

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION
NEW DRAFT OF: H. P. 1275; L. D. 1782

ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 1802

H. P. 1293

House of Representatives, January 26, 1966

Reported by Mr. D'Alfonso from Committee on Public Utilities. Printed under Joint Rules No. 10.

JEROME G. PLANTE, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SIX

AN ACT Creating Municipal Transportation Districts.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment of the Legislature unless enacted as emergencies; and

Whereas, certain municipalities now face the potential discontinuance of mass motor vehicle transportation services by private operation; and

Whereas, the following legislation is vitally necessary in the interest of preserving public mass transportation services in said municipalities; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

R. S., T. 30, c. 240, additional. Title 30 of the Revised Statutes is amended by adding a new chapter 240, to read as follows:

'CHAPTER 240

TRANSPORTATION

§ 4971. Formation

Any municipality may by vote of its legislative body by itself, or in cooperation with one or more other municipalities, so located as to be contiguous to one another, form a Transit District for the purposes provided in this chapter. The

district so formed shall be a body politic and corporate, may sue, be sued, plead and be impleaded, adopt a name, adopt and alter a common seal, and do all things necessary to furnish motor vehicle mass transportation within said district, including charter service, for public purposes in the interest of public health, safety, comfort and convenience of the inhabitants of the municipality or municipalities comprising such district.

§ 4972. Management

The affairs of a district so formed shall be managed by a board of directors chosen from the inhabitants of the municipality or municipalities comprising the district. Each municipality shall be entitled to one director for each 10,000 inhabitants thereof or fraction thereof, as determined by the latest decennial census, in accordance with the following schedule: 0 to 10,000—1; 10,001 to 20,000—2; 20,001 to 30,000—3; 30,001 to 40,000—4; 40,001 to 50,000—5; 50,001 to 60,000—6; 60,001 to 70,000—7; over 70,001—8. Such directors shall be appointed by the municipal officers of each municipality for a term of 3 years and until their successors have been appointed, with vacancies being filled for the unexpired portion of the respective terms, except that the terms of office of the directors first appointed shall be determined by lot at their first organizational meeting as follows: One-third of those so appointed shall serve for 3 years, $\frac{1}{3}$ for 2 years and the remaining number for one year, with appointments thereafter being for the full term of 3 years. Two-thirds of the directors so appointed shall constitute a quorum for the transaction of business, and action taken by a majority of directors present at any meeting at which a quorum is in attendance shall be deemed to be the action of the full board of directors.

§ 4973. Meetings; officers and employees

The directors shall meet at least 4 times a year or more often if required to by the bylaws, or upon call of the president, and the president shall call such other meetings as shall be requested in writing directed to him signed by at least $\frac{1}{3}$ of the members of the board of directors. They shall elect from among their members a president, treasurer, clerk and such other officers as they may desire and shall adopt bylaws and rules for the conduct of the affairs of the district. They shall appoint and fix the salary of a district manager who shall not be a director and who shall be the chief executive officer of the district and who shall appoint such other employees as are required for district purposes and shall fix the salaries of such employees. The directors may, by resolution, indicate which appointments by the manager and salaries established by the manager shall require confirmation of the board of directors.

§ 4974. Interest in contracts

No director, officer or employee of the district shall be interested directly or indirectly in any contract entered into by or in behalf of a district for work or material, or the purchase thereof, or in any property acquired or to be acquired by the district, and all contracts made in violation hereof are void.

§ 4975. Certificate of organization

The district shall after its organization file a certificate with the Secretary of State setting forth the following information:

1. Name. Name of the district;
2. Purposes. Its purposes;
3. Municipalities included. Municipalities included within the district;
4. Location. Location of the principal office;
5. Names of directors. Number and names of the directors and their addresses; and
6. Names of officers. Names and addresses of the officers.

Such certificate shall be signed by the president and treasurer and a majority of the directors, and the president or treasurer shall make oath that the signatures set forth in the certificate are true. From time to time as changes may occur, the district shall file an amended certificate with the Secretary of State setting forth such changes.

§ 4976. Single municipal district

In the event a single municipality shall vote to create such a district, its municipal officers shall appoint from the inhabitants of such municipality 5 directors, who shall have the same terms of office, powers, duties and privileges as set forth in this chapter. A single municipality may, by vote of its legislative body, be empowered to perform the functions provided in this chapter without creating a district and thereafter such single municipality shall have all of the powers, duties and privileges established applicable to a district, and the municipal officers of such municipality shall have the same powers, duties and privileges granted under this chapter to the board of directors of a district.

§ 4977. District defined

Wherever the word "district" is used in this chapter, it shall be deemed to include a district created by vote of a single municipality, or by vote of a group of municipalities, or a municipality voting to provide such mass transportation service without the creation of a district.

§ 4978. Powers of directors

The directors of a district shall have full power to take, purchase, hold, maintain, operate, lease, rent, mortgage and convey any and all real and personal property, or to lease or sublease the same, or to enter into contracts with private companies, for the purpose of providing mass transportation services wholly or partially within the municipalities comprising the district, and for such purpose to contract with the Federal, State and municipal Governments for donations, loans, grants, gifts or other assistance and in such contracts to agree to be bound by all applicable provisions of federal, state and municipal statutes and regulations as the case may be.

§ 4979. Collective bargaining; rights of employees

The directors of a district shall have full power to bargain collectively, and enter into written contracts, with duly authorized labor organizations representing employees other than executive, administrative or professional personnel and such contracts may provide for wages, salaries, hours, working conditions and benefits, including by way of illustration and not of limitation, provisions pertaining to health and welfare, insurance, vacations, holidays, sick leave, senior-

ity, arbitration, pensions and retirement. By the enactment of this provision it is declared to be the public policy of this State for the protection of the public health, safety and welfare that employees covered by such contracts shall be accorded all of the rights of labor other than the right to strike or engage in any work stoppage or slowdown. Whenever a district acquires any local mass transportation system pursuant to this chapter and operates such system or leases or contracts for the operation of such system pursuant to this chapter, the individual employees of such system shall be retained in positions the same as, or no worse than, their positions prior to the acquisition of such system by the district to the fullest extent possible consistent with sound management and to the extent required by the service to be rendered from time to time by the district, its lessee, or contractor. Any such employee not retained or laid-off after retention by reason of lack of work or curtailment of service shall be assured priority of employment or reemployment when a position for which he is qualified becomes available.

§ 4980. Limitation

Charter service rendered by the district shall be limited to that which originates or terminates at some point within said district and shall in all respects be subject to the jurisdiction of the Public Utilities Commission in the same manner and to the same extent as private companies providing charter service.

§ 4981. Routes and fares; sinking fund

The directors of a district shall establish such routes and shall fix such rates of fare to be charged for such mass transportation service as shall to the extent possible reasonably assure sufficient income to meet the cost of the service, including, but not limited to, operating expenses, insurance, taxes, rentals, annual serial bond payments, interest, allocation for a reserve account and an allowance for depreciation. If, after all such obligations have been met, a surplus shall remain, the directors may deposit all or any part of such surplus in a reserve account or in the sinking fund created by this chapter. In the event all or any part of such surplus is deposited in the sinking fund, the amount of the annual commitment to the tax assessors of the municipalities comprising the district covering payments to said sinking fund shall be reduced by the amount of said deposit.

§ 4982. Estimate of expenditures; contributions; appropriations

The board of directors shall on or before November 1st of each year prepare and submit to the municipal officers of the municipalities comprising a district an itemized estimate of expenditures and revenues for the following calendar year, which shall be the fiscal year. Such estimate shall include the following:

1. Anticipated revenues. An itemized estimate of anticipated revenues during the ensuing fiscal year from each source;
2. Estimate of expenditure. An itemized estimate of expenditures for each classification for such ensuing fiscal year;
3. Actual receipts. After the first year of operation, an itemized statement of all actual receipts from all sources to and including September 30th of

each previous fiscal year, with estimated receipts from such sources shown for the balance of such year;

4. Actual expenditures. After the first year of operation, an itemized statement of all actual expenditures to and including September 30th of each previous fiscal year, with estimated expenditures shown for the balance of such year;
5. Estimate of surplus or deficit. An estimate of revenue surplus or deficit of the district at the beginning of the fiscal year for which estimates are being prepared.

Each year prior to such submission to the municipal officers, the board of directors of the district by a 2/3 vote of its entire membership, shall establish a formula for contributions to be made by each municipality in order to defray any projected deficit, and the amount of such contribution required from each municipality shall be shown in said estimates filed with the municipal officers of each municipality. Such formula shall be based upon such items as route mileage, profit or loss resulting from such service to the municipality, population and such other factors as the board of directors deem relevant. The amount allocated to each municipality in accordance with such formula shall be included in the warrant to the assessors of each municipality in the manner provided in section 4987 and shall be due and payable as provided. In the event that the board of directors is unable to establish the formula by securing a 2/3 vote of its entire membership, or in the event a municipality refuses to accept said formula within 30 days after its submission, the district shall immediately petition the Public Utilities Commission which, after notice to all municipalities comprising the district and hearing, shall consider the formula and make its findings with respect thereto within 60 days from the date of the filing of the petition by the district. Said findings of the Public Utilities Commission shall be binding upon the board of directors and the municipalities. The district or any municipality may appeal from the findings and decision of the Public Utilities Commission in accordance with Title 35, section 303.

Not more than 120 days after November 1st, the board of directors shall make such specific appropriations based on said estimates as appear advisable, or the finding and decree of the Public Utilities Commission, as the case may be. In the event of an appeal from the findings and decision of the Public Utilities Commission, such appropriations shall be made in accordance with the findings and decision of the Public Utilities Commission with any adjustments resulting from said appeal being made as provided in the following sentences. If it becomes necessary during any fiscal year for the board of directors to appropriate additional sums, the provisions of this section governing payments by municipalities for discharge of any further deficit shall apply to such additional appropriations by the board of directors. In the event such additional payment cannot be included in the current assessment, the municipal officers of each municipality may appropriate such amount out of unappropriated surplus, contingency fund or by temporary borrowing.

§ 4983. Exempt from taxation; fuel tax refund

The property, both real and personal, of a district, whether held and operated by itself or leased to a private operator, for the purpose of providing mass

transportation as provided in this chapter shall be exempt from all registration fees, real, personal, excise, sales and use, and any other taxes which may now or hereafter be assessed by the State of Maine or any political subdivision thereof. A district, or its lessee, or any person, firm or corporation contracting with the district for the purpose of furnishing mass transportation, shall be entitled to be reimbursed and paid to the extent of the full amount of the tax paid for fuel used in motor vehicles owned and operated by them for such purpose. Such district, lessee or person, firm or corporation shall present its claim to the State Tax Assessor in such form and with such information as the State Tax Assessor may prescribe accompanied by original invoices showing such purchases. Applications for refunds as provided must be filed with the State Tax Assessor within 9 months from the date of purchase.

§ 4984. Membership

Any municipality so located as to be contiguous to any other municipality authorized to provide transportation services in accordance with this chapter or contiguous to any municipality who is a member of the Transit District may make application to said Transit District for membership in the district and the board of directors shall have the right to accept or refuse the application for such membership. Any municipality before becoming a member of the Transit District shall, in addition to having its application accepted by the board of directors, obtain the prior approval of the Public Utilities Commission.

§ 4985. Withdrawal

A municipality may withdraw from the district at the end of a fiscal year provided that it has given the board of directors at least one year's written notice of its intention to do so. Such municipality shall be permitted to withdraw only if it pays its proportionate share of the current indebtedness of the district prior to withdrawal and agrees by appropriate written document to pay its proportionate share of any long-term indebtedness of the district as such indebtedness becomes due and payable. During the period of notice, such withdrawing municipality shall not become liable for any capital expenditures or borrowings which may be made by the district. The proportionate share of the withdrawing municipality in such current and long-term indebtedness of the district shall be in accordance with the formula then in effect for payment of the current and long-term indebtedness.

§ 4986. Notes; securities

For accomplishing the purposes of this chapter and for paying any indebtedness and any necessary expenses and liabilities incurred therefor, including organizational and other necessary expenses, the district by vote of its board of directors is authorized to borrow money temporarily and to issue therefor its negotiable notes and by vote of its board of directors to issue from time to time securities of the district in one series or in separate series in such amount or amounts, bearing interest at such rate or rates and having such terms and provisions as the board of directors shall determine. Said securities may be issued with or without provision for calling the same prior to maturity and, if callable, may be made callable at par or at such premium as the board of directors may determine. All negotiable notes authorized for temporary borrowing shall be signed on behalf of the district by its treasurer and countersigned by its presi-

dent. All securities shall have inscribed on their face the corporate name of the district, shall be signed by the treasurer and countersigned by the president and if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile of the signature of the treasurer. The board of directors may from time to time issue in one series or in separate series its securities for the purpose of paying, redeeming or refunding outstanding securities. All securities issued by said district shall be legal obligations of the district which is declared to be a quasi-municipal corporation within the meaning of Title 30, section 5053, and all provisions of said section shall be applicable thereto. All such securities shall be legal investments for savings banks in the State of Maine and shall be tax exempt. In case said securities are to be payable for a specified term of years, a sinking fund shall be established by the board of directors for the purpose of paying or redeeming said securities when they become due. The board of directors shall determine annually the sum, with interest, to be paid into the sinking fund by each municipality comprising the district, which sum shall be based on the same formula used in computing the operating deficit payment.

§ 4987. Warrant for taxes

The directors shall each year, before the first day of April, issue their warrant in the same form as the warrant of the Treasurer of State for taxes, with proper changes, to the assessors of the municipalities comprising the district requiring them to assess the sum allocated to each such municipality for payment of the operating deficit and the sum allocated to each such municipality for payment into the sinking fund, if any, upon the taxable polls and estates within said municipalities and to commit their assessment to the constable or collector of said municipalities, who shall have all authority and powers to collect said taxes as is vested by law to collect state, county and municipal taxes. Within 30 days after the date fixed by the municipalities on which their taxes are due, the treasurer of said municipalities shall pay the amount of the tax so assessed to the treasurer of said district. In case of the failure on the part of the treasurer of a municipality to pay such sum, or in case of his failure to pay any part thereof on or before the date above set in the year in which said tax is levied, the treasurer of the district may issue his warrant for the amount of said tax or so much thereof as shall remain unpaid, to the sheriff of the appropriate county, requiring him to levy by distress and sale on real and personal property of any of the inhabitants of said municipality and the sheriff or either or any of his deputies shall execute said warrant.

§ 4988. Eminent domain; appeal

A district is authorized to acquire for the public purposes of a district by purchase or by the exercise of the power of eminent domain any and all real property of any person, firm or corporation and the real and personal property and franchise of any person, firm or corporation operating a local mass transportation service within any municipality comprising a district. If the district and the owner are unable to agree on a price within 60 days after the district has notified the owner of its intention to exercise its power of eminent domain, the board of directors of a district may, by resolution, take and acquire all or any part of the real and personal property and franchise of said owner, and shall determine the amount to be paid to the owner for such taking. Upon payment of

such amount, or if payment is refused, upon depositing said amount with the treasurer of the district, which funds he shall hold in trust separate and apart from other funds of the district, the district may take and become the owner of such real and personal property and franchise as is set forth in said resolution. The board of directors shall, within 30 days after said payment or tender, cause a certified copy of the resolution and a description of any real property and a plan thereof, together with a description of any personal property so taken, to be recorded in the registry of deeds in the county where the land and property is located. The district shall cause a certified copy of the resolution of the board of directors and a certified copy of the filing in the registry of deeds to be either delivered personally to the owner or his agent or sent by registered mail to the owner. In the event a district shall acquire by eminent domain real or personal property in connection with a project involving federal participation under the Urban Mass Transportation Act of 1964, the district shall in such acquisition, comply with all of the procedures established under such Act for acquiring such real or personal property.

If the owner is aggrieved at the damages awarded for such taking, he may appeal from such award to the Superior Court of the county in which the property lies by filing a complaint in said court and serving the district with a copy thereof within 60 days from the date of the recording in the registry of deeds. Said complaint shall set forth substantially the facts, but shall not state the amount of the damages previously awarded to the owner, and the damages may be determined in the Superior Court by a committee of reference if the parties so agree, or by a verdict of its jury. If the damages are increased, such district shall pay the damages and costs; otherwise the costs shall be paid by the appellant. The committee of reference shall be allowed a reasonable compensation for their services, to be fixed by the court upon the presentation of their report and paid from the county treasury upon the certificate of the clerk of courts. An appeal may be taken by any party from the judgment of said court to the Supreme Judicial Court as in other cases.

§ 4989. Incidental rights

All incidental powers, rights and privileges necessary to the accomplishment of the main objective set forth in this chapter are granted to a district created. Such district shall be subject to the jurisdiction of the Public Utilities Commission only to the extent provided in this chapter.

§ 4990. Dissolution

At such time as a district shall have discharged all of its obligations and paid or provided for the payment of all of its bonded indebtedness, the board of directors may, by 2/3 vote of its membership, dissolve the district and dispose of all of its property, real and personal, in such manner as said board of directors shall authorize and direct, with the treasurer being authorized to execute any deeds, bills of sales or any documents required for such purpose. All money, if any, remaining in the hands of the treasurer of the district shall be paid to the municipalities comprising the district as of the date of such dissolution in accordance with the formula then in effect for payment of any operating deficit.'

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.