

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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**Legislative Document**

**No. 1846**

H.P. 1286

House of Representatives, April 10, 2007

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**An Act To Allow Bayville Village To Separate from the Town of  
Boothbay Harbor and Affiliate with the Town of Boothbay**

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative MacDONALD of Boothbay.  
Cosponsored by Senator DOW of Lincoln.

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

2 **PART A**

3 **Sec. A-1. Separation and affiliation.** Notwithstanding the Maine Revised  
4 Statutes, Title 30-A, chapter 113, subchapter 2, and subject to referendum elections as set  
5 forth in section 3 of this Part and as otherwise specified in this Part, the territory in  
6 section 2 of this Part, Bayville Village Corporation, within the Town of Boothbay Harbor,  
7 Lincoln County, together with the inhabitants of that territory, is separated and set off  
8 from the Town of Boothbay Harbor and affiliated with the Town of Boothbay, Lincoln  
9 County, in accordance with Private and Special Law 1911, chapter 227 as amended by  
10 this Act.

11 **Sec. A-2. Boundaries.** The boundaries of Bayville Village Corporation are the  
12 same as in Private and Special Law 1911, chapter 227 as amended by this Act.

13 **Sec. A-3. Referendum elections.** In order for the separation and incorporation  
14 described in this Part to take effect, the registered voters of Bayville Village Corporation  
15 must vote in an election to separate from the Town of Boothbay Harbor and to affiliate  
16 with the Town of Boothbay and the Town of Boothbay must vote in an election to accept  
17 the territory after that territory has voted in the affirmative for separation and affiliation.  
18 A simple majority of the voters in each referendum is necessary to approve the  
19 referendum.

20 **1. Bayville Village Corporation; separation vote.** Within 3 months of the effective  
21 date of this Act, this Part must be submitted to the legal voters of Bayville Village  
22 Corporation in a referendum election for the purpose of approval of this Part. Warrants  
23 must be issued for this election notifying the qualified voters to vote on the approval or  
24 rejection of this Part.

25 For purposes of this referendum election, all persons residing in the separation territory as  
26 set out in section 2 of this Part and legally registered to vote there are eligible to vote on  
27 the question with respect to the separation of Bayville Village Corporation from the  
28 Town of Boothbay Harbor and its affiliation with the Town of Boothbay.

29 The town clerk of the Town of Boothbay Harbor shall prepare the required ballots on  
30 which the subject matter of this Part must be reduced to the following question:

31 "Do you favor the separation of Bayville Village from the Town of  
32 Boothbay Harbor and the affiliation of Bayville Village with the Town of  
33 Boothbay?"

34 The voters shall indicate by a cross or check mark placed against the word "Yes" or "No"  
35 their opinion of the question.

36 The referendum election must be conducted by the Town Clerk of the Town of Boothbay  
37 Harbor, who shall declare the result of the election. The town clerk's declaration of the  
38 election results is final, subject to review by the Superior Court for Lincoln County. The  
39 result of the vote must be filed by the town clerk with the Secretary of State.

1           **2. Town of Boothbay; affiliation vote.** Within 6 months of the effective date of this  
2 Act, if the referendum in Bayville Village passes, then this Part must be submitted to the  
3 legal voters of the Town of Boothbay in a referendum election for the purpose of  
4 approval of this Part. Warrants must be issued for this election notifying the qualified  
5 voters to vote on the approval or rejection of this Part.

6 For purposes of this referendum election, all persons resident of the Town of Boothbay  
7 and legally registered to vote within the Town of Boothbay are eligible to vote on the  
8 question with respect to the separation of Bayville Village from the Town of Boothbay  
9 Harbor and its affiliation with the Town of Boothbay.

10 The town clerk of the Town of Boothbay shall prepare the required ballots on which the  
11 subject matter of this Part must be reduced to the following question:

12                   "Do you favor the affiliation of Bayville Village Corporation with the  
13                   Town of Boothbay?"

14 The voters shall indicate by a cross or check mark placed against the word "Yes" or "No"  
15 their opinion of the question.

16 The referendum election must be conducted by the town clerk of the Town of Boothbay,  
17 who shall declare the result of the election. The town clerk's declaration of the election  
18 results is final, subject to review by the Superior Court for Lincoln County. The result of  
19 the referendum election must be filed by the town clerk with the Secretary of State.

20           **Sec. A-4. Boothbay Harbor property.** If the territory consisting of Bayville  
21 Village separates from the Town of Boothbay Harbor and is affiliated with the Town of  
22 Boothbay, all real property owned by the Town of Boothbay Harbor located within that  
23 territory must be conveyed to the Town of Boothbay on the effective date of separation.

24           Before the effective date of separation, the Town of Boothbay Harbor shall remove  
25 all personal property owned by the Town of Boothbay Harbor that is customarily located  
26 in Bayville Village.

27           **Sec. A-5. Property taxes; municipal services.** Bayville Village remains a part  
28 of the Town of Boothbay Harbor for all purposes including liabilities, obligations and the  
29 collection and disbursement of property taxes up to the effective date of separation, and  
30 the Town of Boothbay Harbor shall maintain its customary level of municipal services to  
31 Bayville Village until that date. After the effective date of separation, the Town of  
32 Boothbay shall assess and collect property taxes and provide municipal services to  
33 Bayville Village Corporation in accordance with Private and Special Law 1911, chapter  
34 227 as amended by this Act.

35           **Sec. A-6. Costs not funded.** Any requirements of this Part that result in  
36 additional costs to local or county government are not state mandates and the State is not  
37 required to fund those costs.

38           **Sec. A-7. Effective date of separation.** The effective date of separation and  
39 affiliation of the territory consisting of Bayville Village is 60 days following the approval  
40 of the referendum set out in section 3, subsection 2 of this Part. At the first regularly  
41 scheduled town meetings in the Town of Boothbay Harbor and the Town of Boothbay

1 following the effective date of separation and affiliation, all amendments to the respective  
2 town charters must be made to reflect the change in Bayville Village's affiliation.

3 **PART B**

4 **Sec. B-1. P&SL 1911, c. 227**, as amended by P&SL 1961, c. 56, §§1 and 2, is  
5 further amended to read:

6 **Sec. 1. Description of territory within Bayville Village Corporation.** That  
7 part of the territory of the town of Boothbay ~~Harbor~~, in the county of Lincoln, embraced  
8 within the limits described as follows: Commencing at the southerly point of the  
9 boundary line between the town of Boothbay and Boothbay Harbor, on Linekins bay, so-  
10 called, and extending northerly along said boundary line to a point where the line  
11 extended along a certain stone wall which runs east and west near the fork of the main  
12 road would intersect this town line; thence extending westerly along this line of said stone  
13 wall extended east and west to a point which would mark its intersection with the  
14 westerly line extended of lots twenty-two, twenty-three, twenty-four and twenty-five,  
15 according to the plan of Bayville made by Tristham Griffing; thence along the westerly  
16 line of lots twenty-two, twenty-three, twenty-four and twenty-five to the low water mark  
17 of Linekins bay to the point of beginning; together with the inhabitants within said  
18 territory and certain owners of real estate therein as hereinafter specified is hereby created  
19 a body politic and corporate by the name of the Bayville Village Corporation.

20 **Sec. 2. Authorized to raise money.** Said corporation is hereby authorized and  
21 vested with the power at any legal meeting called for the purpose to raise money for the  
22 following purposes: To create and maintain a fire department with all the necessary  
23 equipment, appliances and apparatus for the prevention and extinguishment of fires; to  
24 build, repair and maintain roads, streets and ways, sidewalks, sewers and other sanitary  
25 works, including the collection and removal of offal and garbage; to provide for the  
26 schooling of scholars within the corporate limits as may be required by the laws of the  
27 state of Maine; to care for and beautify that portion of the corporate territory of Bayville  
28 which may hereafter be reserved for and dedicated to public uses to be enjoyed in  
29 common by all the owners of lots of said Bayville and to that end to build roads and  
30 walks upon and through said public lands and to plant and care for trees in the roads and  
31 streets and upon said public lands; to build, repair and maintain public wharves and  
32 landings; to establish and maintain police and night watch; to procure water for fire,  
33 domestic and other purposes and to produce or procure light for public use and for the use  
34 of the inhabitants of said village corporation, and for such purposes to contract with the  
35 town of Boothbay ~~Harbor~~ only to furnish such water, and with any individual, firm or  
36 corporation to furnish such light for either or both of the purposes named; and to establish  
37 reasonable rates to be paid by the inhabitants of said Bayville using said light for  
38 domestic purposes, if produced by said corporation.

39 **Sec. 3. Town of Boothbay relieved from certain duties.** The town of  
40 Boothbay ~~Harbor~~ is hereby relieved from any and all duty to build, repair or maintain  
41 roads, streets or ways within the territory of said Bayville Village Corporation or to build  
42 schoolhouses, maintain schools thereon, or to provide for the schooling of scholars as is  
43 required by the laws of the state, or to perform any of the duties for which said

1 corporation is authorized by section two of this act to raise money, and said town shall  
2 not be liable for defects in streets, ways or roads within the limits of said village  
3 corporation, nor for failure to perform any duty from which it is relieved by this act, but  
4 said corporation shall assume all of said duties and be liable for said defects in streets,  
5 ways and roads and for failure to perform the duties assumed as the town of Boothbay  
6 Harbor would have been liable except for this act, which liability may be enforced under  
7 the same conditions, in the same manner and with the same remedies as are provided by  
8 law in relation to towns.

9       **Sec. 4. Powers and duties of corporation in laying out town ways.** Said  
10 corporation and the overseers thereof shall have the same power and duties in laying out,  
11 discontinuing and altering town ways within the territory aforesaid, the Bayville Village  
12 Corporation, which the town of Boothbay Harbor and the selectmen now have to be  
13 exercised and performed under the same conditions and limitations and in the same  
14 manner that they are now exercised and performed by said town and its selectmen.

15       **Sec. 5. Proportion of taxes town of Boothbay shall pay to Village**  
16 **Corporation.** The town of Boothbay Harbor shall annually pay over to the treasurer of  
17 said corporation out of the taxes collected from the inhabitants and estates within the  
18 territory of the Bayville Village Corporation, aforesaid, a sum equal to sixty per centum  
19 of all the town taxes, exclusive of the state and county tax collected from said inhabitants  
20 and estates.

21       **Sec. 6. How assessments shall be made.** All moneys which shall be raised for  
22 the purposes named in section two of this act or for any other purpose, for which the  
23 corporation may lawfully raise money shall be assessed upon the taxable polls and estates  
24 embraced within the limits of the corporation by the assessors of the town of Boothbay  
25 Harbor in the same manner as is provided by law for the assessment of town and county  
26 taxes. For the purposes of taxation under this act the person or persons entitled to the use  
27 or occupation of any lot of land within the limits of said Bayville Village Corporation  
28 shall be deemed the owner thereof and be taxed for said lot and the improvements, if any,  
29 thereon.

30       **Sec. 7. Corporate officers.** The officers of said corporation shall be a clerk, who  
31 shall be a resident of this state, a treasurer and five overseers who shall be chosen by  
32 ballot and such other officers as the by-laws of said corporation may require, but one of  
33 the said overseers shall be, ex-officio, the chairman of the board of selectmen of the town  
34 of Boothbay Harbor. Said corporation is empowered to adopt at any legal meeting called  
35 for that purpose, a code of by-laws for the government of the same and for the proper  
36 management of its prudential affairs and other purposes connected therewith, provided  
37 said by-laws are not repugnant to the laws of the state. Such code of by-laws may be  
38 altered or amended at any legal meeting of the corporation in the call for which notice of  
39 the proposed change has been given. The officers aforesaid shall be sworn before the  
40 clerk or a justice of the peace and the treasurer shall give bond to said corporation in such  
41 sum as the overseers may direct, which bond shall be approved by the overseers and  
42 clerk.

1       **Sec. 8. Legal voter may be elected or appointed to any office.** Any person  
2 who is a legal voter in said corporation may be elected or appointed to any office therein,  
3 but shall cease to hold said office whenever he ceases to be such legal voter. The  
4 provisions of this section shall not apply to that member of the overseers who as  
5 chairman of the board of selectmen is a member of said board of overseers, ex-officio.

6       **Sec. 9. Overseers, duties of.** Said overseers shall be the general municipal  
7 officers of said corporation and shall have general charge of its affairs and of the  
8 expenditures of all money therein except so far as the same may be committed to other  
9 officers or persons.

10       **Sec. 10. Statement of expenditures shall be filed with municipal officers**  
11 **of Boothbay.** The overseers and the treasurer of said corporation shall file with the  
12 municipal officers of the town of Boothbay ~~Harbor~~, on or before the first day of April of  
13 each year, a full and detailed statement of all expenditures of money which have been  
14 paid to them under the provisions of section five of this act. And should there then be  
15 any unexpended balance of the moneys paid to said corporation, according to section five  
16 of this act, the treasurer of said corporation shall then pay the same to the treasurer of the  
17 town of Boothbay ~~Harbor~~, but this unexpended balance so paid shall be returned to the  
18 treasurer of this corporation upon written request of the overseers, or a majority thereof,  
19 to be used by said corporation for any purposes authorized by this act and to all interests  
20 and purposes this money shall be deemed and held by the town of Boothbay ~~Harbor~~ as a  
21 deposit for the corporate purposes of this corporation payable upon written demand as  
22 aforesaid to said corporation.

23       **Sec. 11. Proceedings for assessment of taxes within limits of the**  
24 **corporation.** Upon a certificate being filed with the assessors of the town of Boothbay  
25 ~~Harbor~~ by the clerk of this corporation of the amount of money voted to be raised at any  
26 meeting for any of the purposes aforesaid, it shall be the duty of said assessors or their  
27 successors in office, at the time of the next annual assessment of town and county taxes in  
28 said town of Boothbay ~~Harbor~~, to assess the total amounts certified by the clerk of this  
29 corporation upon the polls and estates of persons residing within the limits of said  
30 corporation, and upon the estates of non-resident proprietors thereof and to certify and  
31 deliver the lists of the assessments so made to the collector of the town of Boothbay  
32 ~~Harbor~~, whose duty it shall be to collect the same in like manner as county and town  
33 taxes are by law collected and said collector shall pay over all moneys collected, by him  
34 to the treasurer of said corporation whenever the overseers shall so direct. It shall be the  
35 duty of the treasurer of said corporation to receive all moneys belonging to the  
36 corporation and pay it out only upon the written order or direction of the overseers and to  
37 keep a regular account of all moneys received and paid out and to exhibit the same to the  
38 overseers whenever requested, and said town of Boothbay ~~Harbor~~ shall have the same  
39 power to direct the mode of collecting said taxes that it has in the collection of the town  
40 taxes, and said collector shall have the same rights and powers to recover any taxes  
41 committed to him under the provisions of this act by suit that he has for the collection of  
42 town taxes committed to him, and the town of Boothbay ~~Harbor~~ shall have the same right  
43 to recover taxes assessed under this act by suit that it has to recover town taxes assessed  
44 therein. The collector of Boothbay ~~Harbor~~ shall be entitled to receive the same  
45 percentage for the collection of taxes assessed under this act, and the same fees in

1 connection with the collection thereof, which he receives for the collection of the town  
2 taxes, but if said collector shall be paid a salary for the collection of taxes in said town,  
3 then he shall be entitled to receive for the collection of taxes assessed under this act that  
4 proportionate part of said salary that the taxes assessed in the corporate limits of Bayville  
5 bears to the taxes collected for the town of Boothbay Harbor.

6 **Sec. 12. Legal voters at meetings of the corporation defined.** All persons  
7 residing within the limits of said corporation who would be legal voters in the town of  
8 Boothbay Harbor, and every person of lawful age who owns and occupies or leases and  
9 occupies one or more lots of land within the limits of said corporation, and at the same  
10 time is a shareholder in good standing in the Bayville improvement association shall be  
11 legal voters at any meeting of said corporation at which they are present. The overseers  
12 of said corporation shall determine who are the legal voters at any meeting and shall  
13 prepare a list of said voters at least twenty-four hours before every meeting, which said  
14 list they may amend or correct at any time before said meeting or during its progress.  
15 The vote upon any proposition at any meeting shall be taken and checked by this list upon  
16 the demand of five legal voters; provided, however, that every person who by virtue of a  
17 joint ownership of himself and some other person or persons of a share of said stock and  
18 by agreement with the other joint owners, is in possession of a certain aliquot part of a lot  
19 of land within the corporate limits of Bayville, upon which he has a dwelling house  
20 owned and controlled by himself exclusively, shall be deemed a legal voter at any  
21 meeting of the corporation at which he is present, and provided further, that the majority  
22 in interest of the joint owners of any share of stock may designate in writing one of such  
23 owners to represent such share who shall be a legal voter at any meeting of the  
24 corporation at which he is present, but no person shall be entitled to more than one vote in  
25 any meeting either for himself or as representing the joint owners of any share of stock.

26 **Sec. 13. First election of officers; tenure of office.** The first election of  
27 officers shall be at the meeting at which this charter is accepted. Said officers shall hold  
28 their respective offices until the next annual meeting of the corporation, at which said  
29 meeting officers shall be elected and thereafterwards at each annual meeting, but in any  
30 event all officers duly elected shall hold office until their successors are elected and duly  
31 qualified. The annual meeting of said corporation shall be held in the first week of  
32 August in each year.

33 ~~**Sec. 14. Charter may be accepted within five years.** This charter may be accepted  
34 at any time within five years after it shall become law, but only one meeting to vote  
35 thereon shall be called in any one calendar year. George M. Harmon, Albert E. Shipman,  
36 Charles Fletcher, George P. Merrill, Frederick A. Smith, Leland F. Bridgham, Bryant G.  
37 Smith and Joshua M. Dill, or either of them, may call all meetings in the corporation  
38 previous to the acceptance of the charter and the election of officers, and notify the  
39 persons entitled to vote therein to meet at some suitable time and place within the said  
40 limits of this corporation, by posting of notices in two public places within the limits of  
41 said corporation, 14 days at least before the time of holding said meeting; all subsequent  
42 meetings shall be called and notified by the overseers as town meetings are called and  
43 notified by the selectmen; either of the above named persons are authorized to preside at  
44 any meeting previous to the acceptance of the charter until the meeting is organized and  
45 until a moderator shall have been chosen by ballot and sworn; at all meetings of the~~



1 ~~corporation a moderator shall be chosen in the manner, and with the same power as in~~  
2 ~~town meetings.~~

3 **Sec. 14-A. Calling of meetings.** All meetings of the corporation must be called  
4 and notified by the overseers as town meetings are called and notified by the selectmen.  
5 James O. Coleman, Jr., Charles Wolfram, Barbara Allison or Barrett L. Gilchrist are  
6 authorized to preside at any meeting until a moderator has been chosen by ballot and  
7 sworn. At all meetings of the corporation a moderator must be chosen in the manner and  
8 with the same power as in town meetings.

9 **Sec. 15. When charter shall take effect.** Whenever this charter shall be  
10 accepted by a majority of the voters of said corporation at a legal meeting called for that  
11 purpose then the same shall take and have complete effect in all its parts.

12 **Sec. B-2. Effective date.** This Part takes effect for all purposes immediately upon  
13 the approval of both referenda in Part A of this Act by a majority of the legal voters  
14 voting on each referendum.

15 **SUMMARY**

16 This bill allows Bayville Village Corporation to separate from the Town of Boothbay  
17 Harbor and to affiliate with the Town of Boothbay if the legal voters of Bayville Village  
18 Corporation vote in favor of the separation and affiliation and the legal voters of the  
19 Town of Boothbay vote in favor of the affiliation.