

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

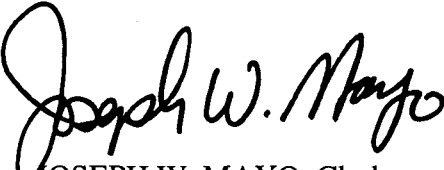
No. 120

H.P. 84

House of Representatives, January 17, 1995

**An Act to Establish Procedures for Secession and Annexation of
Territory Situated within a Municipality.**

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


JOSEPH W. MAYO, Clerk

Presented by Representative ROWE of Portland.
Cosponsored by Representatives: AHEARNE of Madawaska, JOSEPH of Waterville,
KILKELLY of Wiscasset, LOOK of Jonesboro, Senators: BERUBE of Androscoggin,
BUTLAND of Cumberland.

2 **Mandate preamble.** This measure requires one or more local
3 units of government to expand or modify activities so as to
4 necessitate additional expenditures from local revenues but does
5 not provide funding for at least 90% of those expenditures.
6 Pursuant to the Constitution of Maine, Article IX, Section 21,
7 two thirds of all of the members elected to each House have
8 determined it necessary to enact this measure.

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

10 **Sec. 1. 5 MRSA §12004-L, sub-§11** is enacted to read:

11 11. Commission Not 30-A MRSA
12 on Secession Authorized §2167

13 **Sec. 2. 30-A MRSA c. 113, first 2 lines** are repealed and the
14 following enacted in their place:

15 CHAPTER 113

16 CONSOLIDATION, SECESSION AND ANNEXATION

17 SUBCHAPTER I

18 CONSOLIDATION

19 **Sec. 3. 30-A MRSA c. 113, sub-c. II** is enacted to read:

20 SUBCHAPTER II

21 SECESSION AND ANNEXATION

22 **§2161. Secession of territory from a municipality**

23 Territory that is situated within a municipality may secede
24 from the municipality in accordance with this subchapter.

25 **§2162. Initiation of secession procedure**

26 A secession procedure must be initiated by submitting to the
27 municipality a petition signed by 10% of the registered voters
28 within the secession territory, requesting a municipal meeting
29 for the purpose of discussing whether a specified territory
30 should begin the secession procedure. The petition must set
31 forth the physical boundaries of the secession territory, the
32 resident population, the nonresident population and a list of no
33 more than 5 people who will serve as representatives of the
34 secession territory. For purposes of this subchapter "secession
35 territory" means that area described in a petition for secession.

2
3 **§2163. Initial secession meeting**

4 The municipal officers shall call and hold a special
5 meeting, in the manner provided for the calling and holding of
6 town meetings to discuss secession, which must be conducted in
7 accordance with the following:

8 **1. Meeting advertised.** The municipal officers shall
9 publish notice of the meeting in a newspaper of general
10 circulation in the area. One notice must be published as close
11 to the 14th day before the meeting as possible and the 2nd notice
12 must be published as close to the 7th day before the meeting as
13 possible;

14 **2. Secession meeting.** The meeting must include a formal
15 presentation by those initiating the petition and must include
16 the reasons for secession; and

17 **3. Nonresidents eligible to participate.** Nonresidents may
18 participate in the meeting at the discretion of the moderator.

19
20
21 **§2164. Petition for continuation of procedure**

22
23 After 30 days from the initial meeting, the secession
24 procedure may continue. The proceeding must be initiated by
25 submitting to the municipality within 7 months following the
26 initial petition meeting a petition of the registered voters
27 within the proposed secession territory requesting the creation
28 of a local secession committee. The petition must include 50% of
29 registered voters for a secession territory with a population of
30 500 or less, 35% of registered voters in a secession territory
31 with a population of 501 to 1,500 and 25% of registered voters in
32 a secession territory with a population greater than 1,500. The
33 population is determined at the initiation of the petition
34 process according to the last Federal Decennial Census. The
35 number of registered voters is determined by the registrar in
36 accordance with Title 21-A, chapter 3, subchapter IV. The
37 petition must set forth a physical description of the proposed
38 secession territory as well as a summary of the reasons for
39 secession.

40
41 **§2165. Creation of local secession committee**

42
43 If the required number of voters sign a petition, a local
44 secession committee must be created to develop the secession
45 procedure. The local secession committee consists of the
46 following 7 members: three representatives of the municipality
47 that the secession territory is proposing to secede from, elected
48 by the municipal officers; 3 representatives of the secession
49 territory chosen by the representatives established in section
50

2162; and one representative selected jointly by the selected
municipal representatives and the selected secession
representatives, who serves as chair of the proceedings.

§2166. Local secession committee procedure

The local secession committee, with the assistance of the
Commission on Secession, shall develop a secession procedure
that, at a minimum, consists of the following components.

1. Effective date. The secession procedure must establish
a date on which secession will be effective.

2. Provision of educational services. The secession
procedure must include a plan for the provision of educational
services, including school transportation services for all
students in the proposed secession territory.

3. Distribution of tangible assets and liabilities. The
secession procedure must require that the proposed secession
territory assume its just and due proportion of the debts of the
municipality and receive its just and due proportion of the
assets of the municipality.

4. Information about municipality. The local secession
procedure must include, at a minimum, the following information:

**A. Present population, past population growth and projected
population for the secession territory;**

**B. Quantity of land within the secession territory proposed
for incorporation; the natural terrain of the area,
including general topography, major watersheds, soil
conditions; and such natural features as rivers and lakes;**

**C. Present pattern of physical development in the secession
territory, including residential, industrial, commercial,
agricultural and institutional land uses; and the present
transportation network and potential transportation issues,
including proposed highway development;**

**D. Land use controls and planning presently being utilized
in the secession territory, including comprehensive plans
for development in the secession territory;**

**E. Present governmental services being provided to the
area, including water and sewer service, fire protection,
police protection, street improvements and maintenance,
administrative services and recreational facilities;**

2 F. Existing or potential problems of environmental
3 pollution and the need for additional services to resolve
4 these problems;

6 G. Fiscal data of the secession territory, including the
7 net tax capacity of the proposed secession territory and the
8 impact on the municipality from which the territory proposes
9 to secede; the present bonded indebtedness; and the local
10 tax rates of the county, school district and municipality;

12 H. Effect of the proposed incorporation on communities
13 adjacent to the secession territory and on school districts
14 within and adjacent to the secession territory; and

16 I. Adequacy of town government to deliver services to the
17 secession territory.

18 In developing the secession procedure, the local secession
19 committee shall work closely with the Commission on Secession.
20 The local secession committee shall submit the proposed secession
21 procedure to the Commission on Secession for review.

22 **§2167. Commission on Secession**

24 The Commission on Secession, as established in Title 5,
25 section 12004-L, subsection 11, and referred to in this
26 subchapter as the "commission," shall assist local secession
27 committees in formulating secession procedures. In addition, the
28 commission shall review these secession procedures as provided in
29 this subchapter.

32 **1. Membership.** The commission consists of the following 5
33 members:

34 A. The Commissioner of Education or the commissioner's
35 designee;

38 B. The State Auditor or the auditor's designee;

40 C. The State Tax Assessor or the assessor's designee;

42 D. The Commissioner of Environmental Protection or the
43 commissioner's designee; and

44 E. A commissioner from the Public Utilities Commission or a
45 commissioner's designee.

48 **2. Responsibilities.** The commission shall:

- 2 A. Assist municipalities in preparing the secession
 procedure as required in section 2166;
- 4 B. Review each secession procedure and provide comments and
 suggestions with respect to the procedure;
- 6 C. Recommend alternatives to secession if the commission
8 finds that feasible alternatives exist; and
- 10 D. Within 30 days after receiving the proposed secession
12 procedure, provide copies of its review and comments on the
14 secession procedure to the municipal officers, the local
16 secession committee and to the Executive Director of the
 Legislative Council, who shall provide it to the joint
 standing committee of the Legislature having jurisdiction
 over local government matters.
- 18 3. Chair. The commission shall annually elect a chair from
20 among its members.

22 **§2168. Arbitration**

24 If the local secession committee does not reach consensus,
26 it shall submit any matters remaining in dispute to a panel of
28 arbitrators and shall reduce to writing all agreed-upon matters.
30 The panel of arbitrators consists of one arbitrator selected by
32 the municipality, one arbitrator selected by the secession group
34 and one neutral arbitrator selected jointly by the 2 other
36 arbitrators. The local secession committee shall pay its chosen
38 arbitrator, the municipality shall pay its chosen arbitrator and
40 the municipality and the local secession committee shall each pay
 half of the cost of the neutral arbitrator. 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 commercial rules
 and procedures of the American Arbitration Association, and the
 concept of "last best offer" must be used. These issues must be
 resolved no later than 90 days before a referendum.

42 **§2169. Secession final report**

44 The local secession committee may incorporate the comments
46 and suggestions received from the commission into the secession
48 procedure. In its report the local secession committee shall
50 note those areas in which it did not incorporate the comments or
 suggestions of the commission along with a rationale for not
 doing so. The local secession committee shall immediately notify
 the municipal officers when the secession procedure has been
 completed and shall provide a copy of the final report to the

2 Executive Director of the Legislative Council, who shall provide
3 it to the joint standing committee of the Legislature having
4 jurisdiction over local government matters.

6 **§2170. Final approval by the voters**

7 The question concerning secession must be presented to the
8 voters of the secession territory in the next general election to
9 be held in November. The election must be conducted according to
10 the following procedures.

11 1. Question posed to voters. The municipal clerk shall
12 prepare the ballots on which the following question must appear:
13 "Do you favor the separation of (name of secession territory)
14 from (name of municipality) and its incorporation as a separate
15 town?"

16 2. Requirements for approval. The voters shall indicate
17 their opinion on this question by a cross or check mark placed
18 against the word "Yes" or "No." Before becoming effective, the
19 secession must be approved by at least 2/3 of the voters.

20 3. Declaration of results. The municipal officers shall
21 declare the result of the vote. The municipal clerk or the
22 assessor of the plantation shall file a certificate of the
23 election result with the Secretary of State within 10 days of the
24 election.

25 **§2171. Advisory referendum**

26 The municipality from which the secession has been proposed
27 may conduct an advisory referendum on the question of secession
28 in the same manner as in section 2170.

29 **§2172. Approval by the Legislature**

30 Any municipality that has approved a secession procedure
31 under this subchapter shall request before the effective date of
32 secession approval by the Legislature in order for the secession
33 to become effective.

34 **§2173. Concurrent secession and annexation**

35 Property of one municipality that abuts another may
36 concurrently secede and be annexed in accordance with this
37 subchapter, except that the following also applies.

38 1. Petition. An area proposing to concurrently secede and
39 be annexed must indicate on the petition in section 2164 the
40 community to which it wishes to be annexed.

2 **2. Inclusion in secession procedure.** A petition for
concurrent secession and annexation under this section must be
4 included in any information required by sections 2166 and 2167.

6 **3. Approval by voters; secession territory.** The question
concerning concurrent secession and annexation must be presented
8 to the voters of the secession territory in place of the question
set out in section 2170 for the proposed secession territory in
10 the following manner.

12 A. The municipal clerk shall prepare the ballots on which
the following question must appear: "Do you favor the
14 separation of (name of secession territory), which now lies
within (name of municipality), to become incorporated into
16 the (name of municipality)?"

18 B. The voters shall indicate their opinion on this question
by a cross or check mark placed against the word "Yes" or
20 "No." Before becoming effective, the secession and
annexation must be approved by 2/3 of the voters.

22 C. The municipal officers shall declare the result of the
24 vote. The municipal clerk shall file a certificate of the
election result with the Secretary of State within 10 days
26 of the election.

28 **4. Approval by voters; municipality.** The question
concerning concurrent secession and annexation must be presented
30 to the voters of the municipality to which the secession
territory proposes to be annexed in the following manner.

32 A. The municipal clerk shall prepare the ballots on which
34 the following question must appear: "Do you favor the
acceptance of (name of secession territory), which now lies
36 within (name of municipality), to become incorporated into
the (name of municipality)?"

38 B. The voters shall indicate their opinion on this question
40 by a cross or check mark placed against the word "Yes" or
"No." Before becoming effective, the secession must be
42 approved by a majority of the voters.

44 C. The municipal officers shall declare the result of the
46 vote. The municipal clerk shall file a certificate of the
election result with the Secretary of State within 10 days
of the election.

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STATEMENT OF FACT

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This bill establishes standards and procedures for secession and annexation of territory situated within a municipality.