

MAINE STATE LEGISLATURE

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HEALTH AND HUMAN SERVICES

Reported by:

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STATE OF MAINE
SENATE
119TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 726, L.D. 2046, Bill, "An Act to Amend the Powers of Hospital Administrative District No. 1"

Amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

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

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Hospital Administrative District No. 1 is poised to make capital improvements and renovations to bring the hospital into the 21st century to enable it to better serve the people of its communities; and

Whereas, Hospital Administrative District No. 1 needs to embark on these capital improvements and renovations promptly this spring and waiting for summer would unreasonably delay their plans; and

COMMITTEE AMENDMENT

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Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

PART A

Sec. A-1. P&SL 1967, c. 58, §1, as repealed and replaced by P&SL 1987, c. 29, §1, is repealed and the following enacted in its place:

Sec. 1. Incorporation; purposes. The inhabitants of the territory within the Towns of Mattawamkeag, Howland, Enfield, Burlington, Lowell, Lincoln, Springfield, Lee, Passadumkeag, Chester, Winn and Maxfield, Seboeis Plantation and Webster Plantation are constituted and confirmed a body politic and corporate to be known as "Hospital Administrative District No. 1" in order to provide for the health, welfare and public benefit of the inhabitants of the district. The hospital district shall maintain and operate a hospital or critical access system, including, but not limited to, acute care facilities, long-term care facilities, assisted living facilities, free-standing satellite facilities, critical access facilities and facilities designed for utilization as offices by physicians and other professionals, and generally provide for the health, welfare and public benefit of the inhabitants of the district. Without limiting the generality of this section, the district may also establish or participate in affiliated organizations, either alone or with others, and within or outside the district, including, but not limited to, medical centers, health care centers, networks, nursing centers, laboratories, clinics and other medical, surgical or dental facilities, shared services organizations and such other organizations or entities, on a for-profit or nonprofit basis, as the district may consider necessary or desirable from time to time in order to provide, alone or with others, for the health, welfare and public benefit of the inhabitants of the district.

In effectuating any of the purposes of this section or any of the other purposes permitted to be engaged in by the district, the district may, subject to this Act, as amended and supplemented from time to time, acquire real or personal property, or any interest in that property, on either a temporary or long-term basis, by gift, purchase, transfer, foreclosure, lease or otherwise, including rights or easements; hold, manage, operate, sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest in that

1 property, or mortgage interest owned by it under its control,
2 custody or in its possession and release or relinquish any right,
3 title, claim, lien, interest, easement or demand however
4 acquired; apply for and accept from any source grants, loans,
5 advances and contributions of money, property, labor or other
6 things of value to be held, used and applied for permitted
7 purposes; and lease or rent any lands, buildings, structures,
8 facilities or equipment from private parties to effectuate the
9 purposes permitted to be engaged in by the district, including
10 construction agreements, purchase or acquisition agreements,
11 partnership agreements, including limited partnership agreements,
12 joint ventures, participation agreements or agreements with
13 leasing corporations or other financial intermediaries.

14
15 **Sec. A-2. P&SL 1967, c. 58, §2, as amended by P&SL 1987, c. 29,**
16 **§2, is repealed and the following enacted in its place:**

17 **Sec. 2. Board of directors; powers and duties; limitations.** The
18 district is governed by a board of directors, composed of 2
19 members from each town, except for Lincoln, which has 3 members.
20 These members are elected by popular vote or appointed by
21 municipal officials at the annual town meeting in each town. The
22 term of office is 3 years and members may serve an unlimited
23 number of consecutive terms. The board of directors shall ensure
24 that terms are staggered so that approximately 1/3 of its
25 membership is up for election each year.

26
27 The board of directors is responsible for carrying out the
28 purposes of the hospital district. The board of directors shall
29 adopt bylaws and policies, meet at regular, stated intervals,
30 appoint necessary committees as indicated for special purposes,
31 establish a formal means of liaison with the hospital medical
32 staff by a joint conference committee and appoint members of the
33 medical staff and a qualified hospital administrator.

34
35 Any vacancy on the board of directors that occurs because of
36 resignation or other loss of a member must be filled by
37 appointment by the municipal officers of the town involved, this
38 appointment to be effective until the next town meeting.

39
40 Each year the board of directors shall elect a president, a
41 vice-president and a treasurer. Upon appointment of a hospital
42 administrator, the administrator will serve as secretary ex
43 officio for the board of directors. Each member of the board of
44 directors may be paid a fee for each official meeting of the
45 board of directors that the director attends.

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47 **Sec. A-3. P&SL 1967, c. 58, §3, first sentence, as repealed and**
48 **replaced by P&SL 1973, c. 201, §1, is amended to read:**

R. 118

2 To procure funds for capital construction of and equipment for
3 projects reviewed and approved by the appropriate regional and
4 state health planning agencies organized pursuant to ~~the Revised~~
5 ~~Statutes, Title 22, section 253,~~ law or any bodies succeeding to
6 such function, or for refunding outstanding indebtedness created
7 therefor, the board of directors of said district is authorized,
8 by a vote of not less than a majority of all of said directors,
9 to borrow money from time to time and to issue bonds in the name
10 and on the full faith and credit of the district.

11 **Sec. A-4. P&SL 1967, c. 58, §3, 2nd sentence,** as enacted by P&SL
12 1973, c. 201, §1, is amended to read:

13 To procure funds for any other purpose of the district, other
14 than any expense of operation, or for refunding outstanding
15 indebtedness created therefor, the board of directors of said
16 district is authorized, by a vote of not less than a majority of
17 all of said directors, to borrow money from time to time and to
18 issue bonds in the name and on the full faith and credit of the
19 district; provided the district ~~shall~~ does not incur a total
20 bonded indebtedness pursuant to this sentence at any one time
21 outstanding in excess of ~~\$1,500,000~~ \$7,000,000, provided that all
22 bonding is subject to the requirements of section 3-A.

23 **Sec. A-5. P&SL 1967, c. 58, §3, last ¶,** as amended by P&SL 1975,
24 c. 36, is further amended to read:

25 Said bonds, or any notes issued in anticipation of the
26 issuance ~~thereof~~ of bonds, or in anticipation of any taxes levied
27 ~~hereunder~~ under this section, or in anticipation of revenues,
28 ~~shall be~~ are legal obligations of said district, which is hereby
29 declared to be a quasi-municipal corporation within the meaning
30 of the Maine Revised Statutes, Title 30 30-A, section ~~5053~~ 5701,
31 and all the provisions of said section ~~shall be~~ are applicable
32 ~~thereto~~ to the district. Said bonds and notes ~~shall be~~ are legal
33 investments for ~~savings banks~~ financial institutions organized
34 under Title 9-B.

35 **Sec. A-6. P&SL 1967, c. 58, §3-A** is enacted to read:

36 **Sec. 3-A. Requirements for bond issues.** All bond issues are
37 subject to the requirements of this section. The district may
38 not separate portions of a single project into components to
39 evade any monetary limitation imposed by law. Prior to the
40 directors voting to authorize a project proposed to be bonded,
41 the directors shall hold a public informational session on the
42 project in the district. This section is repealed effective
43 January 1, 2002.

2 **Sec. A-7. P&SL 1967, c. 58, §4**, as repealed and replaced by P&SL
3 1967, c. 211, §2, is repealed and the following enacted in its
4 place:

5 **Sec. 4. Referendum on bond issues.** When the directors shall
6 have authorized the issue of any bonds, an attested copy of the
7 vote of the directors shall and explanatory materials about the
8 project to be funded with the bonds must be forthwith filed with
9 the municipal officers of each of the towns within the district
10 and published in a newspaper, having a circulation in the
11 district, not later than 10 days following the day on which the
12 vote was adopted by the directors, together with a statement
13 indicating that such vote will become effective, unless before
14 the expiration of 7 30 days from the date on which a copy of the
15 vote was first published, the president or the secretary of the
16 board of directors shall ~~have~~ has received a petition signed by
17 residents representing at least 10% of the residents total votes
18 for Governor cast in the district ~~eligible to vote on the date~~
19 ~~the directors' vote was adopted~~ in the last gubernatorial
20 election, requesting that the question of whether bonds may be
21 issued by the district be submitted to the voters of the
22 district. Said statement shall must also state the name and
23 address of the president and secretary of the board of
24 directors. A vote of the directors authorizing an issue of bonds
25 under this Act shall does not become effective before the
26 expiration of 7 30 days from the date upon which the vote and
27 statement are published. If within said period, a petition,
28 signed by residents representing at least 10% of the residents
29 total votes for Governor cast in the district in the last
30 gubernatorial election and eligible to vote on the date that the
31 issuance of bonds by the directors was adopted as shown by the
32 district's voting list and verified by the clerks of the
33 municipalities, shall ~~be~~ is filed with the president or the
34 secretary of the board of directors, asking that the question of
35 whether such bonds to be issued be submitted to the voters of the
36 district, such vote of the directors shall ~~be~~ is further
37 suspended from becoming effective and the directors shall
38 immediately reconsider such vote. If such vote is not rescinded
39 by the directors, the question of whether such bonds shall may be
40 issued shall must be submitted by the directors to the voters of
41 the district ~~at a special meeting of the qualified voters in the~~
42 ~~district to be held in said district within 60 days of the~~
43 ~~receipt of the aforementioned petition~~ for determination by
44 referendum vote in the municipalities. The referendum must be
45 held in the same manner as a general election within 120 days
46 from receipt of the petition. Said special meeting shall be
47 called and held as provided in section 10, except that the notice
48 shall set forth the vote of the directors authorizing said bonds
49 the approval or disapproval of the issue of which is to be
50 submitted to the voters of the district, together with the

~~proposed form of the ballot to be used at such special meeting.~~
At such ~~special meeting~~ a vote on referendum the question of whether such bonds shall may be issued shall must be voted on by ballot, the form of which shall must be substantially as follows:

OFFICIAL BALLOT
HOSPITAL ADMINISTRATIVE DISTRICT NO. 1

Shall bonds of Hospital Administrative District No. 1 be issued in the amount of \$ _____, bearing interest not to exceed _____ per cent for the purpose of procuring funds for the following purposes, viz: (Insert brief description of purpose for which bonds are to be sold)?

If in favor of bond issue, make a cross (X) or (/) in this square. Yes []

If opposed to the bond issue, make a cross (X) or (/) in this square. No []

If a majority of the qualified voters voting ~~at such meeting~~ approve the issue of said bonds, the vote of the directors authorizing said bonds shall ~~become~~ becomes effective; if not so approved, said vote shall ~~be~~ is null and void. The voters qualified to vote at said ~~special meeting~~ shall referendum must be determined by use of the district voting list.

Sec. A-8. P&SL 1967, c. 58, §5, as repealed and replaced by P&SL 1967, c. 211, §2, is repealed.

Sec. A-9. P&SL 1967, c. 58, §5-A, as enacted by P&SL 1987, c. 29, §3, is amended to read:

Sec. 5-A. Authority to issue notes limited to portion of operating expenses. In addition to the other powers provided by this Act, the district may, by vote of a majority of its directors and without action by the voters of the district, issue notes of the district to pay expenses of operation the district, including, ~~but not limited to, capital and other expenditures for projects and services not previously carried out by the district~~ operating expenses and capital expenses. Notes issued pursuant to this section shall may not exceed at any one time outstanding more than 10% of the district's operating expenses as set forth in its last audited financial statement and shall ~~otherwise~~ must be commercially reasonable with respect to the length and terms of financing. The authority set forth in this section is in addition to that provided in sections 3, 5 and 6 of this Act. Notes issued pursuant to this section shall are not be included in the limitations or indebtedness set forth in such other sections, and shall may not be subject to the procedural

R. 13

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requirements of those sections. ~~Where applicable, notes issued pursuant to this section shall be subject to section 4-A.~~

Sec. A-10. P&SL 1967, c. 58, §8, first ¶, as repealed and replaced by P&SL 1967, c. 211, §2, is amended to read:

Sec. 8. Hospital rates; sinking fund. The board of directors shall ~~require all persons hospitalized in any hospital or hospitals of the district to pay to the treasurer of said district the rates established by said board of directors for hospital care~~ establish rates for services provided by the district. The directors may set rates that are lower for inhabitants of the district than for those hospitalized persons who reside outside the district. ~~Such~~ The rates shall must be so established, subject to other provisions of this Act, ~~so as to provide revenue for the following purposes:~~

Sec. A-11. P&SL 1967, c. 58, §9, as enacted by P&SL 1967, c. 211, §2, is amended to read:

Sec. 9. Annual reports and budget; levy of taxes. The fiscal year of the district shall ~~be is~~ the calendar year. ~~At the close of the fiscal year and not later than January 31st, the directors No~~ later than 30 days after completion of the audit for the fiscal year most recently ended, the board of directors shall annually make a report of their doings, showing the financial condition of the district and other matters pertaining to the district as shall show and showing the inhabitants of the district how said directors are fulfilling the duties and obligations of the respective trusts. The report shall must also include the amount of income from patients and other sources during that fiscal year and also the sum required each year to meet the bonds or notes falling due and what further sum is necessary to meet the interest on said bonds or notes or other obligations of the district and all other expenses necessary for the operation of the district, including temporary loans. Copies of said report shall be filed The board of directors shall file copies of the report with the municipal officers of each town within the district and may provide a copy of the report for publication in a newspaper of general circulation in the district. If the report is not so published, the municipal officers of each town within the district may be distributed distribute the report to the respective voters of the district by the respective towns in the same manner as is provided for town reports. The cost of printing such the reports shall must be included in the operating budget of the district.

To the extent that the directors may decide that the district ~~cannot~~ can not operate within its income according to the hospital rates set by it, the directors shall determine what

R. 43

2 sum of money should be raised by taxation for: (a) payment of
3 principal payable in such year on outstanding bonds or notes or
4 other obligations of the district; (b) payment of interest on the
5 indebtedness created or assumed by the district; and (c) other
6 specified expenses of the district, and, if the sum to be raised
7 by taxation exceeds the total of (a) and (b), before the first
8 day of March of each year the directors shall hold a special
9 district budget meeting as provided in section 10. At this
10 special district meeting, the budget shall must be thoroughly
11 explained and the voters of the district shall must be given an
12 opportunity to be heard. If a budget is presented in any given
13 year, it shall-be-deemed is considered approved except to the
14 extent that it shall-have has been disapproved by the voters of
15 the district at the special district budget meeting. The voters
16 of the district shall have the right to disapprove all or any
17 part of the budget presented by the board of directors, except
18 provision for the payment of interest on or the principal of
19 notes or bonds or other obligations of the district. The amount
20 over and above the estimated income of the district required to
21 meet the expenses in the approved budget and the sums included in
22 any budget for the payment of interest on or the principal of
23 notes or bonds or other obligations of the district, shall must
24 be apportioned to the participating towns in the same ratio that
25 each participating town's latest state valuation is to the total
26 state valuation of all participating towns. The directors shall
27 ~~thereupon~~ issue their warrants, in substantially the same form as
28 the warrant of the Treasurer of State for taxes, to the assessors
29 of each participating town, requiring them to assess upon the
30 taxable polls and estates in said town the amount as approved and
31 to commit the assessment to the constable or collector of said
32 town, who shall-have has all authority and power to collect said
33 taxes as is ~~in-him~~ vested in the constable or collector by law to
34 collect state, county and municipal taxes. Any participating
35 town may use the proceeds from gifts or trust funds allocated for
36 hospital or medical purposes to reduce the actual amount of
37 assessment to the local taxpayers. In the year in which the tax
38 is so levied, the treasurer of each municipality shall pay the
39 amount of the tax in 2 equal installments to the treasurer of the
40 district. The first installment shall must be paid on or before
41 August 15th and the 2nd installment on or before December 15th.
42 In case of the failure of the treasurer of any participating town
43 to pay any installment or part ~~thereof~~ of an installment on or
44 before the date set forth above in this section in the year in
45 which the said tax is levied, the treasurer of the district shall
46 issue ~~his~~ a warrant for the amount of said tax or so much ~~thereof~~
47 of the tax as shall-then-remain remains unpaid to the county
48 sheriff, requiring ~~him~~ the sheriff to levy by distress and sale
49 on the real and personal property of any of the residents of said
50 district living in the town where such default takes place, and
the sheriff or any of ~~his~~ the sheriff's deputies shall execute

R. S.

2 said warrant, except as otherwise provided. The same authority
4 as is vested in county officials for the collection of county
6 taxes under the Maine Revised Statutes is vested in the directors
8 of said district in relation to the collection of taxes within
10 such participating town.

12 **Sec. A-12. P&SL 1967, c. 58, §10**, as enacted by P&SL 1967, c.
14 211, §2, is amended to read:

16 **Sec. 10. Special district meeting.** The board of directors need
18 only call a special district meeting under the specific
20 circumstances expressly described in section 9. When a special
22 district budget meeting is called to approve the hospital budget
24 as prepared by the directors as required by section 9, the
26 directors shall cause conduct such a meeting as follows+.

28 1. Each special district meeting shall must be called by a
30 warrant. The warrant shall must be signed by a majority of the
32 directors.

34 2. The warrant calling for the special district meeting
36 shall must be as follows+.

38 A. It shall must specify the time and place of the special
40 district meeting.

42 B. It shall must set forth the proposed hospital budget or
44 bond question in a manner to be decided by the directors,
46 and no other business may be acted upon.

48 C. It shall must be directed to any resident of the
district by name, ordering him the resident to notify the
voters within said district to assemble at the time and
place appointed.

D. An attested copy of the warrant shall must be posted by
the person to whom it is directed in some conspicuous public
place in each of the municipalities within the district, at
least 7 days before the special district meeting.

E. The person who gives notice of the special district
meeting shall make his a return on the warrant, stating the
manner of notice in each municipality and the time when it
was given.

3. The following provisions apply to the budget special
district meeting+.

COMMITTEE AMENDMENT "A" to S.P. 726, L.D. 2046

R.S.
2 A. Each person whose name appears on the district voting
list may attend and vote at a special district budget
meeting.

4 B. The president of the directors shall open the special
6 district meeting by call for the election of a moderator,
receiving and counting votes for a moderator and swearing in
8 the moderator.

10 C. As soon as he-has-been elected and sworn, the moderator
shall preside at the special district meeting and he-shall
12 have has all the powers granted to the moderator of a town
meeting under the Maine Revised Statutes.

14 D. The secretary of the directors of the district shall
16 record accurately all the votes of the special district
meeting.

18 E. A majority vote of the legal voters present and voting
20 shall must be determinative of any vote or motion placed
before said special district meeting.

22 **Sec. A-13. P&SL 1967, c. 58, §10-B** is enacted to read:

24 **Sec. 10-B. District voting list.** The board of directors of the
26 district shall appoint a resident of that district to make and
keep a voting list of all residents in the district eligible to
28 vote. This person is known as the registration clerk. The
registration clerk shall compile a voting list from the voting
30 lists of all towns within the district. At least 2 days before
any meeting at which the inhabitants of the district are called
32 upon to vote, the registration clerk shall bring this voting list
up to date by comparing the list with those voting lists found in
34 the towns of the district by making such additions and deletions
as the registration clerk finds necessary. Additions or
36 deletions may not be made in the 2-day period before that meeting.

38 **Sec. A-14. P&SL 1967, c. 58, §13,** as amended by P&SL 1979, c.
81, is repealed.

40 **Sec. A-15. Effective date.** This Part takes effect when approved.

42
44 **PART B**

46 **Sec. B-1. P&SL 1967, c. 58, §3-B** is enacted to read:

48 **Sec. 3-B. Requirements for bond issues.** All bond issues are
subject to the requirements of this section. The district

R. 418

1 may not separate portions of a single project into components to
2 evade any monetary limitation imposed by law. Prior to the
4 directors voting to authorize a project proposed to be bonded,
6 the directors shall hold a public informational session on the
8 project in the district. With regard to all bond issues approved
10 by the board of directors on or after January 1, 2002, the
12 requirements of section 4 apply to all bonding for less than
14 \$2,000,000, and all bonding in an amount of \$2,000,000 or more is
16 subject to a referendum by the residents of the district in the
18 same manner as a general election within 120 days from receipt of
20 the petition.

22 **Sec. B-2. Effective date.** This Part takes effect January 1,
24 2002.

26 **Emergency clause.** In view of the emergency cited in the
28 preamble, this Act takes effect when approved.'

30 Further amend the bill by inserting at the end before the
32 summary the following:

34 **FISCAL NOTE**

36 The requirement that clerks of the municipalities within
38 Hospital Administrative District No. 1 must verify signatures on
40 petitions represents a state mandate pursuant to the Constitution
42 of Maine. The additional local costs are expected to be minor.
44 Unless General Fund appropriations are provided to fund at least
46 90% of the additional costs or a Mandate Preamble is amended to
48 the bill and two-thirds of the members of each House vote to
50 exempt this mandate from the funding requirement, the
municipalities included in Hospital Administrative District No. 1
may not be required to implement these changes.'

SUMMARY

This amendment replaces the bill and adds emergency
language. It retains most of the provisions of the bill
regarding the powers of Hospital Administrative District No. 1.
The amendment removes the provisions of the bill that pertain to
an executive committee of the board of directors. The provision
pertaining to the voting lists is repealed and reenacted to
correct a numbering error in the law.

The amendment requires a public informational meeting to be
held prior to the directors voting on a project to be bonded. It
increases the debt limitation to \$7,000,000. It amends the
petition for referendum provision to lower the number of

COMMITTEE AMENDMENT "A" to S.P. 726, L.D. 2046

RWS

2 signatures required, increase the time period for collecting
3 signatures, provide that the clerks of the municipalities verify
4 the signatures on the petitions and change the vote from a
5 districtwide meeting at which the vote is taken to a vote in each
6 municipality, in the same manner as a general election. It
7 requires the referendum vote to be held within 120 days from
8 receipt of the petition. It prohibits splitting a project for
9 purposes of evading a requirement of law. It adds a provision
10 that subjects to referendum all bond issues in an amount of
11 \$2,000,000 or more that are approved by the board of directors of
12 the Hospital Administrative District after January 1, 2002.

13 This amendment adds municipal mandate override language
14 because of the provision that requires the clerks of the
15 municipalities to verify the signatures on the petitions.

16 It also adds a fiscal note to the bill.