

MAINE STATE LEGISLATURE

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(EMERGENCY)
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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 966

H. P. 925

House of Representatives, March 17, 1977

Reported by Mr. Mills from the Committee on Marine Resources and
printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Create the Eastport Port Authority.

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

Whereas, the present powers granted to the Eastport Public Landing Authority are insufficient; and

Whereas, Eastport is vitally in need of economic stimulus, and improvement of wharves, docks and warehouses is immediately necessary; and

Whereas, it is desirable for the residents of Eastport to vote on this matter at the earliest possible moment; 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. Eastport Port Authority created. There is hereby created the Eastport Port Authority, which shall have the 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 7 directors who shall exercise the powers and duties of the authority.

The city manager of Eastport, the president of the Eastport city council and a member of the Eastport chamber of commerce, as chosen by the chamber of commerce, shall be directors as long as they hold their respective offices, and their successors shall be directors while they hold the respective offices. The other 4 directors shall be residents of Eastport and shall be elected by a majority of the legal voters voting at an election, for a term of 4 years, in the same manner and at the same time as Eastport city councilors, provided that at the first election under this section, one director shall be elected for one year, one for 2 years, one for 3 years and one for 4 years. Directors shall begin their terms of office immediately following their election, and shall serve until their successors have been duly elected and qualified.

Vacancies that may occur by death, resignation or otherwise shall be filled by appointment of the city council, until a successor is elected at the next election of directors.

All directors shall be sworn to the faithful performance of their duties by the city clerk.

The members of the board of directors shall serve without compensation; but shall have the right to appoint assistants, agents, engineers, attorneys and other employees as they 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 assistants as they may deem necessary to carry out this Act. They shall make plans as seem best to them to obtain title to the wharf or wharves, or locations for the 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 in the City of Eastport. With the consent of the Eastport city council, or a vote of a majority thereof, the 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 expressly delegated to the Eastport Port Authority, and hold the real property and rights and easements therein as the directors may from time to time consider necessary for the purpose of constructing and maintaining the Eastport Port Authority piers, docks and warehouses, highways and other port facilities, and shall further have the right to construct suitable buildings, filling stations, restaurants or other structures, and have the authority to lease the same, upon the terms as the directors or a majority thereof may determine to be in the best interests of the authority, the proceeds from leases to accrue to the credit of the Eastport Port Authority. These wharves, buildings and property shall be exempt from taxation by the City of Eastport, provided that this exemption shall not

exempt any lessee or person in possession, other than the port authority, from taxes or assessments payable under the Revised Statutes, Title 36, section 551. 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 and 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 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. The directors may accept federal, state and private grants and contributions for the purposes of this Act.

Sec. 2. Right of eminent domain conferred; procedure. In order to take any property by right of eminent domain, the directors shall, within 90 days after voting for such action, file and cause to be recorded in the registry of deeds for the county in which the property to be taken is located a description thereof sufficiently accurate for identification, with a statement of the purposes for which the same is to be taken, signed by a majority of the directors.

Notice of such proceedings shall be given to the owners thereof, if known, and the notice shall be published once a week for 3 weeks in a newspaper published regularly in the county where the land or easement is situated. The recording shall operate as a taking of the real estate and the rights and easements therein described.

No taking shall be valid unless it is recorded in accordance with the provisions of this section.

In the event the owner of the land or easements shall not consent to the taking thereof, the owner or other person beneficially interested therein shall begin proceedings to protect their interests in the lands or easements in the Superior Court in the county where the lands are situated within 60 days after the recording of the plan. If the taking of the lands or easements are permanently enjoined by the Superior Court on proceedings instituted therefor, such damages only as shall have been sustained shall be recoverable by the person whose lands were taken or attempted to be taken as aforesaid.

Sec. 3. How financed. The authority is authorized to issue its bonds or notes not exceeding at any one time outstanding the principal sum of \$500,000. The bonds may be issued to mature serially or for 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. All bonds or notes shall be signed by the 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 the 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. The bonds and notes shall be legal obligations of the 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 the section shall be applicable thereto. The 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 of taxation by the State.

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 that 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, is free of all indebtedness, all obligations 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 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 the City of Eastport.

Sec. 4. 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, that judgment shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which the judgment shall have been rendered.

Sec. 5. Public lands. Notwithstanding any other provision contained in this Act, the powers and authority herein granted to the Eastport Port Authority shall not be construed as constituting a conveyance to the Eastport Port Authority of any right, title or interest in real or personal property of the State of Maine or of any agency or instrumentality thereof and shall not impair, modify or otherwise affect the powers and duties of the Bureau of Public Lands respecting the custody, management, control, disposition and receipt of moneys upon such disposition, of the state's submerged, intertidal and other public lands pursuant to the Revised Statutes, Title 12, sections 514-A and 551 and the rules, regulations and policies adopted by such bureau in accordance with such laws.

Sec. 6. P&SL 1951, c. 128, as amended by P&SL 1963, c. 24 and by 1973, c. 62, is repealed.

Sec. 7. 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. The election shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, that the registrar of voters of the 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 the registrar shall be in session the 3 secular days next preceding the election, the first 2 days thereof to be devoted to registration of voters and the last day to enable the registrar to verify the correction of the lists and to complete and close up his records of the sessions. The city clerk shall reduce the subject matter of this Act to the following question:

“Shall ‘An Act to Create the Eastport Port Authority,’ as passed by the 108th first regular session of the Legislature, be accepted?”

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

Upon its acceptance by a majority of the legal voters voting at the election, this Act shall take effect for all the purposes hereof; provided that the total number of votes cast for and against the acceptance of this Act at the meeting equaled or exceeded 20% of the total number of votes cast for Governor in the city at the last gubernatorial election. Another election may be held, if the total number of votes cast in the first election does not equal or exceed 20%.

This Act shall take effect for all the purposes hereof immediately upon its acceptance by a majority of the legal voters voting at the election. The result of the election shall be declared by the municipal officers of the City of Eastport and due certificate filed by the city clerk with the Secretary of State. Upon its taking effect, the city council of Eastport shall appoint the 4 elected directors, who shall hold the office until directors are elected at the next election as provided in section 1 of this Act.

STATEMENT OF FACT

The purpose of this new draft is stated in the emergency preamble.