

MAINE STATE LEGISLATURE

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

Legislative Document

No. 1003

S. P. 440

In Senate, March 1, 1951

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

CHESTER T. WINSLOW, Secretary.

Presented by Senator Brown of Washington.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

AN ACT Creating the Eastport Public Landing Authority.

Emergency preamble. Whereas, the public welfare and future of the city of Eastport as a port of entry and trading center for a large tributary population require safe, adequate and proper facilities at all tides to accommodate the movement of persons and vessels both in and out of the port; and

Whereas, existing facilities are not only inadequate but extremely dangerous as well; 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. Eastport Public Land Authority, created. There is hereby created the Eastport Public Landing Authority, which shall have the powers and duties as set forth in this act.

There shall be a board of 5 directors who shall exercise the powers and

duties of said Authority and shall be the following persons of the city of Eastport: city manager, president of the city council; city treasurer; president of the Eastport Chamber of Commerce; and a representative from the Eastport Sardine Cannery, to be chosen by the local cannery. The 1st board of directors chosen shall hold office until the 1st day of January following the completion of the public landing. Thereafter, the city council of Eastport shall appoint from the above named positions directors to fill any vacancies that may occur. The director representing the Eastport Sardine Cannery shall hold office until the 1st day of January following the completion of the Public Landing and thereafter such director shall be chosen by the local cannery to hold office for a term of 5 years.

The members of the board of directors shall serve without compensation; but shall have the right to appoint a secretary of the board at a nominal salary of not over \$500 annually.

The directors shall be the administrative officers of the Authority and may employ such assistants as they deem necessary to carry out the purposes of this act. They shall make such plans as seem best to them to obtain title to such wharf or wharves, or locations for such wharf or wharves as will in their judgment improve and increase the harbor facilities of the city of Eastport. With the consent of the city council, the directors may take or acquire within the city of Eastport real property by purchase or otherwise, by gift or grant, or by the exercise of the right of eminent domain, which right is hereby expressly delegated to the Eastport Public Landing Authority, and hold such real property and rights and easements therein as the directors may from time to time consider necessary for the purpose of constructing and maintaining said Eastport Public Landing piers and docks, and shall further have the right to construct on said pier or landing suitable buildings, filling station, restaurant or other structures, and have the authority to lease same, the proceeds from such leases to accrue to the credit of the Eastport Public Landing Authority. Such wharves and buildings shall be exempt from taxation by the city of Eastport. The Authority shall render annually at the end of the fiscal year a report to the city council, showing all transactions and balances, together with any recommendations for the improvement and operation of the public landing. The board of directors shall have power to establish all rules and regulations governing the operation and maintenance of the public landing; charge such fees as may, in their judgment, be necessary for parking and storage privileges; contract for the construction of the wharf or wharves and borrow money for this purpose; arrange for its financing; and provide for its protection by insurance against damage by fire, water or wind and for liability against injury.

Sec. 2. Right of Eminent domain conferred; procedure. In order to take any property by right of eminent domain, the directors shall within 90 days after voting for such action file and cause to be recorded in the registry of deeds for the county in which the property to be taken is located, a 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 the directors.

Notice of such proceedings shall be given to the owners thereof, if known, and the said notice shall be published once a week for 3 weeks in a newspaper published regularly in the county where the land or easement is situated. The recording shall operate as a taking of the real estate and the rights and easements therein described.

No taking shall be valid unless it is recorded in accordance with the **provisions of this section.**

In the event the owner of the land or easements shall not consent to the taking thereof, said owner or other person beneficially interested therein shall begin proceedings to protect their interests in said lands or easements in the superior court in the county where said lands are situated within 60 days after the recording of the said plan. If the taking of said lands or easements be permanently enjoined by the superior court on proceedings instituted therefor, such damages only as shall have been sustained shall be recoverable by the person whose lands were taken or attempted to be taken as aforesaid.

Sec. 3. How financed. The Authority is hereby authorized to issue its bonds or notes not exceeding the sum of \$75,000. Said bonds may be issued to mature serially or for such periods as the directors may determine. If the former, provisions may be made to retire \$7,000 annually after 1 year, or if the latter plan, to establish a sinking fund for the retirement of the issue by call, over a period of 15 years. All bonds and notes shall be signed by the treasurer of the Authority and countersigned by the president.

To establish the sinking fund or provide for the retirement of the bonds, the directors are expressly authorized to lease the Eastport Public Landing and all of its facilities to the city of Eastport for an amount not to exceed \$7,000 annually.

All bonds issued shall be a 1st lien on the value of the property up to 70%. All funds paid into the sinking fund shall be deposited in a national bank or trust company, or invested in the securities of the United States of America or the state of Maine.

At such time as the public landing, together with all of its buildings and facilities of every kind, shall be free of all indebtedness and all obligations shall have been discharged, the board of directors shall automatically cease to function, and all property of every description shall revert to the city of Eastport, and the president and treasurer of the Authority shall cause to be executed, signed and delivered a good and sufficient deed conveying all property of every description, together with all moneys and things of value, to the said city of Eastport.

Sec. 4. 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 city of Eastport, voting at a regular or special election called and held for the purpose within 8 months after the approval of this act. Such election shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, that the board of registration of said city shall not be required to prepare for posting, nor 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 election, the 1st 2 days thereof to be devoted to registration of voters and the last day to enable said board to verify the correction of said lists and to complete and close up their records of such sessions. The city clerk shall reduce the subject matter of this act to the following question: "Shall 'An Act Creating the Eastport Public Landing Authority,' passed by the 95th legislature, 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 hereof immediately upon its acceptance by a majority of the legal voters voting at said election. The result of said election shall be declared by the municipal officers of the city of Eastport and due certificate thereof shall be filed by the city clerk with the secretary of state.