

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

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Legislative Document

No. 982

H. P. 723

House of Representatives, February 18, 1971

Referred to Committee on State Government. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Williams of Hodgdon.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

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**AN ACT Amending the Municipal Industrial and Recreational Obligations Act.**

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

**Sec. 1. R. S., T. 30, § 5325, sub-§ 1, amended.** Subsection 1 of section 5325 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, is amended to read as follows:

1. **Revenue-producing industrial or recreational facilities.** To acquire, construct, reconstruct, renew and replace ~~industrial~~ **industrial-commercial, industrial anti-pollution** and recreational projects within or partly within the corporate limits of the municipality;

**Sec. 2. R. S., T. 30, § 5325, sub-§ 4, amended.** Subsection 4 of section 5325 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, is amended to read as follows:

4. **Acquisition of property.** The municipal officers are authorized and empowered to acquire from funds provided under the authority of this chapter such lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, which are located within the State as it may deem necessary or convenient for the construction or operation of any ~~industrial~~ **industrial-commercial, industrial anti-pollution** or recreational project, upon such terms and conditions as they shall deem reasonable and proper, and to dispose of any of the foregoing in the exercise of its powers and the performance of its duties ~~hereunder~~ **under this chapter**;

**Sec. 3. R. S., T. 30, § 5325, sub-§§ 6 and 7, amended.** Subsections 6 and 7 of section 5325 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, are amended to read as follows:

**6. Government contracts.** To enter into contracts with the State or the Government of the United States or any agency or instrumentality thereof, or with any other municipality providing for or relating to ~~the an industrial anti-pollution or revenue-producing industrial~~ **an industrial-commercial or recreational facility;**

**7. Government aid.** To accept from any authorized agency of the State or the Federal Government loans or grants for the planning, construction or acquisition of **an industrial anti-pollution or any revenue-producing industrial industrial-commercial** or recreational facility and to enter into agreements with such agency respecting any such loans or grants, and to receive and accept aid and contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such loans, grants and contributions may be made; and

**Sec. 4. R. S., T. 30, § 5326, sub-§ 2, amended.** Subsection 2 of section 5326 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, and as amended by section 1 of chapter 340 of the public laws of 1969, is further amended to read as follows:

**2. Industrial-commercial facility.** "Industrial-commercial ~~project~~ **facility**" means any building, structure, machinery, equipment or facilities, including transportation equipment or facilities, which may be deemed necessary for manufacturing, processing, assembling, storing, distributing or receiving raw materials or manufactured products, or research, or for public accommodation including but not limited to lodging, dining or conventions, together with all lands, property, rights, rights-of-way, franchises, easements and interests in lands which may be acquired by the municipality for the construction or operation of such ~~project~~ **facility.**

**Sec. 5. R. S., T. 30, § 5326, sub-§ 2-A, additional.** Section 5326 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, and as amended by section 1 of chapter 340 of the public laws of 1969, is further amended by adding a new subsection 2-A to read as follows:

**2-A. Industrial anti-pollution facility.** "Industrial anti-pollution **facility**" means any sewage disposal system as defined in section 1901, subsection 13 designed for use by a particular industrial or commercial user or users, the general plans and specifications for which have been approved by the Environmental Improvement Commission.

**Sec. 6. R. S., T. 30, § 5326, sub-§§ 3 - 5, amended.** Subsections 3 to 5 of section 5326 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, are amended to read as follows:

**3. Recreational facility.** "Recreational ~~project~~ **facility**" means any building or other real estate improvement and, if a part thereof, the land upon which the same may be located, or any interest in land by lease or otherwise,

or any equipment used or usable in connection with recreational facilities of whatever kind and nature, including but not limited to marinas, swimming pools, golf courses, camp grounds, picnic areas, lodges, ski resorts, arenas and any other recreational facilities which in the judgment of the municipal officers are necessary or convenient to the exercise of the powers conferred by this chapter.

4. **Project.** "Project" means the acquisition, construction, reconstruction, renewal or replacing of an industrial-commercial facility, an industrial anti-pollution facility ~~industrial project~~ or recreational ~~project~~ facility as the context may permit or require.

5. **Cost.** "Cost" as applied to a ~~revenue producing industrial~~ industrial-commercial, industrial anti-pollution, or recreational facility shall include the purchase price of any such facility, the cost of construction, the cost of all labor, materials, machinery and equipment, the cost of improvements, the cost of all lands, property, rights, easements and franchises acquired, financing charges, interest prior to and during construction and, if deemed advisable by the municipal officers, for **not more than** one year after completion of construction, cost of plans and specifications, surveys and estimates of cost and of revenues, cost of engineering and legal services, and all other expenses necessary or incident to determining the feasibility or practicability of such construction, administrative expense and such other expenses as may be necessary or incident to the financing ~~herein~~ authorized. Any obligation or expenses incurred by the State or the municipality **or the particular industrial-commercial, industrial anti-pollution or recreational user or users with which the municipality has a contract or lease under section 5333** in connection with any of the foregoing items of cost may be regarded as a part of such cost and reimbursed to the State or municipality **or such user or users** out of the proceeds of revenue obligation securities issued under this chapter.

**Sec. 7. R. S., T. 30, § 5328, sub-§ 3, amended.** Subsection 3 of section 5328 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965 and as amended by section 3 of chapter 569 of the public laws of 1969, is further amended to read as follows:

3. **Certificates of approval.** To approve or disapprove projects and issue certificates of approval upon application of municipalities proposing to issue revenue obligation securities under this chapter. In any event no project shall be approved and no certificate of approval shall be issued until the project has received and secured all applicable licenses, or it is determined that none is required, from the Environmental Improvement Commission; provided that for the purpose of permitting the balloting on a project required by section 5331 an industrial anti-pollution project may be approved and a certificate of approval therefor may be issued which may be subject to approval by the Environmental Improvement Commission to be received prior to the issuance of the revenue obligation securities under section 5331.

**Sec. 8. R. S., T. 30, § 5328, sub-§ 4, ¶ D, amended.** Paragraph D of subsection 4 of section 5328 of Title 30 of the Revised Statutes, as enacted by

section 1 of chapter 423 of the public laws of 1965, is amended to read as follows:

D. In cases where it is proposed to relocate an industrial or recreational facility existing in the State, there is a clear economic justification for such relocation: provided that in the case of issuing a certificate of approval for an industrial anti-pollution project paragraphs A and D shall not be applicable but in addition to paragraphs B and C, it shall be the policy of the board to determine that:

- (1) The proposed industrial user or users contribute significantly to the economy of the State;
- (2) A substantial public benefit will result from the project;
- (3) The project will make a significant contribution to the elimination of pollutants in the waters situated in the general area; and
- (4) It is unlikely that public facilities will be available in the reasonably foreseeable future which could meet or substantially meet the needs of the proposed industrial user or users for anti-pollution facilities and secure the public benefits that will result from the project.

Sec. 9. R. S., T. 30, § 5331, sub-§ 1, amended. The first sentence of subsection 1 of section 5331 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, is amended to read as follows:

Upon receipt of the certificate of approval from the board as provided in section 5328, the municipal officers of any municipality are authorized to provide by resolution, at one time or from time to time, for the issuance of revenue obligation securities of the municipality for the purpose of paying the cost of ~~acquiring, constructing, reconstructing, renewing or replacing any revenue producing industrial~~ an industrial-commercial, industrial anti-pollution or recreational facility project, provided no revenue obligation securities of a municipality shall be issued until the general purpose for which the securities are to be issued and the maximum principal amount of such securities to be authorized have been approved by ballot by a majority of the votes cast on the question and the number of votes cast is at least 20% of the total vote for all candidates for Governor cast in the municipality at the last gubernatorial election.

Sec. 10. R. S., T. 30, § 5331, sub-§ 1, amended. The last 2 sentences of subsection 1 of section 5331 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, are amended to read as follows:

Any action or proceeding in any court to set aside a ~~resolution vote~~ authorizing the issuance of revenue obligation securities under this chapter or to obtain any relief upon the ground that such ~~resolution vote~~ is invalid must be commenced within 30 days after the ~~holding of the election~~ vote to approve such securities. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of such ~~resolution vote~~ or any

of its provisions shall be asserted nor shall the validity of such ~~resolution~~ ~~vote~~ or any of its provisions be open to question in any court upon any ground whatever.

**Sec. 11. R. S., T. 30, § 5331, sub-§ 4, amended.** Subsection 4 of section 5331 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, is amended to read as follows:

**4. Anticipatory borrowing.** The municipal officers authorized to issue securities may borrow money in anticipation of their sale by issuing temporary notes and renewal notes, the total face amount of which does not exceed at any one time outstanding the authorized amount of the securities, but the period of such anticipatory borrowing shall not exceed one year and the time within which such securities are to become due shall not be extended by such anticipatory borrowing beyond the time fixed in the ~~vote~~ ~~resolution~~ authorizing their issue or, if no term is there specified, beyond the term permitted by law.

**Sec. 12. R. S., T. 30, § 5332, amended.** The 2nd sentence of section 5332 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, is amended to read as follows:

Such trust agreement or the resolution providing for the issuance of such securities may pledge or assign the revenues of, **or received in connection with, the industrial industrial-commercial, industrial anti-pollution** or recreational project, and may contain such provisions for protecting and enforcing the rights and remedies of the security holders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the municipal officers in relation to the acquisition of property and the construction, reconstruction, renewal, replacement and insurance of the project in connection with which such securities shall have been authorized, the rents to be charged, **or other payments to be made for the use thereof,** and the custody, safeguarding and application of all moneys.

**Sec. 13. R. S., T. 30, § 5332, amended.** The first sentence of the 2nd paragraph of section 5332 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, is amended to read as follows:

In addition to the foregoing, any such trust agreement may, to secure the payment of the revenue obligation securities, mortgage the project or any part thereof and create a lien upon any or all of the real or personal property constituting a part of the project and **assign any lease or contract under which rents or other payments for or with respect to the use thereof are to be made.**

**Sec. 14. R. S., T. 30, § 5332, amended.** The 3rd sentence of the 3rd paragraph of section 5332 of Title 30 of the Revised Statutes, as enacted by section 3 of chapter 345 of the public laws of 1967, is amended to read as follows:

Upon satisfaction at any time of the obligations secured by the mortgage, which shall be deemed to include all applicable fees and expenses, any surplus proceeds from such operation, sale or lease shall be paid to the mortgagor or to those claiming under the mortgagor and, subject to any sale, **assignment or lease under this paragraph, the mortgaged property shall re-**

vert or be returned to the mortgagor or to those claiming under the mortgagor.

**Sec. 15. R. S., T. 30, § 5333, amended.** Section 5333 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, is amended to read as follows:

**§ 5333. Rentals**

Before the issuance of revenue obligation securities for paying the cost of any ~~industrial~~ **industrial-commercial, industrial anti-pollution** or recreational project, provision shall be made by leases or contracts which in the judgment of the board will be adequate to assure that the municipality will at all times have revenues sufficient:

1. **Principal and interest.** To pay the principal of and the interest of such securities as the same shall become due and payable and to create and maintain reserves for such purposes; ~~and~~

1-A. **Expenses of trustee.** To pay the reasonable expenses and disbursements of the trustee under any indenture securing such securities; and

2. **Cost of project.** To pay the cost of maintaining, repairing and operating the project unless provision shall be made in such lease or contract for such maintenance, repair and operation.

**Sec. 16. R. S., T. 30, § 5334, amended.** The first sentence of section 5334 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, is amended to read as follows:

All rentals and other revenues derived from ~~or in connection with~~ any project for which ~~a single issue of~~ revenue obligation securities shall have been issued, except such part thereof, if any, as may be required to pay the cost of maintenance, repair and operation and to provide reserves therefor as may be provided in the resolution authorizing the issuance of the securities or in the trust agreement, shall be set aside at such regular intervals as may be provided in such resolution or trust agreement and deposited to the credit of a sinking fund which is ~~herby~~ pledged to and charged with, the payment of the interest on such securities as such interest shall fall due, the principal of such securities as the same shall fall due, the necessary charges of paying agents for paying principal and interest, and the redemption price or the purchase price of securities retired by call or purchase.

**Sec. 17. R. S., T. 30, § 5336, amended.** Section 5336 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, is amended to read as follows:

**§ 5336. Remedies**

Any holder of revenue obligation securities issued under this chapter or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given may be restricted by the resolution authorizing the issuance of such securities or such trust agreement, may, either by action, mandamus or other proceeding, protect and enforce

any and all rights under the laws of the State or granted ~~hereunder~~ under ~~this chapter~~ or under such resolution or trust agreement, including the appointment of a receiver, and may enforce and compel the performance of all duties required by this chapter or by such resolution or trust agreement to be performed by the municipality, the municipal officers or by any officer thereof, including the collecting of rates, fees and charges for the use of the ~~industrial~~ **industrial-commercial, industrial anti-pollution** or recreational project, and any such suit, action or proceeding shall be brought for the benefit of all the holders of such securities and coupons.

**Sec. 18. R. S., T. 30, § 5337, amended.** The first 2 sentences of section 5337 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, are amended to read as follows:

The municipal officers are authorized to provide by resolution for the issuance of revenue refunding securities of the municipality for the purpose of refunding any revenue securities then outstanding which shall have been issued under this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such securities, and, if deemed advisable by the municipal officers, for the additional purpose of constructing improvements, extensions, enlargements or additions of the ~~industrial anti-pollution~~ or revenue-producing ~~industrial industrial-commercial~~ or recreational project in connection with which the securities to be refunded shall have been issued. The municipal officers are authorized to provide by resolution for the issuance of revenue obligation securities of the municipality for the combined purpose of refunding any revenue securities or revenue refunding securities then outstanding which shall have been issued under this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such securities, and paying all or any part of the cost of acquiring or constructing any additional **industrial anti-pollution** or revenue-producing ~~industrial industrial-commercial~~ or recreational project or part thereof, or any improvements, extensions, enlargements or additions of any **industrial anti-pollution** or any revenue-producing ~~industrial industrial-commercial~~ or recreational project.

**Sec. 19. R. S., T. 30, § 5340, amended.** Section 5340 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, is amended to read as follows:

#### § 5340. Leasehold interest taxable

The leasehold interest of the lessee of any ~~industrial industrial-commercial, industrial anti-pollution~~ or recreational project is subject to taxation in the manner provided for similar interests in Title 36, section 551.

**Sec. 20. R. S., T. 30, § 5341, amended.** Section 5341 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, is amended to read as follows:

#### § 5341. Purpose



It is declared that there is a state-wide need for industrial and recreational projects to provide enlarged opportunities for gainful employment by the people and a serious state-wide need to restore purity to the waters of the State which are fouled with, among other things, industrial and other waste material and pollutants and thus to insure the preservation and betterment of the economy of the State and the living standards and health of its inhabitants.

**Sec. 31. R. S., T. 30, § 5342, amended.** Section 5342 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, and as amended by section 4 of chapter 345 of the public laws of 1967, is further amended to read as follows:

**§ 5342. Liberal construction**

This chapter, being necessary for the welfare of the municipalities and their inhabitants, shall be liberally construed to effect the purposes thereof. To the extent of any essential conflict between this chapter and any other law, this chapter shall prevail, but the power and authority granted shall otherwise be deemed to be in addition to and not in derogation of power and authority granted by any other law.

#### STATEMENT OF FACT

The Municipal Industrial and Recreational Obligations Act, chapter 242, sections 5325 to 5344, of Title 30 of the Revised Statutes, authorizes municipalities to issue revenue bonds, subject to the approval of the Municipal Securities Approval Board established by such Act, for the acquisition and construction of "industrial-commercial projects" and "recreational projects" as defined in the Act. The definition of an "industrial-commercial project" as contained in the Act is not broad enough to include a facility for the treatment and disposal of industrial or commercial wastes.

Thus, although a municipality under the Act can issue revenue bonds to construct a factory or plant to be leased to industry, or to construct a marina, swimming pool or other recreational facility, it cannot issue revenue bonds for the construction of a facility for the treatment and disposal of industrial wastes.

The proposed legislation would amend the Act to permit a municipality to issue revenue bonds, subject to the approval of the Board, for the acquisition and construction of an industrial anti-pollution facility, consisting of a sewage disposal system, as defined in Title 30, section 1901, subsection 13, designed for use by a particular industrial or commercial user or users, the general plans and specifications for which must be approved by the Environmental Improvement Commission.

Under section 5331, no revenue obligation securities can be issued until the general purpose for which the same are to be issued and the maximum

principal amount to be authorized have been approved by ballot at a municipal election by a majority of the votes cast, and the number of votes cast is at least 20% of the total vote for all candidates for Governor cast in the municipality in the last gubernatorial election.

The purpose of the legislation would be to enable a municipality, upon securing the required vote, to issue revenue obligation securities for the construction of a system for treatment and disposal of industrial or commercial wastes for use by one or more industrial or commercial users. Before revenue obligation securities can be issued under the Act, leases or contracts approved by the Board must have been provided for from which the municipality will have sufficient revenues to pay principal and interest on the obligations as they mature and other costs and expenses of the project. As the rental or other charges established by these leases or contracts would be payable by the user or users of the anti-pollution facility, there would be no cost to the municipality.

This enabling legislation, if used cooperatively by municipalities and industry, would undoubtedly speed the construction of water pollution control facilities in Maine. Interest on the revenue obligation securities issued to provide funds for the construction would not be subject to Federal income tax.

By Chapter 340 of the Public Laws of 1969, the definition of "industrial project" previously contained in the Act was expanded and changed to "industrial-commercial project." Although this change was made in the definition in section 5326, in other places in the Act the phrase "industrial project" was retained. The proposed legislation also clarifies this inconsistency by making a consistent reference throughout the Act to the defined term "industrial-commercial."