

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 934

H.P. 683

House of Representatives, March 21, 1995

**An Act to Allow Peaks Island and Certain Other Islands in Casco Bay To
Vote in a Referendum To Secede from the City of Portland.**

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

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative ADAMS of Portland.

Cosponsored by Representatives: JOSEPH of Waterville, KILKELLY of Wiscasset, LOOK of Jonesboro, Senators: BERUBE of Androscoggin, PINGREE of Knox.

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

PART A

Sec. A-1. Separation and incorporation; Peaks Island. Subject to a referendum election as set forth in section 2 of this Part, the following territory now within the City of Portland and Cumberland County, together with the inhabitants of that territory, is separated and set off from the City of Portland and incorporated into a separate town by the name of the Town of Peaks Island: Peaks Island, House Island, Pumpkin Knob, Ram Island and Ram Island Ledge and the surrounding waters, referred to in this Act as "the Peaks Island territory." By virtue of this separation, the Town of Peaks Island is also removed from the jurisdiction of the Board of Harbor Commissioners of the Port of Portland, but remains within Cumberland County.

The boundaries of the Town of Peaks Island are described as follows: All that part of Portland in Cumberland County in the State of Maine beginning at a point in the waters of Hussey Sound between Long Island, Peaks Island and Great Diamond Island identified as 43° 40' 50" N by 70° 11' 00" W thence extending on a heading of 148.5° T through 43° 39' 00" N by 70° 09' 30" W to sea.

Beginning again at a point identified as 43° 40' 50" N by 70° 11' 00" W thence extending on a heading of 221° T to 43° 40' 00" N by 70° 12' 00" W thence extending on a heading of 215° T to 43° 39' 30" N by 70° 12' 30" W thence extending on a heading of 272° T to 43° 39' 30" N by 70° 13' 00" W thence on a heading of 186° T to 43° 38' 50" N by 70° 13' 05" W thence on a heading of 90° T to 43° 38' 50" N by 70° 11' 00" W thence on a heading of 255° T to 43° 37' 45" N by 70° 12' 00" W thence on a heading of 149° T through 43° 36' 30" N by 70° 10' 53" W to sea.

Sec. A-2. Referendum election. Part A of this Act takes effect 90 days after approval for the purpose of permitting its submission to the voters of Peaks Island at a special referendum election to be held on November 5, 1996. Warrants must be issued for this election notifying the qualified voters to vote on the approval or rejection of this Part.

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

This Act does not require the City of Portland to hold an election unless it receives, collectively and in advance, from

Peaks Island, represented by the Peaks Island Research Committee, the reasonable cost to the City of Portland of placing the referendum on the ballot in the special referendum election so that the City of Portland bears no cost or expense attributable to this Act.

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

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

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

The referendum election must be conducted by the city clerk of the City of Portland, who shall declare the result of the election. After the polls close and after a ballot inspection and recount, if one is necessary, the city clerk's declaration of the election results is final, subject to review by the Superior Court for the County of Cumberland. The results of the referendum election must be filed by the city clerk with the Secretary of State.

Sec. A-3. Effective date of separation. If a majority of those voting in the Peaks Island referendum election approve the question, Part A of this Act takes effect with respect to that territory and that territory is separated from the City of Portland and is incorporated as the Town of Peaks Island on March 1, 1997.

Sec. A-4. Provision for first meeting. If a majority of those voting in the Peaks Island referendum election approve the question, a justice of the peace or notary public may issue a warrant to any legal voter in the Town of Peaks Island directing that legal voter to notify the municipal inhabitants of a public meeting to select municipal officers and to transact municipal business, to be held at a time and place specified in the warrant. Notice to the municipal inhabitants must be provided at least 7 days prior to the meeting. Until February 28, 1997, municipal officers or school board members selected at the meeting are vested with all the powers and duties that other duly elected municipal officers or school board members have, including the power to raise, borrow and spend money.

Sec. A-5. Form of government. If a majority of those voting in the Peaks Island referendum election approve the question, the Town of Peaks Island will be incorporated and separated

2 from the City of Portland on March 1, 1997 and shall adopt the
town meeting as its form of government.

4 This Act does not prevent the Town of Peaks Island from
subsequently voting to change its form of government without the
6 necessity of a further act of the Legislature.

8 **Sec. A-6. Allocation of debts and assets.** If the Town of Peaks
Island is incorporated and is separated from the City of Portland
10 on March 1, 1997, the Town of Peaks Island shall assume its just
and due proportion of the debts of the City of Portland and shall
12 receive its just and due proportion of the assets of the City of
Portland. Any debt or any asset may be excluded upon agreement
14 of both parties.

16 **Sec. A-7. Sewage treatment services.** If the Peaks Island
territory is separated from the City of Portland and is
18 incorporated as the Town of Peaks Island, the Portland Water
District shall provide wastewater and sewage services to the Town
20 of Peaks Island in accordance with the district's charter. The
allocation of financing, operating and maintenance costs and any
22 other costs related to wastewater and sewage collection,
interception and treatment under this paragraph must be
24 consistent with the Portland Water District Charter, except that
the arbitration panel may allocate or reallocate between the City
26 of Portland and the Town of Peaks Island any of the financing,
operating and maintenance costs and any other costs related to
28 wastewater and sewage collection in its total allocation of debts
and assets.

30
In relation to any bonded indebtedness and interest for the
32 described facilities on Peaks Island, if that debt and interest
are allocated to the Town of Peaks Island and if the town fails
34 to make necessary payments, the City of Portland shall pay the
principal and interest on any bonds authorized and issued by the
36 Portland Water District prior to January 1, 1997. In such a
case, the city has a cause of action against the Town of Peaks
38 Island.

40 **Sec. A-8. Teachers.** If the Town of Peaks Island is
incorporated and is separated from the City of Portland, that
42 separation in no way affects the tenure rights existing on
November 5, 1995 of those school teachers within the Portland
44 School System who are employed at the Peaks Island school as of
November 5, 1996 and who elect to remain employed by the Portland
46 School System.

48 **Sec. A-9. Water rates.** If the Town of Peaks Island is
incorporated and is separated from the City of Portland, the
50 Portland Water District shall provide water service to the Town

of Peaks Island in accordance with the district's charter and may charge rates in accordance with the provisions of the Maine Revised Statutes, Title 35-A, chapter 61.

PART B

Sec. B-1. Other duties and responsibilities. Projected debts, assets and property taxes for the period July 1, 1996 to February 28, 1997 must be allocated between the City of Portland and the Town of Peaks Island as set forth in Part A, section 6. The City of Portland and the Town of Peaks Island shall allocate other duties and responsibilities between themselves as they mutually determine to be necessary and appropriate and shall negotiate with each other in good faith.

Sec. B-2. Agreement binding; binding arbitration. Negotiations under section 1 of this Part must be completed by June 30, 1996, subject to a mutually agreed upon extension. If the parties reach agreement by that date, the agreement must be reduced to writing and is final and binding on the City of Portland and the Town of Peaks Island upon incorporation of the Town of Peaks Island on March 1, 1997 if the referendum question in Part A, section 2 is approved.

If the parties do not reach agreement by June 30, 1996, the parties shall submit any matters remaining in dispute to a panel of arbitrators and shall reduce to writing all matters agreed upon. The panel of arbitrators consists of one arbitrator selected by the City of Portland, one arbitrator selected by the representatives of the Peaks Island Research Committee and one neutral arbitrator selected jointly by the 2 other arbitrators. Each party shall pay its chosen arbitrator and 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. The concept of "last best offer" must be used. These issues must be resolved no later than September 30, 1996.

STATEMENT OF FACT

This bill authorizes the incorporation of Peaks Island, House Island, Pumpkin Knob, Ram Island and Ram Island Ledge into the Town of Peaks Island if the legal residents of those territories approve, by referendum, separation from the City of Portland and incorporation as a separate town. Part B of the bill clarifies the binding arbitration process.