

MAINE STATE LEGISLATURE

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1 (After Deadline)
2 (EMERGENCY)
3 SECOND REGULAR SESSION
4

5 ONE HUNDRED AND TWELFTH LEGISLATURE
6

7 Legislative Document

No. 1828

9 H.P. 1312

House of Representatives, January 13, 1986

10 Approved for introduction by a majority of the Legislative Council
11 pursuant to Joint Rule 27.

12 Reference to the Committee on Transportation suggested and ordered
printed.

EDWIN H. PERT, Clerk

Presented by Representative Vose of Eastport.

Cosponsored by Senator Brown of Washington.

14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-SIX
18

19 AN ACT to Establish the Lubec Port Authority.
20

21 Emergency preamble. Whereas, Acts of the Legis-
22 lature do not become effective until 90 days after
23 adjournment unless enacted as emergencies; and

24 Whereas, Lubec is vitally in need of economic
25 stimulus, and improvement of wharves, docks and ware-
26 houses is immediately necessary; and

27 Whereas, it is desirable for the residents of
28 Lubec to vote on this matter at the earliest possible
29 moment; and

30 Whereas, in the judgment of the Legislature,
31 these facts create an emergency within the meaning of
32 the Constitution of Maine and require the following
33 legislation as immediately necessary for the preser-
34 vation of the public peace, health and safety; now,
35 therefore,

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

3 **Sec. 1. Lubec Port Authority created.** There is
4 hereby created the Lubec Port Authority, which shall
5 have the authority to acquire, construct, operate,
6 maintain, repair and replace piers, terminal and
7 warehouse facilities on the land and in the waters
8 within the limits of the Town of Lubec.

9 There shall be a board of 5 directors who shall
10 exercise the powers and duties of the authority.

11 The 5 directors must be residents of Lubec and
12 shall be elected by a majority of the legal voters
13 voting at a regular or special municipal election for
14 a term of 3 years, provided that at the first elec-
15 tion under this section, one director shall be
16 elected for one year, 2 for 2 years and 2 for 3
17 years. Directors shall begin their terms of office
18 immediately following their election and shall serve
19 until their successors have been duly elected and
20 qualified.

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

25 All directors shall be sworn to the faithful per-
26 formance of their duties by the town clerk.

27 The members of the board of directors shall serve
28 without compensation; but shall have the right to ap-
29 point assistants, agents, engineers, attorneys and
30 other employees as they may deem necessary to carry
31 out the purposes of this Act and shall determine
32 their duties and compensation.

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

1 The directors shall be the administrative offi-
2 cers of the authority and may employ assistants as
3 they may deem necessary to carry out this Act. They
4 shall make plans to obtain title to the wharf or
5 wharves, or locations for the wharf or wharves, and
6 they may acquire, construct, operate, maintain and
7 repair piers, terminal and warehouse facilities on
8 the land and in the waters within the limits of the
9 Town of Lubec, as will in their judgment improve and
10 increase the harbor, docking and warehousing facili-
11 ties in Lubec. With the consent of a majority of the
12 selectmen, the authority may take or acquire within
13 the limits of the Town of Lubec real property, by
14 purchase or otherwise, by gift or grant or by the ex-
15 ercise of the right of eminent domain, which right is
16 expressly delegated to the Lubec Port Authority, and
17 hold the real property and rights and easements
18 therein as the directors may from time to time con-
19 sider necessary for the purpose of constructing and
20 maintaining the Lubec Port Authority piers, docks and
21 warehouses, highways and other port facilities and
22 shall further have the right to construct suitable
23 buildings, filling stations, restaurants or other
24 structures and have the authority to lease the same,
25 upon the terms as the directors or a majority thereof
26 may determine to be in the best interests of the au-
27 thority, the proceeds from leases to accrue to the
28 credit of the Lubec Port Authority. These wharves,
29 buildings and property shall be exempt from taxation
30 by the Town of Lubec, provided that this exemption
31 shall not exempt any lessee or person in possession,
32 other than the port authority, from taxes or assess-
33 ments payable under the Maine Revised Statutes, Title
34 36, section 551. The authority shall submit annual-
35 ly, at the end of the fiscal year, a report to the
36 municipal officers, showing all transactions and bal-
37 ances, together with any recommendations for the im-
38 provement and operation of the public landing and
39 warehousing facilities. The board of directors may
40 establish bylaws and all rules and regulations gov-
41 erning the operation and maintenance of the public
42 landing and Lubec Port Authority; charge such fees as
43 may, in their judgment, be necessary for parking,
44 docking and storage privileges; contract for the con-
45 struction of the wharf or wharves, warehouse or ware-
46 houses and borrow money for these purposes; arrange
47 for its financing; and provide for its protection by

1 insurance against damage by fire, water or wind and
2 for any other casualty which the directors wish to
3 insure against and for liability against injury to
4 persons and property. The directors may accept federal,
5 state and private grants and contributions for
6 the purposes of this Act.

7 Sec. 2. Right of eminent domain conferred; pro-
8 cedure. In order to take any property by right of
9 eminent domain, the directors shall, within 90 days
10 after voting for such action, file and cause to be
11 recorded in the registry of deeds for the county in
12 which the property to be taken is located a descrip-
13 tion thereof sufficiently accurate for identifica-
14 tion, with a statement of the purposes for which the
15 same is to be taken, signed by a majority of the di-
16 rectors.

17 Notice of such proceedings shall be given to the
18 owners of the property, if known, and the notice
19 shall be published once a week for 3 weeks in a news-
20 paper published regularly in the county where the
21 land or easement is situated. The recording shall
22 operate as a taking of the real estate and the rights
23 and easements therein described.

24 A taking shall not be valid unless it is recorded
25 in accordance with the provisions of this section.

26 In the event the owner of the land or easements
27 does not consent to the taking of that property, the
28 owner or other person beneficially interested in that
29 property shall begin proceedings to protect their in-
30 terests in the lands or easements in the Superior
31 Court in the county where the lands are situated
32 within 60 days after the recording of the plan. If
33 the taking of the lands or easements are permanently
34 enjoined by the Superior Court on proceedings insti-
35 tuted therefor, only damages which have been sus-
36 tained shall be recoverable by the person whose lands
37 were taken or attempted to be taken.

38 Sec. 3. How financed. The authority may issue
39 its bonds or notes not exceeding at any one time out-
40 standing the principal sum of \$1,000,000. The bonds
41 may be issued to mature serially or for periods not
42 to exceed 30 years from the date of issue with inter-

1 est at such rate and upon such other and further
2 terms and conditions as the directors, or a majority
3 thereof, may determine. All bonds or notes shall be
4 signed by the directors of the authority or a majori-
5 ty thereof. Each bond and note shall have inscribed
6 upon its face "Lubec Port Authority," shall bear in-
7 terest at such rates as the directors shall deter-
8 mine, payable semiannually, and shall be subject to
9 such other provisions as the directors shall deter-
10 mine. Bonds and notes issued by the authority may be
11 made callable at any interest date. All notes or
12 bonds issued by the authority shall be signed by the
13 directors of the authority or a majority thereof, and
14 if coupon bonds be issued, each coupon shall be at-
15 tested by the facsimile signature of the chairman
16 printed on the coupon. The bonds and notes shall be
17 legal obligations of the authority which is hereby
18 declared to be a quasi-municipal corporation within
19 the meaning of the Maine Revised Statutes, Title 30,
20 section 5053, and all the provisions of that section
21 shall be applicable to the authority. The bonds and
22 notes shall be legal investments for trust companies
23 and savings bands. All notes, bonds or other securi-
24 ties issued by the authority shall at all times be
25 free of taxation by the State.

26 The directors may secure the payment of any bonds
27 or notes of the authority by the granting of a mort-
28 gage, security agreement, assignment of lease, as-
29 signment of rentals or any other security instrument.
30 In the event the directors determine to establish a
31 sinking fund for the payment of the notes or bonds of
32 the authority as they come due, all funds paid into
33 that sinking fund shall be deposited in a national
34 bank or trust company or invested in the securities
35 of the United States of America or the State of
36 Maine.

37 At such time as the public landing, together with
38 all of its buildings and facilities of every kind, is
39 free of all indebtedness, all obligations have been
40 discharged, all leases have been terminated and the
41 directors or a majority thereof determine in writing
42 that there is no further need for the authority to
43 exist, the board of directors shall automatically
44 cease to function and all property of every descrip-
45 tion shall revert to the Town of Lubec and the direc-

1 tors of the authority shall cause to be executed,
2 signed and delivered a good and sufficient deed con-
3 veying all property of every description, together
4 with all money and things of value to the Town of
5 Lubec.

6 Sec. 4. Invalidity of any part not to affect va-
7 lidity of remainder of Act. If any clause, sentence,
8 paragraph or part of this Act is for any reason ad-
9 judged by any court of competent jurisdiction to be
10 invalid, that judgment shall be confined in its oper-
11 ation to the clause, sentence, paragraph or part di-
12 rectly involved in the controversy in which the judg-
13 ment is rendered.

14 Sec. 5. Public lands. Notwithstanding any other
15 provision of this Act, the powers and authority
16 granted to the Lubec Port Authority shall not be con-
17 strued as constituting a conveyance to the Lubec Port
18 Authority of any right, title or interest in real or
19 personal property of the State or of any agency or
20 instrumentality of the State and shall not impair,
21 modify or otherwise affect the powers and duties of
22 the Bureau of Public Lands respecting the custody,
23 management, control, disposition and receipt of money
24 upon such disposition, of the State's submerged,
25 intertidal and other public lands pursuant to the
26 Maine Revised Statutes, Title 12, section 551 and the
27 rules and policies adopted by such bureau in accord-
28 ance with such laws.

29 Sec. 6. Emergency clause; referendum; effective
30 date. In view of the emergency cited in the pream-
31 ble, this Act shall take effect when approved, only
32 for the purpose of permitting its submission to the
33 legal voters of the Town of Lubec, voting at a regu-
34 lar or special election called and held for the pur-
35 pose within 10 months after the approval of this Act.
36 The election shall be called, advertised and con-
37 ducted according to the law relating to municipal
38 elections; provided, however, that the registrar of
39 voters shall not be required to prepare for posting,
40 nor the town clerk to post, a new list of voters, and
41 for the purpose of registration of voters the regis-
42 trar shall be in session the 3 secular days next pre-
43 ceding the election, the first 2 days thereof to be
44 devoted to registration of voters and the last day to

1 enable the registrar to verify the correction of the
2 lists and to complete and close up his records of the
3 sessions. The town clerk shall reduce the subject
4 matter of this Act to the following question:

5 "Shall the Lubec Port Authority be created?"

6 The voters shall indicate by a cross or check
7 mark placed against the words "Yes" or "No" their
8 opinion of the same.

9 Upon its acceptance by a majority of the legal
10 voters voting at the election, this Act shall take
11 effect for all the purposes hereof; provided that the
12 total number of votes cast for and against the ac-
13 ceptance of this Act at the meeting equaled or ex-
14 ceeded 20% of the total number of votes cast for Gov-
15 ernor in the town at the last gubernatorial election.
16 Another election may be held, if the total number of
17 votes cast in the first election does not equal or
18 exceed 20%.

19 This Act shall take effect for all purposes here-
20 of immediately upon its acceptance by a majority of
21 the legal voters voting at the election. The result
22 of the election shall be declared by the municipal
23 officers of the Town of Lubec and due certificate
24 filed by the town clerk with the Secretary of State.

25 STATEMENT OF FACT

26 The purpose is to authorize the establishment of
27 the Lubec Port Authority subject to the approval by
28 the voters in the Town of Lubec.

29 5469010286