

MAINE STATE LEGISLATURE

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L.D. 562

DATE: 2-20-02

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STATE AND LOCAL GOVERNMENT

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 441, L.D. 562, Bill, "An Act to Allow Municipalities to Create Capital Improvement Districts"

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

'Sec. 1. 30-A MRSA c. 206 is enacted to read:

CHAPTER 206

MUNICIPAL CAPITAL IMPROVEMENT DISTRICTS

§5221. Definitions

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

1. Assessed share. "Assessed share" means a special assessment that represents that portion of the total projected cost of an improvement undertaken by a municipality in a capital improvement district that is the obligation of an owner of property within the capital improvement district. The assessed share must be calculated by the municipal officers in the same manner and according to the same standards as the capital costs of sewer improvements are assessed pursuant to sections 3442 and 3444, except the total assessment must be calculated on the basis of the projected cost of the entire improvement rather than any percentage of the projected costs of the improvement, and no type of property within the capital improvement district is exempt from the assessment.

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Refs.

2 2. Capital improvement district. "Capital improvement
4 district" means a defined area within a municipality that is
6 initially privately owned and that has been designated by the
8 municipality as a capital improvement district according to the
10 provisions of this chapter for the interrelated purposes of
 fairly apportioning the costs of making necessary capital
 improvements among the owners of property in the capital
 improvement district and establishing the public elements of the
 capital improvement district as municipally owned.

12 3. Improvement. "Improvement" means road construction,
14 drainage system development or the installation of sewer or
 drinking water infrastructure.

16 4. Public elements. "Public elements" of a capital
18 improvement district means legal interests in defined properties
20 located within a capital improvement district. "Public elements"
 may include public easements or fee simple titles in specifically
 defined property or properties.

22 §5222. Capital improvement districts authorized

24 A municipality may create one or more capital improvement
26 districts within the municipal boundaries.

28 §5223. Capital improvement districts; public hearing; notice;
 referendum votes

30 In order to establish a capital improvement district, a
32 municipality shall adhere to the following procedures.

34 1. Initial determinations. In order to establish a capital
36 improvement district, the municipal officers shall establish all
38 the public elements of the proposed capital improvement district
 for presentation to the residents of the municipality at a public
 hearing held pursuant to subsection 3. The municipal officers
 shall:

40 A. Determine the proposed boundaries of the capital
42 improvement district;

44 B. Identify each separate parcel of property within the
46 proposed capital improvement district and the parcel's owner
 of record;

48 C. Describe all improvements to the proposed capital
 improvement district that need to be made;

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- 2 D. Calculate an estimate of the costs of the proposed
improvements;
- 4 E. Calculate the assessed shares and the contingency fee of
no more than 25% of that assessment to the property owners
6 in the proposed capital improvement district;
- 8 F. Establish the proposed duration of the payment period
for the assessed shares;
- 10 G. Describe specifically the public elements of the
12 capital improvement district that may be accepted by the
14 voters of the municipality; and
- 16 H. Schedule the public hearing pursuant to subsection 3 and
the referendum pursuant to subsection 4.

18 2. Public notice. The municipal officers shall provide
20 posted notice of the public hearing held pursuant to subsection 3
in the same place and manner as the posting of a town meeting
22 warrant and publish notice of the public hearing in a newspaper
of general circulation within the municipality at least 14 days
24 in advance of the public hearing. The published notice must
include:

- 26 A. A description of the proposed boundaries of the capital
improvement district;
- 28 B. The proposed improvements to the capital improvement
30 district;
- 32 C. The estimated costs of the proposed improvements;
- 34 D. The public elements of the capital improvement district;
and
- 36 E. A brief narrative description and schedule of the
38 referendum conducted pursuant to subsection 4.

40 At least 14 days in advance of the date of the initial public
42 hearing, the same information provided in the published notice
must also be sent by certified mail to all owners of property
44 within the proposed capital improvement district according to the
municipality's assessing records. Notice for any additional
46 public hearings must be posted and published in the same manner
as notice for the initial public hearing, but mailed notice of
48 the subsequent public hearings is not required.

50 3. Public hearing. Prior to any referendum held pursuant
to subsection 4 or 5, the municipal officers shall hold an

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2 initial public hearing on the proposed capital improvement
3 district to solicit comments from the residents of the
4 municipality and the owners of property located in the proposed
5 district concerning the:

6 A. Proposed boundaries of the capital improvement district;

8 B. Type of improvements to the proposed capital improvement
9 district being considered;

10 C. Need for the proposed improvements;

12 D. Costs of the proposed improvements;

14 E. Projected assessed shares and the contingency fee of no
15 more than 25% of that assessment to the owners of property
16 located in the proposed capital improvement district to pay
17 for the improvements being considered;

18 F. Proposed duration of the payment period for those
19 special assessments;

20 G. Proposed public elements of the capital improvement
21 district; and

22 H. Scheduled dates of referenda conducted pursuant to
23 subsection 4 or 5.

24 The municipal officers may hold additional public hearings as
25 necessary.

26 4. Referendum of owners of property in proposed capital
27 improvement district. The municipal officers shall call and
28 conduct a referendum among the owners of property within the
29 proposed capital improvement district to determine the property
30 owners' willingness to undertake the costs of the proposed
31 improvements to the capital improvement district.

32 A. The method of calling and voting on the referendum
33 question is as provided in section 2528 except as otherwise
34 provided in this subsection.

35 B. The registered voters of the municipality who own
36 property within the proposed capital improvement district
37 and the owner or owners of record for each parcel of
38 property located in the proposed capital improvement
39 district reflected on the deed for the property recorded in
40 the registry of deeds within the county as of the preceding
41 April 1st, if the owner or owners are of legal voting age
42 and citizens of the United States, are eligible to vote in
43 the referendum.

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2 the referendum. A person may not cast more than one vote.
3 The municipal officers shall determine who are the legal
4 voters of the proposed capital improvement district and
5 shall prepare or cause to be prepared a list of voters at
6 least 24 hours before the referendum is conducted.

7 C. The referendum must be scheduled to occur no sooner than
8 45 days after the date of the initial public hearing hold
9 pursuant to subsection 3.

10 D. A public hearing must be held pursuant to section 2528,
11 subsection 5, only if any of the information presented to
12 the voters at the most recent public hearing called pursuant
13 to subsection 3 is changed prior to inclusion on the ballot.

14 E. The referendum to be voted on must be worded
15 substantially as follows: "As an owner of property in the
16 proposed capital improvement district described on the
17 reverse side of this ballot or in the attachment to this
18 ballot, are you in favor of authorizing the municipality of
19 _____ to apply a special assessment against the property
20 you own in the proposed capital improvement district for a
21 period of _____ years, for the purpose of (description of
22 improvements), with the total assessment to all property
23 owners within the capital improvement district not to exceed
24 \$ _____, plus a contingency of no more than 25% of that
25 assessment, all of which are subject to the property tax
26 collection and lien procedures established by state law, and
27 with said authorization contingent on the voters of the
28 municipality of _____ accepting the public costs for the
29 capital improvement district improvements before any work is
30 done, specifically described as (description of public
31 elements)?"

32 The voters shall indicate by a cross or check mark placed
33 against the word "Yes" or "No" their opinion of the same.

34 The municipal officers may proceed with conducting the municipal
35 referendum in accordance with subsection 5 only if 2/3 of those
36 casting ballots pursuant to this subsection vote to approve
37 creating the capital improvement district.

38 5. Referendum of municipal voters. The referendum of the
39 municipal voters may not be called and conducted for the purposes
40 of this chapter unless the referendum held pursuant to subsection
41 4 resulted in a 2/3 majority vote supporting the ballot
42 question. If the referendum held pursuant to subsection 4
43 received a 2/3 majority vote, the municipal officers shall call
44 and conduct a referendum for the voters of the municipality to
45 determine if the public elements of the proposed capital
46 improvement district should be established.

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2 improvement district authorized pursuant to subsection 4 are
3 authorized by the voters of the municipality.

4 A. The method of calling and voting on the referendum
5 question is as provided in section 2528 except as otherwise
6 provided in this subsection.

8 B. The referendum of the municipal voters must be scheduled
9 to occur within 45 to 90 days after the date of the
10 referendum held pursuant to subsection 4.

12 C. The referendum to be voted on must be worded
13 substantially as follows: "Are you in favor of establishing
14 a capital improvement district described on the reverse side
15 of this ballot or in the attachment to this ballot and
16 authorizing a special assessment against the several
17 properties in the capital improvement district, with the
18 special assessment running for a period of _____ years, for
19 the purpose of (describe improvements), with the total
20 assessment to all owners of property within the capital
21 improvement district not to exceed \$ _____, plus a
22 contingency of no more than 25% of that assessment, all of
23 which are subject to the property tax collection and lien
24 procedures established by state law, and are you also in
25 favor of the municipality of _____ accepting the public
26 costs for the capital improvement district improvements,
27 specifically described as (describe the public elements),
28 with all associated and ongoing rights, privileges and
29 responsibilities of public ownership?"

30 The voters shall indicate by a cross or check mark placed
31 against the word "Yes" or "No" their opinion of the same.

34 D. If a majority of those voting approve of the ballot
35 question, the capital improvement district is created. Upon
36 the creation of a capital improvement district, the
37 municipality is authorized to raise revenues pursuant to
38 chapter 223 and expend those revenues for the improvements
39 authorized at referendum.

40 E. If the owners of property within the proposed capital
41 improvement district or the voters of the municipality fail
42 to establish the capital improvement district, the municipal
43 officers may not act upon a proposal to create the same
44 capital improvement district for a period of 3 years from
45 the date that capital improvement district was rejected by
46 voters.

48 §5224. Implementation of improvements to capital improvement
49 district

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2 1. Advisory committee. The municipal officers are
4 responsible for implementing improvements to the capital
 improvement district. For the purposes of overseeing the
6 authorized improvements to the capital improvement district, the
 municipal officers shall appoint an advisory committee consisting
8 of no fewer than 3 and no more than 7 owners of property within
 the capital improvement district for the purposes of receiving
10 comments and recommendations on the proposed improvement or
 improvements within the capital improvement district. Advisory
12 committee members serve at the pleasure of the municipal officers.

14 2. Cost of improvement. The initial cost of an authorized
 improvement in a capital improvement district is borne by the
16 municipality until the improvement is complete, as determined by
 the municipal officers. Commencing with the first tax year that
18 begins after the determination by the municipal officers that the
 improvement is complete, the municipality shall levy a special
20 assessment against each property in the capital improvement
 district representing that property's annual share of the cost of
22 the improvement as determined by the municipal officers and
 projected in the referenda ballots that created the capital
24 improvement district, unless the actual total cost of the
 improvement is determined to be less than projected during the
26 referenda, in which case the special assessments are reduced
 proportionally to reflect the actual cost.

28 3. Method of assessment. The special assessments must be
 included in the next annual warrant to the tax collector of the
30 municipality for collection and must be collected in the same
 manner as state, county and municipal taxes are collected.
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34 4. Annual report. The municipality's annual report must
 record the progress of implementing the improvements to the
36 capital improvement district. At a minimum, the annual report
 must include:

38 A. The boundaries of the capital improvement district;

40 B. The public elements of the capital improvement district;

42 C. The improvements to the capital improvement district
44 made by the municipality; and

46 D. The total cost of those improvements, the schedule of
 the assessed shares and contingency fees against the
48 property located within the district to pay for the
 improvements and the degree to which those assessed shares
50 and contingency fees have been collected.

§5225. Dissolution of capital improvement district

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A capital improvement district created under this chapter may not be dissolved until the debt created by the improvements is finally discharged and the special assessments levied for the purpose of providing for those improvements have been paid or otherwise satisfied. The municipal officers shall dissolve a capital improvement district upon certification of the discharge of debt. The certification of the discharge of debt must be presented to the municipal officers by the municipal treasurer. At a minimum, the certification must include an attestation by the municipal treasurer that all assessed shares levied for the improvements in a capital improvement district have been paid in full or a property tax lien has been recorded in the registry of deeds.'

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SUMMARY

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This amendment replaces the bill. It authorizes municipalities to create capital improvement districts. A capital improvement district is a defined area within a municipality that is initially privately owned and that has been designated by the municipality as a capital improvement district for the interrelated purposes of fairly apportioning the costs of making necessary improvements among the owners of property within the district and establishing the elements of the capital improvement district that are municipally owned. This amendment details the series of public hearings and capital improvement district and municipal referenda that must be conducted to implement a capital improvement district.