

MAINE STATE LEGISLATURE

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COMMITTEE AMENDMENT **A** to H.P. 1243, L.D. 1735

(4-3-06)

R.S.
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1
Date: 3/30/06
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L.D. 1735
(Filing No. H-915)

3 **State and Local Government**

4 Reproduced and distributed under the direction of the Clerk of the House.

5 **STATE OF MAINE**
6 **HOUSE OF REPRESENTATIVES**
7 **122ND LEGISLATURE**
8 **SECOND REGULAR SESSION**

9 COMMITTEE AMENDMENT **A** to H.P. 1243, L.D. 1735, Bill, "An Act To
10 Authorize Chebeague Island To Secede from the Town of Cumberland"

11 Amend the bill by inserting after the title the following:

12 **'Mandate preamble.** This measure requires one or more local units of government
13 to expand or modify activities so as to necessitate additional expenditures from local
14 revenues but does not provide funding for at least 90% of those expenditures. Pursuant to
15 the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to
16 each House have determined it necessary to enact this measure.'

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

19 **'Sec. 1. Separation and incorporation; Town of Chebeague Island.** The
20 residents of the following territory now within the Town of Cumberland and the County
21 of Cumberland having expressed their intent, in a special referendum election of the
22 voters of the territory of Chebeague Island lawfully conducted in accordance with the
23 Maine Revised Statutes, Title 30-A, section 2171-D on November 8, 2005, to be
24 separated from the Town of Cumberland and incorporated into a separate town by the
25 name of the Town of Chebeague Island, the Town of Chebeague Island is separated in
26 accordance with this Act. The Town of Chebeague Island, referred to in this Act as
27 "Town of Chebeague Island" or "the secession territory," consists of: all that part of the
28 Town of Cumberland in Cumberland County lying east of a line beginning at the existing
29 boundary where the Town of Cumberland, the Town of Falmouth and the Town of Long
30 Island meet in the waters northwest of Little Chebeague Island located at a point
31 approximately 43 degrees, 43 minutes, 27 seconds North by 70 degrees, 10 minutes, 12
32 seconds West and following a line extending approximately 36 degrees Northwest to the
33 southernmost corner of the Town of Yarmouth in the waters south of Spruce Point in the
34 Town of Yarmouth located at a point approximately 43 degrees, 44 minutes, 18 seconds
35 North by 70 degrees, 9 minutes, 20 seconds West. The islands northwest of this
36 boundary, Sturdivant Island and Basket Island, remain with the Town of Cumberland.

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1 The islands of Bates, Hope, Jewell (easterly portion), Little Jewell, Ministerial, Sand,
2 Stave, Crow, Bangs, Stockman, West Brown Cow, Upper Green, Goose Nest, Rogues,
3 Broken Cove, Little Chebeague (easterly portion), together referred to in this Act as "the
4 Outer Islands," and Great Chebeague are included in the secession territory.

5 The Town of Chebeague Island remains within Cumberland County.

6 **Sec. 2. Details of separation pursuant to agreements.** Pursuant to the
7 agreement between the secession representatives and the Town of Cumberland and the
8 agreement between the secession representatives and School Administrative District 51,
9 referred to in this Act as "SAD No. 51," as found in the report submitted pursuant to the
10 Maine Revised Statutes, Title 30-A, section 2172, the following provisions regarding the
11 separation of the secession territory from the Town of Cumberland and SAD No. 51 must
12 be met.

13 **1. Municipal separation.** The following provisions relate to separation of the
14 secession territory from the Town of Cumberland.

15 A. All real and personal tangible property owned by the Town of Cumberland and
16 situated within the secession territory is the property of the Town of Chebeague
17 Island on July 1, 2007 and all real and personal tangible property owned by the Town
18 of Cumberland and situated on the Cumberland mainland remains the property of the
19 Town of Cumberland. Included in the personal property that must be conveyed from
20 the Town of Cumberland to the Town of Chebeague Island is a new fire truck that is
21 in the process of being built and anticipated to be delivered to the secession territory
22 in the spring of 2006. The Town of Cumberland may not remove, transfer or convey
23 any real or personal property located within the secession territory after the effective
24 date of this Act, except in the ordinary course of its operations. Any property
25 removed, transferred or conveyed must be returned and assigned, transferred or
26 conveyed to the Town of Chebeague Island on July 1, 2007.

27 B. After July 1, 2007, the Town of Chebeague Island shall pay to the Town of
28 Cumberland on an annual basis, or on such other schedule as the Town of
29 Cumberland and the Town of Chebeague Island may agree to, 50% of the property
30 taxes committed to the Town of Chebeague Island from the Outer Islands for a period
31 of 50 years commencing on July 1, 2007.

32 C. The Town of Chebeague Island shall pay the sum of \$1,300,000 to the Town of
33 Cumberland by December 31, 2007 for real and personal property in full and final
34 satisfaction of all outstanding obligations and liabilities except for ongoing
35 obligations expressly stated in this Act.

36 D. If the Town of Cumberland's proportional share of Cumberland County expenses
37 and debt that existed on April 1, 2006, or the contingent guaranty of Regional Waste
38 Systems debt that existed on April 1, 2006, becomes due and payable because of a
39 default of the Town of Cumberland due to circumstances beyond its control, the

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1 Town of Chebeague Island shall pay on rightful demand by the holder of the debt
2 13% of the Town of Cumberland's proportional share of the defaulted debt to the
3 holder of the debt.

4 E. The Town of Cumberland shall assign its lease from the State of Maine,
5 Department of Transportation for the Blanchard lot in the Town of Yarmouth to the
6 Town of Chebeague Island, as well as responsibility for the agreement between the
7 Town of Cumberland and the Department of Transportation in regard to Wharf Road
8 in the Town of Yarmouth. The Town of Cumberland also shall transfer to the Town
9 of Chebeague Island all of its right, title and interest, to the extent it has any, and its
10 obligations in regard to the Cousins Island Wharf. The Town of Chebeague Island,
11 upon assignment or transfer, shall assume full responsibility for the Blanchard lot, the
12 Wharf Road and the Cousins Island Wharf.

13 F. The Town of Cumberland shall maintain and is responsible for all licensing,
14 testing and monitoring requirements related to the existing landfill located in the
15 Town of Cumberland, referred to in this Act as "the Cumberland landfill." The Town
16 of Cumberland shall hold harmless, defend and indemnify the Town of Chebeague
17 Island against all claims, liabilities, costs and damages arising from or related directly
18 or indirectly to the Cumberland landfill. The Town of Chebeague Island shall
19 maintain and is responsible for all licensing, testing and monitoring requirements
20 relating to the existing landfill located on Chebeague Island, referred to in this Act as
21 "the Chebeague landfill." The Town of Chebeague Island shall hold harmless, defend
22 and indemnify the Town of Cumberland against all claims, liabilities, costs and
23 damages arising from or related directly or indirectly to the Chebeague landfill. The
24 respective transfer stations for each landfill become the responsibility of each town
25 on July 1, 2007. The Town of Cumberland shall use its best efforts to have Regional
26 Waste Systems or any successor entity offer membership to the Town of Chebeague
27 Island based on the secession territory's share of the current tonnage provided to
28 Regional Waste Systems by the Town of Cumberland.

29 G. The Town of Cumberland and the secession territory shall explore an interlocal
30 agreement that achieves efficient and consolidated rescue support, E-9-1-1 services,
31 firefighter training and other necessary emergency services for the Town of
32 Chebeague Island at a reasonable cost.

33 H. As of July 1, 2007, the Town of Chebeague Island is not obligated to pay any
34 amounts to the Town of Cumberland, other than contingent assumed debt as specified
35 in paragraph D, the financial consideration as specified in paragraph C, the tax
36 payments as specified in paragraph B and potential indemnity payments related to the
37 Chebeague landfill as specified in paragraph F, or be liable to the Town of
38 Cumberland for any reason.

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1 I. Residents of the Town of Cumberland and the Town of Chebeague Island have
2 equal access to municipally owned public lands for recreation, fishing and related
3 activities. Residents of the Town of Cumberland, the Town of Chebeague Island and
4 the Town of North Yarmouth have equal access to shellfish rights.

5 **2. School Administrative District 51 separation.** The following provisions relate
6 to the separation of the secession territory as it relates to SAD No. 51.

7 A. SAD No. 51 shall convey to the Town of Chebeague Island, by quitclaim bill of
8 sale, all of SAD No. 51's right, title and interest in all tangible personal property
9 owned by SAD No. 51 and situated in the secession territory on July 1, 2007. SAD
10 No. 51 shall convey to the Town of Chebeague Island, by quitclaim deed, all of SAD
11 No. 51's right, title and interest in all real property owned by SAD No. 51 and
12 situated on Chebeague Island on July 1, 2007. The conveyances must fully and
13 finally satisfy all outstanding obligations and liabilities of SAD No. 51 to the Town
14 of Chebeague Island except for ongoing obligations expressly stated in this Act.
15 SAD No. 51 may not remove, transfer or convey any real or personal property
16 located on Chebeague Island after the effective date of this Act except in the ordinary
17 course of SAD No. 51's operations. All real, personal and intangible property owned
18 by SAD No. 51 that is not situated on Chebeague Island as of July 1, 2007 remains
19 the property of SAD No. 51. SAD No. 51 shall assume all liabilities, known or
20 unknown, arising from conditions currently existing or hereafter arising with respect
21 to real and personal property that SAD No. 51 retains. The Town of Chebeague
22 Island shall assume all liabilities, known or unknown, arising from conditions
23 currently existing or hereafter arising with respect to real or personal property that
24 SAD No. 51 conveys to the Town of Chebeague Island.

25 B. With respect to all SAD No. 51 debt existing on April 1, 2006, referred in this Act
26 as "the assumed SAD No. 51 debt," the Town of Chebeague Island shall assume, and
27 pay SAD No. 51, no later than 30 days before payments become due and payable by
28 SAD No. 51, a percentage share of principal and interest of the assumed SAD No. 51
29 debt that at the time of payment equals the ratio of the state valuation, as determined
30 by the Department of Administrative and Financial Services, Bureau of Revenue
31 Services pursuant to the Maine Revised Statutes, Title 36, section 305, subsection 1,
32 of the Town of Chebeague Island to the combined state valuations of the Town of
33 Cumberland, the Town of North Yarmouth and the Town of Chebeague Island. For
34 purposes of this subsection, the Town of Chebeague Island's percentage share of the
35 assumed SAD No. 51 debt must be determined using the most recent certified state
36 valuations as of July 1st in the fiscal year in which the payment becomes due.

37 C. In exchange for the acceptance of tuition students from the Town of Chebeague
38 Island and for the turnover of various assets on Chebeague Island, in full and final
39 satisfaction of all outstanding obligations and liabilities of the Town of Chebeague
40 Island to SAD No. 51 except for ongoing obligations expressly stated in this Act, the
41 Town of Chebeague Island shall pay to SAD No. 51 the sum of \$3,500,000, referred
42 to in this Act as "the SAD payment," in full no later than December 31, 2007. The
43 SAD No. 51 school board, referred to in this Act as "the board," shall enter into a
44 contract, to commence July 1, 2007 and to expire June 30, 2014, with the school
45 committee of the Town of Chebeague Island for the education of any student residing
46 with a parent or legal guardian in the Town of Chebeague Island from grades 6 to 12

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1 electing to attend school in SAD No. 51. The contract must be binding upon the
2 board and the school committee of the Town of Chebeague Island without further
3 authorization or approval. The contract must be binding on the successors and
4 assigns of the Town of Chebeague Island and SAD No. 51. Tuition for Chebeague
5 Island students must be covered by the SAD payment, except that any additional
6 costs attributable to special education students must be paid by the Town of
7 Chebeague Island. SAD No. 51 shall provide transportation to the Town of
8 Chebeague Island students in accordance with the SAD No. 51 school schedule once
9 daily each way from a ferry dock in the Town of Yarmouth designated by the school
10 committee of the Town of Chebeague Island to the SAD No. 51 schools and from the
11 schools back to the ferry dock. All other transportation, including extra bus runs and
12 ferry service, must be provided by the Town of Chebeague Island. Nothing in this
13 Act prevents the school committee of the Town of Chebeague Island from tuitioning
14 students to or entering into tuition contracts with other school administrative units.

15 D. If the board conducts a referendum between April 1, 2006 and July 1, 2007 on
16 any debt to be incurred after July 1, 2007, the residents of the secession territory must
17 be excluded from the legislative body of SAD No. 51 for purposes of the referendum.

18 **Sec. 3. Effective date of separation.** The secession territory is separated from
19 the Town of Cumberland and is incorporated as the Town of Chebeague Island on July 1,
20 2007.

21 **Sec. 4. Provision for first meeting.** Within 60 days of the effective date of this
22 Act, a justice of the peace or notary public may issue a warrant to any legal voter in the
23 secession territory directing that legal voter to notify the municipal inhabitants of a public
24 meeting to select 9 transition representatives by written ballot. Notice to the municipal
25 inhabitants must be provided at least 7 days prior to the meeting. Effective immediately
26 after the election, the transition representatives selected at the meeting are vested with the
27 powers to represent the future Town of Chebeague Island and to enter into letters of
28 intent and memoranda of understanding for the establishment of its local government, to
29 negotiate interlocal agreements and to engage in other necessary transition activities.
30 Any agreements made by the transition representatives must be presented for ratification
31 by the Town of Chebeague Island's legislative body after the incorporation of the Town
32 of Chebeague Island. The term of the transition committee members expires on July 1,
33 2007.

34 Within 30 days prior to July 1, 2007, a justice of the peace or notary public may issue
35 a warrant to any legal voter in the Town of Chebeague Island directing that legal voter to
36 notify the municipal inhabitants of a public meeting to select municipal officers and
37 school board members and to transact municipal business to be held at a time and place
38 specified in the warrant. Notice to the municipal inhabitants must be provided at least 7
39 days prior to the meeting. Effective July 1, 2007, municipal officers and school board
40 members selected at the meeting are vested with all of the powers and duties that other
41 duly elected municipal officers and school board members have, including the power to
42 raise, borrow and spend money.

43 **Sec. 5. Form of government.** The Town of Chebeague Island shall adopt the
44 town meeting as its form of government.

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1 This Act does not prevent the Town of Chebeague Island from voting to change its
2 form of government without a further act of the Legislature.

3 **Sec. 6. Education needs.** Upon the date of its secession from the Town of
4 Cumberland and incorporation as the Town of Chebeague Island, the Town of Chebeague
5 Island becomes a municipal school unit as defined in the Maine Revised Statutes, Title
6 20-A, section 1, subsection 19. No further referenda, legislation or dispensations by the
7 State, or any of its officers, departments or agencies is required of the Town of
8 Chebeague Island prior to its undertaking the education of its school-age children.

9 **1. Provision of educational services.** The Town of Chebeague Island shall start
10 providing educational services in the manner described in its report to the Legislature
11 pursuant to section 2 upon the date of its secession from the Town of Cumberland and
12 incorporation as the Town of Chebeague Island.

13 **2. Educational requirements.** The requirements of Title 20-A regarding the
14 provision of public education to students, including, but not limited to, matters of
15 curriculum, instruction, transportation, mainland student transition, attendance, student
16 eligibility for enrollment, student records, audits, employee and applicant records,
17 standards and assessment of student performance, health, nutrition and safety,
18 immunization, school lunch programs, special education, school finances, gifted and
19 talented students, career and technical education and adult and vocational education are
20 all applicable to the educational services provided by the Town of Chebeague Island.

21 **3. Transition governance.** The Town of Chebeague Island's education plan must
22 provide for the transition of administration and governance of the Chebeague Island
23 School to the properly elected Town of Chebeague Island school committee.

24 **4. School committee authority.** This Act may not be construed to prevent the Town
25 of Chebeague Island school committee from making changes to the provision of
26 educational services and the education plan in accordance with the school committee's
27 powers and duties pursuant to Title 20-A.

28 **Sec. 7. Hold harmless provision.** The municipal officers, municipal officials and
29 residents of the Town of Cumberland; the directors and member municipalities of Maine
30 School Administrative District 51; the representatives of the secession territory; the
31 municipal officers, municipal officials and residents of the Town of Chebeague Island;
32 and all their agents are immune from liability for any action taken as a result of this Act.

33 **Sec. 8. Enforcement.** The Town of Chebeague Island, the Town of Cumberland
34 or SAD No. 51, or their successors in interest, may enforce this Act by civil action in
35 Superior Court. In any action between the Town of Chebeague Island and SAD No. 51,
36 the court shall award reasonable attorney's fees to the prevailing party.

37 **SUMMARY**

38 This amendment changes the boundary lines so that Sturdivant Island and Basket
39 Island remain part of the Town of Cumberland. It details the agreements between the
40 secession territory and the Town of Cumberland and the secession territory and School
41 Administrative District 51. It requires the secession territory to select 9 transition
42 representatives to act for the territory from within 60 days of the effective date of the bill
43 to the effective date of separation. It authorizes the Town of Chebeague Island, the Town

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- 1 of Cumberland and School Administrative District 51 to enforce the provisions of the bill
2 by civil action in Superior Court.

FISCAL NOTE REQUIRED
(See Attached)



122nd MAINE LEGISLATURE

LD 1735

LR 2562(02)

An Act To Authorize Chebeague Island to Secede from the Town of Cumberland

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: State and Local Government

Fiscal Note Required: Yes

Fiscal Note

Exempted State Mandate

State Mandate

New or Expanded Activity

Authorizing Chebeague Island to secede from the town of Cumberland is a state mandate pursuant to the Maine Constitution. Additional local costs include those associated with reconfiguring boundaries and maps, changing assessing records and revenue collection procedures and other administrative responsibilities. It should be noted that the towns directly impacted have agreed to comply with the requirements of this bill. The administrative costs are not expected to be significant. Pursuant to the mandate preamble, a 2/3s vote of each body of the Legislature exempts the State from the requirement to provide funding for this mandate.

Unit Affected

Municipality
County

Costs

Insignificant

Fiscal Detail and Notes

This legislation will not affect the total cost of funding K-12 public education beginning in fiscal year 2007-08 or the General Fund appropriation required for the State's share. This legislation may impact the amount of funds required to be raised by local school administrative units. The impact to each individual school unit can not be determined at this time.