

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

SECOND REGULAR SESSION-2006

Legislative Document

No. 1957

H.P. 1371

House of Representatives, January 10, 2006

An Act To Establish the Midcoast Regional Redevelopment Authority

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.
Reference to the Committee on Business, Research and Economic Development suggested and
ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Speaker RICHARDSON of Brunswick.
Cosponsored by President EDMONDS of Cumberland and
Representatives: BERUBE of Lisbon, CROSBY of Topsham, GERZOFSKY of Brunswick,
GROSE of Woolwich, HUTTON of Bowdoinham, PERCY of Phippsburg, VAUGHAN of
Durham, WATSON of Bath, WEBSTER of Freeport, Senator: MAYO of Sagadahoc.

2 2. Base area. "Base area" means the area within the
geographic boundaries of Brunswick Naval Air Station.

4 3. Bond. "Bond" means a bond or note or other evidence of
6 indebtedness authorized under this article, whether issued under
or pursuant to a bond resolution, trust indenture, loan or other
8 security agreement.

10 4. Brunswick Naval Air Station. "Brunswick Naval Air
Station" or "base" means those properties and facilities within
12 the geographic boundaries of the United States Department of
Defense naval air station at Brunswick existing on the effective
14 date of this section. "Base" also includes other geographically
separate property that the authority determines should be part of
16 the base if the municipality in which the property is located has
chosen not to accept the property and use it for other purposes.

18 5. Operating revenues. "Operating revenues" means funds
20 available to the authority from fees, fares, rental or sale of
property and miscellaneous revenue and interest not otherwise
22 pledged or dedicated.

24 6. Primary impact community. "Primary impact community"
means the municipalities of Bath, Bowdoin, Bowdoinham, Brunswick,
26 Freeport, Harpswell, Lisbon Falls and Topsham and Androscoggin
County, Cumberland County and Sagadahoc County.

28 7. Readjustment or reuse. "Readjustment" or "reuse" means
30 an alternative use of the base facility from its use as a
military installation.

32 8. Real or personal property. "Real or personal property"
34 means those properties and assets transferred by the United
States Government or the United States Navy after the closure of
36 Brunswick Naval Air Station.

38 9. Reconstruct or reconstruction. "Reconstruct" or
"reconstruction" means any activities undertaken to maintain the
40 properties of Brunswick Naval Air Station, or any part of those
properties, as a modern, safe and efficient facility and
42 includes, but is not limited to, any rebuilding, redesign,
improvement or enlargement of the real properties or
44 environmental mitigation activities on base properties.

46 §13083-I. Midcoast Regional Redevelopment Authority;
 powers; membership; obligations

48 1. Powers. The authority is a public municipal corporation
50 and may:

- 2 A. Sue and be sued;
- 4 B. Adopt bylaws or rules consistent with this article for
6 the governance of its affairs;
- 8 C. Exercise all of the general powers of corporations under
10 Title 13-C, section 302;
- 12 D. Exercise the power of eminent domain;
- 14 E. Provide for the public safety by imposing appropriate
16 rules, regulating appropriate use of the base facilities and
18 enforcing laws and rules as they apply to the use of the
20 base facilities;
- 22 F. Charge and collect fees, charges and rents for the use
24 of the properties and other services and use the proceeds of
26 those fees, charges and rents for the purposes provided in
28 this article, both subject to and in accordance with any
30 agreement with bondholders that may be made as provided in
32 this article;
- 34 G. Contract with the Federal Government or its
36 instrumentalities or agencies, this State or its agencies,
38 instrumentalities or municipalities, public bodies, private
40 corporations, partnerships, associations and individuals to
42 carry out the purposes of this article;
- 44 H. Accept the cooperation of the Federal Government or its
46 agencies in the construction, maintenance, reconstruction,
48 operation and financing of the readjustment of the base and
 take necessary actions to utilize that aid and cooperation;
- I. Borrow money and apply for and accept advances, loans,
 grants, contributions and other forms of financial
 assistance from the Federal Government, the State, a
 municipality or other public body or from other sources,
 public or private, for the purposes of this article, give
 any security that is required and enter into and carry out
 contracts in connection with that financial assistance;
- J. Borrow money, make, issue and sell at public or private
 sale negotiable notes, bonds and other evidences of
 indebtedness or obligation of the authority for the purposes
 under this article and secure the payment of that obligation
 or any part of that obligation by pledge of all or any part
 of the operating revenues of the authority;

2 K. Enter into loan or security agreements with one or more
3 lending institutions, including, but not limited to, banks,
4 insurance companies and institutions that administer pension
5 funds, or trustees for those institutions for the issuance
6 of bonds and exercise with respect to those loan or security
7 agreements all of the powers delineated in this article for
8 the issuance of bonds;

9
10 L. Provide from operating revenues for the maintenance,
11 construction or reconstruction of facilities to ensure the
12 public safety for which the authority has not otherwise
13 provided;

14 M. Use operating revenues to provide payment of
15 obligations, if any, due to the United States to implement
16 the readjustment or reuse of the base facility;

17 N. Adopt rules pursuant to the Maine Administrative
18 Procedure Act; and

19
20 O. Take all other lawful action necessary and incidental to
21 these powers.

22
23 **2. Membership; appointment.** The authority is governed by a
24 board of trustees composed of 11 voting members appointed by the
25 Governor and subject to review by the joint standing committee of
26 the Legislature having jurisdiction over economic development
27 matters and to confirmation by the Senate.

28
29 A. Trustees are appointed for 4-year terms, except that,
30 for initial appointments, 3 trustees are appointed to
31 one-year terms, 3 trustees are appointed to 2-year terms, 2
32 trustees are appointed to 3-year terms, 2 trustees are
33 appointed to 4-year terms and the commissioner designated
34 pursuant to paragraph D serves at the pleasure of the
35 Governor.

36
37 B. A trustee continues to hold office until a successor is
38 appointed and qualified, but the term of the successor is
39 not altered from the original expiration date of the
40 holdover trustee's term.

41
42 C. The Governor shall make 10 appointments, of which no
43 fewer than 7 must be from candidates who are residents of
44 Androscoggin County, Cumberland County and Sagadahoc County
45 and are nominated by the primary impact communities. The
46 Governor shall appoint members who reflect the diversity of
47 interests represented by these communities.
48

2 D. The Governor shall designate a commissioner of a
3 department of State Government to be a voting, ex officio
4 member of the board of trustees.

5 E. A member appointed to the board of trustees may not hold
6 an elected office in municipal, county or state government.

7 3. Quorum. Six members constitute a quorum. Six
8 affirmative votes are required for the board of trustees to take
9 action.

10 4. Liability. The liability of the authority is governed
11 by the Maine Tort Claims Act.

12 5. Expenses. A trustee is not entitled to receive
13 compensation for services to the authority but is entitled to
14 receive reimbursement for necessary expenditures, including
15 travel expenses, incurred in carrying out those services.

16 6. Officers; employees. The board of trustees shall elect
17 a chair and vice-chair from among its members. The authority may
18 employ an executive director, technical experts and other agents
19 and employees, permanent and temporary, that it requires and may
20 determine their qualifications, duties and compensation. For
21 required legal services, the authority may employ or retain its
22 own counsel and legal staff.

23 **§13083-J. Use of operating revenues**

24 1. Principal use of revenue. Operating revenue must be
25 used principally to reinvest in the properties held by the
26 authority.

27 2. Permitted liability limited. All expenses incurred in
28 carrying out this article must be paid solely from funds provided
29 under the authority of this article, and liability or obligation
30 may not be incurred under this article beyond the extent to which
31 money has been provided under the authority of this article.

32 3. Equal opportunity employers. Contractors and
33 subcontractors on authority construction and reconstruction
34 projects must be equal opportunity employers and, for contracts
35 in excess of \$250,000, shall pursue in good faith affirmative
36 action programs as defined in section 782. The authority may by
37 rule provide for the enforcement of this requirement.

38 **§13083-K. Property of authority**

39 The authority shall hold and acquire property as follows.
40

2 1. Lease or sale. Properties may be leased or sold to
accomplish the readjustment or reuse of the base facilities as
4 determined appropriate by the authority. Resources acquired as a
result of the lease or sale of these properties become operating
6 revenues or assets of the authority.

8 2. Entry upon lands. The authority and its authorized
agents and employees may enter upon lands, waters and premises in
10 the State for the purpose of making surveys, soundings, drillings
and examinations the authority determines necessary or convenient
12 for the purposes of this article. The entry is not a trespass,
but the authority is liable for damages its entry creates.

14 3. Authority for transfers of interest in land to the
authority. Notwithstanding any contrary provisions of law, upon
16 the authority's request, on reasonable and fair terms and
conditions and without the necessity for advertisement, order of
18 court or action or formality other than the regular and formal
action of the authorities concerned, counties, municipalities,
20 public agencies or instrumentalities of the State, public service
corporations and special districts may lease, lend, grant or
22 convey to the authority real or personal property or rights in
that property that may be necessary or convenient for the
24 effectuation of the authorized purposes of the authority,
including real and personal property or rights in that property
26 already devoted to public use. As used in this subsection, the
term "public service corporation" includes a public utility as
28 defined in Title 35-A, section 102, subsection 13 and a
corporation referred to in Title 13-C.

30 **§13083-L. Special utility districts**

32
34 The authority may form special utility districts and provide
municipal utility services within its jurisdiction. The board of
36 trustees of the authority has the authority of a municipal
legislative body for these purposes.

38 1. Sewer services. The authority may provide sewer
services as a sanitary district under Title 38, chapter 11,
40 subchapters 3 and 4. The authority may establish a board of
trustees for the sanitary district and appoint the members of the
42 board of trustees or may act as the board of trustees of the
district.

44
46 2. Solid waste disposal. The authority may provide solid
waste disposal services as a refuse disposal district under Title
38, chapter 17. The authority may establish a board of trustees
48 for the refuse disposal district and appoint the members of the
board of trustees or may act as the board of trustees of the
50 district.

2 3. Water. The authority may provide water as a water
3 district under Title 35-A, Part 6. The authority may establish a
4 board of trustees for the water district and appoint the members
5 of the board of trustees or may act as the board of trustees of
6 the district.

8 4. Revenue-producing services. The authority has all the
9 powers of a municipality to provide services under Title 30-A,
10 chapter 213.

12 **§13083-M. Other municipal powers**

14 1. Traffic ordinances. The authority has the power to
15 enact traffic ordinances and regulate the operation of motor
16 vehicles under Title 30-A, section 3009 to the extent that power
17 is not inconsistent with other validly enacted municipal
18 ordinances.

20 2. Operating expenses. The authority has all the powers of
21 a municipality to raise and appropriate money under Title 30-A,
22 sections 5722 and 5723.

24 3. Zoning. The authority may not adopt zoning or land-use
25 ordinances but may coordinate zoning and land-use regulation with
26 interested primary impact communities.

28 4. Highway maintenance. The authority may maintain,
29 repair, plow and control public ways as a municipality under
30 Title 23, Part 3. The authority shall consult and coordinate
31 with the appropriate primary impact community in appointing a
32 road commissioner.

34 **§13083-N. Bonds**

36 1. Hearing required. The authority may issue bonds to
37 finance its activities only after giving notice of the proposed
38 issuance and its terms at least twice in a newspaper of general
39 circulation in the appropriate counties and holding a duly
40 advertised public hearing on the issuance.

42 2. Authority. The authority may issue bonds from time to
43 time in its discretion to finance the undertaking of an
44 authorized activity under this article, including but not limited
45 to the payment of principal and interest upon advances for
46 surveys and plans, and may issue refunding bonds for the payment
47 or retirement of bonds previously issued.

48 A. The principal and interest of bonds must be made payable
49 solely from the income, proceeds, revenues and funds of the
50 authority.

2 authority derived from or held for activities under this
3 article. Payment of the principal and interest of bonds may
4 be further secured by a pledge of a loan, grant or
5 contribution from the Federal Government or other source in
6 aid of activities of the authority under this article and by
7 a mortgage of an urban activity or a project or part of a
8 project, title to which is in the authority.

9
10 B. Bonds issued under this section do not constitute an
11 indebtedness within the meaning of any constitutional or
12 statutory debt limitation or restriction and are not subject
13 to other laws or charters relating to the authorization,
14 issuance or sale of bonds. Bonds issued under this article
15 are declared to be issued for an essential public and
16 governmental purpose and, together with interest on and
17 income from the bonds, are exempt from all taxes.

18 3. General characteristics. Bonds authorized under this
19 section may be issued in one or more series. The resolution,
20 trust indenture or mortgage under which the bonds are issued may
21 include the following:

22
23 A. The date or dates borne by the bonds;

24
25 B. Whether the bonds are payable upon demand or mature at a
26 certain time or times;

27
28 C. The interest rate or rates of the bonds;

29
30 D. The denomination or denominations of the bonds;

31
32 E. The form of the bonds, whether coupon or registered;

33
34 F. The conversion or registration privileges carried by the
35 bonds;

36
37 G. The rank or priority of the bonds;

38
39 H. The manner of execution of the bonds;

40
41 I. The medium and place or places of payment;

42
43 J. The terms of redemption of the bonds, with or without
44 premium;

45
46 K. The manner secured; and

47
48 L. Any other characteristics of the bonds.

49
50 4. Price sold. The bonds may be:

2 A. Sold at not less than par at public sales held after
4 notice has been published in a newspaper of general
6 circulation in the area of operation and in any other medium
8 of publication that the authority designates;

10 B. Exchanged for other bonds on the basis of par; or

12 C. Sold to the Federal Government at private sale at not
14 less than par. If less than all of the authorized principal
16 amount of the bonds is sold to the Federal Government, the
18 balance may be sold at private sale at not less than par at
20 an interest cost to the municipality that does not exceed
22 the interest cost to the municipality of the portion of the
24 bonds sold to the Federal Government.

26 5. Signatures of outgoing officers; negotiability. If an
28 official of the authority whose signature appears on a bond or
30 coupon issued under this article ceases to be an official before
32 the bond is delivered, the signature is nevertheless valid for
34 all purposes as if the official had remained in office until the
36 delivery. Notwithstanding contrary provisions of law, bonds
38 issued under this article are fully negotiable.

40 6. Bond recitation; conclusive presumptions. In actions or
42 proceedings involving the validity or enforceability of a bond
44 issued under this article or the security for that bond, a bond
46 reciting in substance that it has been issued by the authority in
48 connection with an activity is conclusively deemed to have been
50 issued for that purpose and the activity is conclusively deemed
 to have been planned, located and carried out in accordance with
 this article.

7. No personal liability; not debt of State or
 municipality. Neither the trustees of the authority nor the
 person executing the bonds is liable personally on the bonds by
 reason of the issuance of the bonds. The bonds and other
 obligations of the authority must have stated on their face that
 they are not a debt of the State and that the State is not liable
 on the bonds. The bonds or obligations may not be payable out of
 funds or properties other than those of the authority acquired
 for the purposes of this article.

8. Bonds as legal investments. Public officers, municipal
 corporations, political subdivisions and public bodies; banks,
 trust companies, bankers, savings banks and institutions,
 building and loan associations, savings and loan associations,
 investment companies and other persons carrying on a banking
 business; insurance companies, insurance associations and other
 persons carrying on an insurance business; and executors,

2 administrators, curators, trustees and other fiduciaries may
4 legally invest sinking funds, money or other funds belonging to
6 them or within their control in bonds or other obligations issued
8 by the authority under this article. These bonds or other
10 obligations are authorized security for all public deposits. It
12 is the purpose of this section to authorize persons, political
14 subdivisions and officers, public or private, to use funds owned
16 or controlled by them for the purchase of these bonds or other
18 obligations. This section does not relieve a person of any duty
20 or of exercising reasonable care in selecting securities.

22 **9. Investment of funds; redemption of bonds.** The authority
24 may:

26 A. Invest, in property or securities in which savings banks
28 may legally invest funds subject to their control, funds
30 held in reserves, sinking funds or funds not required for
32 immediate disbursement; and

34 B. Cancel its bonds by redeeming them at the redemption
36 price established in the bonds or by purchasing them at less
38 than redemption price.

40 **§13083-O. Interest of public officials, trustees or employees**

42 **1. Acquisition of interest.** A public official, trustee or
44 employee of the authority may not acquire or hold a direct or an
46 indirect financial or personal interest in:

48 A. An authority activity;

50 B. Property included or planned to be included in the base
52 area; or

54 C. A contract or proposed contract in connection with an
56 authority activity.

58 When an acquisition is involuntary, the interest acquired must be
60 disclosed immediately in writing to the board of trustees of the
62 authority, and the disclosure must be entered in the board's
64 minutes.

66 **2. Present or past interest in property.** If a public
68 official, trustee or employee of the authority presently owns or
70 controls, or owned or controlled within the preceding 2 years, a
72 direct or an indirect interest in property known to be included
74 or planned to be included in an authority activity, that public
76 official, trustee or employee must disclose this fact immediately
78 in writing to the authority and the disclosure must be entered in
80 the authority's minutes.

2 3. Recusal. The public official, trustee or employee of
the authority with an interest may not participate in an action
4 by the authority affecting that property.

6 4. Violation. A violation of this section is a Class E
crime.

8
10 **§13083-P. Exemption from execution**

12 1. Property exempt from execution. The property, including
funds, of the authority is exempt from levy and sale by virtue of
an execution. An execution or other judicial process may not be
14 issued against the authority's property, and a judgment against
the authority may not be a charge or lien upon its property.

16 2. Construction; limitation of application. This section
18 does not:

20 A. Prohibit the authority from making payments in lieu of
taxes to the municipality; or

22 B. Apply to or limit the right of an obligee to foreclose
24 or otherwise enforce a mortgage of the authority or to
pursue remedies for the enforcement of a pledge or lien
26 given by the authority on its rents, fees, grants or
revenues.

28
30 **§13083-Q. Designation as port of entry, international airport,**
foreign trade zone and free port area

32 1. Port of entry. The authority may apply to the Secretary
of the Treasury of the United States for the purpose of having
34 Brunswick Naval Air Station or a portion of the base designated,
established or constituted as a port of entry or an international
36 airport pursuant to the federal Customs Reorganization Act, 19
United States Code, Section 1, as amended, and Section 58b, as
38 amended, and regulations of the United States Customs Service,
including 19 Code of Federal Regulations, Sections 101.0 and
40 122.1, as amended.

42 2. Foreign trade zone. The authority may apply to the
Secretary of Commerce of the United States for the purpose of
44 establishing, operating and maintaining foreign trade zones at
Brunswick Naval Air Station pursuant to the federal Foreign Trade
46 Zones Act, 19 United States Code, Section 81a-81u, as amended,
providing for the establishment, operation and maintenance of
48 foreign trade zones in or adjacent to ports of entry of the
United States for expediting and encouraging foreign commerce and
50 for other purposes.

2 A. The authority may select and describe the location of
4 the foreign trade zone, make rules and take other actions
6 concerning the operation, maintenance and policing of the
 zone as necessary to comply with the federal Foreign Trade
 Zones Act and the regulations promulgated under that Act.

8 B. The authority may lease or may erect, maintain and
10 operate structures, buildings or enclosures necessary for
 the establishment and operation of foreign trade zones.

12 3. Other tax-free provisions. The authority may establish
14 a free port area at Brunswick Naval Air Station in which personal
16 property in transit is exempt from the provisions of the
18 stock-in-trade tax and other taxes and customs normally levied in
 a port of entry. For the purposes of this section, personal
 property in transit through the free port area established by the
 authority includes goods, wares and merchandise that:

20 A. Are moving in interstate or international commerce
22 through or over the free port areas established;

24 B. Are consigned from outside the State to a public or
26 private warehouse within the State, whether that consignment
 is specified before or after transportation; or

28 C. Do not lose their tax-exempt status because, while in a
30 warehouse, they are assembled, bound, joined, processed,
32 disassembled, divided, cut, broken in bulk, relabeled or
34 repackaged. The warehouse in which the goods, wares and
 merchandise are stored may not be owned in whole or in part
 by either the consignee or the consignor. The tax-exemption
 granted may be liberally construed to effect the purposes of
 this article.

36 §13083-R. Termination of the authority

38 The authority is not dissolved until:

40 1. Legislature provides for termination. It is terminated
42 by the Legislature; and

44 2. Payment of bonds, premiums and interest. The bonds,
46 premium, if any, and interest have been paid or a sufficient
48 amount for the payment of the bonds and interest to maturity or a
 prior redemption date have been irrevocably set aside in trust
 for the benefit of the bondholders.

50 §13083-S. Annual report

1 1. Annual financial report. The authority shall submit
2 annually to the Governor, the Executive Director of the
3 Legislative Council and the joint standing committee of the
4 Legislature having jurisdiction over housing and economic
5 development matters, not later than 120 days after the close of
6 the authority's fiscal year, a complete report on the activities
7 of the authority. The report may also be provided to any other
8 member of the Legislature and to any other person. The report
9 must include all of the following for the previous year:

10 A. A description of the authority's operations;

11 B. An accounting of the authority's receipts and
12 expenditures, assets and liabilities at the end of its
13 fiscal year;

14 C. A listing of all property transactions pursuant to
15 section 13083-K;

16 D. An accounting of all activities of any special utility
17 district formed under section 13083-L;

18 E. A listing of any property acquired by eminent domain
19 under section 13083-I;

20 F. A listing of any bonds issued during the fiscal year
21 under section 13083-I;

22 G. A statement of the authority's proposed and projected
23 activities for the ensuing year; and

24 H. Recommendations regarding further actions that may be
25 suitable for achieving the purposes of this article.

26 **Sec. 2. Initial appointments; inform joint standing committee.** The
27 Governor shall inform the joint standing committee of the
28 Legislature having jurisdiction over economic development
29 matters, no later than March 15, 2007, of the initial
30 appointments to the Midcoast Regional Redevelopment Authority
31 pursuant to the Maine Revised Statutes, Title 5, section 13083-I,
32 subsection 2.

33 **Sec. 3. Report to development authority.** The municipalities of
34 Topsham and Brunswick or any entity under their purview with
35 responsibility over matters regarding the future use of Brunswick
36 Naval Air Station shall report on its findings and
37 recommendations to the Midcoast Regional Redevelopment Authority
38 no later than July 1, 2007.

