

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 1284

S.P. 459

In Senate, April 9, 2015

An Act To Expand the Local Foods Economy

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator JOHNSON of Lincoln.
Cosponsored by Representative HICKMAN of Winthrop and
Senators: DILL of Penobscot, SAVIELLO of Franklin, Representatives: CHAPMAN of
Brooksville, MAREAN of Hollis.

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

2 **Sec. 1. 7 MRSA §306-A, sub-§2**, as enacted by PL 1999, c. 72, §5, is amended to
3 read:

4 **2. Fund operation.** The commissioner shall utilize the agricultural development
5 fund to:

6 A. Provide grants to individuals, firms or organizations to conduct market research
7 or to undertake market promotion activities for the purpose of expanding existing
8 markets and developing new markets for state agricultural products; ~~and~~

9 B. Test and demonstrate new technologies related to the production, storage and
10 processing of state agricultural commodities; and

11 C. Provide local foods grants to Maine-based individuals, firms or organizations
12 under section 320-B, subsection 1 to conduct market feasibility studies, in diverse
13 geographic areas of this State if possible, to identify the demand for and pricing,
14 logistical parameters and availability of minimally processed fresh foods grown in
15 this State and of seafood grown or harvested in this State for local food purveyors and
16 aggregated and institutional markets, including school food service programs.

17 **Sec. 2. 7 MRSA §306-A, sub-§3**, as amended by PL 2013, c. 64, §1, is further
18 amended to read:

19 **3. Rulemaking.** The commissioner shall establish, by rule, in a manner consistent
20 with Title 5, chapter 375, subchapter 2-A criteria for the allocation of grant money,
21 application requirements consistent with the provisions of this section and section 320-B,
22 a schedule for accepting and reviewing applications, reporting requirements on grant
23 expenditures and project results and any other administrative requirements necessary for
24 the efficient implementation of this program. Rules adopted pursuant to this subsection
25 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. The
26 commissioner is guided by the following criteria:

27 A. Applications may be submitted by individuals, firms or organizations in response
28 to a request for proposals for competitive grants. The commissioner may also contract
29 directly with individuals, firms or organizations for a special project under section
30 307;

31 B. A percentage of the total cost of any project must be funded by the applicant or
32 applicants and a percentage of the total cost must be funded from nonpublic sources.
33 These percentages must be established by rule. A single grant may not exceed 50%
34 of the total funds available to be granted in a given year;

35 C. Information relative to market research or development activities provided to the
36 commissioner prior to formal application, included in grant applications or provided
37 to the commissioner to fulfill reporting requirements is confidential information and
38 may not be publicly disclosed by the commissioner as long as:

39 (1) The person to whom the information belongs or pertains has requested that
40 certain information be designated as confidential; and

1 (2) The commissioner has determined that the information gives the person
2 making the request opportunity to obtain business or competitive advantage over
3 another person who does not have access to the information or will result in loss
4 of business or other significant detriment to the person making the request if
5 access is provided to others; ~~and~~

6 D. When possible, the commissioner shall award grants to applicants representing
7 diverse agricultural enterprises and geographic areas of the State; and

8 E. The commissioner shall consider administrative requirements necessary for local
9 foods grants under section 320-B, subsection 1, including a definition of "minimally
10 processed foods," the allocation of grant funds, application requirements consistent
11 with the provisions of chapter 10-C, a schedule for accepting and reviewing
12 applications and reporting requirements on grant expenditures and project results.

13 **Sec. 3. 7 MRSA c. 10-C** is enacted to read:

14 **CHAPTER 10-C**

15 **LOCAL FOOD INFRASTRUCTURE PROGRAM**

16 **§320-A. Definitions**

17 As used in this chapter, unless the context otherwise indicates, the following terms
18 have the following meanings.

19 **1. Local food.** "Local food" means food produced or harvested by a Maine food
20 producer as defined by section 212, subsection 2.

21 **§320-B. Local food infrastructure program; grants and loans**

22 The commissioner shall issue grants under section 306-A for the purpose of
23 conducting market feasibility studies and developing business plans for local food
24 infrastructure operators in this State to connect and enhance relationships between fresh
25 food producers in this State and aggregated and institutional markets, including school
26 food service programs, and purveyors. The commissioner shall issue low-interest loans
27 under subsection 2 and section 435 for the development and operation of local food
28 infrastructure operators in this State based on how well the local food infrastructure
29 operators' business plans, as reflected in competitive applications, serve to connect and
30 enhance relationships between fresh food producers in this State and aggregated and
31 institutional markets, which may include school food service programs, and purveyors.

32 **1. Local foods grants.** The commissioner shall award at least one grant each of no
33 more than \$30,000 to applicants based in this State to conduct market feasibility studies
34 and develop business plans for local food infrastructure. An applicant must demonstrate:

35 A. The capacity to research aggregated and institutional markets' demand for and
36 pricing, logistical parameters and availability of fresh and minimally processed foods
37 produced in this State; and

1 B. Expertise related to the market feasibility study and the capacity to create and
2 implement business plans for local food aggregation, minimal processing,
3 distribution, livestock or poultry processing, grain testing, malting or other local food
4 infrastructure located in this State if the applicant is applying for a local food
5 infrastructure loan under subsection 2.

6 The intent of a market feasibility study and business planning process supported by grant
7 funds must be to serve local farms. A business plan must be crafted to maximize the
8 benefits to farms that supply the local food infrastructure operation and to minimize, if
9 not remove, any negative effects of a new local food infrastructure operation on existing
10 farm operations. A business plan must leverage strategically important shared
11 infrastructure to support expansion of agriculture and the value farmers receive for their
12 work. A business plan must seek to provide benefits such as increasing production
13 capacity, creating new jobs and providing new food processing capabilities that meet a
14 significant local demand. An application must receive a higher ranking if it leverages
15 producer operations that provide good stewardship of the land as a natural resource or if
16 the business plan advances development of a simple food chain with a short distance
17 between the producer and the consumer. The commissioner may not award a grant under
18 this subsection to an applicant unless matching funds from the applicant are available in
19 an amount that is no less than 50% of the grant amount.

20 **2. Local food infrastructure loans.** The commissioner shall award local food
21 infrastructure loans from the Agricultural Marketing Loan Fund established under Title
22 10, section 1023-J in accordance with the provisions of section 435 to applicants in
23 diverse geographic areas of the State for the purpose of establishing local food
24 infrastructure operations in this State. Prior to awarding a loan under this subsection, the
25 commissioner shall determine that the potential overall impact of the application to the
26 agricultural economy and agricultural industry in this State is beneficial to and in the best
27 interest of the agricultural industry and well-being of the State. Applications for loans
28 under this subsection must include business plans that examine economic impacts and are
29 based on the market studies completed under subsection 1 or equivalent market
30 knowledge. An application must demonstrate:

31 A. That the application is based on sound business and financial principles;

32 B. That the application has a plan to leverage strategically important shared
33 infrastructure to support expansion of agriculture and the value farmers receive for
34 their work;

35 C. That the application seeks to provide benefits such as increasing production
36 capacity, creating new jobs and providing new food processing capabilities that meet
37 a significant local demand;

38 D. That the applicant is able to locate and obtain food from growers based in this
39 State and, where feasible, fisheries in this State, and has the capacity to handle the
40 logistics of adding value to those foods or supplying and delivering those foods as
41 ordered by food purveyors or aggregated and institutional markets, which may
42 include school food service programs;

43 E. That the applicant has the capacity to provide fresh food or minimally processed
44 food sourced in this State;

1 F. That the applicant has knowledge of health-oriented food production methods in
2 order to maintain nutritional value and minimize food contaminants;

3 G. That the applicant will exercise sustainable waste management practices,
4 including composting of food waste and minimal use of disposable nonreusable
5 packaging materials;

6 H. That the applicant has the ability to encourage food producers to plant or
7 otherwise scale capacity to meet anticipated food service demand;

8 I. That the applicant has a willingness to work cooperatively with other local food
9 infrastructure operators in this State to meet statewide demand for fresh food sourced
10 in this State in a cost-effective manner; and

11 J. That the applicant has an ownership or governance structure that inherently holds
12 in high regard the value provided to the producer. Examples of such an ownership or
13 governance structure include, but are not limited to, an entity that is a cooperative of
14 fresh food producers in this State and an entity whose bylaws require a majority of
15 the board of directors to be fresh food producers in this State.

16 **3. Maine Food Infrastructure Advisory Committee.** The commissioner shall
17 establish the Maine Food Infrastructure Advisory Committee. The commissioner shall
18 include representatives of statewide and regional organizations involved in supporting
19 agriculture, public health, the environment and the state economy as part of the advisory
20 committee. The advisory committee shall:

21 A. Advise the department on definitions and the implementation and evaluation of
22 applications for grants and loans under this section and shall review project results;
23 and

24 B. Advise the Department of Education on design and evaluation of a local foods
25 training program.

26 The commissioner shall, as applicable, consult with the Department of Marine
27 Resources regarding the awarding of grants and loans under this section.

28 **Sec. 4. 7 MRSA §434, sub-§1,** as amended by PL 2001, c. 152, §1, is further
29 amended to read:

30 **1. Agricultural enterprise.** "Agricultural enterprise" means a person or business
31 located in this State and engaged in the commercial growing or harvesting of plants;
32 raising of animals; growing or obtaining plant or animal by-products; aquaculture, as
33 defined in Title 12, section 6001, subsection 1; or further processing, storing, packaging
34 or marketing a raw product derived from plants, animals, plant or animal by-products or
35 aquaculture, as defined in Title 12, section 6001, subsection 1, with the intent that the
36 product be sold or otherwise disposed of to generate income. "Agricultural enterprise"
37 includes a business or activity that attracts visitors to a farm for the purpose of
38 supplementing income from the primary crop or livestock operation or that is a local food
39 infrastructure operation, pursuant to chapter 10-C. "Agricultural enterprise" does not
40 include a business engaged primarily in the growing, harvesting or further processing of
41 forest species of trees for the purpose of producing pulp or other materials used in the
42 paper manufacturing or wood manufacturing process.

1 **Sec. 5. 7 MRSA §435, sub-§2, ¶A**, as amended by PL 2003, c. 168, §1, is further
2 amended to read:

3 A. An agricultural marketing loan for any project under this subchapter or section
4 320-B, subsection 2, the total cost of which exceeds \$100,000, may not exceed 75%
5 of the project cost. A loan from the fund may not be provided for such a project
6 unless the applicant demonstrates a commitment of private funds of at least 5% of the
7 total cost of the project; except that, in order to encourage the undertaking of
8 cooperative projects by 2 or more agricultural enterprises, an agricultural marketing
9 loan may not be provided unless the cooperating agricultural enterprises as a group
10 demonstrate a commitment of private funds of at least 5% of the total cost of the
11 project.

12 **Sec. 6. 7 MRSA §435, sub-§2, ¶B**, as amended by PL 2003, c. 168, §1, is further
13 amended to read:

14 B. An agricultural marketing loan for any project under this subchapter or section
15 320-B, subsection 2, the total cost of which is \$100,000 or less, may not exceed 90%
16 of the total cost of the project.

17 **Sec. 7. 7 MRSA §435, sub-§2, ¶J** is enacted to read:

18 J. When considering a local food infrastructure loan under section 320-B, subsection
19 2, the commissioner must be guided by the criteria established in chapter 10-C.

20 **Sec. 8. 10 MRSA §1023-J, first ¶**, as amended by PL 2011, c. 380, Pt. OOO, §1
21 and c. 657, Pt. W, §6, is further amended to read:

22 The Agricultural Marketing Loan Fund, referred to in this section as the "fund," is
23 created. The fund must be deposited with and maintained by the Finance Authority of
24 Maine. The fund must be administered by the Commissioner of Agriculture,
25 Conservation and Forestry in accordance with Title 7, chapter 101, subchapter 1-D. All
26 money received by the Finance Authority of Maine from any source for the development
27 and implementation of an improved agricultural marketing loan program must be credited
28 to the fund. Any money credited to the fund from the issuance of bonds on behalf of the
29 State for financing loans for agricultural enterprises may be used only for the following
30 purposes: to provide assistance to agricultural enterprises in this State for the design,
31 construction or improvement of commodity and storage buildings and packing and
32 marketing facilities; for the purchase, construction or renovation of buildings, equipment,
33 docks, wharves, piers or vessels used in connection with a commercial agricultural
34 enterprise; for the purchase of land in connection with development of new cranberry
35 acreage; for the purchase of land for irrigation reservoirs or to provide direct access to
36 water for irrigation; for the purchase of land necessary for the start-up of a new
37 agricultural enterprise; for the expansion of an existing agricultural enterprise when the
38 land acquisition is necessary to comply with land use regulations; ~~for the development of~~
39 ~~a business plan in accordance with the provisions of Title 7, section 436-A~~ establishing
40 local food infrastructure operations pursuant to Title 7, chapter 10-C; for improvements
41 to pastureland, including seeding and actions to promote rotational grazing; or, if the
42 commissioner so approves at the time of loan insurance commitment, to pledge money in
43 the fund as security for, and to apply money in the fund to, payment of principal, interest

1 and other amounts due on any term loans insured by the Finance Authority of Maine to an
2 eligible dairy farmer. Repayment of these loans and interest on these loans must be
3 credited to the fund and may be used for the purposes stated in this section or Title 7,
4 section 436. Interest earned on money in the fund and interest earned on loans made
5 from the fund may be used to pay the administrative costs of processing loan applications
6 and servicing and administering the fund and loans and grants made from the fund since
7 the inception of the agricultural marketing loan program, to the extent that these costs
8 exceed the fee for administrative costs established by Title 7, section 435, subsection 4.

9 **Sec. 9. Advisory committee; pilot program.** The Maine Food Infrastructure
10 Advisory Committee established in accordance with the Maine Revised Statutes, Title 7,
11 section 320-B, subsection 3 must include to the extent possible, but is not limited to,
12 representatives of the member entities of the farm-to-school work group established by
13 Resolve 2009, chapter 106. The Commissioner of Agriculture, Conservation and
14 Forestry may establish a local food infrastructure pilot program if insufficient funding is
15 available from the Agricultural Marketing Loan Fund under Title 10, section 1023-J for
16 the local food infrastructure program under Title 7, chapter 10-C. The Maine Food
17 Infrastructure Advisory Committee shall prepare and submit an evaluation of the overall
18 effectiveness of the pilot program to the Department of Agriculture, Conservation and
19 Forestry, the Department of Education and the Department of Marine Resources within
20 90 days following the completion of the pilot program.

21 SUMMARY

22 This bill requires the Department of Agriculture, Conservation and Forestry to
23 administer programs to support the expansion and coordination of the use of fresh Maine
24 foods in aggregated and institutional markets, including school food service programs.

25 The Department of Agriculture, Conservation and Forestry is directed to provide
26 grants under the agricultural development grant program for the purpose of conducting
27 market feasibility studies and developing business plans for local food infrastructure
28 operations in Maine to connect and enhance relationships between fresh food producers
29 in Maine and aggregated and institutional markets, including school food service
30 programs, and food purveyors. The Commissioner of Agriculture, Conservation and
31 Forestry may not award a local foods grant unless the applicant provides matching funds
32 in an amount that is no less than 50% of the grant amount.

33 The department is also directed to provide loans under the Agricultural Marketing
34 Loan Fund to applicants in diverse geographic areas in the State for the purpose of
35 establishing local food infrastructure operations located in Maine. Prior to awarding a
36 local food infrastructure loan, the Commissioner of Agriculture, Conservation and
37 Forestry is required to determine that the potential overall impact of a proposal on
38 Maine's agricultural economy and industry is beneficial to and in the best interest of the
39 State.

40 The bill also establishes the Maine Food Infrastructure Advisory Committee, which
41 includes representatives of statewide and regional organizations involved in supporting
42 agriculture, public health, the environment and the state economy, including

1 representatives of the member entities of the farm-to-school work group established by
2 Resolve 2009, chapter 106.