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An Act To Create the Bar Harbor Port Authority

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

Whereas, the Town of Bar Harbor requires the immediate creation of a port authority for the proper operation of municipal government facilities, including transportation infrastructure maintenance and public safety; 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. Bar Harbor Port Authority created. There is created the Bar Harbor Port Authority, referred to in this Act as "the authority," which has the authority to acquire, construct, operate, maintain, repair and replace piers, terminals, industrial parks, transportation and warehouse facilities, roads and other facilities on the land and in the waters within the limits of the Town of Bar Harbor and enter into contracts for administration, operations, bonding, management and consulting services within and beyond the boundaries of the Town of Bar Harbor.

There is a board of 5 directors as follows:

1. Two directors are appointed by the Bar Harbor town council for 3-year terms, except that the first appointment is for a 2-year initial term; and

2. Three directors who are residents of the Town of Bar Harbor as verified by the registrar of voters for voting purposes and who are elected by a majority of the legal voters voting at an election for 3-year terms except that for the initial terms under this subsection, one director is elected for one year, one for 2 years and one for 3 years.

Directors begin their terms of office July 1st and serve until their successors are duly appointed or elected and qualified.

The board of directors shall exercise the powers and duties of the authority.

A vacancy of an elected director that may occur by death, resignation or otherwise is filled by appointment of the town council until a successor is elected in the same manner and at the same time as Bar Harbor town councilors to fulfill the remainder of the term.

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

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

At each annual meeting, the directors shall elect from their membership a chair, who serves until the next annual meeting or until the chair's successor is chosen and is qualified. The time for the annual meeting may be established in the bylaws adopted by the directors.

The directors are the administrative officers of the authority and may employ assistants as they may consider necessary to carry out this Act. They may make plans to obtain title to wharves, or locations for wharves, and they have the authority to acquire, construct, operate, maintain, repair and replace such piers, terminals, industrial parks and transportation and warehouse facilities, roads and other facilities on the land and in the waters within the limits of the Town of Bar Harbor as will in their judgment improve and increase the harbor, docking and warehousing facilities in the Town of Bar Harbor and may encumber debt and enter into contracts for administration, operations, management and consulting services within and beyond the boundaries of the Town of Bar Harbor. The authority may acquire within the limits of the Town of Bar Harbor real property by purchase or by gift or grant and hold the real property and rights and easements to the real property as the directors may from time to time consider necessary for the purpose of constructing and maintaining the Bar Harbor Port Authority piers, docks and warehouses, highways and other port facilities. The authority has the right to construct suitable buildings, filling stations and restaurants and has the authority to lease the same, upon the terms as the directors or a majority of the directors may determine to be in the best interests of the authority, the proceeds from leases to accrue to the credit of the Bar Harbor Port Authority. These wharves, buildings and property are exempt from taxation by the Town of Bar Harbor, except that this exemption does 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 may make a payment in lieu of taxes to the Town of Bar Harbor. The authority has the right to acquire property without the approval of the town council, except that the property so acquired may not be exempted from taxation. The authority shall pay all fees assessed by the Bar Harbor town council. The authority shall render annually, at the end of the fiscal year, a report to the town council, showing financial reports, together with recommendations and plans for the improvement and operation of facilities. The board of directors has the power to establish bylaws and all rules and regulations governing the operation and maintenance of facilities under the control of the authority; charge such fees as may, in the board's judgment, be necessary for parking, docking and storage privileges; contract for the construction of wharves or warehouses and borrow money for these purposes; arrange for construction financing; and provide for protection by insurance against damage by fire, water or wind and for any other casualty that 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 and may enter into partnerships, joint ventures or other business relationships, either directly or through an affiliate corporation owned by the authority.

Sec. 2. How financed. The authority is authorized to issue its bonds or notes. The bonds may be issued to mature serially or for periods not to exceed 30 years from the date of issue with interest at such rate and upon such other and further terms and conditions as the directors, or a majority of the directors, may determine. All bonds or notes must be signed by the directors of the authority or a majority of the directors. Each bond and note must have inscribed upon its face "Bar Harbor Port Authority," must bear interest at such rates as the directors determine, payable semiannually, and must be subject to such other provisions as the directors determine. Bonds and notes issued by the authority may be made callable at any interest date. If coupon bonds are issued, each coupon must be attested by the facsimile signature of the chair printed on the coupon. The bonds and notes are legal obligations of the authority, which is

a quasi-municipal corporation pursuant to the Maine Revised Statutes, Title 30-A, section 5701, and all the provisions of Title 30-A, section 5701 are applicable. The bonds and notes are legal investments for trust companies and savings banks. All notes, bonds or other securities issued by the authority are at all times free of taxation by the State.

The directors are authorized to secure the payment of any bonds or notes of the authority by the granting of a mortgage, security agreement, assignment of lease, assignment of rentals or any other security instrument. If the directors establish a sinking fund for the payment of the notes or bonds of the authority as they come due, all funds paid into that sinking fund must 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.

When the construction of all public facilities undertaken by the authority, together with all buildings and facilities of every kind, is free of all indebtedness, all obligations have been discharged, all leases have been terminated and the directors or a majority of the directors determine in writing that there is no further need for the authority to exist, the board of directors automatically ceases to function, all property of every description reverts to the Town of Bar Harbor and the directors of the authority must execute, sign and deliver a good and sufficient deed conveying all property of every description, together with all funds and things of value, to the Town of Bar Harbor.

Sec. 3. 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 is confined in its operation to the clause, sentence, paragraph or part of this Act directly involved in the controversy in which the judgment has been rendered.

Sec. 4. Public lands. Notwithstanding any other provision contained in this Act, the powers and authority granted to the authority may not be construed as constituting a conveyance to the 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 may not impair, modify or otherwise affect the powers and duties of the Bureau of Parks and Lands within the Department of Agriculture, Conservation and Forestry respecting the custody, management, control and receipt of funds upon disposition of the State's submerged, intertidal and other public lands pursuant to the Maine Revised Statutes, Title 12, section 1862 and the rules and policies adopted by the bureau.

Sec. 5. Emergency clause; referendum; effective date. In view of the emergency cited in the preamble, this Act takes effect when approved only for the purpose of permitting its submission to the legal voters of the Town of Bar Harbor at a referendum called for that purpose and held within 2 years after the effective date of this Act. The referendum must be called by the municipal officers and must be held at the regular voting places. The referendum must be called, advertised and conducted according to the law relating to municipal elections. The registrar shall make a complete list of all the eligible voters of the Town of Bar Harbor as described in this Act. The list prepared by the registrars governs the eligibility of a voter. For the purpose of registration of voters, the registrar of voters must be in session the regular workday preceding the referendum. The subject matter of this Act is reduced to the following question:

"Shall 'An Act To Create the Bar Harbor Port Authority,' as passed by the First Regular Session of the 128th Legislature, be accepted?"

The voters shall indicate by a cross or check mark against the word "Yes" or "No" their opinion of the same.

Upon its acceptance by a majority of the legal voters voting at the election, this Act takes effect for all the purposes hereof, as long as the total number of votes cast for and against the acceptance of this Act equals or exceeds 20% 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 must be declared by the municipal officers of the Town of Bar Harbor and due certificate filed by the town clerk with the Secretary of State.

SUMMARY

This bill provides for the creation of the Bar Harbor Port Authority.