



LD 2238 -- HP1612

An Act to Create the Kennebec Regional Development Authority.

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

Presented By: Representative MITCHELL of Vassalboro

Cosponsored By: Senator MILLS of Somerset and Representatives: MADORE of Augusta, POULIN of Oakland, VIGUE of Winslow, Senator CAREY of Kennebec.

Public Hearing: 03/09/98. Majority OTP Accepted 03/20/98.

Final Disposition: Emergency Enacted, Signed 04/03/98, P & S LAWS, Chapter 79.

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~~APPROVED~~

CHAPTER

~~APR 03 '98~~

79

~~BY GOVERNOR~~

P & S LAW

STATE OF MAINE

**IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-EIGHT**

H.P. 1612 - L.D. 2238

An Act to Create the Kennebec Regional Development Authority

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

Whereas, a regional development authority is vitally necessary at the earliest possible time to serve the needs of the area; 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. Kennebec Regional Development Authority established; incorporation; purposes. The territory, cities, towns and plantations that on the effective date of this Act comprise the so-called Kennebec Valley Economic Development District, or any combination of such cities, towns and plantations, constitute a body politic and corporate to be known as the Kennebec Regional Development Authority, referred to in this Act as the "authority," for the benefit and welfare of the inhabitants thereof and to:

1. Strengthen the financial condition of local governments within the geographic territory of the authority while combining resources and sharing costs for meeting regional economic development needs and challenges;

2. Promote and develop infrastructure and programs for employment and economic development opportunities and other conditions to positively affect regional development;

3. Provide an organization to enable economic development among local governments and agencies and to promote cooperative economic development and coordinated action among members;

4. Serve as a forum to identify, discuss, study and focus on regional economic development challenges and opportunities;

5. Provide a mechanism for the preparation, maintenance and distribution of economic development strategies of the region;

6. Serve as a means for the collection and exchange of economic development information;

7. Actively promote and facilitate economic development throughout the region;

8. Speak on behalf of the membership of the authority;

9. Coordinate with state and federal development programs;

10. Make recommendations for review and action to its members and other public agencies that perform economic development and related functions within the region; and

11. Coordinate and collaborate with other public and quasi-governmental and private organizations in any manner that is intended to promote economic development.

Sec. 2. General powers. In addition to the general powers possessed by such an entity, and the powers granted by other provisions of this Act, the authority has the power:

1. To borrow money and issue negotiable notes having such terms and provisions as the general assembly of the authority determines necessary to accomplish the purposes set forth in this Act and for paying any indebtedness and any necessary expenses and liabilities incurred therefore;

2. To contract for the receipt of funds to accomplish any of the purposes set forth in this Act and to incur indebtedness in anticipation of the receipt of such funds by issuing negotiable notes payable in not more than 25 years. Those notes may be renewed from time to time by the issue of other notes. However, notes may not be issued or renewed in an amount that, at the time of issuance or renewal, exceeds the amount of funds

remaining to be paid under any such contracts, unless otherwise allowed by law;

3. To accept funds, grants, gifts and services from the Federal Government or federal agencies; from the State or its departments, agencies or instrumentalities; from any other governmental units, whether or not a member of the authority; and from private and civic sources;

4. To exercise powers that are exercised separately or jointly by member governments or are authorized by law to deal with economic development needs or opportunities of local or regional concern, including the power to:

A. Sue and be sued, complain and defend in its corporate name;

B. Purchase; take; receive; lease; take by gift, devise or bequest; acquire; own; hold; improve; use; and otherwise deal in and with real or personal property or any interest therein, wherever situated;

C. Sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets;

D. Purchase, take, receive, subscribe for, acquire, own, hold, vote on, use, employ, sell, mortgage, loan, pledge or otherwise dispose of and use and deal in and with shares or other interest in or obligations of other domestic or foreign corporations, whether profit or nonprofit; associations; partnerships; joint ventures; or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, governmental authority or municipality, or of any instrumentality thereof;

E. Make contracts and incur liabilities; borrow money; issue notes, bonds and other obligations; and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income;

F. Lend money for its corporate purposes, invest and reinvest its funds and take and hold real and personal property as security for the payment of funds so loaned or invested;

G. Spend money for its corporate purposes;

H. Conduct its affairs, carry on its operations, hold property and have offices and exercise the powers granted by the laws of the State;

I. Elect or appoint officers, employees and agents of the corporation and define their duties and fix their compensation;

J. Cease its corporate activities and surrender its corporate franchise; and

K. Have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized.

Sec. 3. Governing body; general assembly; executive board. Each city, town or plantation located within the authority's territory, upon voting to accept the provisions of this Act and to become a member of the authority, is entitled to be represented by at least one voting representative to the general assembly of the authority, which is its overall governing body.

The secretary shall determine additional voting representation in the following manner. Additional representation on the general assembly must be based on the pro rata state valuation of each city, town and plantation. When any member city, town or plantation has a state valuation that is at least 5% of the total aggregate state valuation of all member cities, towns and plantations, it is entitled to one additional representative to the general assembly for each full additional 5% that the amount of its state valuation is in comparison to the total aggregate state valuation of all the member cities, towns and plantations. The number of voting representatives to the general assembly to which each member city, town and plantation is entitled must be determined by the general assembly every 6 years after the initial or most recent determination using the most recent state valuation. The municipal officers of each city, town or plantation shall select and appoint its representative to the general assembly.

The general assembly shall adopt bylaws for the governance and operation of the authority. It shall meet at least quarterly and shall provide for an executive board from its membership. The executive board must have a minimum of 7 and a maximum of 15 members at any one time and shall exercise the powers of the governing body of the authority between meetings of the general assembly as are delegated to it by the general assembly. A city, town or plantation may not have more than one voting representative serving on the executive board at any time. Any city, town or plantation in which the authority is developing or

is operating a development project and that is a participating member of the authority has the right to have a voting representative on the executive board who is in addition to the other members of the executive board. The general assembly or the executive board may establish and appoint any committees that it considers appropriate and necessary to the accomplishment of the authority's purposes. The members of those committees may be members of the general assembly and executive board and may also include other persons representing a member city, town or plantation or other organization that shares an interest with the authority in promoting economic development.

Each year the general assembly shall elect a president, a treasurer and a secretary and any other officers it considers appropriate.

Sec. 4. How financed. To procure funds to carry out the purpose of this Act the authority may, through a majority vote of its general assembly, borrow money and issue general obligation bonds and notes in anticipation therefor to an indebtedness not to exceed 0.5% of the total state valuation of all participating cities, towns and plantations.

Each bond or note must bear interest at rates as the executive board of the general assembly may determine, payable annually or semiannually and subject to other provisions as determined by the general assembly. These bonds and notes may be issued to mature serially or to run for such periods as the general assembly determines but in no event may the maturity of any term bond exceed 40 years.

All bonds may, at the discretion of the general assembly, be made callable and the amount of premium to be paid on call and the period for which these callable bonds may not be redeemable must be left to the discretion of the general assembly. This discretion may be manifested by a vote of the majority of the general assembly.

All bonds and notes issued by the authority must be signed by the treasurer and countersigned by the president of the authority. If coupon bonds are issued, each coupon must be attested by the facsimile signatures of the president and treasurer printed on the coupons. These bonds and notes are legal obligations of the authority, which is hereby declared to be a quasi-municipal corporation within the meaning of the Maine Revised Statutes, Title 30-A, section 5701, and all the provisions of that section apply to the authority. These bonds and notes are legal investments in which all public officers and public bodies of the State, its political subdivisions; all municipalities and municipal subdivisions; all insurance

companies and associations and other persons carrying on an insurance business; all banks, bankers, banking associations, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business; all administrators, guardians, executors, trustees and other fiduciaries; and all other persons who are, at the time of approval of this Act or may hereafter be, authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital, in their control or belonging to them. The securities are also, by this Act, made securities that may properly and legally be deposited with and received by all public officers and bodies of the State or any agency or political subdivision of the State and all municipalities and public corporations for any purpose for which the deposit of securities of bonds or other obligations of the State may be authorized by law.

Sec. 5. Sinking fund; refunding bonds. In case any bonds or notes at any time issued are made to run for a period of years, as distinguished from serial maturity, the general assembly may establish a sinking fund for such bonds or notes for the purpose of redeeming the bonds or notes when they become due. If a sinking fund is established, the amount to be paid annually into this sinking fund may not be less than the debt service on the bonds and notes to become due in that year. In addition to this annual sinking fund payment, the general assembly may, from time to time, add to any sinking fund any funds of the authority not required for other purposes. Funds in any sinking fund may be deposited in any national bank, savings bank or trust company organized under the laws of any state or may be invested in whole or in part in any bonds of the United States or any agency thereof, of the State of Maine or of any political subdivision thereof or in any investment in which a municipality is permitted to invest as the general assembly may determine. Interest received on any funds so invested must be added to the sinking fund. When and if the amount accumulated in any sinking fund, together with interest received or to be received thereon, is sufficient to pay at maturity or, at the option of the general assembly, to redeem the bonds or notes for the benefit of which the sinking fund was established, all further payments to that sinking fund must cease.

Whenever any bonds or notes issued by the authority may become due or can be purchased or called for redemption by the authority on favorable terms, the general assembly, if sufficient funds have accumulated in the sinking fund provided therefor, may pay, purchase or redeem those bonds or notes from the sinking fund and cancel them. Bonds or notes so paid, purchased or redeemed and canceled may not be reissued.

In case the amount in any sinking fund is not sufficient to pay the total amount, when due, of the bonds and notes for which the sinking fund was provided or in case it becomes desirable in the opinion of the general assembly to call for the redemption of any outstanding bonds or notes and to issue new bonds or notes in their stead, authority is granted to refund so many of the original bonds or notes as can not be paid or redeemed from the sinking fund provided therefor, if any. New bonds or notes may not mature more than 40 years from the original date of issue of the original bonds or notes so refunded.

Sec. 6. Referendum on bond issues. When the general assembly has authorized the issue of any bonds or notes, an attested copy of the vote of the general assembly must be filed with the municipal officers of each of the cities, towns and plantations that are members of the authority and published in a newspaper or newspapers, having a general circulation in the geographic territory of the authority, not later than 10 days following the day on which the vote was adopted by the general assembly, together with a statement indicating that the vote will become effective, unless before the expiration of 15 days from the date on which a copy of the vote was first published the president or the secretary of the general assembly has received a petition, signed by at least 10% in the aggregate of the residents of the cities, towns and plantations that are members of the authority eligible to vote on the date the general assembly vote was adopted, requesting that the question of whether the bonds or notes be issued by the authority be submitted to the voters of those member cities, towns and plantations. The statement must also state the name and address of the president and secretary of the general assembly. A vote of the general assembly authorizing an issue of bonds under this Act does not become effective before the expiration of 15 days from the date upon which the vote and statement are published. If, within that period, a petition, signed by at least 10% of the residents of the cities, towns and plantations that are members of the authority eligible to vote on the date that the issuance of bonds by the general assembly was adopted as shown by the authority's voting list, is filed with the president or the secretary of the general assembly, asking that the question of whether the bonds are to be issued be submitted to the voters, the vote of the general assembly is suspended from becoming effective and the general assembly shall immediately reconsider the vote. If that vote is not rescinded by the general assembly, the question of whether such bonds or notes may be issued must be submitted by the general assembly to the voters of the cities, towns and plantations that are members of the authority at a special meeting of those qualified voters to be held at a place within the geographic territory of the

authority within 60 days of the receipt of the petition. The special meeting must be called and held as provided in section 11 of this Act, except that the notice must set forth the vote of the general assembly authorizing those bonds, together with the proposed form of the ballot to be used at that special meeting. At the special meeting, a vote on the question of whether the bonds may be issued must be voted on by ballot, the form of which must be substantially as follows:

"OFFICIAL BALLOT

KENNEBEC REGIONAL DEVELOPMENT AUTHORITY

Do you favor issuing bonds or notes of the Kennebec Regional Development Authority in the amount of \$ _____, bearing interest not to exceed _____ per cent for the purpose of procuring funds for the following purposes, viz.: (Insert brief description of purpose for which bonds are to be sold)?

If in favor of the bond issue, so indicate on this ballot.

If opposed to the bond issue, so indicate on this ballot."

If a majority of the qualified voters voting at the meeting approve the issue of the bonds, the vote of the general assembly authorizing the bonds becomes effective; if not approved, the vote of the general assembly authorizing the bonds is void. The voters qualified to vote at the special meeting must be determined by use of the authority voting list.

Sec. 7. Authority voting list. The general assembly shall appoint a resident of a member city, town or plantation to make and keep a voting list of all residents of the member cities, towns and plantations eligible to vote. This person is the registration clerk. The registration clerk shall compile the voting list from the voting lists of all of the member cities, towns and plantations. At least 2 days before any meeting at which the voters of the member cities, towns and plantations are called upon to vote, the registration clerk shall bring this voting list up to date by comparing the registration clerk's list with those voting lists found in the cities, towns and plantations that are members of the authority and by making such additions and deletions as the registration clerk finds necessary. Additions or deletions may not be made in the 2-day period prior to that meeting.

Sec. 8. Authority to issue temporary notes in anticipation of taxes. In any fiscal year, in anticipation of taxes assessed

or to be assessed for that year, the general assembly may, by a vote of a majority of its members, authorize the borrowing of money by the issuance and sale of temporary notes of the authority. If the authority's budget has not been approved in that year, the amount of borrowing may not exceed 50% of the approved budget of the preceding year. Temporary notes of the authority may be issued for a period of not more than one year and may be renewed from time to time by the issue of other temporary notes, as long as the period from the date of issue of the original note to date of maturity or last renewal thereof is not more than one year. Notes in anticipation of taxes that are not paid at the end of a fiscal year may be included in the following year's budget as an expenditure and an amount sufficient to pay the notes may be assessed and collected as provided in section 10 of this Act. Notwithstanding any provision in section 10 to the contrary, this amount may not be reduced.

Sec. 9. Agreements for financial assistance authorized. The authority is authorized, by vote of a majority of the general assembly, to enter into an agreement with the State or Federal Government or any agency thereof or with any corporation or board authorized by the Federal Government or the State to loan money to or to otherwise assist in the financing of projects that the authority is authorized to finance by the issue of bonds as may be necessary or desirable to accomplish those purposes. The right to enter into an agreement is subject to the right of referendum reserved to the voters in section 6 of this Act if the authority incurs liability under any such agreement, and the provisions of sections 6 and 11 apply so far as they apply to a special meeting called and held for the purpose of a referendum.

Sec. 10. Annual reports and budget; levy of taxes. The fiscal year of the authority is July 1st to June 30th. At the close of the fiscal year and not later than July 31st, the general assembly shall annually make a report of its doings, showing the financial condition of the authority and other matters pertaining to the authority, and shall show the inhabitants of the cities, towns and plantations of the authority how the members of the general assembly are fulfilling the duties and obligations of their respective trusts. The report also must include the amount of income earned during the fiscal year and the sum required each year to meet the bonds or notes falling due and what further sum is necessary to meet the interest on these bonds or notes or other obligations of the authority and all other expenses necessary for the operation of the authority, including temporary loans. Copies of the report must be filed with the municipal officers of each city, town or plantation that is a member of the authority and may be distributed to the voters of those cities, towns and plantations by the respective cities, towns and plantations in the same manner as is provided for town

reports. The cost of printing these reports must be included in the operating budget of the authority.

If the sum to be raised by taxation exceeds the total specified in subsections 1 and 2, the general assembly shall hold an authority budget meeting before the first day of September of each year. At this meeting the budget must be explained and the voters of the member cities, towns and plantations must be given an opportunity to be heard. If a budget is presented in any given year, it is deemed approved unless disapproved by the voters of the authority by a majority vote at the authority budget meeting. The voters of the authority have the right to disapprove all or any part of the budget presented by the general assembly except that part that provides for the payment of interest on or the principal of notes or bonds or other obligations of the authority.

To the extent that the general assembly may decide that the authority cannot operate within its projected revenues for the current fiscal year, the general assembly shall determine what sum of money should be raised by taxation for:

1. Payment of principal payable in that year on outstanding bonds or notes or other obligations of the authority;
2. Payment of interest on the indebtedness incurred or assumed by the authority; and
3. Other specified expenses of the authority.

The amount over the estimated income of the authority that is required to meet the expenses in the approved budget and the sums included in any budget for the payment of interest on or the principal of notes or bonds or other obligations of the authority are the obligation of the member cities, towns and plantations and must be apportioned to the participating cities, towns and plantations in the same ratio that each participating city's, town's or plantation's latest state valuation is to the total state valuation of all participating cities, towns and plantations, if provided. However, the obligation may be determined as a joint obligation by an authorizing vote of the legislative body of any member city, town or plantation. The general assembly shall issue its warrants in substantially the same form as the warrants of the Treasurer of State for taxes to the assessors of each participating city, town and plantation. The warrants must require the assessors to assess upon the taxable polls and estates in each city, town or plantation the amount as approved at the authority budget meeting and to commit the assessment to the constable or collector of that city, town or plantation who is vested by law to collect state, county and

municipal taxes. In the year in which the tax is so levied, the treasurer of each city, town or plantation shall pay the amount of the tax in 2 equal installments to the treasurer of the authority. The first such installment must be paid on or before June 15th, and the 2nd such installment on or before December 15th. If the treasurer of any participating city, town or plantation fails to pay any installment or part of an installment by the date set for the payment in the year in which the tax is levied, the treasurer of the authority shall issue a warrant for the amount of the tax or the unpaid balance to the county sheriff. The warrant must require the county sheriff to levy by distress and sale on the real and personal property of any resident of the member city, town or plantation where the default takes place, and the sheriff or any of the sheriff's deputies shall execute the warrant. The same authority as is vested in county officials for the collection of county taxes under the Maine Revised Statutes is vested in the general assembly of the authority for the collection of taxes within participating cities, towns and plantations.

Sec. 11. Authority budget meeting. The general assembly shall notify members of budget meetings in the following manner:

1. Each authority meeting must be called by a warrant. The warrant must be prepared by the secretary and signed by the president of the general assembly.

2. The procedure and form of the warrant calling for the authority meeting is as follows.

A. It must specify the time and place of the meeting.

B. It must set forth the proposed authority budget in a manner to be decided by the general assembly. No other business may be acted upon.

C. It must be directed to any resident of the member cities, towns and plantations by name, ordering that resident to notify the voters within that resident's city, town or plantation to assemble at the time and place appointed.

D. An attested copy of the warrant must be posted by the persons described in paragraph C in some conspicuous public place in their city, town or plantation at least 7 days before the meeting.

E. The secretary shall collect warrants returned pursuant to paragraph D and record the manner of notice in each city, town and plantation and the time when it was given.

3. The following provisions apply to the budget meeting.

A. Each person whose name appears on the voting list in a member city, town or plantation may attend and vote at an authority budget meeting.

B. The president of the general assembly shall open the meeting by calling for the election of a moderator, receiving votes for a moderator and swearing in the moderator.

C. As soon as the moderator has been elected and sworn, the moderator shall preside at the meeting and has all the powers granted to the moderator of a town or plantation meeting under the Maine Revised Statutes.

D. The secretary of the general assembly shall record all the votes of the authority meeting.

E. A majority vote of the legal voters present and voting is determinative of any vote or motion placed before the authority meeting.

Sec. 12. Dissolution. The authority may be dissolved only if all member cities, towns and plantations vote to dissolve it at legally constituted meetings in those cities, towns or plantations. If the authority has any outstanding indebtedness, it may not be dissolved.

In the event of dissolution of the authority, all property, real, personal or mixed, must be marshaled and converted into cash in a manner to be determined by a majority vote of the general assembly, and distribution must then be made among the respective cities, towns and plantations in proportion to their state valuations as set forth in this Act.

Sec. 13. Other cities, towns and plantations may join; procedure for withdrawing from the authority. Cities, towns and plantations that are located within the geographic territory of the authority, as described in section 1 of this Act, and that do not vote to become members of the authority by the date specified in section 14 of this Act may vote to become members of the authority at a later date, if the voters of the cities, towns and plantations that are members of the authority vote at a meeting of the authority to authorize the addition of the requesting city, town or plantation as a member of the authority. A city, town or plantation joining the authority pursuant to this section is legally obligated for its pro rata share of the operational part of all future authority

budgets and any indebtedness of the authority incurred pursuant to sections 4, 8 and 10 of this Act after the city, town or plantation becomes a member of the authority. A city, town or plantation that is already a member of the authority may vote to withdraw its membership; however, it continues to be legally obligated on any outstanding indebtedness of the authority until such time as all of the indebtedness is paid in full. The withdrawal only becomes effective on the date that marks the end of a fiscal year of the authority that is preceded by a full fiscal year in which the income was at least sufficient to pay the indebtedness and expenses of the authority for that fiscal year.

Sec. 14. 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 cities, towns and plantations described in section 1 of this Act at regular or special town and plantation meetings and city elections called and held for that purpose before June 30, 1999. Such city elections and town and plantation meetings must be called, advertised and conducted according to the law relating to municipal elections and meetings. The registrars of voters are not required to prepare, nor the clerks to post, new lists of voters. For the purpose of registration of voters, the registrars of voters must be in session on the secular day next preceding these regular or special meetings. The votes taken at town and plantation meetings must be by written ballot.

The municipal clerks shall reduce the subject matter of this Act to the following question:

"Do you favor approving the Act creating the Kennebec Regional Development Authority passed by the 118th Legislature, and (insert name of city, town or plantation) becoming a participating member of that authority?"

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

This Act takes effect immediately upon acceptance by the cities, towns and plantations so voting approval and having a combined state valuation of at least \$3,000,000,000; but only if the total number of votes cast for and against the acceptance of this Act at each of the city, town or plantation meetings approving this Act equals or exceeds 10% of the total votes for all candidates for Governor cast in that city, town or plantation at the next preceding gubernatorial election. Failure of approval by the necessary percentage of voters at any such meetings does not prevent a subsequent meeting or meetings to be held for those purposes on or before June 30, 1999. The result

of the vote must be declared by the municipal officers of the cities, towns or plantations, and due certification thereof must be filed by the city, town or plantation clerks with the Secretary of State.