

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

SECOND REGULAR SESSION-1996

Legislative Document

No. 1859

S.P. 749

In Senate, March 19, 1996

An Act to Authorize the Disposition of Property Interests at the Pineland Center.

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by President BUTLAND of Cumberland. (GOVERNOR'S BILL).
Cosponsored by Representatives: AIKMAN of Poland, DUNN of Gray, GWADOSKY of
Fairfield, HARTNETT of Freeport, TAYLOR of Cumberland.

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

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Sec. 1. Definitions. As used in this Act, unless the context otherwise indicates, the following terms have the following meanings.

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1. Commissioner. "Commissioner" means the Commissioner of Administrative and Financial Services.

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2. Lease. "Lease" refers to real property leases and includes but is not limited to ground leases and leases with option to purchase.

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3. Pineland Conversion Committee. "Pineland Conversion Committee," referred to in this Act as the "committee," consists of the Commissioner of Administrative and Financial Services or the commissioner's designee who serves as chair; the Director of the Bureau of General Services within the Department of Administrative and Financial Services; the chair or any member of the Governor's Task Force on Pineland Center Reuse as of October 1995 as established by Executive Order 4 Fiscal Year 1994-95; a representative appointed by the Board of Selectmen of the Town of New Gloucester; and a representative appointed by the Governor.

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4. State property. "State property" means the property known as "the Pineland Center," containing approximately 299.92 acres, and described in the following deeds recorded in the Cumberland County Registry of Deeds: Book 822, Page 249; Book 822, Page 251; Book 822, Page 253; Book 822, Page 257; Book 823, Page 385; Book 826, Page 79; Book 844, Page 28; and Book 1796, Page 401; together with the buildings and improvements, all appurtenant rights and easements and all personal property located on that property, including vehicles, machinery, equipment and supplies.

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Sec. 2. Authority to convey real estate. The State, through the commissioner and upon a majority vote of the committee, may:

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1. Enter into agreements. Enter into agreements for sale or lease of all or portions of the state property at such prices and upon such terms as the committee determines, in its sole discretion;

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2. Enter into leases. Execute and deliver a lease or leases, or deeds as described in section 5, and other instruments transferring interests in all or portions of the state property at such prices and upon such terms as the committee determines, in its sole discretion;

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3. Settle boundary discrepancies. Negotiate, draft,

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2 execute and deliver any documents necessary to settle any
boundary line discrepancies;

4 **4. Eminent domain.** Exercise, pursuant to the Maine Revised
Statutes, Title 23, chapter 3, the power of eminent domain for
6 the purpose of quieting for all time any possible challenges to
ownership of the state property and for no other purpose;

8 **5. Contribute to value.** Negotiate, draft, execute and
10 deliver any easements or other rights that could contribute to
the value of a proposed sale or lease of the State's interests;
12 and

14 **6. Release interest.** Release any interests in the state
property that do not contribute to the value of the remaining
16 state property.

18 **Sec. 3. Membership; appointment.** The committee established in
section 1, subsection 3 consists of 5 members, appointed by the
20 Governor, to serve until such time as the Governor appoints
members to the Pineland Development Authority pursuant to section
22 13 or all interests in the state property have been conveyed. A
committee member's term does not extend beyond 2 years from the
24 effective date of this Act. Immediately after appointment, the
member shall assume that member's duties. Any vacancy must be
26 filled for the unexpired term by the Governor. Three members are
required for the committee to take action. A vacancy in the
28 committee does not impair the right of committee members to
exercise all the rights and perform all the duties of the
30 committee. The Governor may remove a member from the committee
for misconduct.

32 A committee member is not entitled to receive compensation
34 for services but is entitled to receive reimbursement for
necessary expenditures, including travel expenses incurred in
36 carrying out these services. A committee member is not an
employee of the State or its agencies.

38 **Sec. 4. Conflict of interest.** A committee member may not acquire
40 any interest, direct or indirect, in any contract or proposed
contract of the committee. A committee member may not
42 participate in any decision on any contract entered into by the
committee if that individual has any interest, direct or
44 indirect, in any firm, partnership, corporation, association or
other entity that may be a party to any contract or financially
46 involved in any transaction with the committee.

48 **Sec. 5. Property to be sold "as is."** The state property must be
leased or sold "as is," with no representations or warranties.

2 Title must be transferred by quitclaim release deed without
3 covenant and executed by the commissioner.

4
5 **Sec. 6. Qualifications of potential bidders, purchasers or lessees.** The
6 committee may establish reasonable criteria for the qualification
7 of parties eligible to submit bids or offers to purchase or lease
8 all or any portion of the state property. The criteria must
9 address the parties' technical and financial ability to complete
10 any development plans submitted to the committee.

11 **Sec. 7. Exemptions.** Any lease or conveyance pursuant to this
12 Act is exempt from any statutory or regulatory requirement that
13 the state property first be offered to the Maine State Housing
14 Authority or another state or local agency.

15 **Sec. 8. Marketing.** The commissioner shall have the current
16 market value of the state property determined by a qualified
17 appraiser. The commissioner may market the state property by:

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19 **1. Marketing plans.** Soliciting marketing plans for sale or
20 lease of the state property. The commissioner has authority to
21 select a marketing plan and to enter into a contract with the
22 successful applicant;

23
24 **2. Listing property.** Listing the state property for sale
25 or lease with private real estate brokers at its appraised value;

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27 **3. Bids.** Soliciting bids from potential purchasers or
28 lessees; or

29
30 **4. Direct sale.** Selling directly to purchasers or entering
31 directly into leases with tenants.

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33 If the commissioner elects to solicit bids, the commissioner
34 shall publish notices of sale sufficient to advertise the
35 properties.

36
37 **Sec. 9. Development plans.** The committee may require all
38 potential bidders, purchasers or lessees to submit comprehensive
39 plans describing their proposed development projects, including
40 financial arrangements to ensure completion of the project for
41 the Pineland Center.

42
43 **Sec. 10. Remediation.** One million dollars must be appropriated
44 from the General Fund for remediating certain environmental
45 contamination at the Pineland Center property and, within
46 available funds, assisting the Town of New Gloucester with zoning
47 and site-use planning related to the Pineland property. The
48 funds must be deposited into the "All Other Line Category, Public
49 Improvements - Planning - Construction - Administration, Bureau
50 of General Services." These funds must be expended upon
51 recommendation of the Director of the Bureau of General Services.
52

2 **Sec. 11. Perry Hayden Hall.** The building known as "Perry
Hayden Hall," together with sufficient land lying southerly of
4 Morse Road, must first be offered to School Administrative
District 15, referred to in this section and section 12 as "SAD
6 15," to satisfy applicable land use laws and ordinances and as
required for school purposes. SAD 15 has a period of time not to
8 exceed 180 days from the effective date of this Act to conduct
any studies and evaluations to determine whether Perry Hayden
10 Hall and associated real estate are suitable for use as a school
and to enter into written purchase and sale agreement, lease,
12 lease with option to buy or option to buy with the State through
the commissioner.

14 **Sec. 12. Transfer of management authority.** Nine months from the
16 effective date of this Act, the commissioner shall report to the
Governor on the status of marketing efforts for the state
18 property. If, after reviewing the report, the Governor
determines that the committee has received an oral or written
20 offer or offers to purchase or has entered into a legally binding
agreement or agreements for sale or lease of substantially all of
22 Pineland Center, including Perry Hayden Hall if SAD 15 has
elected not to purchase or lease, the Governor may not appoint
24 members to the Pineland Development Authority, and the committee
shall continue until terminated by the Legislature or until all
26 interests in the state property are sold or leased.

28 If the Governor determines that the committee has not
received an oral or written offer or offers to purchase or
30 entered into a legally binding agreement or agreements for sale
or lease of substantially all of Pineland Center including Perry
32 Hayden Hall if SAD 15 has elected not to purchase or lease, the
Governor shall appoint members to the Pineland Development
34 Authority, which assumes management responsibility for the
Pineland Center property in accordance with the terms of this
36 Act. Upon appointment of members to the authority, all functions
of the committee are transferred to the authority and the
38 committee is terminated.

40 **Sec. 13. Pineland Development Authority.** The Pineland
Development Authority is established as a body corporate and
42 politic and a public instrumentality of the state to carry out
the provisions of this Act. The authority manages the state
44 property in the name of the State.

46 It is declared that the purposes of this Act are public and
that the authority is performing a governmental function in
48 carrying out this Act.

50 **1. Definitions.** For purposes of this section, the
following terms have the following meanings.

- 2 A. "Authority" means the Pineland Development Authority.
- 4 B. "Pineland" or "Pineland Center" means the property
6 consisting of approximately 299.92 acres, as further
described in section 1, subsection 2.
- 8 C. "Maine Municipal Bond Bank" is defined in the Maine
Revised Statutes, Title 30-A, section 5903, subsection 1.
- 10 D. "Readjustment" means use of the Pineland Center
12 following the cessation of use by the Department of Mental
Health and Mental Retardation.
- 14 **2. Powers; membership; obligations.** The authority is a
16 public municipal corporation and may:
- 18 A. Sue and be sued;
- 20 B. Have a seal and alter the seal at its pleasure;
- 22 C. Adopt and amend bylaws covering its procedures and rules
24 for the purposes set forth in this Act; develop and adopt
rules in accordance with the Maine Administrative Procedure
26 Act; publish bylaws and rules as necessary or advisable; and
cause records of its proceedings to be kept;
- 28 D. Utilize the services of the Department of Administrative
and Financial Services that are available and expedient and
30 all charges for services provided by the department may be
paid to the department by the authority as mutually agreed
32 upon;
- 34 E. Utilize the Division of Financial and Personnel Services
36 within the Department of Administrative and Financial
Services as the authority's fiscal agent. The division
38 shall provide regular financial reports to the authority and
the commissioner on funds received and expended. The
authority shall reimburse the division for its services to
40 the authority;
- 42 F. Accept the cooperation of the State or its agencies in
44 the construction, maintenance, reconstruction, operation and
financing of the Pineland Center and the readjustment of the
46 Pineland Center, if any, and take necessary actions to
utilize that aid and cooperation;

2 G. Be eligible as a "governmental unit" to borrow money
3 from the Maine Municipal Bond Bank pursuant to the Maine
4 Revised Statutes, Title 30-A, section 5953;

6 H. Exercise those powers enumerated in section 2,
7 subsection 1;

8 I. Employ such assistants, attorneys, experts and other
9 employees and consultants as the authority considers
10 necessary or desirable for its purposes; and

11 J. Take all other lawful action necessary and incidental to
12 effectuate the purposes set forth in this Act.

13 **3. Income and expenses.** Any income or proceeds received
14 from the lease or sale of the state property, less expenses, must
15 be deposited to the General Fund as undedicated revenue.

16 The authority may make all expenditures necessary within
17 available resources to carry out the purposes of this Act.

18 Any notes, obligations or liabilities under this Act may not be
19 considered a debt or obligation of the State or a pledge of the
20 faith and credit of the State; but those notes, obligations and
21 liabilities are payable exclusively from funds provided to or
22 obtained by the authority pursuant to this Act. Pecuniary
23 liability of any kind may not be imposed upon the State because
24 of any act, agreement, contract, tort, malfeasance, misfeasance
25 or nonfeasance by or on the part of the authority or its agents,
26 servants or employees. The records and correspondence relating
27 to negotiations are confidential and members of the authority,
28 any assistants, attorneys, experts, contractors or employees are
29 not employees of the State or its agencies. The authority is
30 deemed to qualify for all lawyer-client privileges.

31 **4. Membership; appointment.** The authority consists of a
32 board of 13 directors appointed by the Governor, each to serve
33 for 3 years; except that of those first appointed, one director
34 is appointed for one year, one director for 2 years, one director
35 for 3 years and one director for 4 years. Immediately after
36 their appointment, the directors shall assume their duties.

37 The Governor shall make the 13 appointments, as follows:

38 A. The commissioner or the commissioner's designee;

39 B. The Director of the Bureau of General Services within

- 2 the Department of Administrative and Financial Services or
the director's designee;
- 4 C. The chair or any member of the Governor's Task Force on
6 Pineland Center Reuse as of October 1995, as established by
Executive Order 4 Fiscal Year 1994-95;
- 8 D. Two representatives from the Town of New Gloucester;
- 10 E. One representative from the Town of Pownal;
- 12 F. One representative from the Town of North Yarmouth;
- 14 G. One representative from the Town of Gray;
- 16 H. The Commissioner of Economic and Community Development
or the commissioner's designee;
- 18 I. The Director of the State Planning Office or the
20 director's designee; and
- 22 J. Three additional members appointed by the Governor.

24 Representatives from the towns listed in paragraphs D, E, F and G
26 are selected as follows. Municipal officers from the towns of
Gray, New Gloucester, North Yarmouth and Pownal shall each submit
28 to the Governor the names of 3 candidates for appointment to the
authority. The Governor, in the Governor's sole discretion,
30 shall select from the group of candidates one representative from
each of the towns, except that the Governor shall select 2
representatives from the Town of New Gloucester.

32 Seven members constitute a quorum. Seven affirmative votes are
34 required for the board of directors to take action.

36 The liability of the authority is governed by the Maine Tort
Claims Act. Directors are not subject to any personal liability
38 for actions taken as board members.

40 A director is not entitled to receive compensation for services
to the authority but is entitled to receive reimbursement for
42 necessary expenditures, including travel expenses incurred in
carrying out these services.

44 The commissioner or the commissioner's designee is the chair of
46 the authority.

48 Any vacancy must be filled for the unexpired term by the
Governor. A vacancy in the authority does not impair the right
50 of quorum of the directors to exercise all the rights and perform
all the duties of the authority. The Governor may remove a
52 member from the authority for misconduct.

2 **5. Special utility districts.** The authority may form
special utility districts and provide municipal utility services
4 within its jurisdiction. The board of directors has the
authority of a municipal legislative body for these purposes. A
6 special utility district formed under this subsection does not
have the power of eminent domain.

8
A. The authority may provide sewer services as a sanitary
10 district under the Maine Revised Statutes, Title 38, chapter
11, subchapters III and IV. The authority may establish a
12 board of trustees for the sanitary district and appoint the
members of the board or may act as the trustees of the
14 district.

16 B. The authority may provide solid waste disposal services
as a refuse disposal district under the Maine Revised
18 Statutes, Title 38, chapter 17.

20 C. The authority may provide water as a water district
under the Maine Revised Statutes, Title 35-A, Part 6. The
22 authority may establish a board of trustees for the district
and appoint the members of the board or may act as the
24 trustees of the district.

26 **6. Conflict of interest.** A director, officer or employee
of the authority may not acquire any interest, direct or
28 indirect, in any contract or proposed contract of the authority.
A director, officer or employee may not participate in any
30 decision on any contract entered into by the authority if that
individual has any interest, direct or indirect, in any firm,
32 partnership, corporation or association that is a party to the
contract or if that individual is financially involved in any
34 transaction with the authority; except that this prohibition does
not apply to the execution of agreements by banking institutions
36 for the deposit or handling of authority funds in connection with
any contract or to utility services for which rates are fixed or
38 controlled by a governmental agency.

40 **7. Report to the Legislature; department review; operating
budget.** Beginning January 1, 1998, the authority shall present
42 an annual report to the Legislative Council and send copies to
the joint standing committee of the Legislature having
44 jurisdiction over state and local government matters and the
commissioner. The report must include a description of the
46 authority's activities for the preceding fiscal year, including a
report of its receipts and expenditures from all sources.

48
50 Within 60 days of the date on which the directors are appointed
and assume their duties, the authority shall present to the

2 commissioner for the commissioner's approval a proposed operating
budget for the remainder of the fiscal year. Beginning January
4 1, 1998, the authority shall present an annual proposed operating
budget for the next fiscal year beginning July 1st to the
commissioner for approval.

6
All expenditures of the authority are subject to audit by
8 appropriate state agencies.

10 **8. Termination of authority.** The authority is not
dissolved until:

12 A. The authority is terminated by the Legislature; and

14
16 B. All money borrowed from the Maine Municipal Bond Bank,
pursuant to the Maine Revised Statutes, Title 30-A, section
18 5951, together with interest and premiums, has been repaid
or a sufficient amount for repayment has been irrevocably
20 set aside in trust for repayment of the sum borrowed,
together with interest and premiums.

22 All funds, property interests or other assets held by the
authority at the time of termination revert to the State.

24 26 STATEMENT OF FACT

28 The purpose of this bill is to authorize the disposition of
property interests in Pineland Center. The bill creates the
30 Pineland Conversion Committee, which has the authority to enter
into agreements for the sale or lease of Pineland Center.

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34 If the Pineland Conversion Committee does not enter into a
contract for the sale or lease of substantially all of the state
property, the Governor shall appoint members to the Pineland
36 Development Authority, which will have the authority to manage
the property in the name of the State.