



125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1079

H.P. 814

House of Representatives, March 15, 2011

**An Act To Authorize Peaks Island, House Island, Pumpkin Knob
and Catnip Island To Secede from the City of Portland**

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative WEAVER of York.
Cosponsored by Senator SNOWE-MELLO of Androscoggin and
Representatives: BEAUDOIN of Biddeford, CURTIS of Madison, CUSHING of Hampden,
HAMPER of Oxford, KNIGHT of Livermore Falls, NEWENDYKE of Litchfield, ROSEN of
Bucksport, TUTTLE of Sanford.

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

2 **PART A**

3 **Sec. A-1. Separation of Peaks Island, House Island, Pumpkin Knob and**
4 **Catnip Island and incorporation as Town of Peaks Island.** Subject to a
5 referendum election held in accordance with section 2 of this Part, the following territory
6 now within the City of Portland and Cumberland County, together with the inhabitants of
7 that territory, is separated and set off from the City of Portland and incorporated into a
8 separate town by the name of the Town of Peaks Island: Peaks Island, House Island,
9 Pumpkin Knob, Catnip Island and the surrounding waters, referred to in this Act as "the
10 Peaks Island territory." By virtue of this separation, the Town of Peaks Island is also
11 removed from the jurisdiction of the Board of Harbor Commissioners of the Port of
12 Portland but remains within Cumberland County.

13 The boundaries of the Town of Peaks Island are described as follows: All that part of
14 the City of Portland in Cumberland County in the State of Maine beginning from sea
15 NNW along the Long Island line to a point in the waters of Hussey Sound between Long
16 Island, Peaks Island and Great Diamond Island starting at 43° 40' 47.1" N by 70° 10'
17 56.29" W, extending SW to 43° 40' 35.93" N by 70° 11' 12.04" W, continuing to 43° 40'
18 0.13" N by 70° 12' 5.78" W, continuing SW to 43° 39' 34.86" N by 70° 12' 34.34" W,
19 then SW to 43° 39' 3.69" N by 70° 12' 59.96" W, then SE to 43° 38' 54" N by 70° 12'
20 47.73" W, then E to 43° 38' 56.37" N by 70° 11' 34.73" W, then E to 43° 38' 57" N by
21 70° 11' 8.64" W, then SSE to sea along a line parallel to the Long Island line.

22 **Sec. A-2. Referendum election.** This Part takes effect no sooner than 30 days
23 after completion of agreement or arbitration of debts and assets between the Peaks Island
24 territory and the City of Portland in Part B to permit its submission to the voters of the
25 Peaks Island territory at a special referendum election to be held on January 10, 2012.
26 Warrants must be issued for this election notifying the qualified voters to vote on the
27 approval or rejection of this Part.

28 For the purposes of this referendum election, all persons resident and legally
29 registered to vote within the Peaks Island territory are eligible to vote on the question
30 with respect to the separation of the Peaks Island territory from the City of Portland.

31 The city clerk of the City of Portland shall prepare the required ballots on which the
32 subject matter of this Act must be reduced to the following question:

33 "Do you favor the separation of Peaks Island, House Island, Pumpkin
34 Knob and Catnip Island and the surrounding waters from the City of
35 Portland and their incorporation as a separate town?"

36 The voters shall indicate by a cross or check mark placed against the word "Yes" or
37 "No" their vote on this question.

38 The referendum election must be conducted by the city clerk of the City of Portland,
39 who shall declare the result of the election. After the polls close and after a ballot
40 inspection and recount, if one is necessary, the city clerk's declaration of the election

1 results is final, subject to review by the Superior Court for the County of Cumberland.
2 The city clerk shall file the results of the referendum election with the Secretary of State.
3 The Peaks Island territory shall reimburse the City of Portland for the reasonable and
4 necessary administrative costs the City of Portland incurs in conducting this referendum
5 election.

6 **Sec. A-3. Effective date of separation.** If a majority of those voting in the
7 referendum under section 2 of this Part approve the question, this Part takes effect with
8 respect to the Peaks Island territory and the Peaks Island territory is separated from the
9 City of Portland and is incorporated as the Town of Peaks Island on July 1, 2012.

10 **Sec. A-4. Provision for first meeting.** If a majority of those voting in the
11 referendum under section 2 of this Part approve the question, within 30 days after the
12 election a justice of the peace or notary public may issue a warrant to any legal voter in
13 the Peaks Island territory directing that legal voter to notify the municipal inhabitants
14 within the Peaks Island territory of a public meeting to select 9 transition representatives
15 by written ballot. Notice to the municipal inhabitants must be provided at least 7 days
16 prior to the meeting.

17 Effective immediately after the election, the transition representatives selected at the
18 meeting are vested with the powers to represent the future Town of Peaks Island and to
19 enter into letters of intent and memoranda of understanding for the establishment of its
20 local government, to negotiate interlocal agreements and to engage in other necessary
21 transition activities.

22 Any agreements made by the transition representatives must be presented for
23 ratification by the Town of Peaks Island's legislative body after the incorporation of the
24 Town of Peaks Island. The term of the transition committee members expires July 31,
25 2012.

26 Within 30 days prior to July 1, 2012, a justice of the peace or notary public may issue
27 a warrant to any legal voter in the Town of Peaks Island directing that legal voter to
28 notify the municipal inhabitants of a public meeting to select municipal officers and
29 school board members and to transact municipal business, to be held at a time and place
30 specified in the warrant. Notice to the municipal inhabitants must be provided at least 7
31 days prior to the meeting. Effective July 1, 2012, municipal officers and school board
32 members selected at the meeting are vested with all the powers and duties that other duly
33 elected municipal officers and school board members have, including the power to raise,
34 borrow and spend money.

35 **Sec. A-5. Form of government.** If a majority of those voting in the referendum
36 under section 2 of this Part approve the question, the Town of Peaks Island will be
37 incorporated and separated from the City of Portland on July 1, 2012 and shall adopt the
38 town meeting as its form of government.

39 This Act does not prevent the Town of Peaks Island from subsequently voting to
40 change its form of government without the necessity of a further act of the Legislature.

1 Island upon incorporation of the Town of Peaks Island on July 1, 2012, if the referendum
2 question in Part A, section 2 is approved.

3 If the parties do not reach agreement by November 1, 2011, the parties shall submit
4 any matters remaining in dispute to a panel of arbitrators and shall reduce to writing all
5 matters agreed upon. The panel of arbitrators consists of one arbitrator selected by the
6 City of Portland, one arbitrator selected by the representatives of the Island Independence
7 Committee and one neutral arbitrator selected jointly by the other 2 arbitrators. Each
8 party shall pay the cost of the arbitrator it chooses; the costs of the neutral arbitrator must
9 be apportioned and paid equally by the City of Portland and the Peaks Island territory.
10 Determination of disputed matters by the panel of arbitrators is final and binding on the
11 parties. The arbitration must be administered under the auspices of the American
12 Arbitration Association and, except for the selection of arbitrators, is governed by the
13 commercial rules and procedures of the American Arbitration Association. The concept
14 of "last best offer" must be used. These issues must be resolved no later than December 1,
15 2011.

16 **Sec. B-3. Educational needs.** Upon the date of its secession from the City of
17 Portland and incorporation as the Town of Peaks Island, the Town of Peaks Island
18 becomes a municipal school unit as defined in the Maine Revised Statutes, Title 20-A,
19 section 1, subsection 19. No further referenda, legislation or dispensations by the State or
20 any of its officers, departments or agencies is required of the Town of Peaks Island prior
21 to its undertaking the education of its school-age children.

22 The Town of Peaks Island shall start providing education services upon the date of its
23 secession from the City of Portland and incorporation as the Town of Peaks Island as
24 required by Title 20-A, including, but not limited to, matters of curriculum, instruction,
25 transportation, mainland student transition, attendance, student eligibility for enrollment,
26 student records, audits, employee and applicant records, standards and assessment of
27 student performance, health, nutrition and safety, immunization, school lunch programs,
28 special education, school finances, gifted and talented students, career and technical
29 education and adult and vocational education.

30 The Town of Peaks Island's education plan must provide for the transition of
31 administration and governance of the Peaks Island School to the properly elected Town
32 of Peaks Island school board. This Act may not be construed to prevent the Town of
33 Peaks Island school board from making changes to the provision of education services
34 and the education plan in accordance with the school board's powers and duties pursuant
35 to Title 20-A.

36 **PART C**

37 **Sec. C-1. Hold harmless provision and enforcement.** The municipal officers,
38 municipal officials and residents of the City of Portland and the Town of Peaks Island
39 and all their agents are immune from liability for any action taken as a result of this Act.
40 The City of Portland and the Town of Peaks Island, or their successors in interest, may
41 enforce this Act by civil action in Superior Court. In any action between the City of
42 Portland and the Town of Peaks Island, the court shall award reasonable attorney's fees to
43 the prevailing party.

