

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 1420

S. P. 424

In Senate, April 2, 1969

Referred to Committee on Legal Affairs. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Bernard of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Establishing the Auburn-Lewiston Airport Authority.

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

Sec. 1. Incorporation and purposes. There is hereby created a body corporate and politic to be known as the Auburn-Lewiston Airport Authority, hereinafter call "the Authority". The purposes of the Authority shall be to operate, maintain and improve the Auburn-Lewiston Airport and to plan, acquire facilities for, construct and operate such additions to or extensions of the existing airport and related facilities as may be necessary to provide optimum air transportation service for Auburn, Lewiston and the surrounding area. The Authority shall have all of the powers, rights, privileges and immunities necessary for the accomplishment of the aforesaid purposes whether or not such powers are hereinafter specifically enumerated.

Sec. 2. Acquisition of property; right of eminent domain. The Authority is authorized to acquire from the Cities of Lewiston and Auburn and said cities are authorized to convey or otherwise transfer to the Authority the existing Auburn-Lewiston Airport property situated on the Hotel Road, Auburn, consisting of land and buildings, easements, fixtures, equipment, and tools, and all other property, both real and personal, which is part of or used at the existing airport facility together with all leases, bank accounts, accounts receivable and all other intangible property presently being administered by the Lewiston-Auburn Airport Committee. The consideration for the aforesaid transfer shall be the assumption by the Authority of all presently outstanding debts and liabilities of the two cities incurred in the course of administering the existing airport together with the assumption of the cities' obligation to operate and maintain a public airport undertaken when the airport property was transferred to them by the Federal Government.

The Authority may also acquire by purchase, by eminent domain, or otherwise such real and personal property, easements, air rights and property rights, whether or not located in Auburn, as may be necessary or convenient to the accomplishment of its purposes. The Authority is authorized to extend its runways and related facilities over or across the public highways of the City of Auburn where alternative means of access are or can be made available to persons served by the highway and where such construction would not unduly interfere with some other existing public purpose of the city. The Authority shall assume responsibility for all costs of such work including the cost of providing alternative roads or access ways where such is required and shall indemnify the city for any liability which it may incur to third persons as a result of such construction including damages for negligent performance of the work.

Sec. 3. Crossing public utilities. The Authority is authorized to take by eminent domain any part of the right-of-way or facilities of the Lewiston and Auburn Railroad Company, including the interest of any person or company who may then be leasing the same, where such action is reasonably necessary to the accomplishment of the purposes of the Authority. Where it is otherwise proposed that the runways or other installations of the Authority shall cross or otherwise interfere with property or service of a public utility and where consent of the utility to such crossing is refused, application shall be made to the Public Utilities Commission to determine the place, manner of crossing and the conditions upon which the same may be made. Such runway or other installation interfering with the property or service of the public utility shall thereafter be constructed only to the extent permitted by and subject to conditions imposed by the Public Utilities Commission and such work shall be performed under its supervision.

Sec. 4. Procedure in eminent domain proceedings. When property is to be taken through the exercise of the power of eminent domain, the Authority shall cause to be recorded in the Androscoggin County registry of deeds a description identifying the property to be taken with reasonable accuracy and indicating the names of the owners thereof, if known, together with a notice that the same is to be taken by the Authority. Copies of the notice and description shall also be sent at the same time by registered or certified mail to all persons whose whereabouts are known having an interest of record in such property. No entry shall be made upon private lands so taken within 10 days after such recording except to make surveys. At the end of said 10-day period, title to said property shall vest in the Authority and possession of the same may be taken. After the expiration of said 10-day period, the Authority shall promptly submit in writing to the persons or corporations whose property is taken, an offer in writing to pay an amount found by the Authority to represent fair compensation therefor. The offer of the Authority as to the amount of damages due shall be final and binding upon all parties having an interest in the property unless, within 60 days from the date on which such offer is made, an appeal is taken from the Authority's determination as to damages to the Androscoggin County Superior Court. Such appeal shall be taken in the manner prescribed by Rule 80B of the Maine Rules of Civil Procedure and any amendments thereto, except in the respects in which

proceedings under the rule would be inconsistent with the express provisions of this Act.

When for any reason the Authority fails legally to acquire property which it is authorized to take and which is included in its recorded description, or if the recorded description is defective or ambiguous, it may at any time thereafter correct and perfect its proceedings or file a corrected description. In such case, the Authority will be liable in damages only for property for which the owners thereof had not previously been paid to be assessed as of the time of the original taking, and the Authority shall not be liable for any act which would have been justified if the original taking had been lawful.

Sec. 5. Disposal of surplus property. When the Authority determines that any real or personal property or interests therein in its possession are no longer necessary to the accomplishment of the purposes of the Authority, it may dispose of the same, subject to any restrictions which may be imposed by the Federal Government or its regulatory agencies having administrative jurisdiction over the Authority's operations, upon such terms as it considers advisable.

Sec. 6. Contracts. In the performance of its purposes, the Authority is authorized to enter binding contracts with other persons, corporations and governmental bodies or agencies thereof including contracts to lease the use of land, buildings or other airport facilities presently existing or to be constructed to private tenants upon such terms as the board of the Authority shall approve. The Authority may also negotiate for, receive and use grants and loans from any governmental body or agency which are available for use in the furtherance of any of the purposes of the Authority.

Sec. 7. General provisions regarding borrowing. In order to accomplish its purposes including the renewing or refunding of indebtedness heretofore or hereafter incurred, the Authority is authorized to borrow money and issue, from time to time, bonds, notes or other evidences of indebtedness in one series or in separate series in such amounts and bearing interest at such rates as it shall determine to be advisable. In anticipation of any such permanent borrowing, the Authority is authorized to issue its temporary notes payable from the proceeds of the bonds or other evidences of indebtedness.

Any such notes, bonds or other evidences of indebtedness may be issued to mature serially or made to run for such periods as the Authority may determine and each authorized issue shall constitute a separate loan. When bonds are issued to mature on a fixed date after issuance rather than serially, they shall be retired, in whole or in part, through the creation of a sinking fund in which the Authority shall annually deposit a sum equal to at least 1% of the indebtedness secured by said bonds. The sinking fund shall be invested in such investments as are authorized for savings banks of this State and shall be held, together with accumulated income thereon, for the sole purpose of paying the principal of the bonds. Bonds, notes or other evidences of indebtedness 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 Authority shall determine. All bonds, notes or other evidences of indebtedness shall be signed by the treasurer and countersigned

by the chairman of the board of the Authority, and if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile signature of the treasurer of the board. All bonds, notes and other evidences of indebtedness issued by the Authority shall be legal investments for savings banks in the State of Maine and shall be tax exempt. All such bonds and notes shall be deemed to be negotiable instruments under the laws of this State. All such bonds, notes and other evidences of indebtedness of the Authority shall be legal obligations of the Authority, enforceable against all property of whatever kind owned by it. Either or both of the Cities of Auburn and Lewiston may by affirmative vote of their city council and board of aldermen respectively vote to guarantee payment of any bond, note or other evidence of indebtedness issued by the Authority where such action will result in a saving to the Authority in the cost of borrowing.

In the event of default in the payment of any of the bonds or attached coupons, any holder thereof may petition any Justice of the Superior or Supreme Judicial Court, for the benefit of himself as well as for the benefit of all other holders of bonds, to declare the Authority insolvent and enforce the lien of the bonds by appointment of a receiver for the Authority and by sale of its property according to the usual practice in the case of insolvent private corporations.

Sec. 8. Temporary borrowing. The Authority is authorized to issue from time to time its temporary notes and renewal notes in anticipation of assessments to be paid by the Cities of Lewiston and Auburn as hereinafter provided. The aggregate amount of such temporary notes shall not exceed the total of the assessments levied for the fiscal year in which the temporary notes are to be issued, and any such temporary notes shall be payable during such fiscal year. If the assessments for the existing fiscal year have not yet been made, the aggregate amount of such temporary notes shall not exceed the estimated assessments for such fiscal year as determined by the board of the Authority.

Sec. 9. Estimating annual expenses. The Authority shall annually prepare a budget for its next fiscal year itemizing expenses of operation, maintenance, and repair, costs of contemplated capital construction, and payments of principal and interest on fixed indebtedness and other borrowings. The budget shall also include such other details as to present assets, surplus, accounts receivable, expenses and liabilities as the board of the Authority shall deem advisable and as the Cities of Lewiston and Auburn may reasonably require. The board of the Authority shall also estimate the anticipated revenues of the Authority for the forthcoming fiscal year to be derived from rentals of buildings and equipment, fees charged for the use of airport facilities, sale of surplus property, and any other source. In any year in which anticipated expenses exceed anticipated revenues, the Authority shall assess the participating cities for the difference. The proportionate share of each city shall be calculated on the basis of estimates of the volume and dollar value of passenger and air freight service originating from and destined for the respective cities. If there is insufficient statistical information from which reliable estimates as to the volume and dollar value of passenger and air freight service attributable to each city can be made, the Authority shall

make the allocation on the basis of comparative estimates of population and of property valuation as computed by the State of Maine Bureau of Taxation in each city using in each case the latest figures which are generally available. In making the allocation, the board of the Authority may also take into account such other factors reasonably reflecting the benefit received from the operation of the airport as it may deem to be appropriate.

In any year in which an assessment is made, the Authority shall give notice to the Cities of Lewiston and Auburn of the amount of their respective assessments and of the basis upon which the assessments were computed. Such assessments shall be submitted to each city in time for inclusion in their respective budgets for their next fiscal year. The City of Lewiston and the City of Auburn shall include the amount of their respective assessments in their budgets for the coming fiscal year and shall make provision through assessment of taxes or otherwise to obtain sufficient revenues to pay the same. Such assessments shall be due and payable to the Authority on the first day of July next following receipt of the assessments whether or not any appeal is pending. In the event of default in the payment of any such assessment, the Authority shall be entitled to exercise the remedies provided by Maine Revised Statutes of 1964, Title 30 section 5053 and any amendments thereto in collecting the same.

Within 30 days after receipt of notice of the amount of their respective assessments, either the City of Auburn or the City of Lewiston may appeal the determination of the Authority to the Androscoggin County Superior Court in the manner provided by Rule 80E of the Maine Rules of Civil Procedure and any amendments thereto. The city not initiating the appeal shall also be joined as a party to the proceeding. The court, acting without a jury, may affirm, modify or reverse the determination of the Authority or make such other order as may be appropriate under the circumstances, but in its deliberations shall give substantial weight to the findings and determination of the Authority. The decision of the court may be appealed as in other civil actions. If a final judgment is rendered affirming the total amount assessed to both cities but altering the allocation of the assessment, the assessment of the city which did not initiate the appeal shall automatically be increased or decreased in accordance with the court's determination, any overpayment shall be refunded, and the amended assessment shall be payable by both cities in the same manner as the assessment originally made by the Authority.

Sec. 10. Property tax exempt. The real and personal property, rights, and franchises of the Authority shall forever be exempt from taxation. The Authority shall also not be liable for its torts except to the extent that other quasi-municipal corporations are declared to be liable by statute or judicial decision.

Sec. 11. Auburn-Lewiston Airport Authority Board. The Authority shall be under the management and direction of a board of directors which will be known as the Auburn-Lewiston Airport Authority Board, also referred to herein as "the board" or "the board of the Authority". The board shall consist of 5 members. The comptroller of the City of Lewiston and the city manager of the City of Auburn shall both be members of the board by virtue of their

respective offices and, in the event of their death, incapacity, resignation or discharge from said offices, they shall continue to serve as members of the board of the Authority only until replacements in their respective offices are elected or appointed.

A 3rd member of the board of the Authority shall be a resident of the City of Auburn and shall be appointed for a 3-year term by the mayor of Auburn with the approval of the Auburn city council. The 4th member of the board shall be a resident of the City of Lewiston and shall be appointed for a 3-year term by the mayor of Lewiston subject to the approval of the board of aldermen. In the event that either of said additional members of the board shall cease to be residents of their respective cities or should die, become incapacitated, or resign from the board, a successor shall be appointed to serve for the remainder of the term in the same manner as original appointments are made.

At the initial meeting for organization of the Authority or as soon thereafter as practicable, the 4 above-named members of the board shall elect a 5th member who shall be a resident of Lewiston or Auburn, but shall not hold any public municipal office or be a member of any municipal board or committee. If the 4 are unable to agree upon a 5th member of the board, any Justice of the Superior or Supreme Judicial Court shall, on petition of any 2 members of the board select the 5th member of the board. The 5th member shall serve for a 4-year term and thereafter until his successor is appointed. He may be elected to serve additional 4-year terms of office. When the 5th member ceases to be a resident of either Lewiston or Auburn, dies, becomes incapacitated or resigns from the board, a replacement shall be elected by the remaining members of the board, or if no agreement is reached, appointed by the court, in the same manner as original elections or appointments are made.

Members of the board shall serve without compensation, but shall be reimbursed for their actual expenses incurred in the performance of their duties upon approval of the board.

Sec. 12. Election of officers. The board shall annually elect a chairman, treasurer, clerk or secretary, and such other officers as it may establish in its bylaws. The clerk and treasurer need not be members of the board and both officers may, in the discretion of the board, be held by the same person. Except as provided in this Act, the duties of the chairman and other officers shall be those established by the bylaws of the Authority and, in addition, such duties as may from time to time be prescribed by the board and shall otherwise be those duties usually appertaining to their offices. The treasurer shall furnish to the board a bond payable to the Authority issued by a surety company authorized to transact business within the State and satisfactory to the board in such sum as the board may prescribe and conditioned upon the faithful performance of his duties. The compensation of the treasurer and secretary or clerk, if any, shall be determined by the board.

The board may appoint an airport manager on a full or part-time basis to direct the general administration of the airport and related facilities. The board may also on its own initiative or upon recommendation of the airport manager, employ such engineers and experts, agents, officers, clerks and other

employees and agents as it deems necessary for the proper operation and administration of the airport and it may prescribe their duties.

Sec. 13. General administration. The board shall adopt a fiscal year for the Authority and shall adopt and may thereafter amend bylaws for the conduct of its affairs. The board shall also establish a schedule of reasonable rates for the use of the landing area, ramps and other airport facilities. In fixing such rates, the board shall take into account the total capital investment of the Authority and its predecessors in interest, the expense of properly maintaining the airport facilities, the cost of necessary future expansion of the airport and related facilities, and the nature, frequency and extent of the use of the airport facilities which the tenant or licensee proposes to make.

The Authority shall establish an office at the airport at which its business may be conducted and in which maps, plans, records and other papers relating to operations of the Authority shall be kept, but the board of the Authority may vote to hold its meetings at a more convenient location. The Authority shall at all times keep full and accurate accounts of its receipts, expenditures, liabilities and assets, which shall at all reasonable times be open to inspection by authorized representatives of the Cities of Lewiston and Auburn. The Authority shall make an annual report of its activities for the preceding year to the mayor and council of the City of Auburn and the Mayor and board of aldermen of the City of Lewiston.

The Authority shall have a seal consisting of a circular die bearing the words "Auburn-Lewiston Airport Authority 1969" which may be used whenever deemed advisable by the board on papers and documents issued or executed by it or its officers or employees on its behalf.

Sec. 14. Rules and regulations. The Authority shall adopt and publish rules and regulations governing the use of the airport and related facilities. Any violation of those regulations which require compliance with standards of safe conduct by persons and corporations using the airport and its related facilities shall constitute a misdemeanor punishable by a fine of up to \$500. The access ways, landing areas, taxi-ways, ramps, terminal and other parts of the airport under the jurisdiction of the Authority used in common by persons operating aircraft or other motor vehicles, passengers or guests at the airport are declared to be public areas with respect to which the regulatory provisions of the Maine Revised Statutes and the ordinances of the City of Auburn are also applicable.

Sec. 15. Participation by other municipalities. Towns within the geographical area served by the airport may be represented on the board of the Authority by affirmative vote of the town at a town meeting at which a representative from the town who may also be a municipal official is elected to serve a 3-year term on the board of the Authority. Successors shall be chosen in the same manner. At the town meeting at which the vote is taken, funds shall be appropriated to pay the town's proportionate share of the Authority's assessment for that year. The share of the assessment allocated to the town shall be calculated in the manner provided in section 9 and prorated to the first day of the month in which the town meeting is held. The Authority shall not be required to rebate any part of the assessments paid by

the Cities of Lewiston and Auburn and may add the pro-rated assessment of the participating town to its general revenues, but shall account for the same with particularity in its next annual statement of expenditures. The town shall thereafter be governed by the provisions of this Act just as if it had been represented on the original board of the Authority and this Act shall be so construed. Thereafter, the town may not rescind its vote to participate in the Authority without the approval of the State Legislature.