

# MAINE STATE LEGISLATURE

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ATTORNEY GENERAL



STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
STATE HOUSE STATION 6  
AUGUSTA, MAINE 04333

October 8, 1986

Dana F. Connors, Commissioner  
Maine Department of Transportation  
State House Station #16  
Augusta, Maine 04333

Re: Transportation Improvements Bond Issue.

Dear Mr. Connors:

You have asked whether it is legally permissible to utilize some of the proceeds of the sale of bonds authorized by P. & S.L. 1983, c. 58 for cargo terminal improvements in the City of Portland to fund improvements to the existing International Ferry Terminal in that city. For the reasons which follow, it is the Opinion of this Office that since the improvements contemplated will improve the cargo-handling capability of that terminal, they are within the scope of projects authorized by the Legislature to be financed from the bond issue.

As this Office understands it, the Department of Transportation proposes to utilize \$4 million of the \$4.5 million authorized by the bond issue legislation to improve the International Ferry Terminal, which handles ferry service between Portland and Yarmouth, Nova Scotia. The ships providing this service accommodate not only passengers but cargo-bearing trucks. Thus, the proposed improvements will benefit both types of traffic.

The bond issue legislation expresses its purpose only in general terms. The most specific language is found in Section 4 of the bill, appropriating \$4.5 million to "be used to develop a public general cargo-handling facility in Portland." Section 1 of the same bill describes the bond's purpose as providing for "transportation improvement," and

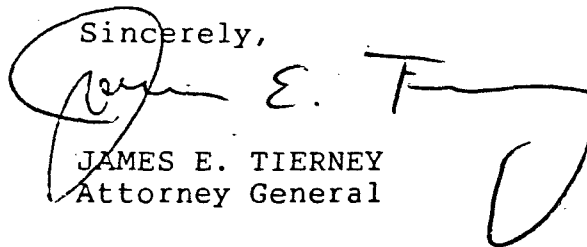
specifying that bonds "shall be issued from time to time so as to meet the needs of the transportation improvement program." The question appearing on the referendum ballot, also specified in the authorizing legislation, describes the purpose of the bond issue as providing funds to "be utilized for capital improvement projects directed toward enhancing economic development and related support systems throughout the State [which] will encompass: . . . port and marine transportation facilities' development" of up to \$4.5 million in Portland.

The bill's Statement of Fact states only that "the port and marine transportation program includes \$10,000,000 for proposed improvements to cargo piers and ferry terminals in Maine. It is intended that these funds will be utilized in a way that best serves the port and marine transportation needs of the State." Both the Governor's opening address to the special session of the Legislature that enacted the bond issue and the limited legislative debate on the measure refer to the port improvements primarily as economic development measures. Legis.Rec. 4, 25 (1st. Spec. Sess. 1983).

It is plain that improvements to the International Ferry Terminal described above would constitute economic development activity involving a marine transportation facility for the benefit of the general public. It thus is clearly encompassed within the scope of the Legislature's general intentions, also set forth above, as to the uses to which the proceeds of the bond issue could be put. In the view of this Office, the project would also satisfy the somewhat narrower purposes set forth in Section 4 of the authorizing legislation - "to develop a public general cargo-handling facility in Portland" - since it would enhance the ability of the terminal to operate as a cargo-handling facility. Under these circumstances, therefore, there appears to be no basis for concluding that the utilization of bond issue proceeds for improvements to the International Ferry Terminal would violate in any way the intention of the authorizing legislation or restrictions contained therein. This is not to say, of course, that the Department is obliged in any way to utilize the bond issue proceeds in this manner. It is only to say that the Department may, in its discretion, do so.

I trust this assessment is responsive to your inquiry. Please let me know if this office can be of further assistance.

Sincerely,



JAMES E. TIERNEY  
Attorney General

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