

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2008

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Legislative Document

No. 2256

H.P. 1618

House of Representatives, March 12, 2008

### **An Act To Modify the City of Portland's Leasing Authority for the Maine State Pier**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Speaker CUMMINGS of Portland.  
Cosponsored by Senator BRANNIGAN of Cumberland and  
Representatives: BRAUTIGAM of Falmouth, CLEARY of Houlton, HARLOW of Portland,  
HASKELL of Portland, MARLEY of Portland, MAZUREK of Rockland, RECTOR of  
Thomaston, Senator: DAMON of Hancock.

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

2 **Sec. 1. Lease of submerged lands for period longer than 30 years.**

3 Notwithstanding the Maine Revised Statutes, Title 12, section 1862, subsection 2, the  
4 Director of the Bureau of Parks and Lands within the Department of Conservation shall  
5 lease submerged lands under and adjacent to the Maine State Pier and the Ocean Gateway  
6 Pier to the City of Portland, referred to in this Act as "the city," for a term of at least 75  
7 years but no more than 99 years, subject to the following conditions:

8 1. The submerged lands under and adjacent to the Maine State Pier and the Ocean  
9 Gateway Pier, to which the city holds title by virtue of a deed from the State of Maine  
10 dated February 1, 1982, may not be sold by the city but may be subleased in accordance  
11 with the provisions of this Act;

12 2. The city shall manage such lands in trust for the benefit, rights and use of the  
13 general public. When conveying any interest in all or part of the submerged land, the city  
14 shall consider the effects of such conveyances on public trust rights; and

15 3. The city must be authorized under the lease to use the leased submerged lands for  
16 the purpose of maintaining and developing a public port and marine transportation  
17 services facility. With regard to the Maine State Pier, the city must be authorized to  
18 allow upland uses to be located on the pier that the city determines are an essential  
19 subsidiary use necessary to support the primary marine and public uses of the facility for  
20 which no reasonable alternative site is available. The city may determine that there is no  
21 reasonable alternative site available when the primary marine and public uses would not  
22 be sufficiently supported if a certain use is not located on the pier, thus rendering an  
23 alternative site unreasonable. Such use may not diminish the primary purpose of the pier  
24 as a marine port and public use facility.

25 **Sec. 2. Reservation of rights.** By entering into a long-term lease for the  
26 submerged lands under and adjacent to the Maine State Pier and the Ocean Gateway Pier,  
27 the city does not waive any claims to ownership it may have to those submerged lands by  
28 virtue of a deed from the State of Maine dated February 1, 1982 and recorded in the  
29 Cumberland County Registry of Deeds in Book 4916, Page 26.

30 **SUMMARY**

31 In 1982, as part of the public-private partnership among the State, Bath Iron Works  
32 and the City of Portland, the city purchased the port facilities that were used for an  
33 economic development project. That property is now in need of extensive and costly  
34 repairs, which will be difficult to fund with a short-term lease given the amount of money  
35 that will have to be invested in the project.

36 This bill requires the Director of the Bureau of Public Lands within the Department  
37 of Conservation to lease submerged lands under and adjacent to the port facilities to the  
38 City of Portland for not less than 75 years nor more than 99 years. It also makes it clear  
39 that the submerged lands may not be sold by the city but may be leased and that the use  
40 of the property is subject to the public trust doctrine. The bill also imposes conditions on

1 the use of the property that must be included in the lease and preserves the right of the  
2 city to pursue its claim of ownership to the submerged lands.