

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 891

H.P. 668

House of Representatives, March 21, 1995

**An Act to Establish Procedures for Secession and Annexation of
Territories.**

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

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative ADAMS of Portland.
Cosponsored by Representatives: AHEARNE of Madawaska, CHARTRAND of Rockland,
JOSEPH of Waterville, KILKELLY of Wiscasset, LEMKE of Westbrook, LOOK of
Jonesboro, ROSEBUSH of East Millinocket, Senator: BERUBE of Androscoggin.

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

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

<u>11. Commission</u>	<u>Not</u>	<u>30-A MRSA</u>
<u>on Secession</u>	<u>Authorized</u>	<u>§2167</u>

Sec. 2. 30-A MRSA c. 113, first 2 lines, as enacted by PL 1987, c. 737, Pt. A, §2, are repealed and the following enacted in their place:

CHAPTER 113

CONSOLIDATION, SECESSION AND ANNEXATION

SUBCHAPTER I

CONSOLIDATION

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

SUBCHAPTER II

SECESSION AND ANNEXATION

§2181. Secession of territory from municipality

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

§2182. Initiation of secession proceeding

A secession proceeding must be initiated by submitting to the municipality a petition containing the signatures of not less than 10% of the total vote cast in the secession territory in the most recent gubernatorial election, requesting a municipal meeting for the purpose of discussing whether a specified territory should begin the secession procedure. The petition must set forth the proposed physical boundaries of the secession territory, the resident population, the nonresident population and a list of no more than 5 people who will serve as representatives of the secession territory. For purposes of this subchapter, "secession territory" means that area described in a petition for secession.

§2183. Initial secession meeting

Upon receiving a petition for secession pursuant to section 2162, the municipal officers shall call and hold a special meeting to discuss secession, in the manner provided for the

calling and holding of town meetings, which must be conducted in accordance with the following.

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

2. Notification cost borne by secession territory. A municipality is not required to hold a secession meeting unless the municipality receives, collectively and in advance, from the secession territory, represented by the local secession committee, the cost to the municipality of publishing the notices required by subsection 1.

3. Secession meeting. The meeting must include a formal presentation by those initiating the petition and must include the reasons for secession.

§2184. Petition for continuation of procedure

After 30 days from an initial secession meeting called pursuant to section 2163, the secession proceeding may continue. The proceeding must be initiated by submitting to the municipality within 7 months following the initial petition meeting a petition of the registered voters within the proposed secession territory, requesting the creation of a local secession committee. The petition must be signed by a number of voters equal to at least 35% of the total vote for Governor cast within the proposed secession territory in the last gubernatorial election preceding the filing of the petition. The petition must set forth a physical description of the proposed secession territory as well as a summary of the reasons for secession.

§2185. Creation of local secession committee

If the required number of voters sign a petition pursuant to section 2164, a local secession committee must be created to develop the secession procedure. The local secession committee consists of the following 7 members: 3 representatives of the municipality from which the secession territory is proposing to secede, elected by the municipal officers; 3 representatives of the secession territory chosen by the representatives established in section 2162; and one representative selected jointly by the other members of the committee, who serves as chair of the proceedings.

§2186. Local secession committee procedure

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

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

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

12 3. Allocation of debts and assets. If the secession
13 territory is incorporated and is separated from the municipality,
14 the secession procedure must include a plan for the secession
15 territory to assume its just and due proportion of the debts of
16 the municipality and to receive its just and due proportion of
17 the assets of the municipality. The percentage used to determine
18 debt must be the same percentage used to determine assets.

19 The debts of the municipality are the amount reported as total
20 liabilities in the total (memorandum only) column on the combined
21 balance sheet in the most recent audited financial statements of
22 the municipality. The assets of the municipality are the amount
23 reported as total assets in the total (memorandum only) column on
24 the combined balance sheet in the most recent audited financial
25 statements of the municipality. For the purpose of comparison of
26 debts to assets, the secession territory must be allocated a
27 percentage share of the principal amount of the municipality's
28 debts and the same percentage share of the municipality's assets
29 that equals the average ratio of the assessed valuation of the
30 secession territory for the previous 5 years to the combined
31 assessed valuation of the municipality and the secession
32 territory for the previous 5 years.

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

35 A. The present population, past population growth and the
36 projected population for the secession territory;

37 B. The quantity of land within the secession territory
38 proposed for incorporation and the natural terrain of the
39 area, including general topography, major watersheds, soil
40 conditions and such natural features as rivers and lakes;

41 C. The present pattern of physical development in the
42 secession territory, including residential, industrial,
43 commercial, agricultural and institutional land uses, and
44 other uses.

2 the present transportation network and potential
3 transportation issues, including proposed highway
4 development;

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

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

14 F. Existing or potential problems of environmental
15 pollution and the need for additional services to resolve
16 these problems;

18 G. Fiscal data of the secession territory, including the
19 net tax capacity of the proposed secession territory and the
20 impact on the municipality from which the territory proposes
21 to secede; the present bonded indebtedness; and the local
22 tax rates of the county, school district and municipality;

24 H. The effect of the proposed secession on communities
25 adjacent to the secession territory and on school districts
26 within and adjacent to the secession territory; and

28 I. The adequacy of town government to deliver services to
29 the secession territory.

30 In developing the secession procedure, the local secession
31 committee shall work closely with the Commission on Secession and
32 the committee shall submit its proposed secession procedure to
33 the commission for review.

36 **§2187. Commission on Secession**

38 The Commission on Secession, as established in Title 5,
39 section 12004-L, subsection 11, and referred to in this
40 subchapter as the "commission," shall assist local secession
41 committees in formulating secession procedures. In addition, the
42 commission shall review these secession procedures as provided in
43 this subchapter.

44 **1. Membership.** The commission consists of the following 5
45 members:

48 A. The Commissioner of Education or the commissioner's
49 designee;

50

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

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

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

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

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

12 A. Assist municipalities in preparing secession procedures
as required in section 2166;

14 B. Review each secession procedure and provide comments and
suggestions with respect to the procedure;

16 C. Recommend alternatives to secession if the commission
finds that feasible alternatives exist; and

18 D. Within 30 days after receiving a proposed secession
procedure, provide copies of its review and comments on the
secession procedure to the municipal officers, the local
secession committee and 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.

20 **3. Chair.** The commission shall annually elect a chair from
among its members.

22 **§2188. Secession final report**

24 A local secession committee may incorporate the comments and
suggestions received from the commission into its secession
procedure. In its final report the local secession committee
shall 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 Executive Director of the Legislative
Council, who shall provide it to the joint standing committee of
the Legislature having jurisdiction over local government matters.

26 **§2189. Approval by Legislature**

2 Prior to the effective date of secession, the local
3 secession committee must request and receive approval by the
4 Legislature in order for the secession to become effective.

6 **§2190. Arbitration**

8 Following approval by the Legislature, as required in
9 section 2168, if the local secession committee does not reach
10 consensus, it shall submit any matters remaining in dispute to a
11 panel of arbitrators and shall reduce to writing all agreed-upon
12 matters. The panel of arbitrators consists of one arbitrator
13 selected by the municipality, one arbitrator selected by the
14 local secession committee and one neutral arbitrator selected
15 jointly by the 2 other arbitrators. The local secession
16 committee shall pay its chosen arbitrator, the municipality shall
17 pay its chosen arbitrator and the municipality and the local
18 secession committee shall each pay half of the cost of the
19 neutral arbitrator. Determination of disputed matters by the
20 panel of arbitrators is final and binding on the parties. The
21 arbitration must be administered under the auspices of the
22 American Arbitration Association and, except for the selection of
23 arbitrators, is governed by the commercial rules and procedures
24 of the American Arbitration Association, and the concept of "last
25 best offer" must be used. These issues must be resolved no later
26 than 90 days before a referendum.

28 **§2191. Final approval by voters**

30 Following approval by the Legislature, as specified in
31 section 2168, and any necessary arbitration, as specified in
32 section 2169, the question concerning secession must be presented
33 to the voters of the secession territory in the next election,
34 either primary or general, to be held by the municipality
35 following notification to the municipality by the local secession
36 committee that the secession procedure has been completed. The
37 election must be conducted according to the following procedures.

38 **1. Referendum cost borne by secession territory.** A
39 municipality is not required to hold an election to determine
40 secession unless the municipality receives, collectively and in
41 advance, from the secession territory, represented by the local
42 secession committee, the reasonable cost to the municipality of
43 placing the referendum on the ballot, so that the municipality
44 bears no cost or expense attributable to the election.

46 **2. Question posed to voters.** The municipal clerk shall
47 prepare the ballots on which the following question must appear:

2 "Do you favor the separation of (name of secession
3 territory) from (name of municipality) and its incorporation
4 as a separate town?"

6 3. Requirements for approval. The voters shall indicate
7 their opinion on this question by a cross or check mark placed
8 against the word "Yes" or "No." Before becoming effective, the
9 secession must be approved by a majority of the voters.

10 4. Declaration of results. The municipal officers shall
11 declare the result of the vote. The municipal clerk shall file a
12 certificate of the election result with the Secretary of State
13 within 10 days of the election.

14 **§2192. Concurrent secession and annexation**

15 Territory of one municipality that abuts another may
16 concurrently secede and be annexed in accordance with this
17 subchapter, except that the following also applies.

18 1. Petition. An area proposing to concurrently secede and
19 be annexed must indicate on the petition submitted pursuant to
20 section 2164 the community to which it wishes to be annexed.

21 2. Approval by voters; secession territory. The question
22 concerning concurrent secession and annexation must be presented
23 to the voters of the secession territory in place of the question
24 set out in section 2171 for the proposed secession territory in
25 the following manner.

26 A. The municipal clerk shall prepare the ballots on which
27 the following question must appear:

28 "Do you favor the separation of (name of secession
29 territory), which now lies within (name of
30 municipality), to become incorporated into (name of
31 municipality) ?"

32 B. The voters shall indicate their opinion on this question
33 by a cross or check mark placed against the word "Yes" or
34 "No." Before becoming effective, the secession and
35 annexation must be approved by a majority of the voters.

36 C. The municipal officers shall declare the result of the
37 vote. The municipal clerk shall file a certificate of the
38 election result with the Secretary of State within 10 days
39 of the election.

40 3. Approval by voters; municipality. The question
41 concerning concurrent secession and annexation must be presented
42 concerning concurrent secession and annexation must be presented

2 to the voters of the municipality to which the secession
3 territory proposes to be annexed in the following manner.

4 A. The municipal clerk shall prepare the ballots on which
5 the following question must appear:

6 "Do you favor the incorporation of (name of secession
7 territory), which now lies within (name of
8 municipality), into (name of municipality) ?"

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12 B. The voters shall indicate their opinion on this question
13 by a cross or check mark placed against the word "Yes" or
14 "No." Before becoming effective, the annexation must be
15 approved by a majority of the voters.

16 C. The municipal officers shall declare the result of the
17 vote. The municipal clerk shall file a certificate of the
18 election result with the Secretary of State within 10 days
19 of the election.

20 **Sec. 4. Application.** A territory is deemed to have complied
21 with all the terms and requirements of the Maine Revised
22 Statutes, Title 30-A, chapter 113, subchapter II if:

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25 1. The territory applied to the 116th Legislature for
26 permission to secede from its parent territory;

27 2. Similar legislation has been filed by the territory
28 prior to cloture in the 117th Legislature; and

29 3. The joint standing committee of the Legislature having
30 jurisdiction over state and local government matters approves by
31 a majority vote the grandfathering of that territory.

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35 **STATEMENT OF FACT**

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37 **38** This bill establishes standards and procedures for secession
39 and annexation of a territory from a municipality.