  
among the City of Portland, the Town of Long Island and the  
44 Little Diamond Island Village Corporation as the parties  
determine necessary.

46 **Sec. B-2. Agreement binding; binding arbitration.** Negotiations  
under section 1 of this Part must be completed within 60 days  
48 after this Part takes effect. If the parties reach agreement by  
that date, the agreement must be reduced to writing and is final  
50 and binding on the City of Portland, the Town of Long Island and

2 the Little Diamond Island Village Corporation if the referendum  
in Part A, section 20 is approved.

4 If the parties do not reach agreement within 60 days after  
6 this Part takes effect, the parties shall submit any matters  
8 remaining in dispute to a panel of arbitrators and shall reduce  
10 to writing all agreed-upon matters. The panel of arbitrators  
12 consists of one arbitrator selected by the City of Portland, one  
14 arbitrator selected by the representatives of the Little Diamond  
16 Island Village Corporation and one neutral arbitrator selected  
18 jointly by the 2 other arbitrators. Determination of disputed  
matters by the panel of arbitrators is final and binding on the  
parties. 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, unless the parties  
otherwise agree.

#### 20 STATEMENT OF FACT

22 Subject to referenda, this bill authorizes the separation of  
24 Little Diamond Island from the City of Portland and allows the  
creation of the Little Diamond Island Village Corporation in the  
26 Town of Long Island.