

# MAINE STATE LEGISLATURE

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March 24, 1998

Representative James O. Donnelly  
House Republican Floor Leader  
2 State House Station  
Augusta, ME 04333-0002

Dear Representative Donnelly:

I am writing to confirm the advice I rendered to you earlier concerning the constitutionality of Legislative Document 2259, "AN ACT to Preserve the State House and to Renovate State Facilities." If enacted, this Act would authorize the Maine Governmental Facilities Authority to issue securities in its own name "for the purposes of paying the cost of the construction of a connector between the State Office Building and the State Capitol Building; the preservation and renovation of the State Capitol Building; and the renovations of the State Office Building the Tyson Building and the Marquardt Building." As I indicated, I do not see any constitutional difficulty with this proposed legislation under the provision of the Maine Constitution prohibiting the issuance of bonds which pledge the credit of the State without the approval of two-thirds of the electorate and a majority of the voters at a general or special election, Me. Const., Art. IX, § 14.

The liability of the State for any debt incurred by the Authority is addressed in 4 M. R. S. A. § 1618, which provides:

Securities issued under this Act do not constitute or create any debt or debts, liability or liabilities on behalf of the State or of any political subdivision of the State other than the authority or a loan of the credit of the State or a pledge of the faith and credit of the State or of any political subdivision other than the authority, but are payable solely from the funds provided for that payment. All such securities must contain on their face a statement to

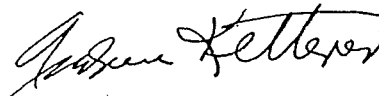
the interest on the securities, except from revenues of the authority or the project, projects or part of any project for which they are issued and that neither the faith and credit nor the taxing power of the State or of any political subdivision of the State is pledged to the payment of the principal of or the interest on the securities. The issuance of securities under this Act does not directly, indirectly or contingently obligate the State or any political subdivision of the State to levy or to pledge any form of taxation whatever or to make any appropriation for their payment. Nothing contained in this section may prevent or be construed to prevent the authority from pledging its full faith and credit to the payment of securities authorized pursuant to this Act.

In my view, this provision makes it clear that any debt incurred by the Authority in the course of restoring or renovating the facilities identified in the Act would not be a debt of the State or create any liability on behalf of the State. The Authority is expressly authorized to issue securities for the purpose of the paying for projects which it approves. 4 M. R. S. A. § 1606(1). The securities are issued in the name of the Authority and are payable solely from the funds of the Authority. 4 M. R. S. A. § 1618. Since the securities of the Authority do not pledge the State's credit, their issuance is not governed by Article IX, §14.

I would note, too, that the Maine Turnpike Authority, the Maine State Housing Authority, the Maine Educational Loan Authority and the Maine Municipal Bond Bank all operate financing programs similar to the program set forth in Legislative Document 2259.

I hope the foregoing adequately responds to your request. Please feel free to contact me if further clarification is necessary.

Sincerely,



ANDREW KETTERER  
Attorney General

AK:sw

cc: The Honorable Elizabeth Mitchell, Speaker of the House  
The Honorable Mark Lawrence, President of the Senate  
The Honorable Janet Waldron, Commission of DAFS  
The Honorable Elizabeth R. Butler, Legal Counsel, Executive Dept.