

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 1073

H. P. 835

House of Representatives, February 26, 1969

Referred to Committee on State Government. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Benson of Southwest Harbor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Creating The Port Authority of Mount Desert.

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

Sec. 1. Incorporation. Subject to the provisions of section 12, the inhabitants of the territory within the Town of Mount Desert are hereby created a body politic and corporate under the name of "The Port Authority of Mount Desert" for the purpose of improving harbor and port facilities, providing public or common landings, public parks, playgrounds and recreational centers, all for the benefit of said inhabitants and with the following powers, rights and privileges to be exercised as the same shall be necessary and desirable for the authority and for the general benefit of the public and of the inhabitants of said authority :

1. To acquire by purchase or otherwise real and personal property including littoral rights, privileges, easements, rights-of-ways and facilities.

2. To reclaim lands by drainage or fill, including lands and areas over which tidewaters ebb and flow, which said reclaimed lands shall be the property of the authority, except as hereinafter provided.

3. To construct and maintain bulkheads, bridges, wharves, piers, docks, marine railways, waterways, public landings, highways, power and yacht storage facilities, service stations of all kinds, buildings and appurtenances thereto, together with the following powers, rights and privileges as incidental to the foregoing to be exercised when the same shall be deemed necessary and desirable for the benefit of the general public and said Port Authority :

1. To let, rent, lease and extend rights and privileges in buildings, wharves, piers, docks and land so acquired.

2. To let privileges and concessions upon its property.
3. To do any and all things necessary or appurtenant and incidental to any of the foregoing.

Sec. 2. Board of trustees; their duties. All of the affairs of said authority shall be exercised, managed and carried out by a board of trustees composed of 3 members, all of whom shall be chosen at a town meeting of the Town of Mount Desert duly called and legally held within 60 days after this Act takes effect, one member for the term of 3 years, another member for the term of 2 years and another member for the term of one year; annually thereafter members shall be so chosen for a term of 3 years. The members shall serve for the term for which they are elected or until their successors are duly appointed and qualified. In case of a vacancy, the selectmen of the Town of Mount Desert shall forthwith appoint a person for the remainder of his or her unexpired term. Said trustees shall organize and choose a chairman, a secretary and a treasurer, and shall appoint such other officers and agents as they may deem necessary for the proper management of the affairs of the authority, and may promulgate and establish a code of bylaws and all necessary and reasonable rules and regulations for the proper conduct and effective administration of the affairs of said authority. The compensation for the services of said trustees shall be fixed by vote of said town. At the close of each calendar year the trustees shall make a detailed report of their doings, of the financial condition of said authority, and also such other matters and things pertaining to said authority as shall show the inhabitants thereof how said trustees are fulfilling the duties and obligations of their trust, said reports to be made, attested to and filed with the municipal officers of said Town of Mount Desert.

Sec. 3. Right of eminent domain conferred. The said authority shall have the right to take any property, including shore and littoral rights and privileges, by right of eminent domain for purposes of this authority. Said trustees shall, within 90 days after voting to take any lands, easements, or shore and littoral rights and privileges, file and cause to be recorded in the registry of deeds for the County of Hancock, a plan and description thereof sufficiently accurate for identification, with a statement of the purposes for which the same is to be taken, signed by a majority of said trustees, and within 30 days thereafter shall publish notice of such taking and filing in some newspaper published in said county, such publication to be continued for 3 weeks successively. Said recording shall operate as a taking of any real estate and of the rights and easements, including shore and littoral rights and privileges therein, and said authority by a majority of its trustees, shall first have the right to enter in and upon any lands or real estate, including said shore and littoral areas, to make necessary surveys and location preliminary to such returns. Should said trustees, or a majority of them, be unable to agree with the landowner upon the damages to be paid for the land, real estate, or shore and littoral rights and privileges so taken, the landowner or the said trustees may, within 3 months after the filing of said plan, petition the county commissioners of said County of Hancock who shall cause such damages to be assessed in the same manner and under the same conditions, limitations, restrictions and rights of appeal as are by law prescribed in cases

of damages for the laying out of highways, so far as said law is consistent with the provisions of this Act.

The trustees shall pay all damages sustained by any person, firm or corporation by the taking of any land, easements, rights and privileges as herein provided for from the proceeds of bonds issued by the said authority as hereinafter provided for, or from any other funds in the hands of the authority.

Sec. 4. How financed; bond issue authorized. To procure funds for the purpose of this Act and such other expenses as may be necessary to the carrying out of said purposes, the said authority is hereby authorized to issue its bonds and notes, as hereinafter provided, but shall not incur a total outstanding indebtedness exceeding the sum of \$100,000. Each bond shall have inscribed upon its face the words: "The Port Authority of Mount Desert" and shall bear interest at a rate to be set by the trustees, payable semiannually or quarterly. Said bonds may be issued to mature serially or made to run for such periods as said trustees may determine, but none shall run for a longer period than 30 years from the date of the issue. Provided that the authority shall issue its bonds or notes only after approval by a majority vote of the legal listed voters of the authority embraced within the limits of said authority, present and voting, at a meeting to be especially called and held for the purpose. Notice of said meeting, stating the purpose thereof, shall be given by the trustees of said authority at least 7 days prior to said meeting by posting said notice in 3 public places within said authority. An attested copy of the call and notice of posting same, together with the doings of said meeting shall be filed with the clerk of the Town of Mount Desert. All notes or bonds issued by said authority shall be signed by the treasurer and countersigned by the chairman of said authority, and if coupon bonds be issued, each coupon shall be attested by a facsimile signature of the chairman and treasurer printed thereon. The treasurer shall give bond to the authority in such sum and with such sureties as said trustees may determine, which bond shall remain in the custody of the chairman. The expense of said bond shall be paid by the authority.

Sec. 5. Provision for revenue. The trustees of the authority shall determine the sum required and to be paid annually for the servicing of the bonds, including interest and retirement thereof, and other necessary expenses of the authority, provided that the amount of the other necessary expenses of the authority, so determined, in any year shall first be authorized by a majority vote of the legal listed voters of the authority, embraced within the limits of said authority, present and voting at a meeting to be especially called and held for the purpose. Notice, call and return of said meeting shall be in accordance with the provisions of section 4 providing for the approval of bonds. Said trustees 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 Town of Mount Desert, requiring them to assess the sum so determined upon the taxable polls and estates within said authority and to commit their assessment to the constable or collector of said Town of Mount Desert, whose duty it shall be to collect said taxes and who shall have all authority and power to collect said taxes as is vested in him by law, to collect state, county and municipal taxes. On or

before the 31st day of December of the year in which said tax is so levied, the treasurer of said town shall pay the amount of the tax, so assessed and collected against the property within said authority, to the treasurer of said authority. In the case of the failure on the part of the treasurer of the town to pay said sum, or in the case of his failure to pay any part thereof on or before said 31st day of December of the year in which said tax is so levied, the treasurer of said authority may issue his warrant for the amount of said tax or so much thereof as shall then remain unpaid, to the sheriff of Hancock County, requiring him to levy by distress and sale on real and personal property of any of the inhabitants of said authority, and the sheriff or either or any of his deputies shall execute said warrant except as is otherwise provided herein. The same authority as is vested in county officials for the collection of county taxes, under the provisions of law, is hereby vested in the trustees of said authority in relation to the collection of taxes within said authority.

Sec. 6. Service of bonds and other expenses. The trustees shall redeem said bonds when due and not less than $3\frac{1}{3}\%$ of the total amount of the bonds outstanding each year, beginning not later than 12 months after said bonds are so issued as aforesaid, so that said bonds shall be retired in no less than 30 annual installments within 30 years from the day of the date of their issue. The trustees are empowered to purchase any of the bonds of the authority upon favorable terms if and when sufficient funds have accumulated and bonds so redeemed or purchased shall be cancelled. The trustees shall determine the amount of money which will be required each year to meet the interest on said bonds as well as the principal thereof and the total sum necessary for interest, principal, maintenance, repairs and construction shall be paid out of the revenue and profits received by said authority. The said authority is hereby authorized and empowered to enter into such agreement with the Federal Government, or any corporation or board authorized by the Federal Government, to loan money or otherwise assist in the financing of said projects as this authority is authorized to carry out.

Sec. 7. Sinking fund. The trustees may in their discretion, from time to time, set aside from any surplus funds in their hands, funds for the purpose of the retirement and cancellation by purchase or otherwise of the bonds of the authority. And such purchase or retirement and cancellation of bonds from said fund shall be in addition to the bonds retired and cancelled under section 6 and shall not reduce the amount of bonds heretofore provided for to be retired by taxation except as the same may be sufficient to retire and fully service the entire issue or issues, the bonds first issued being paid first. Such funds so set aside shall not be used for any other purpose.

Sec. 8. Authorized to lease town properties. The said authority is empowered to lease to or from the Town of Mount Desert any properties which may be deemed necessary and advantageous for the purposes of said authority and for the general public benefit.

Sec. 9. Trustees may accept deeds and devise in name of said authority. The trustees may accept in behalf of the authority by gift, grant, bequest or devise, moneys or the equivalent, personal or real property, or rights therein, including shore and littoral rights and privileges within the limitations and

subject to the provisions and purposes of this Act, and may accept appropriate grants of money from the State or Federal Governments.

Sec. 10. Saving clause. If any portion of this Act shall for any reason be held to be unconstitutional or illegal in purpose and application, such decision shall not affect the validity of the remaining portions thereof.

Sec. 11. Provision for termination of the board of trustees and the authority. At such times as all of the financial obligations of the authority as to principal and interest charges shall be paid and retired, all the property and powers of the authority shall become the property and powers of the Town of Mount Desert upon the acceptance of the same by said town at an annual town meeting; and from that time all the affairs of the authority shall be exercised, managed, maintained and carried on by said town and the trustees shall be discharged and the Port Authority terminated.

Sec. 12. Effective date; referendum; certificate to Secretary of State. This Act shall take effect 90 days after the adjournment of the Legislature, only for the purpose of permitting its submission to the legal voters of the Town of Mount Desert at a special meeting called and held for that purpose not later than 45 days after the effective date of this Act. Such special meeting shall be called, advertised and conducted according to the laws relating to municipal elections.

The town clerk shall prepare the required ballot on which he shall reduce the subject matter of this Act to the following question:

“Shall ‘An Act Creating The Port Authority of Mount Desert’, passed by the 104th Legislature, be accepted?”

The voters shall indicate by a cross or check mark placed against the words “Yes” or “No” their opinion of the same.

This Act shall take effect for all purposes hereof immediately upon its acceptance by a majority of the legal voters voting in said election; provided the total number of votes cast for and against the acceptance of this Act at said meeting equals or exceeds 20% of the total vote for all candidates for Governor cast in said town at the next preceding gubernatorial election.

The result of the vote shall be declared by the municipal officers of the Town of Mount Desert and due certificate thereof shall be filed by the town clerk with the Secretary of State.