

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 159**

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S. P. 105

In Senate, January 25, 1951.

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

CHESTER T. WINSLOW, Secretary.

Presented by Senator Dennett of York by request.

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**STATE OF MAINE**

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-ONE

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**AN ACT to Incorporate the Town of Kittery School District.**

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**Emergency preamble.** Whereas, the present buildings which house the schools of the town of Kittery are becoming overcrowded and with each new school year will become increasingly overcrowded and inadequate; and

Whereas, it is imperative that action be taken at the earliest possible moment to relieve these conditions; and

Whereas, new building construction is vitally necessary; and

Whereas, present borrowing capacity will not allow the town of Kittery to borrow sufficient funds for the necessary construction and equipment; and

Whereas, it is very desirable that this matter be acted upon by the voters at the annual town meeting in March, 1951; and

Whereas, in the judgment of the legislature, these facts create an emergency within the meaning 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. Town of Kittery School District, incorporated.** Subject to the

provisions of this act, the inhabitants of and the territory within the town of Kittery shall constitute a body politic and corporate under the name of "Town of Kittery School District" for the purpose of acquiring property within the said town 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 for school purposes and related athletic and recreational facilities; for the purpose of completing, grading, furnishing, rebuilding, renovating and otherwise bettering the condition of any or all buildings within said town used for school purposes or which may hereafter be used for school purposes; for the purpose of leasing or letting any property of said district to said town; 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.

**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 courses of study, the terms of school and all other matters pertaining to the education of pupils, which matters shall be controlled by the school board of the town of Kittery) shall be managed by a board of 5 trustees, who shall be bona fide residents of the town of Kittery and who shall be elected as hereinafter provided. The board of trustees, acting for said district, shall have and exercise all the power and authority necessary to carry out the purposes of this act and the powers and authority granted herein.

**Sec. 3. Trustees; how elected, tenure of office, organization of board; officers; vacancies; compensation; reports.** As soon as may be after the acceptance of this act, as hereinafter provided, the municipal officers of the town of Kittery shall appoint 5 trustees of said district, to hold office as follows respectively: 1 until the next annual municipal election following acceptance of this act; 1 until the 2nd annual municipal election thereafter; 1 until the 3rd annual municipal election thereafter; 1 until the 4th annual municipal election thereafter; and 1 until the 5th annual municipal election thereafter. At each annual municipal election of the town of Kittery, beginning with the annual municipal election after the acceptance of this act, 1 trustee shall be elected as hereinafter provided to serve until the annual municipal election occurring 5 years thereafter. When any trustee ceases to be a resident of said district, he vacates the office as trustee. All trustees shall be eligible for reelection or reappointment.

The nomination of all candidates for trustee to be elected as provided by this act shall be by petition. The petition of a candidate for trustee shall be signed by not less than 75 nor more than 150 qualified voters resident in said district. Each voter signing a nomination paper shall make his signature in person and each voter may subscribe to as many nominations as there are trustees to be elected in said district and no more. Such nomination papers, before being filed, shall be submitted to the town clerk of Kittery, who shall forthwith certify thereon what number of the signatures are names of qualified voters resident in said district; 1 of the signers to each said separate papers shall swear to the truth thereon and the certificate of such oath shall be annexed to or made upon the nomination papers. Such nomination papers shall be filed with the town clerk of the town of Kittery not less than 14 days, exclusive of Sundays, previous to the day of such election. With such nomination papers shall also be filed the consent in writing of the person or persons nominated. All nomination papers, being filed and being in apparent conformity with the foregoing provisions, shall be deemed to be valid; and if not in apparent conformity, they may be seasonably amended under oath.

In case any candidate who has been duly nominated under the provisions hereof shall die before the day of election, or shall withdraw in writing, or shall remove his place of residence from said district, the vacancy may be supplied in the manner herein provided for such nominations, except that the time limit for filing such nomination papers shall not apply. The name so supplied for vacancy shall, if the ballots have not been printed, be placed on the ballots instead of the original nomination; or if the ballots have been printed, new ballots containing the new nomination shall, if practical, be furnished, or slips containing the new nominations shall be printed under the direction of said town clerk which shall be pasted upon said ballots and over the name of the candidate whose nomination has been vacated as aforesaid and thereafter shall become part of said ballots as if originally printed thereon. The ballot in said district shall contain the names of all candidates so nominated in such district alphabetically arranged, printed in one column under the heading "For Trustees of the Kittery School District." Above such heading shall be printed "Vote for 1. Make a cross or a check mark to the right of the name voted for." As many blank spaces shall be left after the names of the candidates as there are trustees to be elected in which the voter may by writing insert the name of any person or persons for whom he desires to vote. In preparing his ballot the voter shall mark a cross or a check mark against and to the right of such name on said ballot as he desires to vote for not to exceed the number of trustees to be

elected in said district. The members of the board of trustees to be elected shall be elected at large by and from the qualified voters of the Kittery School District for a term of 5 years and until their successors are elected and qualified. The result of such election shall be declared by the municipal officers of the town of Kittery and due certificate thereof filed with the town clerk thereof.

The 1st meeting of the board of trustees shall be held in 2 weeks after all of the members of said board have been appointed as above provided, and such 1st meeting shall be held at the town hall in the town of Kittery, to be called by one of the trustees upon such reasonable notice therefor as he may deem proper. At this original meeting they shall organize by the election from their own members of a president, a clerk and a treasurer, adopt a corporate seal, may ordain and establish such by-laws consistent with the laws of the state of Maine as are necessary for their own convenience and the proper management of the affairs of said district, and may employ all needed officers and agents for the proper conduct and management of the affairs of the district. Within 2 weeks after each annual municipal election of the town of Kittery, the trustees shall meet for the purpose of electing a president, a clerk and a treasurer for the ensuing year and until their successors are elected and qualified.

In case any vacancy arises in the membership of the board of trustees, either through failure to elect or for whatever cause, it shall be filled by the remaining trustees for the period extending to the next annual municipal election. If at any annual municipal election there shall exist a vacancy in an unexpired term, the voters of the district shall cast their ballots as prescribed hereinbefore, voting for as many candidates as there are offices to be filled.

No member, except the treasurer, shall receive any compensation for his services, and the treasurer shall receive in full compensation for his services an amount to be fixed by the board of trustees not in excess of \$100 per year. Such salary, bond premium and all expenses of the district shall be paid from the funds of the district. The treasurer shall give bond to the district in such sum and with such surety or sureties as the trustees may determine, which bond shall remain in the custody of the president.

At the close of each fiscal year of the district, which shall coincide with the fiscal year of the town of Kittery, 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 also 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 re-

port shall be made and filed with the municipal officers of the town of Kittery on or before February 15 of each year.

**Sec. 4. How financed.** To procure funds for the purposes 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 district's bonds and notes therefor, but shall not incur a total indebtedness exceeding the sum of \$250,000. Each bond and note shall have inscribed upon its face the words "Town of Kittery School District," shall bear interest at such rates as the trustees shall determine, payable semiannually, and shall be subject to such other provisions as the trustees shall determine. Said bonds may be issued to mature serially, or made to run for such periods with call provision as said trustees may determine, but none of which shall run for a longer period than 30 years. All bonds and notes issued by said district shall be signed by the treasurer and countersigned by the president of said district, and if coupon bonds be issued, each coupon shall be attested by the facsimile signatures of the president and treasurer printed thereon. Said bonds and notes 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, and all the provisions of said section shall be applicable thereto. The said bonds and notes shall be legal investments for savings banks. The said trustees are hereby authorized and empowered to enter into such an agreement with the federal or state government, or any agency thereof, or any corporation or board authorized by the federal or state 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. 5. Sinking fund; refunding bonds provided for.** In case 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 1% of the total principal amount of such bonds or notes originally issued during the first 6 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.

Whenever any bonds or notes issued by said district may become due or can be purchased or called for redemption by said district on favorable terms, said trustees, if sufficient funds have accumulated in the sinking fund provided therefor, shall pay, purchase or redeem said bonds or notes and cancel them. In no case shall bonds or notes so paid, purchased or redeemed, and cancelled, be reissued.

In case the amount in any sinking fund shall not be sufficient to pay the total amount when due of the bonds and notes for which such sinking fund was provided, or in case it shall become desirable in the opinion of the trustees to call for redemption any outstanding bonds or notes and to issue new bonds or notes in their stead, authority is hereby granted to refund so many of said original bonds or notes as cannot be paid or redeemed from the sinking fund provided therefor, if any, but in no case shall such new bonds or notes mature more than 30 years from the original date of issue of the original bonds or notes so refunded.

**Sec. 6. Assessment of taxes authorized to meet indebtedness; how collected; procedure.** The trustees of the "Town of Kittery 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 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 town of Kittery, 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 constable or collector of said town of Kittery, who shall have all authority and power 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 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 town 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 York 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 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. 7. 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 town of Kittery or such other board as may at that time have jurisdiction over similar school property, and the then president 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 town of Kittery. All money, if any remaining in the treasury of said district at the time said trustees cease to function, shall be given to the town treasurer of the town of Kittery. This money shall be used only for school purposes and shall be kept separate from all other money until authorized by the municipal officers of town of Kittery to be expended for one or more of the purposes stated in this act.

**Sec. 8. Authority to receive property from the town of Kittery.** The "Town of Kittery School District" is hereby authorized to receive from the town of Kittery, and said town of Kittery is hereby authorized to transfer and convey to said district, any property, real, personal or mixed, now or hereafter owned or held by the town of Kittery for school purposes, and any sums of money or other assets which the said town of Kittery has raised or may raise, either by taxation, borrowing or otherwise, for school purposes. Before transferring and conveying any of said property or turning over any of said funds or assets, the municipal officers of the town of Kittery shall be duly authorized to do so by a majority vote of the legal



voters present and voting at any annual or special town meeting, the call for which shall have given notice of the proposed action.

**Sec. 9. Emergency clause; referendum; effective date.** In view of the emergency cited in the preamble, this act shall take effect when approved, only for the purpose of permitting its submission to the legal voters of the town of Kittery at any regular or special meeting called and held for the purpose not later than 6 months after the approval of this act. In the event a special election is called for the purpose, it shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, that the board of registration in the town of Kittery shall not be required to prepare for posting, nor the town 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 town 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 Town of Kittery School District be accepted?" and the voters shall indicate by a cross or a check mark placed over the words "Yes" or "No" their opinion of the same. This act shall take effect for all the purposes hereof immediately upon its acceptance by a majority vote of the legal voters voting at said election; provided that the total number of votes cast for and against the acceptance of this act at said election equals or exceeds 20% of the total vote for all candidates for governor in said town at the next previous gubernatorial election. The result in said district shall be declared by the municipal officers of the town of Kittery and due certificate thereof filed by the clerk of said town with the secretary of state.