

MAINE STATE LEGISLATURE

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EIGHTY - SEVENTH LEGISLATURE

Legislative Document

No. 515

S. P. 423

In Senate, Feb. 12, 1935.

Referred to Committee on Legal Affairs and 2,500 copies ordered printed.
Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Worcester of Washington.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-FIVE

AN ACT to Incorporate the Passamaquoddy Bay Authority and to Define Its Powers and Duties.

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

Sec. 1. Passamaquoddy Bay Authority created. There is hereby created a body corporate and politic to be known as the Passamaquoddy Bay Authority (herein called the "Authority") with a principal office in the city of....., county of..... and state of Maine, and such branch offices in the state of Maine as the directors may determine.

Sec. 2. Directors; how appointed, etc. The Authority shall consist of a board of directors nominated by the governor, and with the advice and consent of the council, appointed by him, one of whom shall be designated by the governor to be the chairman. Each director shall serve for a term of 5 years and until his successor has been elected and qualified, except that the initial terms of the directors shall be respectively: 1, 2, 3, 4, and 5 years. The initial term of the chairman shall be 5 years and the board of directors shall determine by lot the initial terms of the other directors. At the expiration of the term of each director and of each succeeding director the governor shall nominate, and with the advice and consent of the council, appoint a successor who shall hold office for a term

of 5 years or until his successor has been elected and qualified. In the event of a vacancy occurring in the office of director by death, resignation or otherwise, the governor shall nominate and, with the advice and consent of the council, appoint his successor who shall hold office for the unexpired term. No director shall receive a salary for his services as director until the financial condition of the Authority is such as sufficient to warrant, but each director shall be paid his actual expenses in the performance of his duties hereunder. Members of the board of directors may be removed by impeachment for misdemeanor in office.

Sec. 3. Power of Authority. The Authority shall have power :

- (1) To have perpetual succession as a corporation ;
- (2) To sue and be sued, implead and be impleaded, complain and defend in all courts of law and equity ;
- (3) To adopt, use and alter at will a corporate seal ;
- (4) To acquire, purchase, hold, use, lease, mortgage, sell, transfer and dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein ;
- (5) To build, construct, maintain and operate canals, dams, locks, aqueducts, reservoirs, draw-spans, ditches, drains and roads, and to lay and construct any tunnels, pen-stocks, culverts, flumes, conduits, mains and other pipes necessary or useful in connection therewith ;
- (6) To build, acquire, construct and maintain power houses, hydro-electric and other plants, and any and all structures, ways and means, necessary, useful or customarily used and employed in the manufacture, generation and distribution of power, including, but without limitation, water power, steam electric power, hydro-electric power, tidal electric power and any and all other kinds of power, including power transmission lines, poles, telephone lines, substations, transformers, conduits, and generally all things used or useful in the manufacture, distribution, purchase and sale of power generated by tides, water, steam or otherwise ;
- (7) To manufacture, produce, generate, transmit, distribute and sell water power, steam electric power, hydro-electric power, tidal electric power or mechanical power without the state of Maine, and within the state of Maine in any manner not in violation of the general law.
- (8) To make by-laws for the management and regulation of its affairs ;
- (9) To appoint officers, agents, employees and servants, to prescribe their duties, and to fix their compensation ;
- (10) To fix, alter, charge and collect rates and other charges for the use of their facilities of, or for the services rendered by, or for any commodities furnished by, the Authority at rates to be determined by it, for

the purpose of providing for the payment of all expenses of the Authority, the conservation, maintenance and operation of its facilities and properties, the payment of principal and interest on its notes, bonds and other evidences of indebtedness or obligations and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such notes, bonds or other evidences of indebtedness or obligations;

(11) To borrow money, make and issue negotiable notes, bonds and other evidences of indebtedness or obligations (herein called "obligations") of the Authority, and to secure the payment of such obligations or any part thereof by mortgage, lien, pledge or deed of trust, on all or any of its property, contracts, franchises or revenues, and to make such agreements with the purchasers or holders of such obligations, or with others in connection with any such obligations, whether issued or to be issued, as the Authority shall deem advisable, and in general to provide for the security for said obligations and the rights of the holders thereof;

(12) To make contracts of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business;

(13) Without limitation of the foregoing to borrow money and accept grants from and to enter into contracts, leases or other transactions with the United States Government or any corporation or agency created, designated or established by the United States;

(14) To have the power of eminent domain;

(15) To mortgage, pledge, hypothecate or otherwise encumber all or any of the property, real, personal or mixed, or facilities, or revenues of the Authority as security for all or any of the obligations of the Authority;

(16) To do all acts and things necessary or convenient to carry out the powers granted to it by this act or any other acts;

provided, however, that the Authority shall have no power at any time or in any manner to pledge the credit or taxing power of the state or any of its political subdivisions, nor, shall any of its obligations be deemed to be obligations of the state or of any of its political subdivisions; nor shall the state be liable for the payment of principal of or interest on such obligations. The Authority shall have power and is hereby authorized from time to time to issue its negotiable obligations and to secure the payment of the same by mortgage, lien, pledge or deed of trust, on or of all or any of its property, contracts, franchises or revenues. Said obligations shall be authorized by resolution of the board of directors and shall bear such date or dates, be in such forms, and contain such provisions, as the board of directors may determine. Any resolution or resolutions authorizing any notes, bonds or other evidences of indebtedness may contain provisions, which shall be part of the contract with the holders there-

of, as to (a) pledging the full faith and credit of the Authority (but not of the state of Maine or any political subdivision thereof) for such obligations, or restricting the same to all or any of the revenues of the Authority from all or any of its properties, (b) the rates of tolls and other charges for use of the facilities of or for the services rendered by, or for the commodities furnished by, the Authority, (c) the setting aside of reserves or sinking funds and the regulation and disposition thereof, (d) reserving the right to redeem the notes, bonds or other evidences of indebtedness at such prices, not exceeding 105% of the principal amount thereof and accrued interest, as may be provided, (e) limitations on the issuance of additional bonds, (f) the terms and provisions of any mortgage or deed of trust securing the bonds or under which the same may be issued, and (g) any other or additional agreements with the holders of such notes, bonds or other evidences of indebtedness.

The Authority may enter into any mortgages, deeds of trust or other agreements with any bank or trust company or other person or persons in the United States having power to enter into the same, including the United States Government or any agency or creature thereof, as security for such obligations, and may transfer, convey, mortgage or pledge all or any of the property, contracts, franchises or revenues of the Authority thereunder. Such mortgage, deed of trust or other agreement may contain such provisions as may be customary in such instruments or as the Authority may authorize, including (but without limitation) provisions as to (a) the construction, operation, maintenance and repair of the properties or facilities of the Authority, (b) the application of funds and the safeguarding of funds on hand or on deposit, (c) the rights and remedies of said trustee and the holders of the bonds, (d) possession of the mortgaged properties, and (e) the terms and provisions of the obligations, and may also provide for a franchise for operation of the property and business of the Authority, or any part thereof, to any person, firm or corporation, including the United States Government, or any agency thereof, acquiring the mortgaged property or any part thereof upon foreclosure for a period of not to exceed 20 years from the date of such acquisition.

The powers herein conferred upon the board of directors shall not be construed to give the board of directors the power to sell, except by way of mortgage or deed of trust, all of the physical property of the Authority, but the board of directors may sell any surplus property which it may acquire and which said board of directors shall deem not to be necessary for the purpose of the development.

Sec. 4. Powers of directors. The powers of the Authority shall be

exercised by the board of directors. Three directors shall constitute a quorum of the board for the purpose of organizing the Authority and conducting the business thereof and for all other purposes and all action may be taken by vote of a majority of directors present unless in any case the by-laws shall require a larger number. The board of directors shall have full authority to manage the property and business of the Authority, and to prescribe, amend and repeal by-laws, rules and regulations governing the manner in which the general business of the Authority may be conducted and the powers granted to it may be exercised and embodied. The board of directors shall fix and determine the number of officers, agents, employees and servants of the Authority and their respective compensation and duties, and may delegate to one or more of their number, or to one or more of said officers, agents, employees or servants, such powers and duties as it may deem proper. Each director shall give bond for the faithful performance of his duties as such director in the penal sum of at least..... dollars (\$.....), the premium for the first bonds to be paid by the Authority. The board of directors shall require similar bonds in such amounts as they may determine from any or all officers, agents and employees in position of responsibility or trust.

Sec. 5. Rules and regulations. The use of the facilities of the Authority and the operation of its business shall be subject to the rules and regulations from time to time adopted by the Authority; provided, however, that the Authority shall not be authorized to do anything which will impair the security of the holders of the obligations of the Authority or violate any agreements with them or for their benefit.

Sec. 6. Further powers of authority. The Authority may (but without intending by this provision to limit any powers of the Authority) enter into and carry out such contracts, or establish or comply with such rules and regulations, concerning labor and materials and other related matters in connection with any project or projects as the Authority may deem desirable or as may be requested by the United States of America, or any corporation or agency created, designated or established thereby, which may assist in the financing of any such project or projects.

Sec. 7. Limitation on state's liability. Nothing contained in the provisions of this act shall, at any time or in any manner, involve the credit and taxing power of the state of Maine, or of any of its political subdivisions; nor shall any of the obligations authorized to be issued in and by

this act ever be or constitute obligations of the state of Maine or of any of its political subdivisions ; nor shall the state of Maine or any of its political subdivisions ever be liable or responsible, in any way, for the payment of the principal or interest of or on such obligations.

Sec. 8. Constitutionality. If any term or provision of this act shall be declared unconstitutional or invalid in whole or in part by a court of competent jurisdiction, then to the extent that it is not unconstitutional or invalid such term or provision shall be enforced and effectuated, and such determination shall not be deemed to invalidate the remaining terms or provisions hereof.