

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2295

S. P. 801

In Senate, January 3, 1974

Referred to the Committee on Transportation. Sent down for concurrence and ordered sent forthwith.

HARRY N. STARBRANCH, Secretary

Presented by Senator Conley of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FOUR

AN ACT Relating to the Powers of Maine Port Authority.

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

Sec. 1. P. & S. L., 1929, c. 114, § 1, sub-§ (b), amended. The first sentence of subsection (b) of section 1 of chapter 114 of the private and special laws of 1929, as amended, is further amended to read as follows:

The said Port Authority is constituted a public agency of the State of Maine for the general purpose of acquiring, constructing and operating **any kind of port piers and terminal facilities facility** within the State of Maine with all the rights, privileges and power necessary thereof. ~~and~~ It shall have the power of buying ~~leasing~~ and otherwise acquiring, ~~and of~~ holding, owning, controlling, ~~constructing~~ leasing, operating and otherwise using, ~~and of~~ selling and otherwise disposing of real and personal property and such rights and easements therein as its directors may from time to time consider necessary for the ~~above~~ purposes ~~set forth herein. constructing or securing the constructing or utilizing of piers and in connection therewith~~ It may construct pipelines, highways, waterways, railroad ~~connections~~, storage yards and sites for warehouses and industrial establishments, and may lay out and build ~~thereon~~ such wharves and piers, with buildings and appurtenances, docks, ~~highways, waterways, railroad connections, storage yards~~ elevators, public warehouses, and every kind of railroad and marine terminal facility, as, in the opinion of its directors may be desirable. ~~for a term not exceeding 5 years, it~~ It may lease, demise or rent any of its real or personal property. ~~not required in the performance of its functions; and for a period not exceeding 5 years, and in a sum not exceeding \$50,000 by vote of its directors, it~~ It may make any contract or agreement for the carrying on or performance

of its purposes or for the more advantageous, expeditious or convenient discharge of its duties, ~~no~~ **No** form of indebtedness issued or liabilities incurred by said Port Authority shall become an obligation of the State of Maine and all instruments so issued shall so state. ~~It~~ **It** may acquire, hold and operate lighters and other vessels necessary or convenient. ~~It~~ **It** may establish and collect the fees, rates, rentals and other compensation for the use of its property and facilities. ~~It~~ **It** shall keep account of its income and expenditures, property and liabilities, in manner **generally** prescribed by the Department of Finance and Administration, through the Bureau of Accounts and Control, and it shall make an annual report of the condition of its property and finances to the Governor and Council. ~~the~~ **The** net income of the Port Authority may be used for ~~improvements and extensions of the property of the Port Authority in the discretion of its directors~~ **authorized purposes.**

Sec. 2. P. & S. L., 1929, c. 114, § 1, sub-§§ (h) and (i), additional. Section 1 of chapter 114 of the private and special laws of 1929, as amended, is further amended by adding 2 new subsections (h) and (i) to read as follows:

(h) Agreements. The Port Authority and the Department of Transportation may enter into such agreements as the directors and commissioner deem to be in the best interests of the State of Maine for the department to operate any or all facilities owned by the Port Authority. Any such agreements shall set forth the terms and conditions of the operation and be subject to all the terms and conditions of any trust indenture and covenants relating to revenue bonds. The Port Authority or the Department of Transportation may establish, own, operate and maintain such navigational aids in coastal waters adjacent to the shores and harbors of the State of Maine as the directors or commissioner deem essential for safety. Any such navigational aids shall conform to and be consistent with any and all federal regulation.

(i) Bonds. The Maine Port Authority is authorized to provide by resolution from time to time for the issuance of bonds for the purpose of funding the establishment, acquisition or effectuation of port terminal facilities and things incidental thereto, for construction of proposed facilities and improvement of existing or acquired facilities and for the fulfillment of other undertakings which it may assume. The bonds of the Maine Port Authority shall not constitute a debt of the State or of any agency or political subdivision thereof but shall be payable solely from the revenue of the Authority. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this Act shall be fully negotiable. In case any director whose signature appears on the bond or coupons shall cease to be a director before the delivery of such bonds, such signature shall be valid and sufficient for all purposes as if such director had remained a director until such delivery. The Authority may by resolution authorizing prospective issues provide:

1. The manner of executing the bonds and coupons;
2. The form and denomination thereof;
3. Maturity dates;
4. Interest rates thereon;

5. For redemption prior to maturity and the premium payable therefor;
6. The place or places for the payment of interest and principal;
7. For registration if the Authority deems such to be desirable;
8. For the pledge of all or any of the revenue for securing payment;
9. For the replacement of lost, destroyed or mutilated bonds;
10. The setting aside of reserve and sinking funds and the regulation and disposition thereof;
11. For limitation on the issuance of additional bonds;
12. For the procedure, if any, by which the contract with the bondholder may be abrogated or amended;
13. For the manner of sale and purchase thereof;
14. For covenants against pledging of any of the revenue of the Maine Port Authority;
15. For covenants fixing and establishing rates and charges for use of its facilities and services made available so as to provide at all times funds which will be sufficient to pay all costs of operation and maintenance, meet and pay the principal and interest of all bonds as they severally become due and payable; for the creating of such revenues for the principal and interest of all bonds and for the meeting of contingencies and the operation and maintenance of its facilities as the directors shall determine;
16. For such other covenants as to rates and charges as the directors shall determine;
17. For covenants as to the rights, liability, powers and duties arising upon the breach by the Maine Port Authority of any covenant, condition or obligation;
18. For covenants as to the bonds to be issued and as to the issuance of said bonds in escrow and otherwise and as to the use and disposition of the proceeds thereof;
19. For covenants as to the use of its facilities and the maintenance and replacement thereof and the insurance to be carried thereon and the use and disposition of insurance money;
20. For the issuance of such bonds in series thereof;
21. The performance of any and all acts as may be in the discretion of the directors necessary, convenient or desirable to secure such bonds, as will tend to make the bonds more marketable;
22. To issue bonds on terms and conditions as to effectuate the purpose of this Act.

All moneys received from any bonds issued shall be applied solely for the establishment, acquisition or effectuation of port terminal facilities and

things incidental thereto, for the construction of proposed facilities, improvement of existing or acquired facilities and the fulfillment of other undertakings; and there shall be and there is hereby created a lien upon such moneys until so applied in favor of the bondholders or any trustee as may be provided in respect of such bonds.

In the discretion of the directors, the bonds may be secured by a trust indenture by and between the Maine Port Authority and a corporate trustee located either within or outside the State of Maine. Such a trust indenture may pledge or assign but shall not convey or mortgage any facilities of the Maine Port Authority or any part thereof.

Provisions may be made for protecting and enforcing the rights and remedies of the bondholders including covenants as to acquisition of property, construction, maintenance, operation and repair, insurance and the custody, security and application of all moneys.

Any bank or trust company incorporated under the laws of Maine may act as depositories of the proceeds of the bonds and revenue and may furnish such indemnity or pledge such securities as may be required by the Maine Port Authority.

Any indenture may set forth the rights and remedies of the bondholders and the trustee and may restrict the individual right of action of bondholders and may contain such other provisions as the directors may deem reasonable and proper for the security of bondholders.

Expenses incurred in carrying out any trust indenture may be treated as a part of maintenance.

The purposes of this Act being public and for the benefit of the people of the State of Maine, the Maine Port Authority Bonds shall at all times be free from taxation by the State of Maine.

The Maine Port Authority may issue revenue refunding bonds for the purpose of refunding said revenue bonds issued under this Act. The issuance of any refunding bonds shall be the same as provided for herein as relates to revenue bonds.

In the event of default on the bonds and such default continues for a period of 3 months, action may be brought to enforce the rights of the bondholders by insuring that the operation by the directors be in conformity with the covenants of the bonds or indenture.

Sec. 3. P. & S. L., 1929, c. 114, § 3, repealed and replaced. Section 3 of chapter 114 of the private and special laws of 1929, as amended by section 30 of chapter 593 of the private and special laws of 1971, is repealed and the following enacted in place thereof:

Sec. 3. Property of the State. All real and personal property owned by and in the name of the Port Authority shall be considered as property of the State of Maine and entitled to the privileges and exemptions of property of the State of Maine, except insofar as waived by the duly authorized contract,

mortgage or other written instrument of the Port Authority or by this Act. The Port Authority and the Department of Transportation shall agree upon and from time to time review the preferred status of property held or controlled by them and necessary to either body's performing its statutory duty and shall arrange to sell, exchange, give or otherwise transfer title or possession of various properties between themselves consistent with sound business management and as may serve the best interest of the State of Maine in their opinion; and shall be and are hereby authorized to execute and record a deed or lease between them to effectuate the transfer. The Governor and Council may grant transfer and convey such other state land or lands under water to the Port Authority under such terms and conditions as they may determine.

Sec. 4. P. & S. L., 1929, c. 114, § 4, sub-§ (a), repealed and replaced. Subsection (a) of section 4 of chapter 114 of the private and special laws of 1929, as amended, is repealed and the following enacted in place thereof:

(a) Development; employees. The Port Authority, in cooperation with such state agencies charged with responsibilities for port development, may cause plans to be made for the development of ports and harbors; and for the purposes of carrying out the duties of the Port Authority, it shall have immediate charge of any undeveloped lands under the sea and flats now or hereafter owned by the State. The Port Authority shall employ such engineers, clerks, attorneys, agents, assistants and other employees as it may deem necessary and shall determine their duties and compensation.

Sec. 5. P. & S. L., 1929, c. 114, § 2, amended. The 4th sentence of section 2 of chapter 114 of the private and special laws of 1929, as last repealed and replaced by section 29 of chapter 593 of the private and special laws of 1971, is amended to read as follows:

The other director shall be the Commissioner of Transportation who shall serve as chairman of the board of directors and president.

Sec. 6. Appropriation. There is appropriated to the Port Authority the sum of \$5,000 from the General Fund for the fiscal year ending June 30, 1975, to carry out the purposes of this Act. The appropriation shall not lapse but shall remain a continuing carrying account.

STATEMENT OF FACT

The purpose of this Act is to make such revisions to the Maine Port Authority enabling legislation as are necessary to implement the planned development of the Portland Waterfront and to implement future plans for like development elsewhere in the State. Further, it is to provide an improved base for revenue bond financing of port developments and assure close liaison and team work between the Department of Transportation and the Port Authority in such developments.