

# MAINE STATE LEGISLATURE

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L.D. 546

(Filing No. H-153 )

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
113TH LEGISLATURE  
FIRST REGULAR SESSION

HOUSE AMENDMENT "A" to H.P. 412, L.D. 546,  
Bill, "AN ACT to Amend the Charter of the Lubec Port  
Authority."

Amend the bill by striking out all of the title  
and inserting in its place the following:

**'AN ACT to Establish the Lubec Port Authority.'**

Further amend the bill by striking out everything  
after the title and inserting in its place the fol-  
lowing:

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

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

Whereas, it is desirable for the residents of  
Lubec 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 preser-  
vation of the public peace, health and safety; now,  
therefore,

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

**Sec. 1. Lubec Port Authority created.** There is  
hereby created the Lubec Port Authority, which shall

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1 have the authority to acquire, construct, operate,  
2 maintain, repair and replace piers, terminal and  
3 warehouse facilities on the land and in the waters  
4 within the limits of the Town of Lubec.

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

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

17 Vacancies that may occur by death, resignation or  
18 otherwise shall be filled by appointment of the se-  
19 lectmen until a successor is elected at the next  
20 election of directors.

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

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

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

35 The directors shall be the administrative offi-

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

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1 be necessary for parking, docking and storage privi-  
2 leges; contract for the construction of the wharf or  
3 wharves, warehouse or warehouses and borrow money for  
4 these purposes; arrange for its financing; and pro-  
5 vide for its protection by insurance against damage  
6 by fire, water or wind and for any other casualty  
7 which the directors wish to insure against and for  
8 liability against injury to persons and property.  
9 The directors may accept federal, state and private  
10 grants and contributions for the purposes of this  
11 Act.

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

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

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

31 In the event the owner of the land or easements  
32 does not consent to the taking of that property, the  
33 owner or other person beneficially interested in that  
34 property shall begin proceedings to protect their in-  
35 terests in the lands or easements in the Superior  
36 Court in the county where the lands are situated  
37 within 60 days after the recording of the plan. If  
38 the taking of the lands or easements are permanently

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1 enjoined by the Superior Court on proceedings insti-  
2 tuted therefor, only damages which have been sus-  
3 tained shall be recoverable by the person whose lands  
4 were taken or attempted to be taken.

5       **Sec. 3. Authorized to receive governmental aid;**  
6 **to borrow money; to issue bonds and notes.** For ac-  
7 complishing the purposes of this Act, the Lubec Port  
8 Authority, through its directors, without vote of the  
9 inhabitants, may receive municipal, state and federal  
10 aid grants. The port authority may reimburse the  
11 Town of Lubec for any expense incurred for the bene-  
12 fit of the port authority.

13       The port authority, through its directors, with-  
14 out the vote of its voters, may borrow money tempo-  
15 rarily and issue therefor its negotiable notes, for  
16 the purpose of renewing and refunding the indebted-  
17 ness so created, of paying any necessary expenses and  
18 liabilities incurred under this Act, including orga-  
19 nizational and other necessary expenses and liabili-  
20 ties, whether incurred by the port authority or the  
21 Town of Lubec.

22       The port authority, through its directors, may  
23 issue bonds, notes or other evidences of indebtedness  
24 of the port authority, in such amounts, bearing such  
25 interest and having such terms as the directors shall  
26 determine, provided that issuance of bonds and notes  
27 shall be in accordance with this section.

28       In the event that the directors vote to authorize  
29 bonds or notes, the estimated cost of which, singly  
30 or in the aggregate included in any one financing, is  
31 \$150,000 or more adjusted, relative to 1986 as the  
32 base year according to the annual Consumer Price In-  
33 dex, as defined in the Maine Revised Statutes, Title  
34 5, section 1001, subsection 6-A, the directors shall  
35 provide notice to the general public of the proposed  
36 bond or note issue and the purposes for which the  
37 debt is being issued. The notice shall be published  
38 at least once in a newspaper having general circula-

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1 tion in the district. The directors shall give notice to each rate-payer by mail.

3 No debt may be incurred under the vote of the directors until the expiration of 7 full days following the date on which the notice was first published and mailed. Prior to the expiration of the period, the directors shall call a special meeting for the purpose of permitting the collection of testimony from the public concerning the amount of debt so authorized.

11 Except for indebtedness the fund projects specifically mandated by the State Government and Federal Government, for debts in excess of the amount specified in this section, if requested by petition of not less than 50 of the voters or 5% of the voters of the municipality, whichever is greater, filed with the town clerk of Lubec on or before the date of the meeting, the meeting shall express approval or disapproval of the amount of debt authorized by the directors. If a majority of voters present and voting expresses disapproval of the amount of debt authorized by the directors, the debt shall not be incurred and the vote of the directors authorizing it shall be void and of no effect.

25 The bonds, notes and evidences of indebtedness may be issued to mature serially or made to run for such periods as the directors may determine. Bonds, notes or evidences of indebtedness may be issued with or without provisions for calling the same prior to maturity and, if callable, may be made callable at par or at such premium as the directors may determine. All bonds, notes or other evidences of indebtedness shall have inscribed upon their faces the words "Lubec Port Authority," shall be signed by the treasurer, if any, and countersigned by the chairman of the port authority and, if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile signature of the treasurer or chairman.

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1 All bonds, notes and evidences of indebtedness  
2 issued by the port authority shall be legal obliga-  
3 tions of the port authority, which is declared to be  
4 a quasi-municipal corporation within the meaning of  
5 the Maine Revised Statutes, Title 30, section 5053,  
6 and all provisions of that section shall be applica-  
7 ble thereto.

8 The port authority may refund and reissue, in one  
9 or in separate series, its bonds, notes and other ev-  
10 idences of indebtedness and each authorized issue  
11 shall constitute a separate loan. All bonds, notes  
12 and evidences of indebtedness issued by the port au-  
13 thority shall be legal investments for savings banks  
14 in this State and shall be free from taxation.

15 The total debt of the port authority outstanding  
16 at any one time shall not exceed \$1,000,000.

17 **Sec. 4. Invalidity of any part not to affect va-**  
18 **lidity of remainder of Act.** If any clause, sentence,  
19 paragraph or part of this Act is for any reason ad-  
20 judged by any court of competent jurisdiction to be  
21 invalid, that judgment shall be confined in its oper-  
22 ation to the clause, sentence, paragraph or part di-  
23 rectly involved in the controversy in which the judg-  
24 ment is rendered.

25 **Sec. 5. Public lands.** Notwithstanding any other  
26 provision of this Act, the powers and authority  
27 granted to the Lubec Port Authority shall not be con-  
28 strued as constituting a conveyance to the Lubec Port  
29 Authority of any right, title or interest in real or  
30 personal property of the State or of any agency or  
31 instrumentality of the State and shall not impair,  
32 modify or otherwise affect the powers and duties of  
33 the Bureau of Public Lands respecting the custody,  
34 management, control, disposition and receipt of money  
35 upon such disposition, of the State's submerged,  
36 intertidal and other public lands pursuant to the  
37 Maine Revised Statutes, Title 12, section 551 and the



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1 rules and policies adopted by such bureau in accord-  
2 ance with such laws.

3       **Sec. 6. Emergency clause; referendum; effective**  
4 **date.** In view of the emergency cited in the pream-  
5 ble, this Act shall take effect when approved, only  
6 for the purpose of permitting its submission to the  
7 legal voters of the Town of Lubec, voting at a regu-  
8 lar or special election called and held for the pur-  
9 pose within 24 months after the approval of this Act.  
10 The election shall be called, advertised and con-  
11 ducted according to the law relating to municipal  
12 elections; provided, however, that the registrar of  
13 voters shall not be required to prepare for posting,  
14 nor the town clerk to post, a new list of voters, and  
15 for the purpose of registration of voters the regis-  
16 trar shall be in session the 3 secular days next pre-  
17 ceding the election, the first 2 days thereof to be  
18 devoted to registration of voters and the last day to  
19 enable the registrar to verify the correction of the  
20 lists and to complete and close up his records of the  
21 sessions. The town clerk shall reduce the subject  
22 matter of this Act to the following question:

23       "Shall the Lubec Port Authority be created?"

24       The voters shall indicate by a cross or check  
25 mark placed against the words "Yes" or "No" their  
26 opinion of the same.

27       Upon its acceptance by a majority of the legal  
28 voters voting at the election, this Act shall take  
29 effect for all the purposes hereof; provided that the  
30 total number of votes cast for and against the ac-  
31 ceptance of this Act at the meeting equaled or ex-  
32 ceeded 10% of the total number of votes cast for Gov-  
33 ernor in the town at the last gubernatorial election.  
34 Another election may be held, if the total number of  
35 votes cast in the first election does not equal or  
36 exceed 20%.

37       This Act shall take effect for all purposes here-

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1 of immediately upon its acceptance by a majority of  
2 the legal voters voting at the election. The result  
3 of the election shall be declared by the municipal  
4 officers of the Town of Lubec and due certificate  
5 filed by the town clerk with the Secretary of State.'

6 STATEMENT OF FACT

7 The purpose of this amendment is to authorize the  
8 establishment of the Lubec Port Authority, subject to  
9 the approval by the voters in the Town of Lubec.

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2930051987

Filed by Rep. Vose of Eastport  
Reproduced and distributed under the direction of the Clerk of the  
House  
5/20/87 (Filing No. H-153)