

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 1061**

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S. P. 376

In Senate, Feb. 21, 1947.

Transmitted by revisor of statutes pursuant to joint order

Referred to Committee on Legal Affairs, sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary.

Presented by Senator Denny of Lincoln.

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**STATE OF MAINE**

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-SEVEN

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**AN ACT Creating the Westport-Wiscasset Bridge District.**

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

**Sec. 1. Westport-Wiscasset Bridge District created.** There is hereby created the "Westport-Wiscasset Bridge District" which shall be a body corporate and politic having the powers and jurisdiction hereinafter enumerated.

**Sec. 2. Powers.** The "Westport-Wiscasset Bridge District" shall have the powers (1) to sue and be sued; (2) to have a seal and alter same at pleasure; (3) to adopt from time to time and amend by-laws covering its procedure, rules and regulations governing the use of the bridge described in (4) below and any of the other services made available in connection with said bridge, to publish the same if such publication is necessary or advisable and to cause records of its proceedings to be kept; (4) to determine the location of, construct, maintain, reconstruct and operate a toll bridge and approaches across the Back River from the Town of Wiscasset to the island comprised in the Town of Westport both in Lincoln County; (5) to acquire, hold and dispose of personal property for its purposes; (6) to acquire in the name of the district by purchase, condemnation, lease or otherwise, real property and rights or easements therein, deemed by

it necessary or desirable for its purposes, and to use such property; (7) to acquire any such real property by the exercise of the power of condemnation in the manner provided by law; (8) to collect and charge fees, fares and tolls for the use of said bridge and other services made available in connection with said bridge, subject to and in accordance with such agreement with bondholders as may be made as hereinafter provided; (9) to make contracts with the United States, the state of Maine, public corporations or bodies existing therein, and private corporations and individuals; (10) to accept grants and the cooperation of the United States or any agency thereof in the construction, maintenance, reconstruction, operation and financing of the bridge and its highway approaches and to do any and all things necessary in order to avail itself of such aid and cooperation; (11) to employ such assistants, agents and servants as it shall deem necessary or desirable for its purposes; (12) to exercise any of its powers in the public domain of the United States unless the exercise of such powers is not permitted by the laws of the United States; (13) to borrow money, make and issue negotiable bonds, notes and other evidences of indebtedness or obligations of the district and to secure the payment of such obligations or any part thereof by pledge of any part of the revenue of the bridge; and (14) to utilize the services of the state highway commission of the state of Maine sofar as the same are available or expedient in approval of the plans for said bridge and in the maintenance and repair of the bridge and its approaches; and (15) to do all other lawful things necessary and incidental to the foregoing powers. All property of the district shall be exempt from levy and sale by virtue of any executions and no execution or other judicial process shall be a lien upon its property held pursuant to the provisions hereof.

**Sec. 3. Members of the district.** The district shall consist of 5 members. Two of the members shall be residents or owners of real property in the town of Westport and shall be appointed by the selectmen of the town of Westport for terms of 3 and 5 years respectively. Two of the members shall be residents or owners of real property in the town of Wiscasset and shall be appointed by the selectmen of the town of Wiscasset for terms of 2 and 4 years respectively. The 5th member, who shall not be a resident of either Westport or Wiscasset, shall be appointed by the governor for a term of 6 years and shall act as chairman of the district. Each member shall continue in office until his successor has been appointed and qualified. On the expiration of any of the above terms the succeeding member shall be appointed by the designated appointive authority for a term of 6 years. Vacancies shall be filled by the

designated appointive authority for the remainder of the unexpired term. A majority of the members appointable under the provisions of this act shall have full power to act notwithstanding the failure or neglect of any town to choose its members, or notwithstanding any vacancy however caused. The members of said District shall receive only their actual expenses, to be paid from the funds of the district, except that a member who serves as clerk or treasurer may be allowed compensation for his services in such capacity.

**Sec. 4. Bonds authorized.** The district is hereby authorized to provide by resolution from time to time for the issuance of bonds for the purpose of paying the costs of such bridge and its highway approaches and the location and equipment thereof. The bonds of the district shall not constitute a debt of the state or of any agency or political sub-division thereof, but shall be payable solely from the revenue of the bridge. Any provision of any law to the contrary notwithstanding any bonds issued pursuant to this act shall be fully negotiable. In case any of the members of the district whose signatures appear on the bonds or coupons shall cease to be such members before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if such members had remained in office until such delivery. The district may in the resolutions authorizing prospective issues provide as to such bonds: (1) the manner of executing the bonds and coupons; (2) the form and denomination thereof; (3) maturity dates not more than 50 years from the date or dates of issuance; (4) the interest rates thereon; (5) for redemption prior to maturity and the premium payable therefor; (6) the place or places for the payment of interest and principal; (7) for registration if the district deems such to be desirable; (8) for the pledge of all or any of the revenue for securing payment; (9) for the replacement of lost, destroyed or mutilated bonds; (10) the setting aside of reserve and sinking funds and the regulation and disposition thereof; (11) for limitation on the issuance of additional bonds; (12) for the procedure, if any, by which the contract with the bondholder may be abrogated or amended; (13) for the manner of sale and purchase thereof; (14) for covenants against pledging of any of the revenue of the project; (15) for covenants fixing and establishing such prices, rates and charges for the use of said bridge and other services made available in connection with such bridge, so as to provide at all times funds which will be sufficient (a) to pay all costs of maintenance and operation of such bridge and its highway approaches together with the necessary repairs thereto; (b) to meet and pay the principal and interest of all such bonds as they severally become due and

payable; and (c) for the creating of such revenues for the principal and interest of all such bonds and for the meeting of contingencies and the operation and maintenance of such bridge and its highway approaches, as the district shall determine; (16) for such other covenants as to such prices, rates and charges as the district shall determine; (17) for covenants as to the rights, liabilities, powers and duties arising upon the breach by the district of any covenant, condition or obligation; (18) for covenants as to the bonds to be issued and as to the issuance of said bonds in escrow and otherwise and as to the use and disposition of the proceeds thereof; (19) for covenants as to the use of its property and the maintenance and replacement thereof and the insurance to be carried thereon and the use and disposition of the insurance money; (20) for limitations upon the exercise of the powers conveyed upon the district by this act; (21) for the issuance of such bonds in series thereof; and (22) the performance by the district of any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds or in the absolute discretion of the district as will tend to make the bonds more marketable, notwithstanding that such acts or things may not be enumerated therein.

**Sec. 5. Limitations of bondholders.** In the event that the district shall make default in the payment of principal or interest on any of the bonds after the same shall fall due and such default shall continue for a period of 60 days, or default in any agreement with the bondholders, the holders of 25% in aggregate principal amount of the bonds then outstanding by instrument filed in the office of the secretary of state duly acknowledged, may appoint a trustee to represent the bondholders for the purpose herein provided. Such trustee may, upon the written request of the holders of 25% in principal amount of the bonds then outstanding; (1) by mandamus or other suit, action or proceeding at law or in equity enforce the rights of the bondholders; (2) bring suit upon the bonds; (3) enjoin any acts or other things which may be unlawful or in violation of the rights of the bondholders; (4) by notice in writing to the district declare all bonds due and payable and if all defaults shall be made good, to annul such declaration and its consequences; (5) by action or suit in equity require the district to account as if it were trustee of an expressed trust for the bondholders. Such trustee shall be entitled as of right to the appointment of a receiver who may to the extent that the district could itself do, enter and take possession of the facilities of the district or any part thereof, the revenue or receipts which are or may be applicable to the payment of bonds so in default, and operate and maintain the same and collect and receive all revenue thereafter arising therefrom in the same manner

as the district might do, and shall deposit all such monies in a separate account and apply the same in such manner as the court may direct. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and the receiver, if any, and all costs and disbursements allowed by the court shall be a first charge on any revenues and receipts derived by the district, the revenues or receipts which are or may be applicable to the payment of the bonds so in default. Such trustee shall in addition to the foregoing have and possess all the powers necessary and appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the bondholders in the enforcement and protection of their rights. In addition to other rights and limitations, any bondholder may have the right by mandamus or other suit, action or proceeding in law or in equity to enforce his rights against the district, including the right to require the district to carry out any agreement or covenant and to perform its duties under this act.

**Sec. 6. Interim certificates.** Prior to the issuance of the bonds hereunder the district may issue interim certificates in such manner and with such conditions as the district may determine to be exchanged for such bonds when issued.

**Sec. 7. Revenue.** Subject to any agreement with the bondholders, all revenue received from the operation of said bridge after deducting the expenses of operation and maintenance, the expenses of the district, and the sums necessary to provide for the payment of the principal and the interest on the bonds of the district in accordance with the provisions thereof shall be held and invested by the district to establish trust funds for the purpose of maintaining and operating said bridge and the approaches thereto so that the said bridge shall not be a charge upon the state or the United States.

**Sec. 8. Interim expenses.** All expenses incurred by the district in the interim before money received from grants, bonds or revenue, whichever shall be first available, shall be a charge upon the general highway fund of the state in an amount not exceeding \$2,500, and any amount so charged shall be repaid upon issue of the bonds.

**Sec. 9. Federal permit.** No sum shall be expended by the district unless and until the district shall have received a license or permit satisfactory to the district from the United States government to construct, operate and maintain said bridge and its highway approaches in, on and over

the Back River. Said license shall be for a period of not less than 20 years. The district shall have power to secure an extension or renewal of such license or permit. Provided, however, that the failure of the district to receive a renewal of its permit complying with the requirements of this act shall not in any way affect the validity of any bonds of the district or the security therefor.

**Sec. 10. Agreement of the state.** The state of Maine does pledge to and agree with the holders of the bonds issued by the district that the state will not limit or alter the rights hereby vested in the district to establish such charges and tolls as may be convenient or necessary to produce sufficient revenue to meet the expenses of the maintenance and operation of the bridge and its highway approaches and to fulfill the terms of any agreements made with the holders of the bonds issued by the district or in any way impair the rights and remedies of the holders of such bonds until the principal amount of said bonds, together with the interest thereon, with interest upon any unpaid installments of interest and all costs and expenses in connection with any action or proceedings by or in behalf of the bondholders are fully made and discharged.

**Sec. 11. Exemption from taxes.** The accomplishment by the district of the authorized purpose stated in this act being for the benefit of the people of the state of Maine and the towns of Westport and Wiscasset and for the improvement of their prosperity and their safety in which accomplishment the district will be performing essential governmental functions, the district shall not be required to pay any taxes or assessments on any property acquired or used by it for the purposes provided in this act nor shall the district be required to pay any tax upon its income except as may be required by the laws of the United States of America, and the bonds or other securities and obligations issued by the district, their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation within the state of Maine.

**Sec. 12. Refunding bonds.** The district is hereby authorized to provide by resolution for the issuance of refunding bonds for the purpose of refunding any bonds issued under the terms of this act and then outstanding. The issuance of such refunding bonds, the maturities and other details thereof, the rights of the bondholders thereof and the duties of the district in respect to the same, shall be governed by the foregoing provisions of this act insofar as the same may be applicable and by the following provisions: (a) No refunding bonds shall be delivered unless delivered in exchange for bonds to be refunded thereby, except in the amount necessary

to provide for the payment of matured or redeemable bonds or bonds maturing or redeemable within 3 months, including any redemption premium thereon; and (b) No refunding bonds shall be issued, unless issued to refund bonds which have matured or will mature within 3 months, or unless the interest rate of the refunding bonds shall be at least  $\frac{1}{2}$  of 1% less than the interest rate borne by the bonds to be refunded.

**Sec. 13. Limitations.** No person, partnership, association or corporation, private or public, and no political subdivision of the state shall be authorized, and it shall be unlawful for them to construct or operate any bridge or other facility for purposes similar to those contemplated hereby which will be competitive with the bridge to be erected pursuant to this act, until the bonds issued by the district together with the interest thereon with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders of such bonds are fully met and discharged.

**Sec. 14. Payment of damages.** The district is hereby authorized to acquire the physical properties of the ferry now operating between Westport and Wiscasset at a valuation to be fixed by the county commissioners for Lincoln county after notice and hearing, provided, however, that nothing herein shall authorize the payment of any sum for the franchise of said ferry and no allowance for loss or interference with the franchise of said ferry shall be considered in fixing the valuation of the property acquired under this act.

**Sec. 15. Provision for termination.** At such time as the bridge and its approaches shall be completed and all of the obligations of the district as to principal and interest charges shall be paid and retired, such bridge shall cease to be operated as a toll bridge and shall be a free bridge, the property of the state of Maine, to be maintained by the state, and the members of the district shall be discharged and the district terminated.

**Sec. 16. Separability clause.** If any provision of this act or the application thereof to any person or circumstance, is held invalid the remainder of the act and the application of such provision to other persons or circumstance shall not be affected thereby.

**Sec. 17. Declaration of purpose.** It is hereby declared that the purposes of this act are public and that the district shall be regarded as performing a governmental function in the carrying out of the provisions of this act.

**Sec. 18. Penalties.** Any violation of published rules and regulations



relating to the bridge, its use or services, or any failure or neglect to pay tolls, fares or charges for use of the bridge or other services, made available in connection with said bridge, shall be deemed a misdemeanor and shall be punishable by a fine not exceeding \$10; provided, however, that nothing herein contained shall prevent the district from collecting payment for use of the bridge or any other service by action at law or in equity.