

MAINE STATE LEGISLATURE

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SPECIAL SESSION

E I G H T Y - E I G H T H L E G I S L A T U R E

Legislative Document

No. 1086

S. P. 547

In Senate, October 27, 1937.

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

ROYDEN V. BROWN, Secretary.

Presented by Senator Graves of Hancock.

S T A T E O F M A I N E

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

AN ACT Creating the Port of Northeast Harbor Authority.

Emergency preamble. Whereas, the harbor facilities in Northeast Harbor are limited and inadequate to accommodate ships, vessels and yachts, and

Whereas, Northeast Harbor, one of the leading resorts on the Atlantic seaboard is seriously retarded in its development by reason of its limited port facilities and accommodations, and

Whereas, it is urgently necessary to increase depth of the harbor and extend the navigable area, that extensive improvements be carried out, and

Whereas, the Federal Government have indicated a purpose to make an early survey and possible provision to make such improvements, and

Whereas, immediate provision in form of bulkheads and facilities for retaining deposit from dredging operations must be had before any government activity, and

Whereas, the reclamation of lands providing for public parks, playgrounds, recreational centers and shore privileges are essential to the health and welfare of the people and the general prosperity of the community, and

Whereas, in order to receive the benefits of any Federal aid this act must be passed immediately, and

Whereas, in the judgment of the legislature these facts create an emergency within the meaning of section 16 of article XXXI of the constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. The Port of Northeast Harbor Authority, created. There is hereby created "The Port of Northeast Harbor Authority" which shall have all the rights, powers and privileges granted and duties imposed as set forth in this act.

Sec. 2. Board of trustees; their duties. All of the affairs of said Authority shall be exercised, managed and carried out by a board of trustees composed of 3 members, all of whom shall be chosen at a town meeting of the town of Mount Desert duly called and legally held within 60 days after this act takes effect, 1 member for a term of 3 years, another member for a term of 2 years, and another member for a term of 1 year; annually thereafter a member shall be so chosen for a term of 3 years. The members shall serve for the term for which they are elected or until their successors are duly appointed and qualified. In case of a vacancy the selectmen of the town of Mount Desert shall forthwith appoint a person for the remainder of his or her unexpired term. Said trustees shall organize and choose a chairman, a secretary and a treasurer, and shall appoint such other officers and agents as they may deem necessary for the proper management of the affairs of the Authority, and may promulgate and establish a code of by-laws and all necessary and reasonable rules and regulations for the proper conduct and effective administration of the affairs of said Authority. The compensation for the services of said trustees shall be fixed by vote of said town.

Sec. 3. Powers, rights and privileges, conferred. The said trustees shall be the administrative officers of the Authority and the powers, rights and privileges are hereby specifically enumerated; to acquire by purchase or otherwise real property within said town, about, to and in the lands bordering the shores of Northeast Harbor, including the littoral rights and privileges, easements, rights of way and facilities; to reclaim by drainage and/or fill, lands in said harbor within tide waters and areas over which tide waters ebb and flow, which said reclaimed lands shall be the property of the Authority, subject only to the uses, occupation and privi-

leges of said town to maintain therein and in connection therewith, public parks, playgrounds and recreational centers upon payment by the town to said Authority of rental therefor; to construct and maintain bulk-heads, bridges, wharfs, piers, docks, marine-railways, waterways, landing places for airplanes, highways, buildings and appurtenances, water and power facilities, yacht storage, storage yards, storage tanks and service stations, as, in the opinion of the trustees, may be desirable, required and necessary; to rent, lease and extend rights and privileges in said buildings, wharfs, piers, docks and lands; to purchase, hold and deal in personal property, including goods, wares and merchandise, and to let privileges and concessions therewith.

Sec. 4. Right of eminent domain conferred. The said Port of Northeast Harbor Authority shall have the right to take any property, including shore and littoral rights and privileges, by right of eminent domain for purposes of this Authority. Said trustees shall, within 90 days after voting to take any lands, easements or shore and littoral rights and privileges, file and cause to be recorded in the registry of deeds for the county of Hancock a plan and description thereof sufficiently accurate for identification, with a statement of the purposes for which the same is to be taken, signed by a majority of said trustees, and within 30 days thereafter shall publish notice of such taking and filing in some newspaper published in said county, such publication to be continued for 3 weeks successively. Said recording shall operate as a taking of any real estate and of the rights and easements, including shore and littoral rights and privileges therein and said Authority, by a majority of its trustees, shall first have the right to enter in and upon any lands or real estate, including said shore and littoral areas, to make necessary surveys and location preliminary to such returns. Should said trustees, or a majority of them, be unable to agree with the land owner upon the damages to be paid for the land, real estate or shore and littoral rights and privileges so taken, the land owner or the said trustees may, within 3 months after the filing of said plan, petition the county commissioners of said county of Hancock, who shall cause such damages to be assessed in the same manner and under the same conditions, limitations, restrictions and rights of appeal as are by law prescribed in cases of damages for the laying out of highways, so far as said law is consistent with the provisions of this act.

From the proceeds of bonds issued by the said Authority for the purpose of this act as hereinafter provided, the trustees shall pay all damages to property sustained by any person, firm or corporation by the taking of any land and real estate, easement, right or privilege therein.

Sec. 5. Bond issue authorized. For accomplishing the purposes of this act, said Authority, through its trustees, is authorized to procure funds for the purpose of this act and such other expense as may be necessary to carry out said purposes, and the said Authority, through its trustees, is hereby authorized to borrow money and to issue the interest bearing, negotiable notes and/or bonds of said Authority. Said negotiable notes and/or bonds shall be the legal and general obligation of the said Authority. Said bonds and each of them shall have inscribed upon its face, "The Port of Northeast Harbor Authority" and shall bear interest at a rate not exceeding 6% per year, payable annually, and mature serially or may run for such period as said trustees may determine, but none of them shall be for a period longer than 20 years. All of the bonds issued by said Authority shall be signed by the treasurer and countersigned by the secretary of the Authority, and if coupon bonds be issued each coupon shall be attested by a facsimile signature of the treasurer printed thereon.

Sec. 6. Provisions for sinking fund, etc. The trustees shall establish a sinking fund for the purpose of redeeming said bonds when due and not less than 5% of the total amount of the bond issue and the expenses incidental to the carrying out of this act shall be added to the sinking fund each year, beginning not later than 12 months after said bonds are so issued, so that said bonds shall be retired in no less than 20 annual installments within 20 years from the day of the date of their issue. Said sinking fund may be deposited in any bank within the state of Maine or may be invested in the bonds of the United States, or the state of Maine, or any political subdivision of the state of Maine, as the trustees may determine, and the trustees are empowered to purchase any of the bonds upon favorable terms if and when sufficient funds have accumulated in said sinking fund to redeem maturing bonds and purchase others and may cancel any bonds so redeemed or purchased, and the bonds so redeemed or cancelled may be reissued. And the trustees shall determine the amount of money which shall be required each year to meet the interest on said bonds as well as the principal thereof and the total sum necessary for interest, principal, maintenance, repairs and construction shall be paid out of the revenue and profits received by said Authority.

Sec. 7. May lease rights in buildings, wharfs, reclaimed land, etc. The trustees shall have power to lease under such covenants and conditions as they may prescribe, storage facilities, use and occupation in wharfs, piers, docks, reclaimed lands, and in buildings, including concessions for the keeping, display and vending of goods, wares and merchandise, the income

from such leases shall be collected by the trustees and applied to the expenses and necessary disbursements of the said Authority.

Sec. 8. Town of Mount Desert authorized to raise moneys. The town of Mount Desert is hereby authorized to lease from and to raise and appropriate moneys for payment to said Authority for rental of any right, privilege, concession, park, playground or recreational center. The town may exempt the properties of the Authority from taxation.

Sec. 9. The town authorized to lease town properties. The said Authority is hereby empowered to use, occupy and utilize, and the town of Mount Desert is authorized to let and lease, any properties of the town which may be deemed necessary to the purposes of said Authority.

Sec. 10. Trustees may accept deeds and devise in name of said Authority. The trustees may accept, in behalf of the Authority, by gift, grant, bequest or devise, moneys, or the equivalent, personal property, lands, or rights therein, including shore and littoral rights and privileges, within the limitations and subject to the provisions and purposes of this act.

Sec. 11. Reports. The trustees shall, on the 31st day of December of each year, submit a public, written report of the financial operations for the year and a statement of their financial condition. The report shall also contain a statement of the activities of the Authority during the past year and should make such recommendations as may be expedient in the opinion of the trustees.

Sec. 12. Saving clause. If any portion of this act shall be held to be unconstitutional, such decision shall not affect the validity of the remaining portions thereof.

Sec. 13. Effective date; referendum. In view of the emergency recited in the preamble hereof, this act shall take effect when approved for the purpose of its submission to the voters of the town of Mount Desert at an annual or special town meeting called for that purpose by an appropriate article inserted in the call for said meeting, and notice of such approval if voted by said town, in the form of a certified copy of the record of said meeting, shall be filed with the secretary of state. This act shall take effect for all the purposes of this act immediately upon acceptance of this act at an annual or special town meeting.

Emergency clause. In view of the emergency recited in the preamble, this act shall take effect immediately, subject to the approval of the voters as provided in section 13 hereof.