

MAINE STATE LEGISLATURE

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DATE: *March 19, 1998*

(Filing No. S- 533)

STATE AND LOCAL GOVERNMENT

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STATE OF MAINE
SENATE
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 598, L.D. 1777, Bill, "An Act to Permit the Creation of Cooperative Municipal Fire Districts"

Amend the bill by striking out the title and substituting the following:

'An Act to Permit the Creation of Municipal Fire Districts'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 26 MRSA §962, sub-§7, ¶A, as amended by PL 1993, c. 410, Pt. L, §45, is further amended to read:

A. Any officer, board, commission, council, committee or other persons or body acting on behalf of:

- (1) Any municipality or any subdivision of a municipality;
- (2) Any school, water, sewer, fire or other district;
- (3) The Maine Turnpike Authority;
- (4) Any board of directors functioning as a regional intermediate education unit pursuant to Title 20-A, section 7730;
- (5) Any county or subdivision of a county; or
- (6) The Maine State Retirement System; or

2 **Sec. 2. 30-A MRSA c. 164** is enacted to read:

4 CHAPTER 164

6 FIRE DISTRICTS

8 §3531. Definitions

10 As used in this chapter, unless the context otherwise
12 indicates, the following terms have the following meanings.

14 1. District. "District" or "fire district" means a
16 district created by vote of a group of municipalities for the
18 purpose of providing fire protection.

20 §3532. Formation; powers

22 1. Formation. By vote of its legislative body, any
24 municipality, in cooperation with one or more other
26 municipalities, may form a district for the purposes provided in
28 this chapter.

30 2. General powers; area of service. The district formed
32 under subsection 1 is a quasi-municipal corporation that may sue
34 and be sued, plead and be impleaded, adopt a name, adopt and
36 alter a common seal, borrow funds and do all things necessary to
38 furnish fire protection within that district.

40 3. Incidental rights. All incidental powers, rights and
42 privileges necessary to accomplish the main objectives set forth
44 in this chapter are granted to a district created under this
46 chapter.

48 4. Draft agreement. Prior to voting on formation of a fire
50 district, the municipalities shall negotiate an agreement on
 terms for governing the district, including such matters as the
 number and distribution of district directors, length of term for
 a director, the time frame of the fiscal year of the district and
 such other matters as are essential to the operation of the
 district.

§3533. Management

1. Directors; officers. The affairs of a district formed
 under section 3532 are managed by a board of directors chosen
 from the inhabitants of the municipalities comprising the
 district. The municipal officers of each municipality shall
 select the directors to represent the municipality. The
 directors shall elect from among themselves a president.

1
2 treasurer, clerk and such other officers as they consider
necessary.

4 2. Bylaws. The directors shall adopt bylaws and rules for
the conduct of district affairs.

6 3. Employees. The directors may appoint and fix the
8 compensation, if any, of employees needed to carry out the
10 district's purposes and may delegate their authority under this
subsection to a district manager.

12 **§3534. Interest in contracts**

14 A director, officer or employee of the district may not have
16 a direct or an indirect interest in any contract entered into by
18 or in behalf of a district for work or material, or for the
20 purchase of material, or in any property acquired or to be
acquired by the district. A contract made in violation of this
section is void.

22 **§3535. Certificate of organization**

24 After its organization, the district shall file a
26 certificate with the Secretary of State in accordance with Title
13, section 903. The certificate must set forth the following
information:

28 1. Name. Name of the district;

30 2. Purposes. Purposes of the district;

32 3. Municipalities included. Municipalities included within
34 the district;

36 4. Location. Location of the principal office;

38 5. Names of directors. Number and names of the directors
and their addresses; and

40 6. Names of officers. Names and addresses of the officers.

42 As changes occur, the district shall file an amended
44 certificate with the Secretary of State setting forth those
46 changes.

48 **§3536. Powers of directors**

50 The directors of a district may exercise all powers
necessary to carry out the purposes of this chapter.

2 **§3537. Estimate of expenditures; contributions; budget**

4 **1. Estimate of expenditures and revenues.** At least 2
6 months before the beginning of the district's fiscal year, the
8 board of directors shall prepare and submit to the municipal
10 officers of the municipalities comprising the district an
12 itemized estimate of expenditures and revenues for the following
14 calendar year, which must be the fiscal year. This estimate must
16 include the following:

18 **A. An itemized estimate of anticipated revenues during the
20 ensuing fiscal year from each source;**

22 **B. An itemized estimate of expenditures for each
24 classification for the ensuing fiscal year, including
26 payments of principal and interest on bonds or notes issued
28 or to be issued by the district;**

30 **C. After the first year of operation, an itemized statement
32 of all actual receipts from all sources, up to and including
34 the last day of the 3rd quarter of the current fiscal year,
36 with estimated receipts from those sources shown for the
38 balance of the year;**

40 **D. After the first year of operation, an itemized statement
42 of all actual expenditures, up to and including the last day
44 of the 3rd quarter of the current fiscal year, with
46 estimated expenditures shown for the balance of the year; and**

48 **E. An estimate of revenue surplus or deficit of the
50 district for the fiscal year for which estimates are being
prepared.**

2. Determination of municipal contributions. Each year,
before submitting the estimates required by subsection 1 to the
municipal officers, the board of directors of the district, by a
2/3 vote of its entire membership, shall establish a formula for
contributions to be made by each municipality in order to defray
any projected deficit. This formula and estimated amount of the
contribution required from each municipality must be shown in the
estimates filed with the municipal officers of each municipality.

3. Budget; payment of allocations. Not later than 60 days
after the beginning of the district's fiscal year, the board of
directors shall adopt a final budget for that year that must be
itemized in the same manner as the estimate of expenditures and
revenues under subsection 1. This budget must be submitted
immediately to the municipal officers of the municipalities
comprising the district, and the amounts allocated to each

1 municipality to defray any projected revenue deficit in the
2 budget must be included in the warrant to the assessors of each
3 municipality as provided in section 3538.

4
5 4. Accounting. Revenue, expenditure and budget amounts
6 must be determined in accordance with generally accepted
7 accounting principles.

8
9 §3538. Warrant for taxes

10
11 1. Warrant. The directors shall issue their warrant in the
12 same form as the warrant of the Treasurer of State for taxes,
13 with proper changes, to the assessors of the municipalities
14 comprising the district. The warrant must require the
15 municipalities to assess the sum allocated to each municipality
16 for payment of the costs of the district upon the taxable estates
17 within those municipalities and to commit their assessment to the
18 constable or collector of the municipalities. The constable or
19 collector has all the authority and powers to collect these taxes
20 as is vested by law to collect state, county and municipal
21 taxes. Within 30 days after the date fixed by the municipality
22 on which its taxes are due, the treasurer of the municipality
23 shall pay the amount of the tax assessed under this section to
24 the treasurer of the district.

25
26 2. Failure to pay. If the treasurer of a municipality
27 fails to pay the sum assessed under this section, or fails to pay
28 any part of the sum by the date set in the year in which the tax
29 is levied, the treasurer of the district may issue a warrant for
30 the amount of the tax, or so much of the tax as remains unpaid,
31 to the sheriff of the appropriate county, requiring the sheriff
32 to levy the tax by distress and sale on real and personal
33 property of any of the inhabitants of the municipality. The
34 sheriff or a deputy shall execute the warrant.

35
36 §3539. Changes in district territory

37
38 1. Addition to territory. After initial formation of a
39 district, a municipality may join the district upon vote of the
40 municipality's legislative body and upon a 2/3 vote of the board
41 of directors. The board of directors shall determine the terms
42 and conditions to be met by the joining municipality.

43
44 2. Withdrawal from district. By vote of its legislative
45 body, a municipality may elect to withdraw from the district.
46 Withdrawal must take effect at the end of a district fiscal year,
47 after the municipality has given the board of directors at least
48 one year's written notice of its intention to withdraw. The
49 municipality shall pay its proportionate share of the current
50 indebtedness of the district before withdrawal and shall agree by

appropriate written document to pay its proportionate share of any long-term indebtedness of the district as that indebtedness becomes due and payable. During the period of notice, the withdrawing municipality does not become liable for any capital expenditures or borrowings that may be made by the district. The proportionate share of the withdrawing municipality in any current and long-term indebtedness of the district must be in accordance with the formula then in effect for payment of the current and long-term indebtedness.

§3540. Dissolution

At such time as a district has discharged all of its obligations and paid or provided for the payment of all of its bonded indebtedness, the board of directors, by 2/3 vote of its membership, may dissolve the district and dispose of all of its property, real and personal, in the manner authorized and directed by the board of directors. The treasurer of the district may execute any deeds, bills of sale or documents required for that purpose. All money, if any, remaining in the control of the treasurer of the district must be paid to the municipalities comprising the district as of the date of dissolution in accordance with the formula then in effect for the payment of any operating deficit. The officers of the district shall file notice of dissolution with the office of the Secretary of State as required in Title 13, section 937.

SUMMARY

This amendment gives municipalities more flexibility to form and operate fire districts by removing language specifying matters such as the number of directors representing each municipality and the time frame of the fiscal year. Municipalities would be required to negotiate an agreement on these matters and other operational matters prior to voting on formation of the district.

The amendment also clarifies the status of the district and its employees by changing the description of the district from a "body politic and corporate" to a "quasi-municipal corporation," and clarifying that district employees are treated like water or sewer district employees under the municipal employees labor relations act.

The amendment also provides for adding municipalities to the district after its initial formation, requires the officers of the district to file notice of dissolution with the Secretary of State, and removes language limiting the district to providing fire protection only within the municipal boundaries. The

COMMITTEE AMENDMENT "A" to S.P. 598, L.D. 1777

2 amendment also removes the word "cooperative" from the title of the bill, since that term refers to a type of organization different from that described in the bill.

COMMITTEE AMENDMENT