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

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, 2/3 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:

Sec. 1. Separation and incorporation; Town of Chebeague Island. The residents of the following territory now within the Town of Cumberland and the County of Cumberland having expressed their intent, in a special referendum election of the voters of the territory of Chebeague Island lawfully conducted in accordance with the Maine Revised Statutes, Title 30-A, section 2171-D on November 8, 2005, to be separated from the Town of Cumberland and incorporated into a separate town by the name of the Town of Chebeague Island, the Town of Chebeague Island is separated in accordance with this Act. The Town of Chebeague Island, referred to in this Act as "Town of Chebeague Island" or "the secession territory," consists of: all that part of the Town of Cumberland in Cumberland County lying east of a line beginning at the existing boundary where the Town of Cumberland, the Town of Falmouth and the Town of Long Island meet in the waters northwest of Little Chebeague Island located at a point approximately 43 degrees, 43 minutes, 27 seconds North by 70 degrees, 10 minutes, 12 seconds West and following a line extending approximately 36 degrees Northwest to the southernmost corner of the Town of Yarmouth in the waters south of Spruce Point in the Town of Yarmouth located at a point approximately 43 degrees, 44 minutes, 18 seconds North by 70 degrees, 9 minutes, 20 seconds West. The islands northwest of this boundary, Sturdivant Island and Basket Island, remain with the Town of Cumberland. The islands of Bates, Hope, Jewell (easterly portion), Little Jewell, Ministerial, Sand, Stave, Crow, Bangs, Stockman, West Brown Cow, Upper Green, Goose Nest, Rogues, Broken Cove, Little Chebeague (easterly portion), together referred to in this Act as "the Outer Islands," and Great Chebeague are included in the secession territory. The Town of Chebeague Island remains within Cumberland County.

Sec. 2. Details of separation pursuant to agreements. Pursuant to the agreement between the secession representatives and the Town of Cumberland and the agreement between the secession representatives and School Administrative District 51, referred to in this Act as "SAD No. 51," as found in the report submitted pursuant to the Maine Revised Statutes, Title 30-A, section 2172, the following provisions regarding the separation of the secession territory from the Town of Cumberland and SAD No. 51 must be met. **1. Municipal separation.** The following provisions relate to separation of the secession territory from the Town of Cumberland.

A. All real and personal tangible property owned by the Town of Cumberland and situated within the secession territory is the property of the Town of Chebeague Island on July 1, 2007 and all real and personal tangible property owned by the Town of Cumberland and situated on the Cumberland mainland remains the property of the Town of Cumberland. Included in the personal property that

must be conveyed from the Town of Cumberland to the Town of Chebeague Island is a new fire truck that is in the process of being built and anticipated to be delivered to the secession territory in the spring of 2006. The Town of Cumberland may not remove, transfer or convey any real or personal property located within the secession territory after the effective date of this Act, except in the ordinary course of its operations. Any property removed, transferred or conveyed must be returned and assigned, transferred or conveyed to the Town of Chebeague Island on July 1, 2007.

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

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

D. If the Town of Cumberland's proportional share of Cumberland County expenses and debt that existed on April 1, 2006, or the contingent guaranty of Regional Waste Systems debt that existed on April 1, 2006, becomes due and payable because of a default of the Town of Cumberland due to circumstances beyond its control, the Town of Chebeague Island shall pay on rightful demand by the holder of the debt 13% of the Town of Cumberland's proportional share of the defaulted debt to the holder of the debt.

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

F. The Town of Cumberland shall maintain and is responsible for all licensing, testing and monitoring requirements related to the existing landfill located in the Town of Cumberland, referred to in this Act as "the Cumberland landfill." The Town of Cumberland shall hold harmless, defend and indemnify the Town of Chebeague Island against all claims, liabilities, costs and damages arising from or related directly or indirectly to the Cumberland landfill. The Town of Chebeague Island shall maintain and is responsible for all licensing, testing and monitoring requirements relating to the existing landfill located on Chebeague Island, referred to in this Act as "the Chebeague landfill." The Town of Chebeague Island shall hold harmless, defend and indemnify the Town of Cumberland against all claims, liabilities, costs and damages arising from or related directly or indirectly to the Chebeague landfill. The respective transfer stations for each landfill become the responsibility of

each town on July 1, 2007. The Town of Cumberland shall use its best efforts to have Regional Waste Systems or any successor entity offer membership to the Town of Chebeague Island based on the secession territory's share of the current tonnage provided to Regional Waste Systems by the Town of Cumberland.

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

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

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

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

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

B. With respect to all SAD No. 51 debt existing on April 1, 2006, referred in this Act as "the assumed SAD No. 51 debt," the Town of Chebeague Island shall assume, and pay SAD No. 51, no later than 30 days before payments become due and payable by SAD No. 51, a percentage share of principal and interest of the assumed SAD No. 51 debt that at the time of payment equals the ratio of the state valuation, as determined by the Department of Administrative and Financial Services, Bureau of Revenue Services pursuant to the Maine Revised Statutes, Title 36, section 305, subsection 1, of

the Town of Chebeague Island to the combined state valuations of the Town of Cumberland, the Town of North Yarmouth and the Town of Chebeague Island. For purposes of this subsection, the Town of Chebeague Island's percentage share of the assumed SAD No. 51 debt must be determined using the most recent certified state valuations as of July 1st in the fiscal year in which the payment becomes due.

C. In exchange for the acceptance of tuition students from the Town of Chebeague Island and for the turnover of various assets on Chebeague Island, in full and final satisfaction of all outstanding obligations and liabilities of the Town of Chebeague Island to SAD No. 51 except for ongoing obligations expressly stated in this Act, the Town of Chebeague Island shall pay to SAD No. 51 the sum of \$3,500,000, referred to in this Act as "the SAD payment," in full no later than December 31, 2007. The SAD No. 51 school board, referred to in this Act as "the board," shall enter into a contract, to commence July 1, 2007 and to expire June 30, 2014, with the school committee of the Town of Chebeague Island for the education of any student residing with a parent or legal guardian in the Town of Chebeague Island from grades 6 to 12 electing to attend school in SAD No. 51. The contract must be binding upon the board and the school committee of the Town of Chebeague Island without further authorization or approval. The contract must be binding on the successors and assigns of the Town of Chebeague Island and SAD No. 51. Tuition for Chebeague Island students must be covered by the SAD payment, except that any additional costs attributable to special education students must be paid by the Town of Chebeague Island. SAD No. 51 shall provide transportation to the Town of Chebeague Island students in accordance with the SAD No. 51 school schedule once daily each way from a ferry dock in the Town of Yarmouth designated by the school committee of the Town of Chebeague Island to the SAD No. 51 schools and from the schools back to the ferry dock. All other transportation, including extra bus runs and ferry service, must be provided by the Town of Chebeague Island. Nothing in this Act prevents the school committee of the Town of Chebeague Island from tuitioning students to or entering into tuition contracts with other school administrative units.

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

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

Sec. 4. Provision for first meeting. Within 60 days of the effective date of this Act, a justice of the peace or notary public may issue a warrant to any legal voter in the secession territory directing that legal voter to notify the municipal inhabitants of a public meeting to select 9 transition representatives by written ballot. Notice to the municipal inhabitants must be provided at least 7 days prior to the meeting. Effective immediately after the election, the transition representatives selected at the meeting are vested with the powers to represent the future Town of Chebeague Island and to enter into letters of intent and memoranda of understanding for the establishment of its local government, to negotiate interlocal agreements and to engage in other necessary transition activities. Any agreements made by the transition representatives must be presented for ratification by the Town of Chebeague Island's legislative body after the incorporation of the Town of Chebeague Island. The term of the transition committee members expires on July 1, 2007. Within 30 days prior to July 1, 2007, a justice of the peace or notary public may issue a warrant to any legal voter in the Town of Chebeague Island directing that legal voter to notify the municipal inhabitants of a public meeting to select municipal officers and school board members 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 7 days prior to the meeting. Effective July 1, 2007, municipal officers and school board members selected at the meeting are vested with all of the powers and duties that other duly elected municipal officers and school board members have, including the power to raise, borrow and spend money.

Sec. 5. Form of government. The Town of Chebeague Island shall adopt the town meeting as its form of government. This Act does not prevent the Town of Chebeague Island from voting to change its form of government without a further act of the Legislature.

Sec. 6. Education needs. Upon the date of its secession from the Town of Cumberland and incorporation as the Town of Chebeague Island, the Town of Chebeague Island becomes a municipal school unit as defined in the Maine Revised Statutes, Title 20-A, section 1, subsection 19. No further referenda, legislation or dispensations by the State, or any of its officers, departments or agencies is required of the Town of Chebeague Island prior to its undertaking the education of its school-age children.**1. Provision of educational services.** The Town of Chebeague Island shall start providing educational services in the manner described in its report to the Legislature pursuant to section 2 upon the date of its secession from the Town of Cumberland and incorporation as the Town of Chebeague Island.**2. Educational requirements.** The requirements of Title 20-A regarding the provision of public education to students, including, but not limited to, matters of curriculum, instruction, transportation, mainland student transition, attendance, student eligibility for enrollment, student records, audits, employee and applicant records, standards and assessment of student performance, health, nutrition and safety, immunization, school lunch programs, special education, school finances, gifted and talented students, career and technical education and adult and vocational education are all applicable to the educational services provided by the Town of Chebeague Island.**3. Transition governance.** The Town of Chebeague Island's education plan must provide for the transition of administration and governance of the Chebeague Island School to the properly elected Town of Chebeague Island school committee.**4. School committee authority.** This Act may not be construed to prevent the Town of Chebeague Island school committee from making changes to the provision of educational services and the education plan in accordance with the school committee's powers and duties pursuant to Title 20-A.

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

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