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No. 2270

S.P. 986

In Senate, March 14, 2024

An Act to Create the Lincoln Mill Facilities District

(AFTER DEADLINE)

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Innovation, Development, Economic Advancement and Business suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator TIPPING of Penobscot.

Cosponsored by Representative GIFFORD of Lincoln and

Senators: GROHOSKI of Hancock, President JACKSON of Aroostook, NANGLE of Cumberland, STEWART of Aroostook, Representatives: BABIN of Fort Fairfield, FAULKINGHAM of Winter Harbor, FOSTER of Dexter, JAVNER of Chester.

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

3 **Whereas,** since 2017, the Town of Lincoln has been working to acquire, remediate
4 and redevelop the former mill site known as the Lincoln Pulp and Paper Mill and the
5 Lincoln Paper and Tissue mill site; and

6 **Whereas,** the Town of Lincoln intends to advance economic development activities
7 to redevelop the mill site and encourage responsible development of the surrounding area,
8 including, but not limited to, industrial and related investments, improvements and
9 businesses; and

10 **Whereas,** the Town of Lincoln has identified key infrastructure facilities and
11 infrastructure and related services needed to support these economic development
12 activities, including, but not limited to, wastewater treatment and other infrastructure
13 facilities and infrastructure and related services for industrial users; and

14 **Whereas,** the establishment through a private and special law of the Lincoln Mill
15 Facilities District for the provision of infrastructure facilities and infrastructure and related
16 services is necessary to support the Town of Lincoln's efforts to secure federal funds to
17 transform the Town of Lincoln's economy, including the development and financing of the
18 infrastructure facilities and infrastructure and related services; and

19 **Whereas,** the Town of Lincoln is presently engaged in securing financing for the
20 acquisition, remediation and redevelopment of the mill site, which requires the creation of
21 a district by state legislation, for infrastructure facilities and infrastructure and related
22 services; and

23 **Whereas,** it is vital that construction of these infrastructure facilities and
24 infrastructure and related services be developed and financed as soon as possible in order
25 to maximize the benefits and economic potential for the Town of Lincoln; and

26 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
27 the meaning of the Constitution of Maine and require the following legislation as
28 immediately necessary for the preservation of the public peace, health and safety; now,
29 therefore,

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

31 **Sec. 1. Territorial limits; name; purposes.** The Lincoln Mill Facilities District
32 is established for the purpose of providing infrastructure facilities and infrastructure and
33 related services to the following territory, including the so-called Lincoln Paper and Tissue
34 mill site: all the property bounded on the southwesterly side by Park Avenue running
35 northwesterly to the Town of Lincoln's transfer station and to the property of the Lincoln
36 Regional Airport and then along and around the airport property boundary to the Penobscot
37 River, encompassing the airport property; on the northwesterly side by the Penobscot
38 River; on the northeasterly side by and along the northeasterly Lincoln Paper and Tissue
39 mill site and Town of Lincoln property boundary that runs parallel to Haynes Street and an
40 extension thereof to the Penobscot River; on the easterly side by the railroad track that runs
41 parallel to Main Street; and on the southeasterly side by United States Route 2.

1 Except as otherwise specified in this Act, infrastructure facilities and infrastructure and
2 related services include, but are not limited to, the following: wastewater treatment,
3 including sewer and sanitary services, but not for domestic use; private water service not
4 for municipal or domestic use; electrical generation and cogeneration, storage and
5 connection services; broadband, data and telecommunications services; natural gas and
6 methane gas and related gas services, collection or connection; thermal energy for general
7 heating and cooling and industrial use purposes; and conduct related to services providing
8 for any activity incidental to accomplishing the purposes of this Act.

9 The district may provide services to other properties or persons upon petition by the
10 property owner or person to the district to the extent that the infrastructure facilities and
11 infrastructure and related services to be provided by the district to such other properties or
12 persons do not materially conflict with the services and the service territories of the Lincoln
13 Water District, the Lincoln Sanitary District, Bangor Natural Gas and Versant Power.

14 **Sec. 2. Definitions.** As used in this Act, unless the context otherwise indicates, the
15 following terms have the following meanings.

16 **1. Bond.** "Bond" means a bond or note or other evidence of indebtedness authorized
17 under this Act, whether issued under or pursuant to a bond resolution, trust indenture, loan
18 or other security agreement, including revenue bond financing.

19 **2. District.** "District" means the Lincoln Mill Facilities District as established in this
20 Act.

21 **3. Operating revenues.** "Operating revenues" means funds available to the district
22 from fees, fares, royalties, sales, rental or sale of property and miscellaneous revenue and
23 interest not otherwise pledged or dedicated.

24 **4. Real or personal property.** "Real or personal property" means those properties and
25 assets existing within or properties served by the district.

26 **5. Reconstruction.** "Reconstruction" means any activities undertaken to maintain or
27 improve the facilities of the district, or any part of those facilities, as a modern, safe and
28 efficient facility and includes, but is not limited to, any rebuilding, redesign, improvement
29 or enlargement of the real properties or environmental mitigation activities within the
30 district.

31 **Sec. 3. Powers.** The district may:

32 **1. Sue and be sued.** Sue and be sued;

33 **2. Bylaws or rules.** Adopt bylaws or rules consistent with this Act for the governance
34 of its affairs and the operation of its facilities and as necessary to carry out the provisions
35 of this Act;

36 **3. General powers.** Exercise all of the general powers of corporations under the
37 Maine Revised Statutes, Title 13-C, section 302;

38 **4. Public safety.** Provide for the public safety by imposing appropriate rules,
39 regulating appropriate use of the facilities and enforcing laws and rules as they apply to the
40 use of the facilities operated by the district;

41 **5. Fees, charges, rents and sales.** Charge and collect fees, charges and rents for
42 services, sell any products or by-products derived from or related to the provision of

1 infrastructure facilities or services and use the proceeds of those fees, charges, rents and
2 sales for the purposes provided in this Act, both subject to and in accordance with any
3 agreement with bondholders that may be made as provided in this Act;

4 **6. Licenses and permits.** Apply for licenses and permits required to provide services
5 authorized by this Act;

6 **7. Land and facilities.** Own land, and own, construct, manage and maintain
7 associated facilities, necessary for the provision of infrastructure facilities and
8 infrastructure and related services. The district may transfer properties and issue easements
9 required for those facilities and may own properties and facilities jointly or in common
10 with other public and private entities;

11 **8. Government contracts.** Contract with the Federal Government or its
12 instrumentalities or agencies, the State or its agencies, instrumentalities or municipalities,
13 public bodies, private corporations, partnerships, associations and individuals in
14 furtherance of and to carry out the purposes of this Act;

15 **9. Financial assistance.** Borrow money and apply for and accept advances, loans,
16 grants, contributions and other forms of financial assistance from the Federal Government,
17 the State, municipalities, quasi-municipal entities or other public bodies or from other
18 sources, public or private, for the purposes of this Act, give any security that is required
19 and enter into and carry out contracts in connection with that financial assistance;

20 **10. Bonds.** Enter into loan or security agreements with lending institutions for the
21 issuance of bonds and exercise with respect to those loan or security agreements the powers
22 under this Act for the issuance of bonds;

23 **11. Operating revenues; facilities.** Provide from operating revenues for the
24 ownership, maintenance, construction or reconstruction or operation of facilities to ensure
25 the public safety for which the district has not otherwise provided; and

26 **12. Other actions.** Take other lawful actions necessary and incidental to these powers.

27 **Sec. 4. Trustees, appointment; tenure of office; vacancies; first meeting**
28 **and organization of board; transition provisions; annual report.** The affairs of
29 the district are managed by a board of trustees composed of 5 trustees who are chosen as
30 provided in this section.

31 The trustees of the first board of trustees are appointed to initial terms, and thereafter
32 trustees are appointed, by the town council of the Town of Lincoln, with one council
33 member serving as a direct representative of the Town of Lincoln and with the remaining
34 4 trustees being business representatives, including, but not limited to, representatives of
35 the following business sectors: construction, including infrastructure facility construction;
36 finance; personnel management; and engineering. Trustees need not be residents of the
37 Town of Lincoln except for the trustee serving as a direct representative of the council.
38 Each trustee is initially appointed to a one-year, 2-year, 3-year, 4-year or 5-year term in
39 order to create staggered terms for the full board of trustees. Vacancies are filled by
40 appointment by the council for the unexpired term.

41 As soon as convenient after their appointments, the first board of trustees shall hold a
42 meeting at some convenient place in the Town of Lincoln, to be called by any trustee
43 thereof in writing, designating the time and place and delivered to the other 4 trustees, not

1 less than 7 days before the meeting, except that they may meet by agreement without such
2 notice. The board shall then organize by electing from their own members a chair and a
3 clerk. The board shall choose a treasurer of the district, adopt a corporate seal and bylaws
4 and perform other acts within the powers delegated to the board by law. The board may
5 choose and fix the compensation of any other necessary officers and agents, who serve at
6 the pleasure of the board. The treasurer shall furnish bond in such sum and with such
7 sureties as the trustees approve, the cost thereof to be paid by the district. Members of the
8 board are eligible to serve in any office of the board. The board may employ an executive
9 director, technical experts and other agents and employees, permanent and temporary, that
10 the board requires and may determine their qualifications, duties and compensation. For
11 required legal services, the board may employ or retain the board's own counsel and legal
12 staff.

13 The trustees must be sworn in to faithfully perform their duties, which include the
14 duties of a member who serves as clerk or clerk pro tem. The trustees shall make and
15 publish an annual report, including a report of the treasurer.

16 After the appointment of the first board of trustees, subsequent trustees are appointed
17 by the council to 5-year terms in accordance with this section.

18 **Sec. 5. Property tax-exempt.** The property, rights and franchises of the district are
19 forever exempt from taxation.

20 **Sec. 6. Authorization to borrow money and to issue bonds and notes.** For
21 accomplishing the purposes of this Act, the district, by resolution of the board of trustees,
22 is hereby authorized to borrow money temporarily and to issue its negotiable notes and, for
23 the purpose of renewing and refunding the indebtedness so created, of paying necessary
24 expenses and liabilities incurred under the provisions of this Act, including organizational
25 and other necessary expenses and liabilities, and in acquiring properties, paying damages,
26 laying sewers, drains and conduits, constructing, maintaining and operating a sewage plant
27 or system and making renewals, extensions, additions and improvements to the same, and
28 to cover interest payments during the period of construction. The district, by resolution of
29 the board, is also hereby authorized to issue bonds, notes or other evidence of indebtedness
30 of the district in one series, or in separate series, in an amount or amounts at such rates of
31 interest and on such terms and conditions as the board determines. The bonds, notes and
32 other evidence of indebtedness are legal obligations of the district and may be secured by
33 the revenues and properties of the district and must bear the seal of the district and must be
34 signed by the treasurer of the district and countersigned by the chair of the board, and any
35 attached interest coupons must bear the facsimile of the signature of the treasurer. The
36 district may refund and reissue in one series, or in separate series, its bonds, notes and other
37 evidence of indebtedness, and each authorized issue constitutes a separate loan. All bonds
38 issued by the district are legal investments for savings banks in the State and are tax-
39 exempt.

40 **Sec. 7. Rates and tolls; application of revenues.** Except as otherwise established
41 through a specific infrastructure, services or comparable agreement with the district, all
42 persons and corporations, whether public, private or municipal, shall pay to the treasurer
43 of the district the entrance rates, tolls, rents and charges and other lawful charges
44 established by the trustees for the sewer or drainage services used, or to which such
45 beneficial services are available with respect to their lots or parcels of land, and, in

1 determining real estate interests, the term "real estate" as defined in the general laws of the
2 State pertaining to sewer and sanitary districts may be applied by the trustees.

3 The sewer entrance rates, tolls, rents and charges and other lawful charges may be so
4 established as to provide revenue for the following purposes:

5 **1. Expenses.** To pay expenses for operating and maintaining the sewer system; and

6 **2. Principal and interest; reserves.** To provide for the payment of the principal and
7 interest on the indebtedness created by the sewer system and to create such reserves as may
8 be necessary for the operation of the district.

9 **Sec. 8. Lien for payment of rates.** Except as otherwise established through a
10 specific infrastructure, services or comparable agreement with the district, there is a lien to
11 secure the payment of rates, tolls, rents and charges established under section 7 and legally
12 assessed on real estate within the district, which takes precedence over all other claims on
13 such real estate, excepting only claims for taxes.

14 The treasurer of the district may sue for and collect the rates, tolls, rents and charges,
15 all of which must be committed to the treasurer.

16 In addition to other methods previously established by law for the collection of the
17 rates, tolls, rents and charges, the lien created pursuant to this section may be enforced
18 pursuant to this section, as long as in making the assessment there is a description of the
19 real estate served by the several sewers of the district sufficiently accurate to identify the
20 real estate against which any of the several rates, tolls, rents and charges may be levied.
21 When a rate, toll, rent or charge has been committed to the treasurer for collection, the
22 treasurer may, after the expiration of 8 months and within one year after date of
23 commitment, in the case of a person residing in the town where the rate, toll, rent or charge
24 is assessed, give to the person against whom the same is assessed, or leave at the person's
25 last and usual place of abode, a notice in writing signed by the treasurer stating the amount
26 of the rate, toll, rent or charge and describing the real estate on which it is assessed, alleging
27 that a lien is claimed on the real estate to secure the payment of the rate, toll, rent or charge
28 and demanding its payment within 10 days after the service of the notice. After the
29 expiration of the 10 days and within 2 days thereafter in the case of a resident of the town
30 where the rate, toll, rent or charge is assessed and in all other cases within one year from
31 the date of commitment of the rate, toll, rent or charge to the treasurer, the treasurer shall
32 record in the registry of deeds of Penobscot County a certificate signed by the treasurer
33 setting forth the amount of such rate, toll, rent or charge, a description of the real estate on
34 which the same is assessed and an allegation that a lien is claimed on the real estate to
35 secure the payment of the rate, toll, rent or charge, that a demand for payment of the same
36 has been made in accordance with the provisions of this Act and that the rate, toll, rent or
37 charge remains unpaid. In all cases, except in the case of a resident of the town where the
38 rate, toll, rent or charge is assessed, the certificate so filed need not contain the allegation
39 that payment of the rate, toll, rent or charge has been demanded. At the time of the recording
40 of the certificate in the registry of deeds pursuant to this section, the treasurer shall file in
41 the office of the district a true copy of the certificate and also mail by registered letter to
42 each record holder of a mortgage on the real estate, addressed to each at the record holder's
43 last and usual place of abode, a true copy of the certificate. The fee to be charged for such
44 notice and filing is \$1 plus the fee of the registry of deeds for the filing; these fees become
45 an expense of the person owing the rate, toll, rent or charge. The filing of a certificate in

1 the registry of deeds pursuant to this section creates a mortgage on the real estate to the
2 district having priority over all other mortgages, liens, attachments and encumbrances of
3 any nature, except liens, attachments and claims for taxes, and gives to the district all the
4 rights usually incident to a mortgage, except that the mortgagee does not have any right of
5 possession of the real estate until the right of redemption under this section has expired.

6 If the mortgage, together with interest and costs, is not paid within 18 months after the
7 date of filing of the certificate in the registry of deeds pursuant to this section, the mortgage
8 is foreclosed and the right of redemption expires.

9 The filing of the certificate in the registry of deeds is sufficient notice of the existence
10 of the mortgage provided for in this section.

11 If the rate, toll, rent or charge with interest and costs is paid within the period of
12 redemption provided for in this section, the treasurer of the district shall discharge the
13 mortgage in the same manner as is provided for discharge of real estate mortgages.

14 **Sec. 9. Use of operating revenues.** Operating revenues may be used pursuant to
15 this section.

16 **1. Principal use of revenues.** Operating revenues must be used principally to support
17 facilities owned or operated by the district.

18 **2. Permitted liability limited.** Except as otherwise established through an agreement
19 to provide funds outside of this Act, the expenses incurred in carrying out this Act must be
20 paid solely from funds provided pursuant to this Act, and no liability or obligation may be
21 incurred pursuant to this Act beyond the extent to which money has been provided pursuant
22 to this Act or as otherwise authorized by an agreement to provide funds outside of this Act.

23 **Sec. 10. Property of district.** The district holds property pursuant to this section.

24 **1. Lease or sale.** Property may be leased or sold to accomplish the purpose or reuse
25 of the district as determined appropriate by the district. Resources acquired as a result of
26 the lease or sale of property become operating revenues or assets of the district.

27 **2. Entry upon lands.** The district and its authorized agents and employees may enter
28 upon lands, waters and premises in the district for the purpose of making surveys,
29 soundings, drillings and examinations that the district determines necessary or convenient
30 for the purposes of this Act. The entry is not a trespass, but the district is liable for damages
31 the entry creates.

32 **3. Authority for transfers of interest in land to district.** Notwithstanding any
33 provision of law to the contrary, upon district request, on reasonable and fair terms and
34 conditions and without the necessity for advertisement, order of court or action or formality
35 other than the regular and formal action of the authorities concerned and those of counties,
36 municipalities, public agencies or instrumentalities of the State, public service
37 corporations, special districts and private entities, a county, municipality, public agency or
38 instrumentality of the State, public service corporation, special district or private entity may
39 lease, lend, grant or convey to the district real or personal property or rights in that property
40 that may be necessary or convenient for the effectuation of the authorized purposes of the
41 district, including real or personal property or rights in that property already devoted to
42 public or private use. As used in this subsection, "public service corporation" includes a

1 public utility as defined in the Maine Revised Statutes, Title 35-A, section 102, subsection
2 13 and a corporation as defined in Title 13-C, section 102, subsection 4.

3 **Sec. 11. Right of eminent domain conferred.** The district is hereby expressly
4 granted the right of eminent domain and for the purposes of this Act is authorized to take
5 and hold, either by exercising its right of eminent domain, or by purchase, lease or
6 otherwise, as for public uses any land, easements or interests in land or easements, and any
7 sewers or sewer rights necessary for constructing, establishing, maintaining and operating
8 sewers, reservoirs, flush tanks, manholes, catch basins, treatment, including filtration,
9 plants, pumping stations and other appliances and property, used or usable, for collecting,
10 holding, purifying and disposing of sewage and wastewaters and for constructing,
11 establishing, maintaining and operating any other infrastructure facilities necessary to
12 provide the industrial water, gas, electric, broadband, data and telecommunications,
13 thermal energy and incidental services as detailed in and limited by sections 17 to 22.

14 **Sec. 12. Procedure under eminent domain.** In exercising the right of eminent
15 domain, the district by its board of trustees shall file in the office of the county
16 commissioners of Penobscot County and cause to be recorded in the registry of deeds in
17 Penobscot County plans of the location of all lands or interests in lands or sewers or sewer
18 rights to be taken, with an appropriate description and the names of the owners thereof, if
19 known. When, for any reason, the district fails to acquire property that it is authorized to
20 take and that is described in such a location, or if the location so recorded is defective and
21 uncertain, it may, at any time, correct and perfect the location and file a new description
22 thereof, and in such case the district is liable in damages only for property for which the
23 owner had not previously been paid, to be assessed as of the time of the original taking,
24 and the district is not liable for any acts that would have been justified if the original taking
25 had been lawful. Entry may not be made on any private lands, except to make surveys, until
26 the expiration of 10 days from such filing, whereupon possession may be had of all of those
27 lands or interests in those lands or property or rights to be taken, but title to lands or interest
28 in those lands or property or rights does not vest in the district until payment for the land
29 or interest in land or property or rights.

30 **Sec. 13. Assessment of damages by county commissioners; procedure on**
31 **appeals.** If a person sustaining damages by any taking pursuant to this Act does not agree
32 with the district upon the sum to be paid for damages, either party, upon petition to the
33 county commissioners of Penobscot County, may have the damages assessed by them; the
34 procedure and all subsequent proceedings and right of appeal must be had under the same
35 restrictions, conditions and limitations as are or may be by law prescribed in the case of
36 damages by the laying out of highways.

37 **Sec. 14. Limitations on crossing public utility.** In case of a crossing of a public
38 utility, unless consent is given by the company or entity owning or operating the public
39 utility as to place, manner and conditions of the crossing within 30 days after consent is
40 requested by the district, the Public Utilities Commission may determine the place, manner
41 and conditions of the crossing and all work on the property of the public utility must be
42 done under the supervision and to the satisfaction of the public utility, but at the expense
43 of the district. This section may not be construed to authorize the district to take by right of
44 eminent domain any of the property or facilities of any other public utility used or acquired
45 for future use by the owner of that public utility in the performance of a public duty unless
46 expressly authorized pursuant to this Act or by subsequent act of the Legislature.

1 **Sec. 15. Excavation or repair work, closing of ways.** Whenever the district
2 enters, digs up or excavates a public way or other land for the purpose of laying its sewers
3 or pipes, constructing manholes or catch basins or their appurtenances or maintaining the
4 same or for any other purpose, the work must be expeditiously done with the least possible
5 interruption and, on completion of the work, the district shall restore the public way or land
6 to the condition it was in prior to the work or to a condition equally as good.

7 When the work endangers travel on a public way, the municipal officers of the Town
8 of Lincoln may order a temporary closing of the public way and of any intersecting way
9 upon request of the district, and the way must remain closed to public travel until the
10 municipal officers consider it restored to a condition safe for traffic.

11 **Sec. 16. Sanitary provisions and penalty for violations.** Except as otherwise
12 established through a specific infrastructure, service or a comparable agreement with the
13 district, a person who places or leaves any offensive or injurious matter or material on or
14 in the conduits, catch basins or receptacles of the district contrary to its regulations or
15 willfully injures any conduit, pipe, reservoir, flush tank, catch basin, manhole, outlet,
16 engine, pump or other property held, owned or used by the district for the purposes of this
17 Act is liable to pay twice the amount of the damages to the district, to be recovered in a
18 proper action.

19 **Sec. 17. Water services.** Within the territorial boundaries of the district, the district
20 is authorized to contract for, own and lay pipes, pumps and drains and provide and make
21 arrangements for water for common use within the district, except that the water may not
22 be used for municipal or domestic use.

23 **Sec. 18. Electric services.** Within the territorial boundaries of the district, the
24 district is authorized to build and operate electric generation and cogeneration and storage
25 facilities and connections of those facilities to contractual users within the district's territory
26 without becoming a public utility under state law. The district shall require electric
27 generators, electric storage users and electricity users within the district to directly
28 interconnect with a transmission and distribution utility in order to receive electricity
29 transmission or distribution service or to export electricity outside the district.

30 **Sec. 19. Broadband services, data services and telecommunications**
31 **services.** Within the territorial boundaries of the district, the district is authorized to
32 contract for, own, construct, repair, maintain, provide and make arrangements for
33 broadband services, data services and telecommunications services for use within the
34 district. For the purposes of this section, "broadband services" includes both broadband
35 services and Internet services as those terms are defined and used in state law. Broadband
36 services may be extended to areas within the Town of Lincoln and surrounding
37 municipalities, and the district is authorized to enter into contracts for the provision of
38 broadband services outside of the district.

39 **Sec. 20. Gas services.** Within the territorial boundaries of the district, the district is
40 authorized to contract for, own, construct, repair, maintain, provide and make arrangements
41 for gas infrastructure and services for use within the district. Gas infrastructure and services
42 may include, but are not limited to, gas generation facilities, pipeline infrastructure, natural
43 gas storage and connection and facilities ancillary to the transportation of gas.

