

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

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Legislative Document

No. 1595

H. P. 1265

House of Representatives, June 12, 1969

Reported by Miss Watson from the Committee on State Government.  
Printed under Joint Rules No. 18.

BERTHA W. JOHNSON, Clerk

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-NINE

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**AN ACT Relating to the Purposes and Powers of the Maine Port Authority.**

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

Whereas, the Maine Port Authority, as a public agency of the State of Maine, is at present generally authorized to acquire, construct and operate piers and terminal facilities at the Port of Portland and the port at Bar Harbor, in addition to certain other purposes specifically authorized; and

Whereas, the Maine Port Authority is concerned with the development of ports in the State of Maine, and at present has opportunities which require immediate action, and which will directly contribute to the economic development of the State of Maine, and which will be lost unless such immediate action is taken; and

Whereas, the said Maine Port Authority requires authority to act outside of the Port of Portland and the port at Bar Harbor, and the need for such action is immediate in relation to the aforesaid present opportunities; 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:

**Sec. 1. P. & S. L., 1929, c. 114, § 1, sub-§ (b), amended.** 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:

(b) **Purposes; powers.** The said Port Authority is constituted a public agency of the State of Maine for the general purpose of acquiring, constructing and operating piers and terminal facilities ~~at the Port of Portland and the port at Bar Harbor~~ **within the State of Maine** and for the purpose of securing and maintaining adequate ferry transportation for persons and property between the mainland and the islands in Casco Bay located within the limits of the City of Portland and the Town of Cumberland, with all the rights, privileges and power necessary therefor, and 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, including ferry lines, boats, landing areas, constructing or securing the constructing or utilizing of piers and in connection therewith, highways, waterways, railroad connections, storage yards and sites for warehouses and industrial establishments, and may lay out and build thereon such 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 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 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 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 may acquire, hold and operate lighters and other vessels necessary or convenient; it may establish and collect the fees, rates, rentals and other compensation for the use of its property and facilities; it shall keep account of its income and expenditures, property and liabilities, in manner 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 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. It may grade and surface any suitable railroad locations or traffic ways which are or may be located on lands, flats or rights therein, now owned or hereafter acquired by it under the provisions of this Act, and may carry said ways or railroads across any railroad or railway location or public way at, above or below grade, subject however to the approval of the Public Utilities Commission, and may provide suitable and convenient track connections between the rails serving any pier or piers and those of any existing or proposed railroad that now reaches or hereafter may reach ~~Portland~~ **any port where facilities are or may be operated by said Port Authority.** All piers held or controlled by it shall also be accessible and open to all teaming and lighterage traffic, subject to such regulations as its directors may from time to time make. Upon application to it any railroad company that now reaches or hereafter may reach ~~Portland~~ **any port where facilities are or may be operated by it**, either by its own rails or under trackage or traffic contract or agreement with any

other railroad company, may be provided by it with a track connection with the tracks serving such pier or piers. Bonds or other securities issued by the Port Authority shall at all times be free from taxation by the State of Maine.

The Maine Port Authority is authorized and directed to construct in the Town of Lincolnville, Waldo County, a floating dock and slip as a public landing for small boats, to be constructed adjacent to the landing place to be constructed for the ferry service for North Haven, Vinalhaven, Islesboro and Swan's Island, as provided by the private and special laws of 1957, chapter 190. Such dock and slip shall be maintained by the Town of Lincolnville.

**Sec. 2. P. & S. L., 1929, c. 114, § 1, sub-§ (d), amended.** Subsection (d) of section 1 of chapter 114 of the private and special laws of 1929, as amended, is further amended to read as follows:

**(d) May file complaints against any public utility.** The Port Authority shall have the right, in accordance with the procedure prescribed in chapter 62 of the Revised Statutes and acts amendatory thereof and additional thereto, to file complaint against any public utility or public utilities engaged within the territorial limits of ~~the municipality of Portland~~ **any port where facilities are or may be operated by said Port Authority** in the transportation of property delivered or destined for delivery at or routed over the property of the Port Authority, representing in such complaint that said public utilities have failed to agree upon joint use of the facilities described in section 50 of said chapter 62 belonging to them or either of them, and by such complaint to invoke the jurisdiction conferred in such cases by said section 50 upon the Public Utilities Commission upon its own motion or upon complaint of any public utility affected; and said commission may, in accordance with the procedure and conditions prescribed in said section, issue any order for such joint use by said public utilities and prescribe the compensation, terms and conditions therefor as if said proceeding had been initiated upon its own motion or upon complaint of any such public utility.

With the consent of the Governor and Council, first obtained, it may, by vote of its directors:

1. Make any contract not otherwise authorized relating to the purposes, duties, rights, powers and privileges enumerated in chapter 114 of the private and special laws of 1929, as amended.
2. Convey, sell, lease, demise or rent any of its property not required in the discharge or performance of its duties; hire, lease and rent from others any property deemed desirable for its purposes not otherwise authorized in said chapter 114, as amended.
3. Receive by gift, grant, devise or bequest any gift of money or real or personal property not otherwise authorized or permitted.
4. Receive from the United States Government or any of its divisions, agencies, districts or commissions, any license, grant, gift, donation or benefit with or without terms or conditions.

5. Borrow money, issue, sell and dispose of its debentures, notes or bonds, unsecured or secured by mortgage of its property or by pledge of any part of its revenues not required for maintenance and operation and the discharge, performance and furtherance of its duties. Such bonds, debentures and notes shall bear interest at rates specified and upon conditions and terms enumerated.

6. Establish and set aside and maintain sinking funds for the redemption of its obligations.

All debentures, notes and bonds of said Authority, issued as aforesaid, with the consent of the Governor and Council, shall be legal investments for the savings banks of this State.

**Sec. 3. P. & S. L., 1929, c. 114, § 6, amended.** The first sentence of the 2nd paragraph of section 6 of chapter 114 of the private and special laws of 1929, as enacted by section 2 of chapter 77 of the private and special laws of 1943 and as amended, is further amended to read as follows:

The Maine Port Authority may take for public use, for its purposes, any property, right, easement, use, interest or estate in any wharf, dock, pier or site, including related approaches, abutments and appurtenances, **ferry line, boat or landing area** already appropriated to or charged with a public use, under the power of eminent domain, **provided that this power shall not be exercised except at the Port of Portland and the port at Bar Harbor**; but consideration shall be given to such existing public use and all reasonable efforts shall be made to interfere no more than may be reasonably necessary with the business, service or functions of the owner, operator, possessor or other person controlling, managing or operating such existing public use; provided, however, that no such property, right, easement, use, interest or estate already appropriated to or charged with a public use shall be taken without contract with or the consent of the owner, operator, possessor or other person controlling, managing or operating the same, unless and until the Public Utilities Commission, after notice and hearing, shall have determined that such property, right, easement, use, interest or estate appropriated to or charged with a public use is necessary to said authority for the purposes of this Act, and that the taking by said authority is in the public interest.

**Sec. 4. P. & S. L., 1929, c. 114, § 7, amended.** Section 7 of chapter 114 of the private and special laws of 1929 is amended to read as follows:

**Sec. 7. May acquire use of terminal facilities by petition to Public Utilities Commission.** If upon petition by the Port Authority the Public Utilities Commission finds it to be in the public interest and to be practicable without substantially impairing the ability of any common carrier owning or entitled to the enjoyment of terminal facilities ~~within the port of Portland~~ to handle its own business, it shall have power to require the use, until such time as the common carrier requires such terminal facilities for its own business, in common with such carrier, of any such terminal facilities, including docks, piers, warehouses, freight sheds and grain elevators, and tracks to said facili-

ties, by the Port Authority for the transportation of property, as defined in chapter 55 of the Revised Statutes of 1916 and amendments thereof, delivered or deliverable at or routed over the property of the Port Authority ~~at the port of Portland~~ on such terms and for such compensation until such time as the common carrier requires such terminal facilities for its own business as the Port Authority and such carrier may agree upon, or in the event of a failure to agree, as the Public Utilities Commission may fix as just and reasonable for the use so required. Such compensation shall be paid or adequately secured before the enjoyment or the use may be commenced. If under this paragraph the use of such terminal facilities of any carrier is required to be given to the Port Authority, and the carrier whose terminal facilities are required to be used is not satisfied with the terms fixed for such use, or if the amount of compensation so fixed is not duly and promptly paid, the carrier whose terminal facilities have thus been required to be given to the Port Authority shall be entitled to recover, by suit or action against the Port Authority, proper damages for any injuries sustained by it as the result of compliance with such requirement, or just compensation for such use, or both, as the case may be. The provisions of this action are subject to the exercise of any jurisdiction which may reside in the Interstate Commerce Commission.

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