

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION

July 29, 2005

SECOND REGULAR SESSION

January 4, 2006 to May 24, 2006

**THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 28, 2005**

**THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 23, 2006**

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

**Penmor Lithographers
Lewiston, Maine
2006**

Agriculture, Conservation and Forestry no later than November 1, 2006 and shall submit a final report including its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters no later than January 15, 2007. The commission is authorized to introduce legislation related to its report to the First Regular Session of the 123rd Legislature at the time of submission of its final report.

8. Extension. Upon request by the commission, the Legislative Council may grant a limited extension of time for the commission to complete its study and make its final report.

9. Commission budget. The Department of Conservation, Bureau of Parks and Lands shall, no later than 15 days following the effective date of this Act, transfer to the Executive Director of the Legislative Council sufficient funds to fund all per diem and expense costs for legislative members of the commission. All other costs of the commission, including per diem and expenses for other members, must be funded by the bureau from within existing resources. The commission shall hold at least 6 meetings. The Executive Director of the Legislative Council shall administer any funds received by the commission. The executive director shall notify the chairs of the commission when sufficient funding has been received. Within 10 days after its first meeting, the commission shall present a work plan and proposed budget to the Legislative Council for its approval. The commission may not incur expenses that would result in the commission's exceeding its approved budget.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

LEGISLATURE

Study Commissions - Funding 0444

Initiative: Allocates funds for the per diem and expenses of legislative members of the Commission To Study the Henderson Brook Bridge in the Allagash Wilderness Waterway. Funds are provided through a transfer from the Department of Conservation to the Legislature.

OTHER SPECIAL REVENUE

FUNDS	2005-06	2006-07
Personal Services	\$0	\$1,650
All Other	\$0	\$3,000
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OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$4,650

See title page for effective date.

CHAPTER 599

H.P. 1371 - L.D. 1957

An Act To Establish the Midcoast Regional Redevelopment Authority

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

Whereas, the United States Government has announced its intention to close Brunswick Naval Air Station in Cumberland County; and

Whereas, a legal entity needs to be created to accept the assets of the facility and manage a locally driven process for its readjustment and reuse; and

Whereas, it is critical to implement a reuse and readjustment strategy for the facility to preserve the local economies of the affected communities; and

Whereas, the United States Government is planning to transfer the assets for their reuse; 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. 5 MRSA c. 383, sub-c. 3, art. 2-B is enacted to read:

Article 2-B

MIDCOAST REGIONAL REDEVELOPMENT AUTHORITY

§13083-G. Midcoast Regional Redevelopment Authority established

The Midcoast Regional Redevelopment Authority is established to carry out the purposes of this article. The authority is entrusted with acquiring and managing the properties within the geographic boundaries of Brunswick Naval Air Station.

§13083-H. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

1. Authority. "Authority" means the Midcoast Regional Redevelopment Authority established in section 13083-G.

2. Base area. "Base area" means the area within the geographic boundaries of Brunswick Naval Air Station.

3. Bond. "Bond" means a bond or note or other evidence of indebtedness authorized under this article, whether issued under or pursuant to a bond resolution, trust indenture, loan or other security agreement.

4. Brunswick Naval Air Station. "Brunswick Naval Air Station" or "base" means those properties and facilities within the geographic boundaries of the United States Department of Defense naval air station at Brunswick existing on the effective date of this section. "Base" also includes other geographically separate property that the authority determines should be part of the base if the municipality in which the property is located has chosen not to accept the property and use it for other purposes.

5. Operating revenues. "Operating revenues" means funds available to the authority from fees, fares, rental or sale of property and miscellaneous revenue and interest not otherwise pledged or dedicated.

6. Primary impact community. "Primary impact community" means the municipalities of Bath, Bowdoin, Bowdoinham, Brunswick, Freeport, Harpswell, Lisbon Falls and Topsham and Androscoggin County, Cumberland County and Sagadahoc County.

7. Readjustment or reuse. "Readjustment" or "reuse" means an alternative use of the base facility from its use as a military installation.

8. Real or personal property. "Real or personal property" means those properties and assets transferred by the United States Government or the United States Navy after the closure of Brunswick Naval Air Station.

9. Reconstruct or reconstruction. "Reconstruct" or "reconstruction" means any activities undertaken to maintain the properties of Brunswick Naval Air Station, or any part of those properties, as a modern, safe and efficient facility and includes, but is not limited to, any rebuilding, redesign, improvement or enlargement of the real properties or environmental mitigation activities on base properties.

§13083-I. Midcoast Regional Redevelopment Authority; powers; membership; obligations

1. Powers. The authority is a public municipal corporation and may:

A. Sue and be sued;

B. Adopt bylaws or rules consistent with this article for the governance of its affairs;

C. Exercise all of the general powers of corporations under Title 13-C, section 302;

D. Exercise the power of eminent domain;

E. Provide for the public safety by imposing appropriate rules, regulating appropriate use of the base facilities and enforcing laws and rules as they apply to the use of the base facilities;

F. Charge and collect fees, charges and rents for the use of the properties and other services and use the proceeds of those fees, charges and rents for the purposes provided in this article, both subject to and in accordance with any agreement with bondholders that may be made as provided in this article;

G. Contract with the Federal Government or its instrumentalities or agencies, this State or its agencies, instrumentalities or municipalities, public bodies, private corporations, partnerships, associations and individuals to carry out the purposes of this article;

H. Accept the cooperation of the Federal Government or its agencies in the construction, maintenance, reconstruction, operation and financing of the readjustment of the base and take necessary actions to utilize that aid and cooperation;

I. Borrow money and apply for and accept advances, loans, grants, contributions and other forms of financial assistance from the Federal Government, the State, a municipality or other public body or from other sources, public or private, for the purposes of this article, give any security that is required and enter into and carry out contracts in connection with that financial assistance;

J. Borrow money, make, issue and sell at public or private sale negotiable notes, bonds and other evidences of indebtedness or obligation of the authority for the purposes under this article and secure the payment of that obligation or any part of that obligation by pledge of all or any part of the operating revenues of the authority;

K. Enter into loan or security agreements with one or more lending institutions, including, but not limited to, banks, insurance companies and institutions that administer pension funds, or trustees for those institutions for the issuance of bonds and exercise with respect to those loan or security agreements all of the powers delineated in this article for the issuance of bonds;

L. Provide from operating revenues for the maintenance, construction or reconstruction of facilities to ensure the public safety for which the authority has not otherwise provided;

M. Use operating revenues to provide payment of obligations, if any, due to the United States to implement the readjustment or reuse of the base facility;

N. Adopt rules pursuant to the Maine Administrative Procedure Act; and

O. Take all other lawful action necessary and incidental to these powers.

2. Membership; appointment. The authority is governed by a board of trustees composed of 11 voting members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and to confirmation by the Senate.

A. Trustees are appointed for 4-year terms, except that, for initial appointments, 3 trustees are appointed to one-year terms, 3 trustees are appointed to 2-year terms, 2 trustees are appointed to 3-year terms, 2 trustees are appointed to 4-year terms and the commissioner designated pursuant to paragraph D serves at the pleasure of the Governor. A vacancy must be filled in the same manner as the original appointment for the balance of the unexpired term.

B. A trustee continues to hold office until a successor is appointed and qualified, but the term of the successor is not altered from the original expiration date of the holdover trustee's term.

C. The Governor shall make 10 appointments, of which no fewer than 7 must be from candidates who are residents of Androscoggin County, Cumberland County and Sagadahoc County and are nominated by the primary impact communities. The Governor shall appoint members who reflect the diversity of interests represented by these communities.

D. The Governor shall designate a commissioner of a department of State Government to be a voting, ex officio member of the board of trustees.

E. A member appointed to the board of trustees may not hold an elected office in municipal, county or state government.

3. Quorum. Six members constitute a quorum. Six affirmative votes are required for the board of trustees to take action.

4. Liability. The liability of the authority is governed by the Maine Tort Claims Act.

5. Expenses. A trustee is not entitled to receive compensation for services to the authority but is entitled to receive reimbursement for necessary expenditures, including travel expenses, incurred in carrying out those services.

6. Officers; employees. The board of trustees shall elect a chair and vice-chair from among its members. The authority may employ an executive director, technical experts and other agents and employees, permanent and temporary, that it requires and may determine their qualifications, duties and compensation. For required legal services, the authority may employ or retain its own counsel and legal staff.

§13083-J. Use of operating revenues

1. Principal use of revenue. Operating revenue must be used principally to reinvest in the properties held by the authority.

2. Permitted liability limited. All expenses incurred in carrying out this article must be paid solely from funds provided under the authority of this article, and liability or obligation may not be incurred under this article beyond the extent to which money has been provided under the authority of this article.

3. Equal opportunity employers. Contractors and subcontractors on authority construction and reconstruction projects must be equal opportunity employers and, for contracts in excess of \$250,000, shall pursue in good faith affirmative action programs as defined in section 782. The authority may by rule provide for the enforcement of this requirement.

§13083-K. Property of authority

The authority shall hold and acquire property as follows.

1. Lease or sale. Properties may be leased or sold to accomplish the readjustment or reuse of the base facilities as determined appropriate by the authority. Resources acquired as a result of the lease or sale of these properties become operating revenues or assets of the authority.

2. Entry upon lands. The authority and its authorized agents and employees may enter upon lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations the authority determines necessary or convenient for the purposes of this article. The entry is not a trespass, but the authority is liable for damages its entry creates.

3. Authority for transfers of interest in land to the authority. Notwithstanding any contrary provisions of law, upon the authority's request, on reasonable and fair terms and conditions and without the necessity for advertisement, order of court or action or formality other than the regular and formal action of the authorities concerned, counties, municipalities, public agencies or instrumentalities of the State, public service corporations and special districts may lease, lend, grant or convey to the authority real or personal property or rights in that property that may be necessary or convenient for the effectuation of the authorized purposes of the authority, including real and personal property or rights in that property already devoted to public use. As used in this subsection, the term "public service corporation" includes a public utility as defined in Title 35-A, section 102, subsection 13 and a corporation referred to in Title 13-C.

§13083-L. Special utility districts

The authority may form special utility districts and provide municipal utility services within its jurisdiction. The board of trustees of the authority has the authority of a municipal legislative body for these purposes.

1. Sewer services. The authority may provide sewer services as a sanitary district under Title 38, chapter 11, subchapters 3 and 4. The authority may establish a board of trustees for the sanitary district and appoint the members of the board of trustees or may act as the board of trustees of the district.

2. Solid waste disposal. The authority may provide solid waste disposal services as a refuse disposal district under Title 38, chapter 17. The authority may establish a board of trustees for the refuse disposal district and appoint the members of the board of trustees or may act as the board of trustees of the district.

3. Water. The authority may provide water as a water district under Title 35-A, Part 6. The authority may establish a board of trustees for the water district and appoint the members of the board of trustees or may act as the board of trustees of the district.

4. Revenue-producing services. The authority has all the powers of a municipality to provide services under Title 30-A, chapter 213.

§13083-M. Other municipal powers

1. Traffic ordinances. The authority has the power to enact traffic ordinances and regulate the operation of motor vehicles under Title 30-A, section 3009 to the extent that power is not inconsistent with other validly enacted municipal ordinances.

2. Operating expenses. The authority has all the powers of a municipality to raise and appropriate money under Title 30-A, sections 5722 and 5723.

3. Zoning. The authority may not adopt zoning or land-use ordinances but may coordinate zoning and land-use regulation with interested primary impact communities.

4. Highway maintenance. The authority may maintain, repair, plow and control public ways as a municipality under Title 23, Part 3. The authority shall consult and coordinate with the appropriate primary impact community in appointing a road commissioner.

§13083-N. Bonds

1. Hearing required. The authority may issue bonds to finance its activities only after giving notice of the proposed issuance and its terms at least twice in a newspaper of general circulation in the appropriate counties and holding a duly advertised public hearing on the issuance.

2. Authority. The authority may issue bonds from time to time in its discretion to finance the undertaking of an authorized activity under this article, including but not limited to the payment of principal and interest upon advances for surveys and plans, and may issue refunding bonds for the payment or retirement of bonds previously issued.

A. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of the authority derived from or held for activities under this article. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal Government or other source in aid of activities of the authority under this article and by a mortgage of an urban activity or a project or part of a project, title to which is in the authority.

B. Bonds issued under this section do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to other laws or charters relating to the authorization, issuance or sale of bonds. Bonds issued under this article are declared to be issued for an essential public and governmental purpose and, together with interest on and income from the bonds, are exempt from all taxes.

C. Bonds may not be issued by the authority until the authority has received a certificate of approval from the Finance Authority of Maine authorizing issuance of the bonds. Before issuing a certificate of approval under this section, the

Finance Authority of Maine must determine that there is a reasonable likelihood that the income, proceeds, revenues and funds of the authority derived from or held for activities under this article or otherwise pledged to payment of the bonds will be sufficient to pay the principal, the interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the Finance Authority of Maine shall consider the authority's analysis of the proposed bond issue and the revenues to make payments on the bonds and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge the authority reasonable fees and expenses. The issuance by the Finance Authority of Maine of a certificate of approval under this section does not constitute an endorsement of the bonds or the projects or purposes for which those bonds are issued and neither the authority nor any other person or entity, including, without limitation, any holders of bonds of the authority, have any cause of action against the Finance Authority of Maine with respect to any such certificate of approval. The Finance Authority of Maine may require that it be indemnified, defended and held harmless by the authority for any liability or cause of action arising out of or with respect to the bonds.

3. General characteristics. Bonds authorized under this section may be issued in one or more series. The resolution, trust indenture or mortgage under which the bonds are issued may include the following:

- A. The date or dates borne by the bonds;
- B. Whether the bonds are payable upon demand or mature at a certain time or times;
- C. The interest rate or rates of the bonds;
- D. The denomination or denominations of the bonds;
- E. The form of the bonds, whether coupon or registered;
- F. The conversion or registration privileges carried by the bonds;
- G. The rank or priority of the bonds;
- H. The manner of execution of the bonds;
- I. The medium and place or places of payment;
- J. The terms of redemption of the bonds, with or without premium;
- K. The manner secured; and

L. Any other characteristics of the bonds.

4. Price sold. The bonds may be:

A. Sold at not less than par at public sales held after notice has been published in a newspaper of general circulation in the area of operation and in any other medium of publication that the authority designates;

B. Exchanged for other bonds on the basis of par; or

C. Sold to the Federal Government at private sale at not less than par. If less than all of the authorized principal amount of the bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the municipality that does not exceed the interest cost to the municipality of the portion of the bonds sold to the Federal Government.

5. Signatures of outgoing officers; negotiability. If an official of the authority whose signature appears on a bond or coupon issued under this article ceases to be an official before the bond is delivered, the signature is nevertheless valid for all purposes as if the official had remained in office until the delivery. Notwithstanding contrary provisions of law, bonds issued under this article are fully negotiable.

6. Bond recitation; conclusive presumptions. In actions or proceedings involving the validity or enforceability of a bond issued under this article or the security for that bond, a bond reciting in substance that it has been issued by the authority in connection with an activity is conclusively deemed to have been issued for that purpose and the activity is conclusively deemed to have been planned, located and carried out in accordance with this article.

7. No personal liability; not debt of State or municipality. Neither the trustees of the authority nor the person executing the bonds is liable personally on the bonds by reason of the issuance of the bonds. The bonds and other obligations of the authority must have stated on their face that they are not a debt of the State and that the State is not liable on the bonds. The bonds or obligations may not be payable out of funds or properties other than those of the authority acquired for the purposes of this article.

8. Bonds as legal investments. Public officers, municipal corporations, political subdivisions and public bodies; banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business; insurance companies, insurance associations and other persons carrying on an insurance business;

and executors, administrators, curators, trustees and other fiduciaries may legally invest sinking funds, money or other funds belonging to them or within their control in bonds or other obligations issued by the authority under this article. These bonds or other obligations are authorized security for all public deposits. It is the purpose of this section to authorize persons, political subdivisions and officers, public or private, to use funds owned or controlled by them for the purchase of these bonds or other obligations. This section does not relieve a person of any duty or of exercising reasonable care in selecting securities.

9. Investment of funds; redemption of bonds.

The authority may:

A. Invest, in property or securities in which savings banks may legally invest funds subject to their control, funds held in reserves, sinking funds or funds not required for immediate disbursement; and

B. Cancel its bonds by redeeming them at the redemption price established in the bonds or by purchasing them at less than redemption price.

§13083-O. Interest of public officials, trustees or employees

1. Acquisition of interest. A public official, trustee or employee of the authority may not acquire or hold a direct or an indirect financial or personal interest in:

A. An authority activity;

B. Property included or planned to be included in the base area; or

C. A contract or proposed contract in connection with an authority activity.

When an acquisition is involuntary, the interest acquired must be disclosed immediately in writing to the board of trustees of the authority, and the disclosure must be entered in the board's minutes.

2. Present or past interest in property. If a public official, trustee or employee of the authority presently owns or controls, or owned or controlled within the preceding 2 years, a direct or an indirect interest in property known to be included or planned to be included in an authority activity, that public official, trustee or employee must disclose this fact immediately in writing to the authority and the disclosure must be entered in the authority's minutes.

3. Recusal. The public official, trustee or employee of the authority with an interest may not participate in an action by the authority affecting that property.

4. Violation. A violation of this section is a Class E crime.

§13083-P. Exemption from execution

1. Property exempt from execution. The property, including funds, of the authority is exempt from levy and sale by virtue of an execution. An execution or other judicial process may not be issued against the authority's property, and a judgment against the authority may not be a charge or lien upon its property.

2. Construction; limitation of application. This section does not:

A. Prohibit the authority from making payments in lieu of taxes to the municipality; or

B. Apply to or limit the right of an obligee to foreclose or otherwise enforce a mortgage of the authority or to pursue remedies for the enforcement of a pledge or lien given by the authority on its rents, fees, grants or revenues.

§13083-Q. Designation as port of entry, international airport, foreign trade zone and free port area

1. Port of entry. The authority may apply to the Secretary of the Treasury of the United States for the purpose of having Brunswick Naval Air Station or a portion of the base designated, established or constituted as a port of entry or an international airport pursuant to the federal Customs Reorganization Act, 19 United States Code, Section 1, as amended, and Section 58b, as amended, and regulations of the United States Customs Service, including 19 Code of Federal Regulations, Sections 101.0 and 122.1, as amended.

2. Foreign trade zone. The authority may apply to the Secretary of Commerce of the United States for the purpose of establishing, operating and maintaining foreign trade zones at Brunswick Naval Air Station pursuant to the federal Foreign Trade Zones Act, 19 United States Code, Section 81a-81u, as amended, providing for the establishment, operation and maintenance of foreign trade zones in or adjacent to ports of entry of the United States for expediting and encouraging foreign commerce and for other purposes.

A. The authority may select and describe the location of the foreign trade zone, make rules and take other actions concerning the operation, maintenance and policing of the zone as necessary to comply with the federal Foreign Trade Zones Act and the regulations promulgated under that Act.

B. The authority may lease or may erect, maintain and operate structures, buildings or enclosures necessary for the establishment and operation of foreign trade zones.

3. Other tax-free provisions. The authority may establish a free port area at Brunswick Naval Air Station in which personal property in transit is exempt from the provisions of the stock-in-trade tax and other taxes and customs normally levied in a port of entry. For the purposes of this section, personal property in transit through the free port area established by the authority includes goods, wares and merchandise that:

A. Are moving in interstate or international commerce through or over the free port areas established;

B. Are consigned from outside the State to a public or private warehouse within the State, whether that consignment is specified before or after transportation; or

C. Do not lose their tax-exempt status because, while in a warehouse, they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged. The warehouse in which the goods, wares and merchandise are stored may not be owned in whole or in part by either the consignee or the consignor. The tax-exemption granted may be liberally construed to effect the purposes of this article.

§13083-R. Termination of the authority

The authority is not dissolved until:

1. Legislature provides for termination. It is terminated by the Legislature; and

2. Payment of bonds, premiums and interest. The bonds, premium, if any, and interest have been paid or a sufficient amount for the payment of the bonds and interest to maturity or a prior redemption date have been irrevocably set aside in trust for the benefit of the bondholders.

§13083-S. Annual report

1. Annual financial report. The authority shall submit annually to the Governor, the Executive Director of the Legislative Council and the joint standing committee of the Legislature having jurisdiction over housing and economic development matters, not later than 120 days after the close of the authority's fiscal year, a complete report on the activities of the authority. The report may also be provided to any other member of the Legislature and to any other person. The report must include all of the following for the previous year:

A. A description of the authority's operations;

B. An accounting of the authority's receipts and expenditures, assets and liabilities at the end of its fiscal year;

C. A listing of all property transactions pursuant to section 13083-K;

D. An accounting of all activities of any special utility district formed under section 13083-L;

E. A listing of any property acquired by eminent domain under section 13083-I;

F. A listing of any bonds issued during the fiscal year under section 13083-I;

G. A statement of the authority's proposed and projected activities for the ensuing year; and

H. Recommendations regarding further actions that may be suitable for achieving the purposes of this article.

Sec. 2. Initial appointments; inform joint standing committee. The Governor shall inform the joint standing committee of the Legislature having jurisdiction over economic development matters, no later than March 15, 2007, of the initial appointments to the Midcoast Regional Redevelopment Authority pursuant to the Maine Revised Statutes, Title 5, section 13083-I, subsection 2.

Sec. 3. Report to development authority. The municipalities of Topsham and Brunswick or any entity under their purview with responsibility over matters regarding the future use of Brunswick Naval Air Station shall report on its findings and recommendations to the Midcoast Regional Redevelopment Authority no later than July 1, 2007.

Sec. 4. Report to committee; 2nd regular session. The Midcoast Regional Redevelopment Authority shall report the status of the establishment of the authority to the joint standing committee of the Legislature having jurisdiction over economic development matters during the Second Regular Session of the 123rd Legislature no later than January 15, 2008.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 27, 2006.
