

CHAPTER 41

H.P. 899 - L.D. 1216

An Act to Allow the Separation of Frye Island from the Town of Standish

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.

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

PART A

Sec. A-1. Separation and incorporation; Frye Island. Subject to a referendum election as set forth in section 2 of this Part, the following territory now within the Town of Standish and the County of Cumberland, together with the inhabitants of that territory, is hereby separated from the Town of Standish and incorporated into a separate town by the name of the Town of Frye Island: the island in Sebago Lake identified as Frye Island together with the surrounding waters within two-hundred feet (200') from the shoreline of Frye Island, excluding territory under the jurisdiction of another municipality, on July 1, 1998. The island and surrounding waters described in this section are referred to in this Act as "the Frye Island territory." The Town of Frye Island remains within Cumberland County.

Sec. A-2. Referendum elections. Part A of this Act takes effect 90 days after adjournment of the First Regular Session of the 118th Legislature for the purpose of permitting its submission to the voters of the Frye Island territory at a special referendum election to be held on October 14, 1997. Warrants must be issued for this election notifying the qualified voters to vote on the approval or rejection of this Act.

For the purposes of this referendum election, all persons resident and legally registered to vote within the Frye Island territory are eligible to vote on the question with respect to the separation of that territory from the Town of Standish.

The town clerk of the Town of Standish shall prepare the required ballots on which the subject matter of Part A of this Act must be reduced to the following question:

"Do you favor the separation of Frye Island and the surrounding waters within two-hundred feet (200') from the shoreline of Frye Island from the Town of Standish and its incorporation as a separate town?"

The voters shall indicate by an appropriate mark placed against the word "Yes" or "No" their vote on this question.

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

Sec. A-3. Effective date of separation. If a majority of those voting in the Frye Island territory election approves the question, Part A of this Act takes effect with respect to that territory and that territory is separated from the Town of Standish and is incorporated as the Town of Frye Island on July 1, 1998.

Sec. A-4. Provision for first meeting. If the voters of Frye Island territory approve the question, a justice of the peace or notary public may issue a warrant to any legal voter in the Town of Frye Island directing that legal voter to notify the municipal inhabitants of a public meeting to select municipal officers and to transact municipal business to be held at a time and place specified in the warrant. Notice to the municipal inhabitants must be provided at least seven (7) days prior to the meeting. Until July 1, 1998, municipal officers selected at the meeting are vested with all of the powers and duties that other duly elected municipal officers have, including the power to raise, borrow and spend money, except as those powers may be limited by the Frye Island Municipal Services Corporation, as further described in Part C of this Act.

Sec. A-5. Form of government. If the voters of the Frye Island territory approve the question, the Town of Frye Island will be incorporated and separated from the Town of Standish on July 1, 1998 and shall adopt the town meeting as its form of government.

Nothing in this Act prevents the Town of Frye Island from subsequently voting to change its form of government without the necessity of a further act of the Legislature.

Sec. A-6. Allocation of debts and assets. If the Town of Frye Island is incorporated and separated from the Town of Standish on July 1, 1998, the Town of Frye Island shall assume debts and assets of the Town of Standish as follows.

1. All tangible personal property owned by the Town of Standish and located within the Frye Island territory on the date of separation becomes the property of the Town of Frye Island on July 1, 1998, and the Town of Standish shall promptly deliver to the Town of Frye Island an appropriate quitclaim bill of sale for that property.

2. Town of Standish taxes that are due from Frye Island property owners as of July 1, 1998 will continue to be owed to the Town of Standish after separation. Tax liens on behalf of the Town of Standish attributable to those taxes remain valid.

3. No other tangible property or intangible property of the Town of Standish, including cash or bank accounts, is due to the Town of Frye Island.

4. The Town of Frye Island shall bear its just and due proportion of the bonded indebtedness of the Town of Standish, as determined pursuant to Part B of this Act.

Sec. A-7. Property taxes. Frye Island remains a part of the Town of Standish for all purposes including liabilities, obligations and the collection and disbursement of property taxes up to the effective date of separation and the Town of Standish maintains its customary level of service to Frye Island until that date. After that date, each municipality is separately responsible for raising and collecting the revenues necessary to fund its respective government.

Sec. A-8. Educational needs. If the Town of Frye Island is incorporated and separated from the Town of Standish, it remains in the School Administrative District 6 or its successor and pays its proportional share of costs, unless or until such time as it withdraws from the school administrative district in accordance with applicable state law. School transportation services must be provided as follows: The Town of Frye Island is authorized to require each resident with a child or children enrolled in School Administrative District 6 to provide transportation from the island to the mainland point of pickup at the resident's own expense; transportation costs from the mainland point of pickup to the school must be provided, as is customarily done, by the school administrative district.

PART B

Sec. B-1. Duty to negotiate in good faith. In anticipation of the creation of the Town of Frye Island pursuant to this Act, the Town of Standish and representatives of the Frye Island territory, as described in Part A, section 1 of this Act, shall negotiate in good faith to reach a mutual determination of:

1. The just and due proportion of bonded indebtedness of the Town of Standish to be assumed by the Town of Frye Island; and

2. The allocation of other duties and responsibilities between the Town of Standish and the Town of Frye Island as the parties determine necessary.

Sec. B-2. Agreement binding. Negotiation under section 1 of this Part must be completed by September 22, 1997. The agreement must be reduced to writing and is final and binding on the Town of Standish and the Town of Frye Island upon incorporation of the Town of Frye Island as of July 1, 1998, if the referendum question in Part A is approved.

Sec. B-3. Hold harmless provision. The municipal officers, municipal officials and residents of the Town of Standish and their agents are immune from liability for any action taken as a result of this Act.

PART C

Sec. C-1. Continuation of Frye Island Municipal Services Corporation. If the Frye Island territory is separated from the Town of Standish and is incorporated as the Town of Frye Island, the Frye Island Municipal Services Corporation is transferred to the Town of Frye Island and continues to function with the same powers and duties as granted to it by Private and Special Law 1975, chapter 138, as amended. Its legal relationship with the Town of Standish terminates upon separation of Frye Island from the Town of Standish; and a legal relationship commences immediately between the Municipal Services Corporation and the Town of Frye Island on July 1, 1998.

Sec. C-2. P&SL 1975, c. 138, §1, as amended by P&SL 1987, c. 2, §1, is further amended to read:

Sec. 1. Territory of Frye Island Municipal Services Corporation defined. So much of the territory of the Town of ~~Standish~~ Frye Island, in the County of Cumberland, as is bounded and described as follows, to wit: That portion of Frye Island, so-called in Sebago Lake, except the parcel of land situated at the southerly tip of Frye Island, more specifically, all that land situated southerly of a straight line running in a generally east-west direction between the following 2 points: The first point is on the westerly side of Frye Island, at the shore of Sebago Lake, and is shown as "124 + 11.35 D.H." on a plan entitled "Plan of Property in Raymond and Standish, Me. adjoining Sebago Lake surveyed for Thomas Avery Lamb," dated June, 1907, prepared by E. C. Jordan and Company, Civil Engineers, Portland, Maine; and the 2nd point is on the easterly side of Frye Island, at the shore of Sebago Lake, and is shown as "97 + 37.75" on the plan, being the same parcel of land conveyed in a deed from Sebago Lake Shores, Inc. to John P. Porell dated April 20, 1968, and recorded in the Cumberland County Registry of Deeds in Book 3037, Page 85, together with the inhabitants residing therein and the owners of the real estate therein, be and the same is hereby created a body politic and corporate by the name of Frye Island Municipal Services Corporation.

Sec. C-3. P&SL 1975, c. 138, §3 is amended to read:

Sec. 3. Bylaws. The corporation, at any legal meeting thereof, called for the purpose, may adopt bylaws, not inconsistent with the laws and Constitution of ~~this State~~ Maine or applicable ordinances or regulations of the Town of ~~Standish~~ Frye Island, as they may deem expedient and necessary for the better government and regulation of the municipal affairs within the corporation, in which case the bylaws so adopted, ~~shall~~ extend to the corporation as fully, to all intents and purposes as the other provisions of this Act.

Sec. C-4. P&SL 1975, c. 138, §5, as amended by P&SL 1987, c. 108, §2, is further amended to read:

Sec. 5. Power to raise money; debt. The corporation is authorized and vested with the power, at any legal meeting called for the purpose, to raise the sums of money necessary for the following purposes: To construct, maintain and repair roads, streets, ways and sidewalks; to procure water for fire, domestic and other purposes, to provide or procure sewer and refuse disposal facilities, and to provide light for public use; to establish and maintain police and fire protection; to build, repair and maintain public wharves and landings; to purchase, maintain and operate ferries or boats for transportation from the island to the mainland; to purchase, construct, maintain and repair such buildings and equipment as may be necessary or desirable for such purposes; to acquire by purchase or gift, and by deed, will, lease or otherwise title to real estate and personal property for the benefit of the corporation; to manage, operate, mortgage, sell, lease and exchange real estate and personal property for the benefit of the corporation; to contract with any individual, firm, association or corporation to accomplish such purposes; ~~and~~ to pay salaries and expenses of the corporation; or for any other lawful purpose relating to public health and safety, maintenance or improvement of public property or public services, acquisition of real or personal property or compliance with any law, ordinance or regulation.

The corporation is further authorized and vested with the power, at any legal meeting called for the purpose, to authorize the borrowing of money and issuing of bonds, notes or other evidences of indebtedness in such amounts as the vote of the legal voters of the corporation ~~shall determine~~ determines for the purposes set forth above, in the same manner as is provided by law for borrowing of money and issuing of bonds, notes or other evidences of indebtedness by municipalities. The trustees of the corporation may determine the rates of interest and the terms and conditions of any such indebtedness, subject to the same limitations as are provided by law for the indebtedness of municipalities. Notwithstanding any other provisions of this Act or any other provision of law, the total outstanding indebtedness of the corporation ~~shall may~~ at no time exceed an amount equal to 7.50% of the corporation's last full state valuation, except as otherwise permitted by the Maine Revised Statutes, Title ~~30~~ 30-A, section ~~5064~~ 5702.

Sec. C-5. P&SL 1975, c. 138, §§7 to 9 and 10-B are amended to read:

Sec. 7. Assessments levied. All moneys ~~which shall be~~ that are raised by the corporation for purposes for which the corporation may lawfully raise money, except any fares, rates or charges fixed for the use of ferry, water, sewer or refuse disposal facilities, ~~shall must~~ be assessed upon the taxable estates within the corporation's territory by the assessors of the Town of ~~Standish~~ Frye Island in the same manner as is provided by law for the assessment of town and county taxes. The trustees, in addition to the levy provided, may fix rates, fares or charges based on the use of ferry, water, sewer or refuse disposal facilities as they ~~shall deem~~ determine reasonable and expedient.

For all purposes of taxation under this Act, the person or persons entitled to the use or occupation of any lot of land within the limits of the corporation ~~shall be~~ are deemed the owner thereof and ~~be~~ are taxed for the lot and the improvements, if any, thereon.

Sec. 8. Assessment and collection. Upon a certificate being filed with the assessors of the Town of ~~Standish Frye Island~~ by the clerk of the corporation of the amount of money voted to be raised at any legal meeting of the corporation, it ~~shall be~~ is the duty of the ~~Standish Frye Island~~ assessors, or their successors in office, at the time of the next annual assessment of town and county taxes in the Town of ~~Standish Frye Island~~, to assess in addition thereto the total amounts certified by the clerk of the corporation, upon the taxable estates within the corporation's territory and to certify and deliver the lists of the assessments so made to the treasurer of the corporation. The treasurer of the corporation shall collect the assessments in the same manner as county and town taxes are collected by law. The treasurer of the corporation shall receive all ~~moneys~~ money belonging to the corporation, pay it out only upon the written order or direction of the trustees, keep a regular account of all ~~moneys~~ money received and paid out and exhibit the account to the trustees whenever requested to do so.

The corporation ~~shall have~~ has the same power to direct the method of collecting these taxes that a town has in the collection of town taxes; and the treasurer ~~shall have~~ has the same rights and powers to recover any taxes committed to ~~him the treasurer~~ under the provisions of this Act that a town tax collector has for the collection of town taxes committed to ~~him the town tax collector~~. The corporation ~~shall have~~ has the same right to recover by suit taxes assessed under this Act as a municipality has by law to recover taxes assessed therein.

The rights and powers of the corporation and its treasurer to collect corporation taxes, as aforesaid, and any liens or attachments therefor, ~~shall be~~ are subordinate to the rights and powers, liens or attachments of the Town of ~~Standish Frye Island~~ in collection of the town taxes, assessments or other charges.

Sec. 9. Town tax payments to corporation. The Town of ~~Standish Frye Island~~ may appropriate any sum to the corporation from the annual revenue raised by the town's taxation on the estates within the corporation's territory. Any sum so appropriated by the town ~~shall~~ must be paid over to the treasurer of the corporation and ~~shall~~ must be used and expended for its corporate purposes and duties.

Sec. 10-B. Property of corporation tax exempt. ~~No property~~ Property of the corporation ~~shall be~~ is exempt from taxation ~~by reason of this Act or the general laws of the State of Maine to the same extent as property owned by a municipality.~~

Sec. C-6. Transfer of Frye Island Municipal Services Corporation assets. The Frye Island Municipal Services Corporation shall transfer any assets remaining in the corporation at the time of repeal of its charter to the Town of Frye Island.

Sec. C-7. P&SL 1975, c. 138, as amended, is repealed.

Sec. C-8. Effective date. This Part takes effect upon incorporation of the Town of Frye Island pursuant to Part A of this Act, except that section 7 takes effect 2 years after the date of incorporation.

Effective pending referendum, unless otherwise indicated.
