

MAINE STATE LEGISLATURE

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

Legislative Document

No. 622

H. P. 1251

House of Representatives, February 10, 1949.

Referred to Committee on Legal Affairs. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Martin of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

AN ACT to Incorporate the Augusta School District.

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

Sec. 1. Incorporation; name; purposes. Subject to the provisions of sections 11 and 15 hereof, the inhabitants of and the territory within the city of Augusta are hereby created a body politic and corporate under the name of "Augusta School District" for the purpose of acquiring property within the said city for school and related athletic and recreational purposes; for the purpose of erecting, enlarging, repairing, equipping and maintaining on said property a school building or school buildings and related athletic and recreational facilities; for the purpose of erecting, equipping and maintaining a complete and modern high school building to serve the secondary school needs of said city; for the purpose of completing, grading, furnishing, rebuilding, renovating and otherwise bettering the condition of any or all buildings within said city used for school purposes or which may hereafter be used for school purposes; for the purpose of receiving, accepting and holding gifts, grants or devises of property real, personal or mixed to be used for school and related athletic and recreational purposes; all for the benefit of the inhabitants of said district; pro-

vided, nevertheless, that the district shall not combine its construction with the construction of any individual, state or federal agency which is not intended for school purposes by said individual, or state, or federal agency.

Sec. 2. Trustees, powers and duties; limitations. All the affairs of said district (except election of teachers who shall serve in the said schools and the fixing of their salaries, the course of study, the terms of school and all other matters pertaining to the education of pupils, which matters now are and shall be controlled by the school board of the city of Augusta) shall be managed by a board of 5 trustees who shall be bona fide residents of the city of Augusta and who shall be appointed as is hereinafter provided. The board of trustees, acting for said district, shall have and exercise all the powers and authorities necessary to carry out the purposes of this act and the powers and authorities granted herein.

Sec. 3. Trustees; how elected, tenure of office, organization of board; officers, vacancies; compensation; reports. The board of trustees of the district shall consist of 5 trustees, 3 of whom shall be elected by the municipal officers and 2 by the board of education. As soon as may be after the acceptance of this act, as hereinafter provided, the municipal officers of the city of Augusta shall elect its 3 trustees of said district, to hold office as follows respectively: 1 until the next January 1 following acceptance of this act; 1 until the 2nd January 1 thereafter and 1 until the 3rd January 1 thereafter. At the last meeting in December of the said municipal officers, beginning with the last meeting in December after the acceptance of this act, and at each succeeding last meeting in December, 1 trustee shall be elected for a 3-year term commencing the next succeeding January 1. The 2 trustees appointed by the board of education shall in the 1st instance be elected as soon as may be after the acceptance of this act and shall serve until the next regular July meeting, at which time and at each regular July meeting thereafter said board of education shall elect 2 members for 1-year terms each. In case of any vacancy in said board, the municipal officers or the board of education, as the case may be, shall elect a trustee thereto for the balance of the unexpired term.

The first meeting of the board of trustees shall be held as soon as convenient after they have been elected as above provided. Three trustees of the board shall constitute a quorum, and the board may act by majority vote. At this original meeting, they shall elect from their membership a secretary and treasurer, and a chairman, shall adopt a corporate seal, may ordain and establish such by-laws consistent with the laws of the state as are necessary for their own convenience and the proper management of the

affairs of said district, and may do all other acts, matters and things necessary to perfect their organization. Within 2 weeks after January 1 of each year, the trustees shall meet for the purpose of electing from their membership a secretary and treasurer, and a chairman for the ensuing year and until their successors are elected and qualified. The trustees shall have the right and authority to employ and fix compensation of such officers and agents as they may deem necessary for the proper conduct and management of the affairs of the district. The trustees shall serve without compensation except that the treasurer may receive for his services an amount to be fixed by the board of trustees. The treasurer shall give bond to the district in such sum and with such sureties as the trustees may determine, which bond shall remain in the custody of the chairman. The cost of such bond shall be paid by the district.

At the close of each fiscal year of said district (which shall coincide with the fiscal year of the city of Augusta) the trustees shall make a detailed report of their doings, of the financial condition of said district, of the physical condition of its property, and of such other matters and things pertaining to said district as shall show the inhabitants thereof how said trustees are fulfilling the duties and obligations of their trust. Such report shall be made and filed with the municipal officers of the city of Augusta on or before February 15 of each year.

Sec. 4. How financed. To procure funds for the purpose of this act, and for such other expenses as may be necessary to carry out said purposes, the said trustees are hereby authorized from time to time to borrow money and to issue the bonds and notes of the district therefor, but shall not incur a total indebtedness exceeding the sum of \$1,000,000. Said bonds shall be legal obligations of said district, which is hereby declared to be a quasi-municipal corporation within the meaning of section 132 of chapter 49 of the revised statutes of 1944, and all provisions of said section shall be applicable thereto. In case any of the trustees of the district whose signatures appear on the bonds or coupons shall cease to be such trustees before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes the same as if such trustees had remained in office until such delivery. The district may in the resolution 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 30 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 or principal;
- (7) For registration if the district deems such to be desirable;
- (8) For the replacement of lost, destroyed or mutilated bonds;
- (9) The setting aside of reserve and sinking funds and the regulation and the disposition thereof, except as hereinafter provided;
- (10) For limitation on the issuance of additional bonds;
- (11) For the procedure, if any, by which the contract with the bondholders may be abrogated or amended;
- (12) For the manner of sale and purchase thereof;
- (13) To meet and pay the principal and interest of all such bonds as they severally become due and payable;
- (14) For covenants as to the rights, liability, powers and duties arising upon the breach by the district of any covenant, condition or obligation;
- (15) 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;
- (16) 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 insurance money;
- (17) For limitations upon the exercise of the powers conferred upon the district by this act;
- (18) For the issuance of such bonds in series thereof;
- (19) The performance by the district of any and all such acts and things as may be necessary, convenient or desirable in order to secure its bonds or in the absolute discretion of the trustees as will tend to make the bonds more marketable, notwithstanding that such acts or things may not be enumerated herein.

Sec. 5. Application of proceeds of bonds. All moneys received from any bonds issued pursuant to this act shall be applied solely to the purposes of the district as set forth in section 1 hereof; and there shall be and hereby is created and granted a lien upon such moneys until so applied in favor of holders of such bonds or the trustee hereinafter provided for in respect of such bonds.

Sec. 6. Bonds; how secured; tax exempt. In the discretion of the district such bonds may be secured by a trust indenture by and between the district and a corporate trustee which may be any trust company or bank having the powers of a trust company within or outside of the state of Maine. Such trust indenture may pledge or assign revenue to be received

but shall not convey or mortgage other property of the district or any part thereof. Either the resolution providing for the issuance of such bonds or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the district in relation to the acquisition of properties and the construction, maintenance, operation and repair and insurance of the properties and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of this state to act as depository of the proceeds of the bonds or revenues and to furnish such indemnity bonds or to pledge such securities as may be required by the district. Such indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action of bondholders as is customary in trust indentures securing bonds and indentures of corporations. In addition to the foregoing such trust indenture may contain such other provisions as the district may deem reasonable and proper for the security of bondholders. 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 city of Augusta, 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. 7. Refunding bonds. The trustees of the district are hereby authorized to provide by resolution for the issuance of school district refunding bonds for the purpose of refunding any school district bonds issued under the terms of this act and then outstanding. The issuance of such school district refunding bonds, the maturities and other details thereof, the rights of the holders 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 school district refunding bonds shall be delivered unless delivered in exchange for school district bonds to be refunded thereby, except in the amount necessary to provide for the payment of matured or redeemable school district bonds or school district bonds maturing or redeemable within 3 months, including any redemption premium thereon.

(b) No school district refunding bonds shall be issued, unless issued to refund school district bonds which have matured or will mature within 3 months, or unless the interest rate of the school district refunding bonds shall be at least $\frac{1}{4}$ of 1% less than the interest rate borne by the school district bonds to be refunded; provided that in no case shall such new bonds mature more than 30 years from the original date of issue of the original bonds so refunded.

Sec. 8. Authority to accept and use city, state and federal aid and property. The "Augusta School District" is hereby authorized to receive from the city of Augusta, and said city of Augusta is hereby authorized to transfer and convey to said district, any property, real, personal or mixed, now or hereafter owned or held by the city of Augusta for school purposes, and any sums of money or other assets which the said city of Augusta has raised or may raise, either by taxation, borrowing or otherwise, for school purposes.

The said district is further authorized and empowered to enter into such agreement with the state or federal government, or any agency thereof, or any corporation or board authorized by the state or federal government to loan money or otherwise assist in the financing of such projects as this school district is authorized to carry out, as may be necessary or desirable to accomplish the purposes of this act.

Sec. 9. Assessment of taxes authorized to meet indebtedness; how collected; procedure. The trustees of the "Augusta School District" shall determine what sum is required each year for sinking fund payments, or if the bonds or notes authorized by this act shall be issued to mature serially what sum is required each year to meet the bonds and notes falling due, and what sum is required each year to meet the interest on said bonds or other obligations, and what sum is required each year to meet other necessary expenses in the district, and shall each year, before the 1st day of April, issue their warrant in the same form as the warrant of the treasurer of state for taxes, with proper changes, to the assessors of the city of Augusta, requiring that they assess the total sum so determined upon the taxable polls and estates within said district and to commit their assessment to the collector of said city of Augusta, 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 city shall pay the amount of the tax so assessed against said district to the treasurer of said district. In case of a failure on the part of the treasurer of the city to pay said sum,

or in case of his failure to pay any part thereof on or before said 31st day of December of the year in which said tax is levied, the treasurer of said district may issue his warrant for the amount of said tax or so much thereof as shall then remain unpaid to the sheriff of Kennebec county, requiring him to levy by distress and sale on real and personal property of any of the inhabitants of said district, 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 the revised statutes, is hereby vested in the trustees of said district in relation to the collection of taxes within said district.

Sec. 10. Sinking fund; refunding bonds provided for. In any case any bonds or notes at any time issued are made to run for a period of years (as distinguished from serial maturity), the trustees shall establish a sinking fund for such bonds or notes for the purpose of redeeming the same when they become due. The amount to be paid annually into such sinking fund shall not be less than 2% of the total principal amount of such bonds or notes originally issued during the first 10 years from the date of issue, and not less than 4% of the total principal amount of such bonds or notes originally issued annually thereafter. In addition to such annual sinking fund payment, the trustees shall have authority from time to time to add to any such sinking fund any funds of said district not required for other purposes. Funds in any sinking fund may be deposited in any national bank, savings bank or trust company within the state or may be invested in whole or in part in any bonds of the United States, of the state of Maine or of any political subdivision thereof, as the trustees may determine. Interest received on any funds so invested shall be added to the sinking fund. When and if the amount accumulated in any sinking fund, together with interest received or to be received thereon, shall be sufficient to pay at maturity or, at the option of the trustees, to redeem the bonds or notes for the benefit of which such sinking fund was established, all further payments to such sinking fund shall cease.

Sec. 11. Provisions for termination of the board of trustees. At such time as the school building or buildings and related athletic and recreational facilities shall have been completed, equipped and occupied by pupils of said district, and the board of trustees of the district shall have discharged all of its principal obligations, and the property of said district shall be free and clear of all indebtedness, the board of trustees shall automatically cease to function and all of the duties, management, care and maintenance of the property of said district shall revert to the school board

of the city of Augusta or such other board as may at that time have jurisdiction over similar school property, and the then chairman and treasurer of said district shall cause to be executed, signed and delivered a good and sufficient deed of all the property of said district to the city of Augusta. All money, if any, remaining in the treasury of said district at the time said trustees cease to function, shall be given to the city treasurer of the city of Augusta. This money shall be used only for school purposes and shall be kept separate from all other money until authorized by the council of the city of Augusta to be expended for one or more of the purposes stated in this act.

Sec. 12. Eminent domain. Whenever a reasonable price cannot be agreed upon for the purchase or lease of real property found necessary for the purposes of the district or whenever the owner is legally incapacitated or is absent or is unable to convey valid title or is unknown, the district is hereby authorized and empowered to acquire by condemnation any such real property, whether wholly or partly constructed, or interest or interests therein and any lands, rights, easements, franchises and other property deemed necessary or convenient for the construction of the district in the manner hereinafter provided.

When land is taken by eminent domain the proceedings for such purpose shall be in accordance with the provisions of sections 12 to 22, inclusive, of chapter 48 of the revised statutes of 1944.

Sec. 13. Saving 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 circumstances shall not be affected thereby.

Sec. 14. Governmental function. 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. 15. Referendum. This act shall take effect 90 days after the adjournment of the legislature only for the purpose of permitting its submission to the legal voters of the territory embraced within the limits of said district, present and voting at a special election called and held for the purpose or at an annual municipal election of the city of Augusta. Such special election or annual municipal election shall be held not later than December 31, 1950. In the event a special election is called for the purpose, it shall be called by the mayor at the written request of the chairman of the board

of education, and shall be otherwise advertised and conducted according to the law relating to municipal elections; provided, however, that the board of registration in said city of Augusta shall not be required to prepare for posting, or the city clerk to post, a new list of voters, and for the purpose of registration of voters, said board shall be in session the 3 secular days next preceding such special election, the 1st and 2nd days thereof to be devoted to registration of voters, and the 3rd day to enable the board to verify the corrections of such list and to complete and close up their records of said sessions. The city clerk shall prepare the required ballots on which he shall reduce the subject matter of this act to the following question: "Shall the Act to Incorporate the Augusta School District be accepted?" and the voters shall indicate by a cross or check mark placed over the words "Yes" or "No" their opinion of the same. This act shall take effect for all the purposes thereof immediately upon its acceptance by a majority vote of the legal voters voting at said election. The result in said district shall be declared by the municipal officers of the city of Augusta, and due certificate filed by the city clerk with the secretary of state.