

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 570

H. P. 421

House of Representatives, January 31, 1973

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

E. LOUISE LINCOLN, Clerk

Presented by Mr. Mills of Eastport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT to Amend the Act Creating the Eastport Public Landing Authority.

Emergency preamble. Whereas, the public welfare and the future of the City of Eastport as a port of entry and trading center is extremely important to the economic life of a large tributary population; and

Whereas, the existing Eastport Public Landing Authority, created by Chapter 128 of the Private and Special Laws of the State of Maine, 1951, requires immediate amendment in order to authorize the acquisition and construction of landing, docking and warehousing facilities to accommodate proposed use of such facilities; 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., 1951, c. 128, § 1, amended. Section 1 of chapter 128 of the private and special laws of 1951, as amended by chapter 24 of the private and special laws of 1963, is further amended to read as follows:

Sec. 1. Eastport Port Authority, created. There is hereby created the Eastport ~~Public Landing~~ Port Authority, which shall have the ~~powers and duties as set forth in this act~~ authority to acquire, construct, operate, maintain, repair and replace piers, terminal and warehouse facilities on the land and in the waters within the limits of the City of Eastport.

There shall be a board of 5 directors who shall exercise the powers and duties of said Authority and shall be the following persons of the city of Eastport: City manager; ~~president~~ a member of the Eastport city council; ~~city treasurer;~~ ~~president~~ a member of the Eastport Chamber of Commerce; ~~and~~ a representative from the Eastport Sardine Cannery fish processors, ~~to be chosen by the local cannery,~~ and a voter of the City of Eastport, all appointed by the Eastport city council. The first board of directors chosen shall hold office until April 1, 1963. Thereafter, the city council of Eastport shall appoint from the above named positions directors to fill any vacancies that may occur. The director representing the Eastport Sardine Cannery shall hold office until the 1st day of January following the completion of the public landing and thereafter such director shall be chosen by the local cannery to hold office for a term of 5 years. Each director, except the city manager who shall be a permanent member of the board of directors as long as he shall hold that office, shall serve a term of 4 years, except that the first board of directors shall be appointed by the Eastport city council within 10 days after the acceptance of this Act by the voters of the City of Eastport, one to serve until the 1st annual meeting of the authority, one until the 2nd annual meeting, one until the 3rd annual meeting and one to serve until the 4th annual meeting. Thereafter, one member shall be appointed by the Eastport city council to serve for a term of 4 years. The city council shall appoint, from the above-named positions, directors to fill any vacancies that may occur by death, resignation or otherwise.

The members of the board of directors shall serve without compensation; but shall have the right to appoint ~~a secretary of the board at a nominal salary of not over \$500 annually~~ such assistants, agents, engineers, attorneys and other employees as it may deem necessary to carry out the purposes of this Act and shall determine their duties and compensation.

At each annual meeting the directors shall elect from their membership a chairman, who shall serve until the next annual meeting or until his successor is chosen and is qualified. The time for the annual meeting may be established in the bylaws promulgated by the directors.

The directors shall be the administrative officers of the Authority and may employ such assistants as they may deem necessary to carry out the purposes of this Act. They shall make such plans as seem best to them to obtain title to such wharf or wharves, or locations for such wharf or wharves, and they shall have the authority to acquire, construct, operate, maintain and repair piers, terminal and warehouse facilities on the land and in the waters within the limits of the City of Eastport, as will in their judgment improve and increase the harbor, docking and warehousing facilities ~~of~~ in the City of Eastport. With the consent of the Eastport city council, or a vote of a majority thereof, the ~~directors~~ authority may take or acquire within the limits of the City of Eastport, real property by purchase or otherwise, by gift or grant, or by the exercise of the right of eminent domain, which right is hereby expressly delegated to the Eastport ~~Public Landing~~ Port Authority, and hold such real property and rights and easements therein as the directors may from time to time consider necessary for the purpose of constructing and maintaining said Eastport ~~Public Landing~~ Port Authority piers, and docks

and warehouses, highways and other port facilities, and shall further have the right to construct ~~on said pier or landing~~ suitable buildings, filling station, restaurant or other structures, and have the authority to lease same, upon such terms as the directors or a majority thereof may determine to be in the best interests of the authority, the proceeds from such leases to accrue to the credit of the Eastport ~~Public Landing~~ Port Authority. Such wharves and buildings shall be exempt from taxation by the City of Eastport. The authority shall render annually at the end of the fiscal year a report to the city council, showing all transactions and balances, together with any recommendations for the improvement and operation of the public landing and warehousing facilities. The board of directors shall have the power to establish bylaws and all rules and regulations governing the operation and maintenance of the public landing and Eastport Port Authority; charge such fees as may, in their judgment, be necessary for parking, docking and storage privileges; contract for the construction of the wharf or wharves, warehouse or warehouses, and borrow money for ~~this purpose~~ these purposes; arrange for its financing; and provide for its protection by insurance against damage by fire, water or wind, and for any other casualty which the directors wish to insure against, and for liability against injury to persons and property.

Sec. 2. P. & S. L., 1951, c. 128, § 3, amended. Section 3 of chapter 128 of the private and special laws of 1951 is amended to read as follows:

Sec. 3. How financed. The authority is hereby authorized to issue its bonds or notes not exceeding at any one time outstanding the principal sum of ~~\$75,000~~ \$500,000. Said bonds may be issued to mature serially or for such periods not to exceed 30 years from the date of issue with interest at such rate and upon such other and further terms and conditions as the directors, or a majority thereof, may determine. ~~If the former, provisions may be made to retire \$7,000 annually after 1 year, or if the latter plan, to establish a sinking fund for the retirement of the issue by call, over a period of 15 years.~~ All bonds or notes shall be signed by the ~~treasurer of the Authority and countersigned by the president~~ directors of the authority or a majority thereof. Each bond and note shall have inscribed upon its face "Eastport Port Authority," shall bear interest at such rates as the directors shall determine, payable semiannually, and shall be subject to such other provisions as the directors shall determine. Bonds and notes issued by the authority may be made callable at any interest date. All notes or bonds issued by said authority shall be signed by the directors of the authority or a majority thereof, and if coupon bonds be issued, each coupon shall be attested by the facsimile signature of the chairman printed thereon. Said bonds and notes shall be legal obligations of said authority, which is hereby declared to be a quasi-municipal corporation within the meaning of the Revised Statutes, Title 30, section 5053, and all the provisions of said section shall be applicable thereto. The said bonds and notes shall be legal investments for trust companies and savings banks. All notes, bonds or other securities issued by the authority shall at all times be free from taxation by the State of Maine.

~~To establish the sinking fund or provide for the retirement of the bonds, the directors are expressly authorized to lease the Eastport Public Landing~~

and all of its facilities to the city of Eastport for an amount not to exceed \$7,000 annually

All bonds issued shall be a 1st lien on the value of the property up to 70%. All funds paid into the sinking fund shall be deposited in a national bank or trust company, or invested in the securities of the United States of America or the state of Maine

The directors are authorized to secure the payment of any bonds or notes of the authority by the granting of a mortgage, security agreement, assignment of lease, assignment of rentals of any other security instrument. In the event the directors determine to establish a sinking fund for the payment of the notes or bonds of the authority as they come due, all funds paid into such a sinking fund shall be deposited in a national bank or trust company or invested in the securities of the United States of America or the State of Maine.

At such time as the public landing, together with all of its buildings and facilities of every kind, shall be free of all indebtedness; and all obligations shall have been discharged; all leases have been terminated; and the directors or a majority thereof determine in writing that there is no further need for the authority to exist, the board of directors shall automatically cease to function, and all property of every description shall revert to the City of Eastport, and the ~~president and treasurer~~ directors of the authority shall cause to be executed, signed and delivered a good and sufficient deed conveying all property of every description, together with all moneys and things of value, to said City of Eastport.

Sec. 3. P. & S. L., 1951, c. 128, § 3-A, additional. Chapter 128 of the private and special laws of 1951, as amended, is further amended by adding a new section 3-A, to read as follows:

Sec. 3-A. Invalidity of any part not to affect validity of remainder of Act. If any clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Emergency clause; referendum; effective date. In view of the emergency cited in the preamble, this Act shall take effect when approved, only for the purpose of permitting its submission to the legal voters of the City of Eastport, voting at a regular or special election called and held for the purpose within 10 months after the approval of this Act. Such election shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, that the registrar of voters of said city shall not be required to prepare for posting, nor the city clerk to post, a new list of voters, and for the purpose of registration of voters said registrar shall be in session the 3 secular days next preceding such election, the first 2 days thereof to be devoted to registration of voters and the last day to enable said registrar to verify the correction of said lists and to complete and close up his records of such sessions. The city clerk shall reduce the subject matter of this Act

to the following question: "Shall 'An Act Amending the Eastport Public Landing Authority,' passed by the 106th Legislature, be accepted?"

The voters shall indicate by a cross or check mark placed over the words "Yes" or "No" their opinion of the same. This Act shall take effect for all the purposes hereof immediately upon its acceptance by a majority of the legal voters voting at said election. The result of said election shall be declared by the municipal officers of the City of Eastport and due certificate thereof shall be filed by the city clerk with the Secretary of State.

STATEMENT OF FACT

The purpose of this bill is reflected in the emergency preamble.