

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

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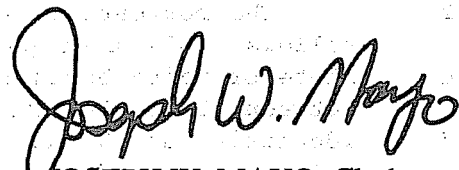
H.P. 1082

House of Representatives, May 5, 1993

**An Act to Separate Peaks Island and Certain Other Islands in Casco Bay
from the City of Portland.**

(EMERGENCY)

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: HANDY of Androscoggin.

2 **Sec. A-2. Referendum election.** Part A of this Act takes effect
3 90 days after adjournment of the First Regular Session of the
4 116th Legislature for the purpose of permitting its submission to
5 the voters of Peaks Island at a special referendum election to be
6 held on November 2, 1993. Warrants must be issued for this
7 election notifying the qualified voters to vote on the approval
8 or rejection of this Part.

9
10 For the purposes of this referendum election, all persons
11 resident and legally registered to vote within the Peaks Island
12 territory are eligible to vote on the question with respect to
13 the separation of that territory from the City of Portland.

14 The city clerk of the City of Portland shall prepare the
15 required ballots on which the subject matter of this Act must be
16 reduced to the following question:

17 "Do you favor the separation of Peaks Island, House Island,
18 Pumpkin Knob, Ram Island and Ram Island Ledge and the
19 surrounding waters from the City of Portland and their
20 incorporation as a separate town?"

21
22 The voters shall indicate by a cross or check mark placed
23 against the word "Yes" or "No" their vote on this question.

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

31
32 **Sec. A-3. Effective date of separation.** If a majority of those
33 voting in the Peaks Island referendum election approve the
34 question, Part A of this Act takes effect with respect to that
35 territory and that territory is separated from the City of
36 Portland and is incorporated as the Town of Peaks Island on July
37 1, 1994.

38
39 **Sec. A-4. Provision for first meeting.** If a majority of those
40 voting in the Peaks Island referendum election approve the
41 question, a justice of the peace or notary public may issue a
42 warrant to any legal voter in the Town of Peaks Island directing
43 that legal voter to notify the municipal inhabitants of a public
44 meeting to select municipal officers and to transact municipal
45 business, to be held at a time and place specified in the
46 warrant. Notice to the municipal inhabitants must be provided at
47 least 7 days prior to the meeting. Until June 30, 1994, a
48 municipal officer or school board member selected at the meeting
49 is vested with all the powers and duties that other duly elected
50 municipal officers

2 or school board members have, including the power to raise,
borrow and spend money.

4 **Sec. A-5. Form of government.** If a majority of those voting
in the Peaks Island referendum election approve the question, the
6 Town of Peaks Island must be incorporated and separated from the
City of Portland on July 1, 1994 and shall adopt the town meeting
8 as its form of government.

10 Nothing in this Act prevents the Town of Peaks Island from
subsequently voting to change its form of government without the
12 necessity of a further act of the Legislature.

14 **Sec. A-6. Allocation of debts and assets.** If the Town of Peaks
Island is incorporated and is separated from the City of Portland
16 on July 1, 1994, the Town of Peaks Island shall assume its just
and due proportion of the debts of the City of Portland and shall
18 receive its just and due proportion of the assets of the City of
Portland, determined as follows.

20 The debts to be allocated to the Town of Peaks Island are
22 specified in subsections 1 to 3. The assets to be allocated to
the Town of Peaks Island are specified in subsection 4. The
24 dollar amounts of the allocable debts and assets must then be
compared as specified in subsection 5.

26 **1. City's debts.** The debts of the City of Portland are the
28 amount reported as total liabilities in the total (memorandum
only) column on the combined balance sheet in the audited
30 financial statements of the City of Portland as of June 30,
1992. The just and due proportion of the debts of the City of
32 Portland to be allocated to the Town of Peaks Island is as
follows. For the purpose of the comparison in subsection 5, the
34 Town of Peaks Island must be allocated a percentage share of the
principal amount of the city's debts, so defined, that equals the
36 average ratio of assessed valuation of the Town of Peaks Island
from 1984 to 1993 to the combined assessed valuation of the City
38 of Portland and the Town of Peaks Island from 1984 to 1993.

40 **2. Sewage treatment plant.** For the purpose of the
comparison in subsection 5, the Town of Peaks Island is allocated
42 the local share of the debt, \$1,525,446, previously incurred by
the Portland Water District and guaranteed by the City of
44 Portland with respect to the capital cost of the sewage treatment
on Peaks Island.

46 **3. Real property and tangible personal property on Peaks
48 Island.** All real property and all tangible personal property
owned by the City of Portland on June 30, 1994 that is located
50 within the Peaks Island territory becomes the property of the

2 Town of Peaks Island on July 1, 1994, and the City of Portland
3 shall promptly deliver to the Town of Peaks Island appropriate
4 quit-claim deeds for all such real property and appropriate
5 quit-claim bills of sale for all such tangible personal
6 property. The Town of Peaks Island is obligated to pay the City
7 of Portland an amount equal to the cost basis of all such real
8 and tangible personal property.

9
10 **4. City's other assets.** All other city assets are the
11 amounts reported as total assets in the total (memorandum only)
12 column on the combined balance sheet in the audited financial
13 statements of the City of Portland as of June 30, 1992. The just
14 and due proportion of the assets of the City of Portland to be
15 allocated to the Town of Peaks Island is as follows. For the
16 purpose of the comparison in subsection 5, the Town of Peaks
17 Island must be allocated a percentage share of the amount that
18 equals the average ratio of assessed valuation of the Town of
19 Peaks Island from 1984 to 1993 to the combined assessed valuation
20 of the City of Portland and the Town of Peaks Island from 1984 to
21 1993.

22 **5. Comparison of debts and assets.** The dollar amounts of
23 debt allocated to the Town of Peaks Island pursuant to
24 subsections 1 and 2 must be added to the dollar amount of real
25 and tangible personal property owned by the City of Portland
26 within the Peaks Island territory pursuant to subsection 3. The
27 resulting total dollar amount must then be compared to the dollar
28 amount of assets to be allocated to the Town of Peaks Island
29 pursuant to subsection 4. If the total dollar amount from
30 subsections 1, 2 and 3 exceeds the dollar amount from subsection
31 4, the Town of Peaks Island shall pay the difference to the City
32 of Portland, and at its option may make payment in 10 equal
33 annual installments, without interest, commencing on or before
34 December 31, 1994. If the dollar amount from subsection 4
35 exceeds the total dollar amount from subsections 1, 2 and 3, the
36 City of Portland shall pay the difference to the Town of Peaks
37 Island, and at its option may make payment in 10 equal annual
38 installments, without interest, commencing on or before December
39 31, 1994.

40
41 **Sec. A-7. Sewage treatment plant costs.** If the Peaks Island
42 territory is separated from the City of Portland and is
43 incorporated as the Town of Peaks Island, there may not be a
44 change in the allocation of the financing, operating and
45 maintenance costs of the sewage interception and treatment
46 facilities located on Peaks Island. With respect to all
47 financing, operating and maintenance costs of the Portland Water
48 District related to the sewage interception and treatment
49 facilities located on Peaks Island and incurred or committed to
50 be incurred as of June 30, 1994, the City of

2 Portland will assume and make payment for those costs in
accordance with the provisions of the Charter of the Portland
4 Water District. With respect to all financing, operating and
maintenance costs related to the sewage interception and
6 treatment facilities located on Peaks Island and incurred after
June 30, 1994, the Town of Peaks Island will assume and make
8 payment for those costs in accordance with the provisions of the
Charter of the Portland Water District.

10 The City of Portland must aggregate all costs that it
assumes with respect to sewage interception and treatment
12 facilities located on Peaks Island and located within the City of
Portland and must allocate those aggregated costs on an equal
14 basis among the sewer users in the Town of Peaks Island and the
City of Portland.

16 **Sec. A-8. Intermunicipality agreements.** To the extent the City
18 of Portland or the Town of Peaks Island enters into mutual aid
compacts and other intermunicipality agreements with other cities
20 and towns, each must offer to the other the opportunity to enter
into the same compacts and agreements on the same terms as the
22 other cities and towns.

24 **Sec. A-9. Teachers.** If the Town of Peaks Island is
incorporated and is separated from the City of Portland, that
26 separation in no way affects the tenure rights existing on
November 2, 1993 of those school teachers within the Portland
28 School System who are employed at the Peaks Island school as of
November 2, 1993 and who elect to remain employed by the Portland
30 School System.

32 **Sec. A-10. Water rates.** If the Town of Peaks Island is
incorporated and is separated from the City of Portland, the
34 Portland Water District may charge water users within the Town of
Peaks Island a higher water rate than is charged on the effective
36 date of this Act to water users within the City of Portland, but
not to exceed the water rate charged to water users within the
38 other towns served by the Portland Water District.

40 **Sec. A-11. Property taxes.** Until the effective date of
separation, the Peaks Island territory remains a part of the City
42 of Portland for all purposes and the City of Portland shall
maintain its customary level of municipal services to the Peaks
44 Island territory. The City of Portland shall place in an escrow
account all property taxes collected from the Peaks Island
46 territory after March 1, 1994 and shall pay to the Town of Peaks
Island on July 1, 1994 the balance of the escrowed money not
48 expended on municipal services rendered within the Peaks Island
territory.

50

PART B

2

4 **Sec. B-1. Other duties and responsibilities.** Debts and assets
6 must be allocated between the City of Portland and the Town of
8 Peaks Island as set forth in Part A, section 6. The City of
10 Portland and the Town of Peaks Island shall allocate other duties
12 and responsibilities between themselves as they mutually
14 determine to be necessary and appropriate, and shall negotiate
16 with each other in good faith.

10

12 **Sec. B-2. Agreement binding; binding arbitration.** Negotiations
14 under section 1 of this Part must be completed by July 30, 1993.
16 If the parties reach agreement by that date, the agreement must
18 be reduced to writing and is final and binding on the City of
20 Portland and the Town of Peaks Island upon incorporation of the
22 Town of Peaks Island as of July 1, 1994 if the referendum
24 question in Part A, section 2 is approved.

18

20 If the parties do not reach agreement by July 30, 1993, the
22 parties shall submit any matters remaining in dispute to a panel
24 of arbitrators and shall reduce to writing all agreed-upon
26 matters. The panel of arbitrators consists of one arbitrator
28 selected by the City of Portland, one arbitrator selected by the
30 representatives of the Peaks Island territory and one neutral
32 arbitrator selected jointly by the 2 other arbitrators.
34 Determination of disputed matters by the panel of arbitrators is
36 final and binding on the parties. The arbitration must be
38 administered under the auspices of the American Arbitration
40 Association and, except for the selection of arbitrators, is
42 governed by the rules and procedures of the American Arbitration
44 Association.

32

34 **Emergency clause.** In view of the emergency cited in the
36 preamble, this Act takes effect when approved.

36

38

STATEMENT OF FACT

40

42 Part A of this bill authorizes the incorporation of the Town
44 of Peaks Island if the legal residents of Peaks Island, House
46 Island and Pumpkin Knob in Casco Bay approve, by referendum,
48 separation from the City of Portland and incorporation as a
50 separate town.

46

48 Part B of this bill requires the parties to negotiate
50 matters of duties and responsibilities in advance of the
referendum election. If the parties fail to agree, the matters
are subject to binding arbitration.

50