

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

AS PUBLIC LAWS AND CONSTITUTIONAL RESOLUTIONS

at the

THIRD SPECIAL SESSION

September 15, 1988 to September 16, 1988

and the

FOURTH SPECIAL SESSION

November 28, 1988

AND

AS PRIVATE AND SPECIAL LAWS AND RESOLVES

at the

FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

THIRD SPECIAL SESSION

September 15, 1988 to September 16, 1988

and the

FOURTH SPECIAL SESSION

November 28, 1988

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Twin City Printery
Lewiston, Maine
1989

**PRIVATE AND
SPECIAL LAWS**

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the

ONE HUNDRED AND THIRTEENTH LEGISLATURE

1987

CHAPTER 35

H.P. 1132 — L.D. 1542

AN ACT Converting West Forks Plantation into the Town of West Forks.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the voters of West Forks Plantation are desirous of holding a referendum to determine whether West Forks Plantation should be converted into the Town of West Forks; and

Whereas, if the voters approve the referendum, it is desirable to organize the new town government as soon as possible so that the new Town of West Forks may begin to govern itself in a manner that a majority of the voters have chosen; and

Whereas, the actual incorporation cannot be accomplished until this Act takes effect; 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 West Forks, incorporated. West Forks Plantation, with its inhabitants, is incorporated into a town by the name of West Forks. The inhabitants of this town are vested with the powers, privileges and immunities which the inhabitants of towns within the State do or may enjoy. The town created shall take the effects belonging to West Forks Plantation and shall also assume all of its obligations.

Sec. 2. Legislative district. Until the next legislative apportionment of Representatives, the Town of West Forks shall remain in the same legislative district in which West Forks Plantation is now classed.

Sec. 3. First meeting; how called. Upon acceptance of this Act by referendum as provided in section 4, the board of assessors of the plantation shall issue a warrant, in accordance with the general laws, for the first town meeting, to be held within one year after passage of this Act. Notification of the town meeting shall be filed by the plantation clerk with the Secretary of State for determining the effective date of sections 1 and 2.

Sec. 4. Referendum; certificate to Secretary of State. The board of assessors of the plantation shall submit this Act to the legal voters within the territory embraced within the limits of the proposed Town of West

Forks, by ballot, at a regular or special election to be held within one year after passage of this Act. This election shall be called, advertised and conducted according to the Maine Revised Statutes, Title 30, sections 2061 and 2065. The plantation clerk shall prepare the required ballots, on which he shall reduce the subject matter of sections 1 and 2 of this Act to the following question.

“Shall West Forks Plantation be incorporated into the Town of West Forks?”

The voters shall indicate by a cross or check mark placed against the word “Yes” or “No” their opinion of the same. This Act shall be approved by a majority of the legal voters voting at the election, provided that the total number of votes cast for and against the acceptance of sections 1 and 2 of this Act at the election equaled or exceeded 50% of the total number of votes cast in the plantation for Governor at the last gubernatorial election.

The result of the vote shall be declared by the board of assessors of West Forks Plantation and due certificate shall be filed by the plantation clerk with the Secretary of State.

Emergency clause. In view of the emergency cited in the preamble, section 3 of this Act shall take effect upon its acceptance by a majority of the legal voters at the election. Sections 1 and 2 of this Act shall take effect for all purposes at the first town meeting.

Effective pending referendum.

CHAPTER 36

H.P. 412 — L.D. 546

AN ACT to Establish the Lubec Port Authority.

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

Sec. 1. Lubec Port Authority created. There is hereby created the Lubec Port Authority, which shall have the authority to acquire, construct, operate, maintain, repair and replace piers, terminal and warehouse facilities on the land and in the waters within the limits of the Town of Lubec.

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

The 5 directors must be residents of Lubec and shall be elected by a majority of the legal voters voting at a regular or special municipal election for a term of 3 years, provided that at the first election under this section, one director shall be elected for one year, 2 for 2 years and 2 for 3 years. Directors shall begin their terms of office immediately following their election and shall serve until their successors have been duly elected and qualified.

Vacancies that may occur by death, resignation or otherwise shall be filled by appointment of the selectmen until a successor is elected at the next election of directors.

All directors shall be sworn to the faithful performance of their duties by the town clerk.

The members of the board of directors shall serve without compensation; but shall have the right to appoint assistants, agents, engineers, attorneys and other employees as they may deem necessary to carry out the purposes of this Act and shall determine their duties and compensation.

At each annual meeting, the directors shall elect from their membership a chairman, who shall serve until the next annual meeting or until his successor is chosen and is qualified. The time for the annual meeting may be established in the bylaws promulgated by the directors.

The directors shall be the administrative officers of the authority and may employ assistants as they may deem necessary to carry out this Act. They shall make plans to obtain title to the wharf or wharves, or locations for the wharf or wharves, and they may acquire, construct, operate, maintain and repair piers, terminal and warehouse facilities on the land and in the waters within the limits of the Town of Lubec, as will in their judgment improve and increase the harbor, docking and warehousing facilities in Lubec. With the consent of a majority of the selectmen, the authority may take or acquire within the limits of the Town of Lubec real property, by purchase or otherwise, by gift or grant or by the exercise of the right of eminent domain pursuant to section 2, which right is expressly delegated to the Lubec Port Authority, and hold the real property and rights and easements therein as the directors may from time to time consider necessary for the purpose of constructing and maintaining the Lubec Port Authority piers, docks and warehouses, highways and other port facilities and shall further have the right to construct suitable buildings, filling stations, restaurants or other structures and have the authority to lease the same, upon the terms as the directors or a majority thereof may determine to be in the best interests of the authority, the proceeds from leases to accrue to the credit of the Lubec Port Authority. These wharves, buildings and property shall be exempt from taxation by the Town of Lubec, provided that this exemption shall not exempt any lessee or person in possession, other than the port authority, from taxes or assessments payable under the Maine Revised Statutes, Title 36, section 551. The authority shall submit annually, at the end of the fiscal year, a report to the municipal officers, showing all transactions and balances, together with any recommendations for the improvement and operation of the public landing and warehousing facilities. The board of directors may establish bylaws and all rules and regulations governing the operation and maintenance of the public landing and Lubec Port Authority; charge such fees as may, in their judgment, be necessary for parking, docking and storage privileges; contract for the

construction of the wharf or wharves, warehouse or warehouses and borrow money for these purposes; arrange for its financing; and provide for its protection by insurance against damage by fire, water or wind and for any other casualty which the directors wish to insure against and for liability against injury to persons and property. The directors may accept federal, state and private grants and contributions for the purposes of this Act.

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 of the property, if known, and the 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.

If any person or corporation sustains damages by any taking and does not agree with the authority on the sum to be paid therefor, either party, upon petition to the county commissioners of Washington County, may have those damages assessed by them; and the procedure and right of appeal shall be the same as are prescribed in the case of damages by the laying out of town ways.

A taking shall not be valid unless it is recorded in accordance with the provisions of this section.

In the event the owner of the land or easements does not consent to the taking of that property, the owner or other person beneficially interested in that property shall begin proceedings to protect their interests in the lands or easements in the Superior Court in the county where the lands are situated within 60 days after the recording of the plan. If the taking of the lands or easements are permanently enjoined by the Superior Court on proceedings instituted therefor, only damages which have been sustained shall be recoverable by the person whose lands were taken or attempted to be taken.

Sec. 3. Authorized to receive governmental aid; to borrow money; to issue bonds and notes. For accomplishing the purposes of this Act, the Lubec Port Authority, through its directors, without vote of the inhabitants, may receive municipal, state and federal aid grants. The port authority may reimburse the Town of Lubec for any expense incurred for the benefit of the port authority.

The port authority, through its directors, without the vote of its voters, may borrow money temporarily and issue therefor its negotiable notes, for the purpose of renewing and refunding the indebtedness so created, of

paying any necessary expenses and liabilities incurred under this Act, including organizational and other necessary expenses and liabilities, whether incurred by the port authority or the Town of Lubec.

The port authority, through its directors, may issue bonds, notes or other evidences of indebtedness of the port authority, in such amounts, bearing such interest and having such terms as the directors shall determine, provided that issuance of bonds and notes shall be in accordance with this section.

In the event that the directors vote to authorize bonds or notes, the estimated cost of which, singly or in the aggregate included in any one financing, is \$150,000 or more adjusted, relative to 1986 as the base year according to the annual Consumer Price Index, as defined in the Maine Revised Statutes, Title 5, section 1001, subsection 6-A, the directors shall provide notice to the general public of the proposed bond or note issue and the purposes for which the debt is being issued. The notice shall be published at least once in a newspaper having general circulation in the district. The directors shall give notice to each rate-payer by mail.

No debt may be incurred under the vote of the directors until the expiration of 7 full days following the date on which the notice was first published and mailed. Prior to the expiration of the period, the directors shall call a special meeting for the purpose of permitting the collection of testimony from the public concerning the amount of debt so authorized.

Except for indebtedness the fund projects specifically mandated by the State Government and Federal Government, for debts in excess of the amount specified in this section, if requested by petition of not less than 50 of the voters or 5% of the voters of the municipality, whichever is greater, filed with the town clerk of Lubec on or before the date of the meeting, the meeting shall express approval or disapproval of the amount of debt authorized by the directors. If a majority of voters present and voting expresses disapproval of the amount of debt authorized by the directors, the debt shall not be incurred and the vote of the directors authorizing it shall be void and of no effect.

The bonds, notes and evidences of indebtedness may be issued to mature serially or made to run for such periods as the directors may determine. Bonds, notes or evidences of indebtedness may be issued with or without provisions for calling the same prior to maturity and, if callable, may be made callable at par or at such premium as the directors may determine. All bonds, notes or other evidences of indebtedness shall have inscribed upon their faces the words "Lubec Port Authority," shall be signed by the treasurer, if any, and countersigned by the chairman of the port authority and, if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile signature of the treasurer or chairman.

All bonds, notes and evidences of indebtedness issued

by the port authority shall be legal obligations of the port authority, which is declared to be a quasi-municipal corporation within the meaning of the Maine Revised Statutes, Title 30, section 5053, and all provisions of that section shall be applicable thereto.

The port authority may refund and reissue, in one or in separate series, its bonds, notes and other evidences of indebtedness and each authorized issue shall constitute a separate loan. All bonds, notes and evidences of indebtedness issued by the port authority shall be legal investments for savings banks in this State and shall be free from taxation.

The total debt of the port authority outstanding at any one time shall not exceed \$1,000,000.

Sec. 4. Invalidity of any part not to affect validity of remainder of Act. If any clause, sentence, paragraph or part of this Act is for any reason adjudged by any court of competent jurisdiction to be invalid, that judgment shall be confined in its operation to the clause, sentence, paragraph or part directly involved in the controversy in which the judgment is rendered.

Sec. 5. Public lands. Notwithstanding any other provision of this Act, the powers and authority granted to the Lubec Port Authority shall not be construed as constituting a conveyance to the Lubec Port Authority of any right, title or interest in real or personal property of the State or of any agency or instrumentality of the State and shall not impair, modify or otherwise affect the powers and duties of the Bureau of Public Lands respecting the custody, management, control, disposition and receipt of money upon such disposition, of the State's submerged, intertidal and other public lands pursuant to the Maine Revised Statutes, Title 12, section 551 and the rules and policies adopted by such bureau in accordance with such laws.

Sec. 6. Referendum; effective date. This Act shall not take effect unless it is submitted to and accepted by the legal voters of the Town of Lubec, voting at a regular or special election called and held for the purpose within 24 months after the approval of this Act. The election shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, that the registrar of voters 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 the registrar shall be in session the 3 secular days next preceding the election, the first 2 days thereof to be devoted to registration of voters and the last day to enable the registrar to verify the correction of the lists and to complete and close up his records of the sessions. The town clerk shall reduce the subject matter of this Act to the following question:

"Shall the Lubec Port Authority be created?"

The voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of

the same.

This Act shall be accepted by an affirmative vote by a majority of the legal voters voting at the election; provided that the total number of votes cast for and against the acceptance of this Act at the meeting equaled or exceeded 10% of the total number of votes cast for Governor in the town at the last gubernatorial election. Another election may be held, if the total number of votes cast in the first election does not equal or exceed 20%.

The result of the election shall be declared by the municipal officers of the Town of Lubec and due certificate filed by the town clerk with the Secretary of State.

Effective pending referendum.

CHAPTER 37

S.P. 421 — L.D. 1301

AN ACT Concerning the Boundary Between the Towns of Machias and Machiasport.

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

The boundary line between the Town of Machias and the Town of Machiasport. In Washington County, the boundary line between the Town of Machias and the Town of Machiasport shall be as described. The boundary shall commence at the center of the channel of the Machias River at a point that is north seven degrees fifteen minutes East and 471 feet from a wood post set in the ground at high water mark on the southerly side of said river, said point being determined by Wayne A. Frye, registered land surveyor, State of Maine, registration number 846, in his survey of the town line between East Machias, Machias and Machiasport, May and June of 1980, Hanger 1, Slide 139, and in his survey of the Machias and Machiasport town line of March 4, 1985. The latter document shall be registered with the Register of Deeds in Washington County and with the clerks of the Towns of Machias and Machiasport upon approval of this Act.

Thence from said post south seven degrees fifteen minutes west one thousand six hundred sixty six point five feet, (S-07-15-W 1,666.5') to a granite monument set in the ground on the northerly side of the road that leads from Machias to Machiasport.

Thence continuing south seven degrees fifteen minutes west four thousand eight hundred thirty four point five feet, (S-07-15-W 4,834.5') to a one and three quarter inch aluminum monument set in the ground at a corner.

Thence north eighty two degrees forty five minutes west, one thousand two hundred fifty four point eight feet, (N-82-45-W 1,254.8') to a one and three quarter aluminum monument set in the ground at a corner.

Thence south seven degrees fifteen minutes west one thousand six hundred thirty point five feet, (S-07-15-W 1,630.5') to a one and three quarter inch aluminum monument set in the ground at a corner.

Thence north eighty two degrees forty five minutes west five thousand five hundred eighty three point six feet, (N-82-45-W, 5,583.6') to an aluminum monument set in the ground at a corner.

Thence south four degrees forty five minutes west six thousand six hundred thirty one point two feet (S-04-45-W 6,631.2') to a granite monument set in the ground on the north side of the Kennebec Cross Roads so called.

Thence continuing south four degrees forty five minutes west eight hundred seventy six point four feet (S-04-45-W 876.4') to a wood post set in the ground at high water mark of Little Kennebec Bay.

Meaning and intending to clarify and establish the common Machias-Machiasport town line as established by the Legislature in Private and Special Law 1826, chapter 367.

Effective September 29, 1987.

CHAPTER 38

S.P. 482 — L.D. 1459

AN ACT to Make Additional Allocations from the Highway Fund for the Fiscal Year Ending June 30, 1987.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses will become due and payable prior to July 1, 1987; 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. Additional allocation of Highway Fund. Income to the Highway Fund for the fiscal year from July 1, 1986, to June 30, 1987, shall be segregated, apportioned and disbursed as designated in the following schedule:

1986-87

PUBLIC SAFETY, DEPARTMENT OF