

MAINE STATE LEGISLATURE

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

Legislative Document

No. 452

S. P. 260

In Senate, Feb. 7, 1939.

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

ROYDEN V. BROWN, Secretary.

Presented by Sen. Graves of Hancock.

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

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-NINE

AN ACT Creating the Port Authority of the Town of Mount Desert.

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

Sec. 1. The Port Authority of Mount Desert, created. The town of Mount Desert, except Bartlett's Island, so-called, and the people within said territory in the said town shall constitute a public municipal corporation under the name of "The Port Authority of Mount Desert," which shall have all the rights, powers and privileges granted and duties imposed as set forth in this act for the purpose of improving the shores of said town of Mount Desert, the port facilities of said town, and public or common landings therein, and providing public parks, playgrounds and recreational centers, all for the benefit of said inhabitants, and as more specifically set forth in section 3 of 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. Said trustees shall

be either residents of said town or property owners therein. 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 the town of Mount Desert, including the littoral rights and privileges, easements, rights of way and facilities; to reclaim by drainage and/or fill, lands off said shores within tide waters and areas over which tide waters ebb and flow, which said reclaimed lands shall be the property of the authority, except as hereinafter provided, subject only to the uses, occupation and privileges of said town to maintain therein and in connection therewith, public parks, playgrounds and recreational centers, to construct and maintain bulkheads, 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 Authority of the town of Mount Desert 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 trustee 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 Authority of Mount Desert" 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 one of said trustees other than a trustee encumbering the office of treasurer, and if coupon bonds be issued each coupon shall be attested by a facsimile signature of the treasurer printed thereon. The treasurer shall give bond to the authority in such sum and with such sureties as said trustees may determine. The expenses of said bond shall be paid by the authority.

Sec. 6. Provision for revenue. The trustees of the authority shall determine the sum required and to be paid annually for the servicing of the

bonds, including interest and retirement thereof, and other necessary expenses of the authority and shall, each year, before the 1st day of April, issue their warrant in the same form as the warrant of the state treasurer for taxes, with proper changes, to the assessors of the town of Mount Desert, requiring them to assess the sum so determined upon the taxable polls and estates within said authority and to commit their assessment to the constable or collector of said town of Mount Desert, who shall have all authority and powers to collect said taxes as is vested by law to collect state, county and municipal taxes. On or before the 31st day of December of the year in which said tax is so levied the treasurer of said town shall set aside said tax so assessed against said authority and hold the amount thereof subject to the statement of said trustees and as set forth in section 7 of this act and not otherwise. In the case of the failure on the part of the treasurer of the town to set aside and hold said sum, or in the case of his failure to pay any part thereof upon and in accordance with the statement of said trustees, or to pay any remaining part thereof as hereinafter provided on or before said 31st day of December of the year in which said tax is so levied the treasurer of said authority may issue his warrant for the amount of said tax or so much thereof as shall then remain unpaid, to the sheriff of Hancock county, requiring him to levy by distress and sale on real and personal property of any of the inhabitants of said authority, and the sheriff or either or any of his deputies shall execute said warrant except as is otherwise provided herein. The same authority as is vested in county officials for the collection of county taxes, under the provisions of law, is hereby vested in the trustees of said authority in relation to the collection of taxes within said authority.

Sec. 7. Service of bonds and other expenses. The trustees shall redeem said bonds when due and not less than 5% of the total amount of the bonds outstanding 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. The trustees are empowered to purchase any of the bonds of the authority upon favorable terms if and when sufficient funds have accumulated, 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 redeem said bonds as aforesaid, including interest and principal thereof, and shall issue a statement of the total sum necessary therefor to said town treasurer against the amount so set aside and held and said town treasurer shall forthwith pay to the holder or holders of said bonds the sum necessary to redeem said

bonds, and the treasurer of said town shall pay upon further statement of said trustees the amount of moneys necessary and remaining for construction, maintenance, repairs and other necessary expenses of the authority to the treasurer of said authority; and the sum necessary for construction, maintenance, repairs and other necessary expenses shall be paid out of said revenue and the profits received by said authority. The said authority is hereby authorized and empowered to enter into such an agreement with the federal government or any corporation or board authorized by the federal government to loan money or otherwise assist in the financing of such projects as this authority is authorized to carry out.

Sec. 8. 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. 9. 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. 10. 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. 11. 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. 12. 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. 13. Saving clause. If any portion of this act shall be held to be

unconstitutional or illegal in purpose and application, such decision shall not affect the validity of the remaining portions thereof.

Sec. 14. Provision for termination of the board of trustees and the authority. At such time as all of the obligations of the authority as to principal and interest charges shall be paid and retired, all the property of the authority shall become the property of said town, and from that time all of the affairs of the authority shall be exercised, managed, maintained and carried on by said town, and the trustees shall be discharged and the Port Authority terminated.

Sec. 15. Effective date; referendum. 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.