

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

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Legislative Document

No. 624

S. P. 179

In Senate, February 11, 1975

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Trotzky of Penobscot.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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AN ACT Creating the Machias Bay Industrial Port Authority.

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

10 MRSA Pt. 12 is enacted to read:

PART 12

MACHIAS BAY INDUSTRIAL PORT AUTHORITY

CHAPTER 1101

MACHIAS BAY INDUSTRIAL PORT AUTHORITY

§ 10001. Title

This chapter shall be known as, and may be cited as, the "Machias Bay Industrial Port Authority Act."

§ 10002. Findings, purposes and declaration of necessity

It is found and declared that the State of Maine, by virtue of its geographical location, climate, traditional agriculture and industrial pursuits, is in a comparatively disadvantaged position in comparison with its sister states and neighboring provinces in its ability to develop sufficient employment opportunities for its citizens, and to insure its citizens the opportunity to achieve a standard of living above minimum subsistence levels while, at the same time, insuring that its existing desirable natural environment be protected to the maximum extent so that it is nurtured and preserved for future generations.

It is further found and declared that the State must take steps to assist in the planning, implementing and controlling the development of new and expanded employment opportunities in a manner consistent with its aim of maximum environmental control and protection in order to develop employment opportunities; to prevent the youth of the State from being forced to leave the State to find suitable employment; to decrease the unemployment rate which is currently substantially above the national average; to provide a means by which new and desirable industries may locate within the State and thus provide replacements for traditional industries which have found they can no longer compete in the market place; to prevent the further decline and deterioration of many communities; and to assure the ability of the State and its communities to provide the many necessary and vital services jeopardized by shrinking tax bases while, at the same time, guaranteeing that the state's water, air, coast, wildlands, marine fisheries, land values, agriculture and other environmental, vocational and natural resources are preserved.

It is further found and declared that a growing demand exists for heavy industrial development to support suitable standards of living and employment opportunities and thus it is necessary and desirable to assure for the State a suitable location for such development.

It is further found and declared that one of the most valuable natural resources of the State is a coastline which is unique on the eastern seaboard and which not only supports some of the state's most important traditional economic pursuits, including tourism, marine fisheries, shipbuilding and marine transportation, but possesses some of the state's most valuable natural assets, including deep water ports, unspoiled islands and natural harbors, beaches, coves, marshes and headlands of unsurpassed desirability and beauty.

It is further found and declared that along the northeast seaboard, Maine is the only state which possesses deep water ports and that heavy industrial and oil interests have shown and are currently showing interest in locating bulk crude oil terminals and oil refineries within the State, and that, although the location and construction of such terminals or refineries will directly or indirectly create employment opportunities and will provide the capability of assuring adequate supplies of petroleum products at a competitive cost to the State, the location of such facilities at diverse locations along the coast will cause a direct and immediate threat to the entire coastline of the State economically, environmentally and developmentally.

It is further found and declared that only a small minority of the coastal municipalities possess municipal zoning ordinances; that municipalities with such ordinances are incapable of adequately determining and directing public policy and land use programs beyond their individual municipal borders; and that the State possesses no present means of implementing or enforcing a land use plan or program to provide for the location of a major coastal industrial development.

It is further found and declared that the uncontrolled location of heavy industry is a real and potential threat to existing marine resources which will preclude the implementation of aquaculture as a viable means of livelihood;

will pose a direct and actual threat to the economic livelihood of a large number of Maine citizens who derive such livelihood from the sea; and poses a direct economic threat to the value of property and the valuable recreational industry on the Maine coast.

It is further found and declared that the State, despite legislation, possesses inadequate statutory means to adequately protect from environmental and economic damage its invaluable coastal resources and that, because of the present speculative nature of the details of proposed industrial developments, it is not possible for the State, under the format of its present environmental protection statutes, to afford adequate continuing protection and that the State must, in order to effectuate such protection, possess a means of controlling the operation and precise location of heavy industry.

Wherefore, it is declared that the purpose of this chapter is to protect the safety, health and welfare of the people of the entire State by establishing a location which is capable of sustaining, with the maximum degree of safety and control, heavy industry; to provide direction to the location of heavy industry in order to concentrate such activities in a location capable of adequately assimilating and supporting them and to preclude their proliferation along the coast; to enable the State, through the exercise of its police power, to reasonably regulate and control the same and, by the establishment of rules and regulations, including but not limited to navigational systems, pilotage policies and handling procedures, to protect to the greatest extent possible the coast and the economic and ecological assets thereon from irreparable damage, and to provide a means through the development by private enterprise and public initiative to stimulate control and direct Maine's economic, industrial and commercial direction and development and for these purposes, the establishment, creation and operation of the Machias Bay Industrial Port Authority is declared the exercise of an essential governmental function.

#### § 10003. Definitions

As used in this chapter, the following words and terms shall have the following meanings, unless the context clearly indicates another or different meaning or intent:

1. Authority. "Authority" means the Machias Bay Industrial Port Authority created and established by section 10004 as a public body, corporate and politic, of the State of Maine or any board, body, commission, department, office or officer succeeding to the principal functions thereof or to whom the powers conferred upon the authority by this chapter shall be given by law.

2. Bonds and notes. "Bonds" and "notes" mean bonds and notes of the authority issued under this chapter, including refunding bonds and notes.

3. Cost. "Cost" as applied to a project or any portion thereof financed under this chapter shall mean the cost of construction, building, acquisition, equipping, alteration, enlargement, reconstruction and remodeling of a project and acquisition of all lands, structures, real or personal property, rights,

rights-of-way, franchises, easements and interest acquired, necessary to, used for, useful for or in connection with, a project and all other undertakings which the authority deems reasonable or necessary for the development of a project, including but not limited to the cost of demolishing or removing any building or structure on land so acquired; the cost of acquiring any lands to which such building or structure may be moved, including dredging, draining or filling on such lands or other site preparation; the cost of all machinery and equipment, financing charges, interest prior to and during construction, and, if judged advisable by the authority, for a period after completion of such construction; the cost of financing the project, including interest on bonds and notes issued by the authority to finance the project; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions and improvements; cost of architectural, engineering, financial, legal or other special services, plans, specifications, studies, surveys, estimates of cost and revenues; administrative and operating expenses, expenses necessary or incident to determining the feasibility or practicability of constructing the project; and such other expenses necessary or incident to the construction and acquisition of the project, the financing of such construction and acquisition and the placing of the project in operation.

4. Participating industry. "Participating industry" means those industries, businesses or service facilities which locate within the territorial limits of the authority or which are parties to a contract or agreement with the authority or which, for any reason, come within the jurisdiction or control of the Machias Bay Industrial Port Authority.

5. Territorial Limits. "Territorial limits" of the authority shall mean that portion of the land, water and air of the State that constitute the Towns and Townships of Machias, Machiasport, East Machias, Marshfield, Whiting, Cutler and Marion.

6. Project. "Project" means the acquisition, construction, reconstruction, improvement or equipping of any structure, including an addition or additions to an existing structure, designed for use as an industrial, manufacturing, commercial, transportation or pollution control facility, or any combination thereof, within the territorial limits of the authority or other structures or facilities related to any of the foregoing or required or useful for the operation of the project, including the costs incident and related to installing, implementing and maintaining environmental safeguards or the refinancing of existing indebtedness in connection with any of the foregoing, including parking and other facilities or structures essential or convenient for the orderly conduct of such participating industry and shall include all real and personal property, lands, improvements, roads, approaches, pedestrian access roads, rights-of-way, utilities not otherwise available, easements, machinery and equipment and all other appurtenances and facilities either on, above or under the ground which are used or usable in connection with the aforementioned structures, and shall include landscaping, site preparation, furniture, machinery and equipment, installation of environmental safeguards and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended, but shall not include such items as are customarily considered a current operating charge.

**§ 10004. Machias Bay Industrial Port Authority; executive director**

1. Authority. There is created a body politic and corporate to be known as the "Machias Bay Industrial Port Authority." Said authority is constituted a public body, corporate and politic, and an instrumentality of the State, and the exercise by the authority of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental and public function. Said authority shall consist of 12 members who shall be residents of the State of Maine, 7 of whom shall have demonstrated ability and knowledge in the fields of business or finance and be regular members and shall be appointed by the Governor with the advice and consent of the Executive Council, not more than 4 of such appointed regular members to be members of the same political party, and who shall be knowledgeable in one or more of the following areas of interest within the State: Labor, recreation, fishing or marine resources, manufacturing, transportation, finance, conservation and municipal affairs. There shall additionally be elected, in the January of the convening of each regular legislative session of the Legislature of the State of Maine, one member each by the Senate and House of Representatives to serve as ex officio members with no voting privileges for the duration of that legislative term. The Commissioner of Commerce and Industry, the Commissioner of Transportation and the Commissioner of Environmental Protection shall be members of the authority, ex officio, but shall not be regular members and shall have no voting privileges. The 7 initially appointed regular members of the authority shall be appointed for terms which shall expire on the last day of January of the next year the Legislature is in regular session. Following their appointment and thereafter, 4 shall be appointed for 2-year terms and 3 of the initially appointed regular members for 4-year terms, which shall expire on the last day of February in the next year in which the Legislature is in regular session. Members shall continue in office until their successors have been appointed and qualified. The Governor, with the advice and consent of the Executive Council, shall fill any vacancy for the unexpired term. A member of the authority shall be eligible for reappointment. Any regular member of the authority may be removed by the Governor and Executive Council, after hearing, for misfeasance, malfeasance or willful neglect of duty. Each regular member of the authority before entering upon his duties shall take and subscribe the oath or affirmation required by the State Constitution, Article IX. A record of each oath shall be filed in the office of the Secretary of State. The Commissioner of Commerce and Industry, Commissioner of Transportation and the Commissioner of Environmental Protection may designate their deputies or any member of their staffs to represent them as ex officio members at meetings of the authority with full power to act in their behalf.

2. Chairman; vice-chairman; executive director. The authority shall, at its organizational meeting and annually thereafter, elect one of its regular members as chairman and one as vice-chairman, and shall also, as soon as practicable, appoint an executive director, who shall not be a member of the authority and who shall serve at the pleasure of the authority and receive such compensation as shall be fixed by the authority.

3. Duties of executive director. The executive director shall keep a record of the proceedings of the authority and shall be custodian of all books, docu-

ments and papers filed with the authority, the minute book or journal of the authority and of its official seal. He may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.

4. Powers of the authority. The powers of the authority shall be vested in the regular members thereof, in office from time to time, and 4 regular members of the authority shall constitute a quorum at any meeting of the authority. No vacancy in the regular membership of the authority shall impair the right of such regular members to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under this chapter may be authorized by resolution approved by a majority of the qualified regular members at any regular or special meeting, which resolution shall take effect immediately or by a resolution circularized or sent to each regular member of the authority, which shall take effect at such time as a majority of the regular members of the authority shall have signed an assent to such resolution. Resolutions of the authority need not be published or posted, but all actions or proceedings of the authority shall be fully subject to Title I, chapter 13. The authority may delegate by resolution to one or more of its members or its executive director such powers and duties as it may deem proper.

5. Bonds. Each regular member of the authority shall, before any notes, bonds or other evidences of indebtedness are issued, execute a surety bond in the penal sum of \$50,000 and the executive director shall execute a surety bond in the penal sum of \$100,000, or, in lieu thereof, the chairman of the authority shall execute a blanket position bond covering each member, the executive director and the employees of the authority, each surety bond to be conditioned upon the faithful performance of the duties of the office or offices covered, to be executed by a surety company authorized to transact business in this State as surety and to be approved by the Attorney General and filed in the office of the Secretary of State. The cost of each surety bond shall be paid by the authority.

6. Expenses. The regular members of the authority shall receive compensation in the sum of \$20 per day for attendance at authority meetings and each such regular member and legislative member shall be paid his necessary expenses incurred while engaged in the performance of such duties.

7. Conflict of interest. Notwithstanding any other law to the contrary, it shall not be or constitute a conflict of interest for a trustee, director, officer or employee of a participating industry to serve as a regular member of the authority, provided such trustee, director, officer or employee shall make full disclosure and shall abstain from deliberation, action and vote by the authority under this chapter in specific respect to the participating industry of which such regular member is a trustee, director, officer or employee, provided, however, that no member of the authority shall be a trustee, director, officer or employee of a participating industry which is located within the territorial limits of the authority.

8. Organizational meeting. Within 30 days of the appointment of a majority of the regular members of the authority, the Commissioner of Commerce and Industry shall, upon 20 days written notice, call an organizational meeting of the authority.

§ 10005. Purpose of the authority

The purpose of the authority shall be to assist in the planning, financing and construction of a project or projects, including a modern industrial complex and port facility and related incidences thereto which are declared to be public purposes and, for the purposes of this chapter, the authority is authorized and empowered:

1. Bylaws. To have perpetual succession as a body politic and corporate and to adopt bylaws for the regulation of its affairs and the conduct of its business;

2. Seal. To adopt an official seal and alter the same at pleasure;

3. Office. To maintain an office at such place or places as it may designate;

4. Sue. To sue and be sued in its own name, and plead and be impleaded;

5. Leases, contracts and prerequisite approvals. To enter into, with the approval of the Governor and Executive Council, long as well as short-term leases and contracts upon such terms and conditions commensurate with the environmental risk involved as it shall deem to be in the best interest of the State, consistent with the purposes of this chapter, with such private or public bodies, personal or corporate, as it in its discretion deems proper, for the privilege of doing business with the authority or within the territorial limits of the authority, to build, construct and operate projects within the territorial limits of the authority or in conjunction with and consistent with the purposes of the authority, provided, however, the authority shall not itself operate a substantive business project engaged in the commercial production, processing or manufacturing of goods and is limited in its power to operate projects to those of a service or supportive or protective nature, including, but not limited to, breakwaters, piers, terminals, warehouses, security, environmental protection and such other service, supportive or protective activities as are necessary and desirable to the operation of the proposed industrial port complex. In making a determination as to the industries and businesses with which it shall contract, lease or make other arrangements, and the terms and conditions of such relationship, the authority shall give primary consideration to environmental safeguards and minimization of potential harm to natural resources. It shall also give consideration to anticipated direct and indirect economic benefit to the people of the State as a whole, to employment opportunities, coordination and compatibility with existing facilities and activities, including transportation, and, whenever practicable in the opinion of the authority, give preference to Maine persons, firms, corporations and labor. In no event, shall any of the terms and conditions of any contract, lease or other arrangement be less stringent than those



required by state law or rule and regulation of any state agency upon similar activities within the State and all pertinent licenses, permits and other approvals required by law shall apply to all contracts and agreements and to all activities within the territorial limits of the authority;

6. Bonds. To borrow money and issue bonds, notes, bond anticipation notes and other obligations of the authority for any of its corporate purposes, and to fund or refund the same, at or prior to their maturity, all as provided in this chapter;

7. Rates and fees. Generally, to fix and revise from time to time and charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and to contract with any person, partnership, association or corporation or other body, public or private, in respect thereof;

8. Rules and regulations. To establish rules and regulations for the use of a project or any portion thereof and to designate agents to establish rules and regulations for the use of a project undertaken by a participating industry;

9. Consultants and agents. To employ consultants and agents, including but not limited to, engineers, architects, attorneys, accountants, construction and financial experts, scientists, superintendents, managers and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

10. Grants. To receive and accept or contract for from the Federal Government, foreign governments, the State, other states or any other public agency, person, corporation or any other source, loans or grants for or in aid of the construction of a project or any portion thereof, and to receive and accept loans, grants, aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for purposes consistent with this chapter for which such loans, grants, aid and contributions are made;

11. Mortgages. To mortgage any project and the site thereof for the benefit of the holders of bonds or notes or other obligations issued to finance such project;

12. Apportionment. To charge to and equitably apportion among participating industries its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter;

13. Other acts. To do all things necessary or convenient to carry out the purposes of this chapter. In carrying out the purposes of this chapter, the authority may undertake a project for 2 or more participating industries jointly, and, thereupon, all other provisions of this chapter shall apply to and for the benefit of the authority and such joint participants.

#### § 1006. Payment of expenses

All expenses incurred in carrying out this chapter shall be payable solely from funds provided under the authority of this chapter and no liability or

obligation shall be incurred by the authority beyond the extent to which moneys shall have been provided under this chapter.

§ 10007. Applicability of state laws

Unless otherwise expressly provided herein to the contrary, all state laws, licenses, permits or prerequisite approvals, including the application of the provisions of Title 38, shall be applicable to all actions of the authority and all proposed activities or projects within the territorial limits of the authority.

§ 10008. Acquisition of property by the authority

The authority is authorized and empowered, directly or indirectly to acquire such lands, structures, property, real or personal, rights, rights-of-way, franchises, easements and other interest in lands, including lands lying under water and riparian rights, which are located within the territorial limits of the authority as it may deem necessary or convenient for the construction or operation of a project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of the authority. If compensation for such property so taken cannot be agreed upon by the parties, the authority may proceed in accordance with Title 35, chapter 263. In no event, however, shall the property, rights, easements, franchises or other interests of a public utility be acquired without agreement from the public utility and approval of the Maine Public Utilities Commission.

§ 10009. Notes of the authority

The authority is authorized from time to time to issue its negotiable notes for any corporate purpose, including the payment of all or any part of the cost of any project and to renew from time to time any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed and delivered in the same manner as bonds. Any resolution or resolutions authorizing notes of the authority or any issue thereof may contain any provisions which the authority is authorized to include in any resolution or resolutions authorizing bonds of the authority or any issue thereof, and the authority may include in any notes, any terms, covenants or conditions which it is authorized to include in any bonds. All such notes shall be payable from the proceeds of bonds or renewal notes or from the revenues of the authority or other moneys available therefor and not otherwise pledged, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

§ 10010. Bonds of the authority

1. Bonds or notes. The authority is authorized to provide by resolution of the regular members, at one time or from time to time, for the issuance of its bonds or notes for the purpose of paying the cost of a project or for any of its other corporate purposes, including the refunding of bonds or notes. Except as otherwise provided for by the authority, every issue of bonds or notes shall be general obligations of the authority payable out of any reve-

nues or funds of the authority, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or funds. Any bonds or notes may be additionally secured by a pledge of any grant or contributions from the United States of America or the State or any governmental unit or any person, firm or corporation or a pledge of any income or revenues, funds or moneys of the authority from any source whatsoever.

2. Form of issuance.

A. Bonds or notes shall be authorized by resolution of the regular members of the authority, and shall be dated and shall mature as the resolution may provide, except that no bond shall mature more than 50 years from the date of its issue. Bonds or notes shall bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium or payment, at the place or places, and be subject to the terms of redemption which the resolution or a subsequent resolution may provide.

B. All bonds or notes, regardless of form or character, shall be negotiable instruments for all the purposes of the Uniform Commercial Code.

C. All bonds or notes may be sold at public or private sale in the manner, for the price or prices, and at the time or times which the authority may determine.

D. The power to fix the date of sale of bonds and notes, to receive bids or proposals, to award and sell bonds, and to take all other necessary action to sell and deliver bonds may be delegated to the executive director of the authority by resolution of the authority.

E. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanges for such definitive bonds.

3. Provisions. Any resolution or resolutions authorizing the issuance of bonds or notes may contain provisions which shall be a part of the contract with the holders of the bonds to be authorized, as to:

A. Pledging the full faith and credit of the authority, and all or any part of the revenues of a project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation or association or other body, politic or private, to secure the payment of the bonds or of any particular issue of bonds, subject to such agreements with bondholders as may then exist;

B. The rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

C. The setting aside of reserves or sinking funds, and the regulation and disposition thereof;

D. Limitations on the right of the authority or its agent to restrict and regulate the use of the project;

E. Limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds;

F. Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds;

G. The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

H. Limitations on the amount of moneys derived from the project to be expended for operating, administrative or other expenses of the authority;

I. Defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default;

J. The mortgaging of a project, including the site thereof, for the purpose of securing the bonds;

K. Such other additional covenants, agreements and provisions as are judged advisable or necessary by the authority for the security of the holders of such bonds.

4. Personal liability. Neither the members of the authority nor any person executing the bonds, notes, bond anticipation notes or other obligations shall be liable personally on the bonds, notes, bond anticipation notes or other obligations, or be subject to any personal liability or accountability by reason of the issuance thereof.

5. Purchase. The authority shall have the power, out of any funds available therefor, to purchase its bonds or notes. The authority may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

6. Payment or refunding of notes. The authority may from time to time issue its notes under this chapter and pay and retire or fund or refund the notes from proceeds of bonds or of other notes, or from any other funds or moneys of the authority available for that purpose in accordance with any contract between the authority and the holders of the notes. Unless provided otherwise in any contract between the authority and the holders of notes, and unless the notes are otherwise paid, funded or refunded, the proceeds of any bonds of the authority issued, among other things, to fund any outstanding notes, shall be held, used and applied by the authority to the payment and retirement of the principal of the notes and the interest due and payable thereon.

#### § 10011. Trust agreement to secure bonds

In the discretion of the authority, any bonds issued under this chapter may be secured by a trust agreement by and between the authority and a

corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or any portion thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including particularly such provisions as have been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof. Any bank or trust company incorporated under the laws of this State, which may act as a depository of the proceeds of bonds or of revenues or other moneys, may furnish such indemnifying bonds or pledge such securities as may be required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out such trust agreement or resolution may be treated as a part of the cost of the operation of a project.

#### § 10012. Credit of State not pledged

Bonds, notes, bond anticipation notes or other obligations issued under this chapter shall not constitute or create any debt or debts, liability or liabilities on behalf of the State, or of any political subdivision thereof, other than the authority or a loan of a credit of the State or a pledge of the faith and credit of the State or of any such political subdivision other than the authority, but shall be payable solely from the funds provided therefor. All such bonds and notes shall contain on the face thereof a statement to the effect that neither the State of Maine nor any political subdivision thereof other than the authority shall be obligated to pay the same or the interest thereon, and that neither the faith and credit nor the taxing power of the State of Maine or of any political subdivision thereof, other than the authority, is pledged to the payment of the principal of or the interest on such bonds or notes. The issuance of bonds or notes under this chapter shall not directly or indirectly or contingently obligate the State or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Nothing in this section contained shall prevent nor be construed to prevent the authority from pledging its full faith and credit or the guarantee of a participating industry to the payment of bonds or notes or issue of notes or bonds authorized pursuant to this chapter.

#### § 10013. Rents and charges

The authority is authorized to fix, revise, charge and collect rates, rents, fees and charges for the use of and for the services and facilities furnished or to be furnished by each project and to contract with any person, partnership, association or corporation or other body, public or private, in respect thereof.

Such rates, rents, fees and charges shall be fixed and adjusted in respect of the aggregate of rates, rents, fees and charges from such project so as to provide funds sufficient with other revenues or moneys available therefor, if any, to pay the cost of maintaining, repairing and operating the project and each and every portion thereof, to the extent that the payment of such cost has not otherwise been adequately provided for, to pay the principal of and the interest on outstanding bonds, notes, bond anticipation notes or other obligations of the authority issued with respect to such project as the same shall become due and payable, and to create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, such bonds or notes of the authority. Such rates, rents, fees and charges shall not be subject to supervision or regulation by any department, commission, board, body, bureau or agency of this State other than the authority. A sufficient amount of the revenues derived with respect to a project, except such part of such revenues as may be necessary to pay the cost of maintenance, repair and operation and to provide reserves and for renewals, replacements, extensions, enlargements and improvements as may be provided for in the resolution authorizing the issuance of any bonds or notes of the authority or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or trust agreement in a sinking or other similar fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds, notes, bond anticipation notes or other obligations as the same shall become due, and the redemption price or the purchase price of any obligations retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the rates, rents, fees and charges and other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution or any trust agreement nor any other agreement nor any lease to which the authority is a party need be filed or recorded, except in the records of the authority. The use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the resolution authorizing the issuance of such bonds or notes or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking or other similar fund may be a fund for all obligations to finance projects without distinction or priority of one over another, provided the authority, in any such resolution or trust agreement, may provide that such sinking or other similar fund shall be the fund for a particular project and for the bonds issued to finance a particular project and may, additionally, permit and provide for the issuance of bonds having a subordinate lien in respect of the security herein authorized to other bonds of the authority, and, in such case, the authority may create separate sinking or other similar funds in respect of such subordinate lien bonds.

#### § 1001A. Trust funds

All moneys received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds or notes or as revenues, are trust funds to be

held and applied solely as provided in this chapter. Any officer with whom, or any bank or trust company with which, such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this chapter, subject to such regulations as this chapter and the resolution authorizing bonds, notes, bond anticipation notes or other obligations of any issue or the trust agreement securing such bonds or notes provides.

The authority shall have the power to contract with the holders of any of its bonds, notes, bond anticipation notes and other obligations as to the custody, collection, securing, investment and payment of any moneys of the authority and to carry out such contract.

#### § 10015. Enforcement of rights and duties

Any holder of bonds, notes, bond anticipation notes, other notes or other obligations issued under this chapter or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds, may, either at law or in equity, by writ, action, mandamus, foreclosure or other proceedings, protect and enforce any and all rights under the laws of the State or granted under this chapter or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this chapter or by such resolution or trust agreement to be performed by the authority or by any member, officer, employee or agent thereof, including the fixing, charging and collecting of the rates, rents, fees and charges herein authorized and required by such resolution or trust agreement to be fixed, established and collected.

#### § 10016. Exemption from taxation

The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the State, for the increase of their commerce, welfare, safety and prosperity, and will constitute the performance of an essential governmental function, and the authority shall not be required to pay any taxes or assessments upon or with respect to any property acquired or owned by the authority or under the jurisdiction, control, possession or supervision of the same or upon the activities of the authority in the operation or maintenance of a project or projects under this chapter, or upon income or other revenues received therefrom, and any bonds, notes, bond anticipation notes or other obligations issued under this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, as well as the income and property of the authority, are at all times exempt from taxation of every kind by the State and by the municipalities and all other political subdivisions of the State. In lieu of local, municipal and quasi-municipal taxes, charges and assessments, the authority shall pay to the applicable local governmental entities a sum as will reasonably compensate said governmental entity for services rendered to, required by, or necessitated by activities within the authority, and as a result of the acquisition of property by the authority. In the event that no agreement can be reached as to

the amount of said sum, the parties shall submit the impasse to the State Board of Arbitration and Conciliation, whose decision shall be binding and final. After making provisions for the payment of the principal and interest of any and all outstanding obligations of the authority as provided and the proper and necessary costs of administering, maintaining, operating and servicing the authority, including reasonable reserves for such purposes, the authority shall, within 2 months after the close of its fiscal year, pay over to the Local Government Fund as established in Title 30, section 5055, the net revenues received by the authority from its leases, contracts and all other revenue-producing activities during the preceding fiscal year. In no event, however, shall this section be construed to exempt from taxation under state law any of the property, income, profits or activities of any participating industry, but shall apply solely to the property, income, profits and activities of the authority.

#### § 10017. Bonds declared legal investments

Bonds, notes, bond anticipation notes or other obligations issued by the authority under this chapter are hereby made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, trust companies, banks, bankers, banking associations, savings banks and savings associations, including savings and loan associations, credit unions, building and loan associations, investment companies, executors, administrators, trustees and other fiduciaries, pension, profit-sharing, retirement funds and other persons carrying on a banking business, and all other persons whatsoever, who are now or may hereafter be, authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital in their control or belonging to them. Such bonds, notes, bond anticipation notes or other obligations are hereby made securities which may properly and legally be deposited with and received by any state, municipal or public officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.

#### § 10018. Annual report

Within 4 months after the close of each fiscal year of the authority, the executive director of the authority shall prepare and submit a complete financial report to the Governor, the Executive Council and the Legislature, duly audited and certified by the auditor and a duly licensed certified public accountant of accounts of the operations and activities of the authority during the preceding fiscal year to be distributed in the same way as state departmental reports.

#### § 10019. Refunding obligations

1. Refunding. The authority is authorized to provide for the issuance of obligations of the authority for the purpose of refunding any bonds of the authority then outstanding, at or prior to maturity, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase or maturity of such obli-



gations, and, if deemed advisable by the authority for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a project or any portion thereof.

2. Use of proceeds. The proceeds of any such obligations issued for the purpose of refunding outstanding obligations, may, in the discretion of the authority, be applied to the purchase or retirement at maturity thereof and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority.

3. Escrow proceeds. Any such escrow proceeds, pending such use, may, at the discretion of the authority, be invested and reinvested in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, of the outstanding obligations to be so refunded. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding obligations to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner.

4. Investments. The portion of the proceeds of any such obligations issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements or easements or rights-of-way of a project may be invested and reinvested in obligations of or guaranteed by, the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost. The interest, income and profits, if any, earned or realized on such investment may be applied to the payment of all or any part of such cost or may be used by the authority in any lawful manner.

5. Conditions. All such obligations shall be subject to this chapter in the same manner and to the same extent as other obligations issued pursuant to this chapter.

#### § 10020. Agreement of the State

The State does pledge to and agree with the holders of any bonds, notes, bond anticipation notes or other obligations issued under this chapter, and with those parties who may enter into contracts with the authority pursuant to this chapter, that the State will not limit, alter, restrict or impair the rights vested in the authority and the participating industries to acquire, construct, reconstruct, maintain and operate any project as defined in this chapter or to establish, revise, charge and collect rates, rents, fees and other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation thereof and to fulfill the terms of any agreements made with the holders of bonds, notes, bond anticipation notes or

other obligations authorized and issued under this chapter and with the parties who may enter into contracts with the authority pursuant to this chapter, or in any way impair the rights or remedies of the holders of such bonds, notes, bond anticipation notes or other obligations of such parties until the bonds, notes and other obligations, together with interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of obligations, are fully met and discharged and such contracts are fully performed on the part of the authority. Nothing in this chapter precludes such limitation or alteration if and when adequate provision is made by law for the protection of the holders of such bonds, notes, bond anticipation notes or other obligations of the authority or those entering into such contracts with the authority. The authority is authorized to include this pledge and undertaking for the State in such bonds, notes, bond anticipation notes or other obligations or contracts.

§ 10021. Act cumulative; no notice required

Neither this chapter nor anything contained in this chapter is or shall be construed as a restriction or limitation upon any powers which the Machias Bay Industrial Port Authority might otherwise have under any laws of this State, and this chapter is cumulative of any such powers. This chapter does and shall be construed to provide a complete, additional and alternative method for doing the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws. Neither the making of contracts nor the issuance of bonds, notes, bond anticipation notes, refunding obligations or other obligations pursuant to the provisions of this chapter need comply with the requirements of any other state law applicable to the making of contracts and the issuance of bonds, notes, bond anticipation notes or other obligations, for the construction and acquisition of any project undertaken pursuant to this chapter. No proceedings, notice or approval shall be required for the issuance of any bonds, notes, bond anticipation notes, or other obligations or any instrument as security therefor, except as is provided in this chapter.

§ 10022. Act liberally construed

This chapter, being necessary for the welfare of the State and its inhabitants, shall be liberally construed so as to effect its purposes.

§ 10023. Constitutional construction

The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect nor impair any of the remaining provisions.

## STATEMENT OF FACT

The intent of this Act is reflected in section 10002 of this Act.