

MAINE STATE LEGISLATURE

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Legislative Document

No. 637

S. P. 249

In Senate, February 12, 1957.

Referred to the Committee on Judiciary, sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Cole of Waldo.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT Authorizing Interlocal Cooperation.

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

R. S., c. 92-A, additional. The Revised Statutes are hereby amended by adding thereto a new chapter to be numbered 92-A, to read as follows:

'Chapter 92-A.

Interlocal Cooperation Act.

Sec. 1. Title. This chapter may be referred to as the "Interlocal Cooperation Act."

Sec. 2. Purpose. It is the purpose of this Act to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities.

Sec. 3. Public agency defined. For the purposes of this Act:

I. "Public agency" shall mean any political subdivision of this State; any agency of the State Government or of the United States; and any political subdivision of another state.

II. "State" shall mean a state of the United States and the District of Columbia.

Sec. 4. Interlocal agreements.

I. Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this State may be exercised and enjoyed jointly with any other public agency of this State, and jointly with any public agency of any other state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the State Government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by this Act upon a public agency.

II. Any 2 or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of this Act. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

III. Any such agreement shall specify the following:

A. Its duration;

B. The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created;

C. Its purpose or purposes;

D. The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;

E. The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination; and

F. Any other necessary and proper matters.

IV. In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to paragraphs A, C, D, E and F of subsection III, contain the following:

A. Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board public agencies party to the agreement shall be represented;

B. The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.

V. No agreement made pursuant to this Act shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, said performance may be offered in satisfaction of the obligation or responsibility.

VI. Every agreement made hereunder shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall

determine whether the agreement is in proper form and compatible with the laws of this State. The Attorney General shall approve any agreement submitted to him unless he shall find that it does not meet the conditions set forth and shall detail in writing addressed to the governing bodies of the public agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted within 90 days of its submission shall constitute approval thereof.

VII. Financing of joint projects by agreement shall be as provided by law.

Sec. 5. Filing, status and actions. Prior to its entry into force, an agreement made pursuant to this Act shall be filed with the keeper of local public records and with the Secretary of State. In the event that an agreement entered into pursuant to this Act is between or among one or more public agencies of this State and one or more public agencies of another state, or of the United States, said agreement shall have the status of an interstate compact, but in any case or controversy involving performance or interpretation thereof or liability thereunder, the public agencies party thereto shall be real parties in interest and the State may maintain an action to recoup or otherwise make itself whole for any damages or liability which it may incur by reason of being joined as a party therein. Such action shall be maintainable against any public agency or agencies whose default, failure of performance, or other conduct caused or contributed to the incurring of damage or liability by the State.

Sec. 6. Additional approval in certain cases. In the event that an agreement made pursuant to this Act shall deal in whole or in part with the provisions of services or facilities with regard to which an officer or agency of the State Government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the Attorney General pursuant to subsection VI of section 4. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the Attorney General.

Sec. 7. Appropriations, furnishing of property, personnel and service. Any public agency entering into an agreement pursuant to this Act may appropriate funds and may sell, lease, give or otherwise supply the administrative joint board or other legal or administrative entity created to operate the joint or co-operative undertaking by providing such personnel or services therefor as may be within its legal power to furnish.