

# MAINE STATE LEGISLATURE

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# ONE HUNDRED AND FOURTH LEGISLATURE

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**Legislative Document**

**No. 1216**

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S. P. 350

In Senate, March 5, 1969

Referred to the Committee on Natural Resources. Sent down for concurrence and 1,000 copies ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Berry of Cumberland.

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## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-NINE

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### AN ACT Creating the Water Development Authority.

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

R. S., T. 38, c. 3, sub-c. I-A, additional. Chapter 3 of Title 38 of the Revised Statutes is amended by adding a new subchapter I-A, to read as follows:

#### SUBCHAPTER I-A

#### WATER DEVELOPMENT AUTHORITY

##### § 455. Definitions

As used in this subchapter:

1. **Beneficial use.** "Beneficial use" means use of water, including the method of diversion, storage, transportation, treatment and application that is reasonable and consistent with the public interest or the proper utilization of water resources, including, but not limited to domestic, agricultural, industrial, power, municipal, navigational, fish and wildlife and recreational uses.

2. **Construction.** "Construction" unless the context indicates a different meaning or intent, includes reconstruction, enlargement, improvement or providing furnishings or equipment.

3. **Cost.** "Cost" as applied to water development projects means the cost of acquisition and construction, the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights and interests required by

the authority for such acquisition and construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of acquiring or constructing and equipping a principal office and suboffices of the authority, the cost of diverting highways, interchange of highways, access roads to private property, including the cost of land or easements therefor, the cost of all machinery, furnishings and equipment, financing charges, interest prior to and during construction and for no more than 18 months after completion of construction, engineering, expenses of research and development with respect to waste water or water management facilities, legal expenses, plans, specifications, surveys, estimates of cost and revenues, working capital, other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing any such project, administrative expense, and such other expense as may be necessary or incident to the acquisition or construction of the project, the financing of such acquisition or construction, including the amount authorized in the resolution of the authority providing for the issuance of water development revenue bonds to be paid into any special funds from the proceeds of such bonds and the financing of the placing of any such project in operation. Any obligation or expenses incurred after the effective date of this Act by any governmental agency, with the approval of the authority, for surveys, borings, preparation of plans and specifications, and other engineering services in connection with the acquisition or construction of a project shall be regarded as a part of the cost of such project and shall be reimbursed out of the proceeds of water development revenue bonds as authorized by this subchapter.

4. Governmental agencies. "Governmental agencies" means departments, divisions or other units of State Government, watershed districts, soil and water conservation districts, municipal corporations, counties, townships, and other political subdivisions, special water districts, including county and regional sewer and water districts, conservancy districts, sanitary districts, sewer districts or any other public corporation or agency having the authority to acquire, construct, or operate waste water or water management facilities, the United States or any agency thereof, and any agency, commission or authority established pursuant to an interstate compact or agreement.

5. Industrial waste. "Industrial waste" means any liquid, gaseous or solid waste substance resulting from any process of industry, manufacture, trade or business, or from the development, processing or recovery of any natural resource, together with such sewage as is present, which pollutes the waters of the State.

6. Owner. "Owner" includes all individuals, copartnerships, associations, corporations, or governmental agencies having any title or interest in any property rights, easements and interests authorized to be acquired by this subchapter.

7. Person. "Person" means any person, firm, partnership, association or corporation.

8. **Pollution.** "Pollution" means the placing of any noxious or deleterious substances in any waters of the State or affecting the properties of any waters of the State in a manner which renders such waters harmful or inimical to the public health, or to animal or aquatic life, or to the use of such waters for domestic water supply, industrial or agricultural purposes or recreation.

9. **Project.** "Project" or "water development project" means any waste water facility or water management facility acquired or constructed or to be acquired or constructed by the Maine Water Development authority under this subchapter, or acquired or constructed or to be acquired or constructed by a governmental agency with a portion of the cost thereof being paid from a loan or grant from the authority under this subchapter, including all buildings and facilities which the authority deems necessary for the operation of the project, together with all property, rights, easements and interest which may be required for the operation of the project, but excluding all buildings and facilities used to produce electricity other than electricity for consumption by the authority in the operation and maintenance of the project.

10. **Public roads.** "Public roads" includes all public highways, roads and streets in the State, whether maintained by the State, county, city, township or other political subdivision.

11. **Public utility facilities.** "Public utility facilities" includes tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances of any public utility.

12. **Revenues.** "Revenues" means all rentals and other charges for the use or services of any water development project.

13. **Sewage.** "Sewage" means any substance that contains any of the waste products or excrementitious or other discharge from the bodies of human beings or animals, which pollutes the waters of the State.

14. **Waste water.** "Waste water" means any water containing sewage or industrial waste or other pollutants or contaminants derived from the prior use of such water.

15. **Waste water facilities.** "Waste water facilities" means facilities for the purpose of treating, neutralizing, disposing of, stabilizing, cooling, segregating or holding waste water, including without limiting the generality of the foregoing, facilities for the treatment and disposal of sewage or industrial waste and the residue thereof, facilities for the temporary or permanent impoundment of waste water, both surface and underground, and sanitary sewers and other systems, whether on the surface or underground, designed to transport waste water together with the equipment and furnishings thereof and their appurtenances and systems, whether on the surface or underground, including force mains and pumping facilities therefor when necessary.

16. **Water development revenue bonds.** "Water development revenue bonds," unless the context indicates a different meaning or intent, includes

water development revenue notes and water development revenue refunding bonds.

17. **Water management facilities.** "Water management facilities" means facilities for the purpose of the development, use and protection of water resources including, without limiting the generality of the foregoing, facilities for water supply, facilities for stream flow improvement, dams, reservoirs and other impoundments, water transmission lines, water wells and well fields, pumping stations and works for underground water recharge, stream managing systems, facilities for the stabilization of stream and river banks and facilities for the treatment of streams and rivers, including without limiting the generality of the foregoing, facilities for the removal of oil, debris and other solid waste from the waters of the State and stream and river aeration facilities.

18. **Water resources.** "Water resources" means all waters of the State occurring on the surface in natural or artificial channels, lakes, reservoirs or impoundments, and in subsurface aquifers, which are available or may be made available to agricultural, industrial, commercial, recreational, public and domestic users.

19. **Waters of the State.** "Waters of the State" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this State, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural surface or underground waters.

#### § 456. Creation of Water Development Authority

There is created the Maine Water Development Authority. Such authority is a body both corporate and politic in this State, and the carrying out of its purposes and the exercise by it of the powers conferred by this subchapter shall be held to be, and are determined to be, essential governmental functions and public purposes of the State, but the authority is not immune from liability by reason thereof.

The authority shall consist of 7 members as follows: five members appointed by the Governor, with the advice and consent of the Council, no more than 3 of whom shall be members of the same political party, and the Director of Parks and Recreation and the Commissioner of Health and Welfare who shall be members *ex officio* without compensation. The appointive members shall be residents of the State, and shall have been qualified electors therein for a period of at least 5 years next preceding their appointment. The members of the authority first appointed shall continue in office for terms expiring on July 1, 1971, July 1, 1973, July 1, 1975, July 1, 1977, and July 1, 1978, respectively, the term of each member to be designated by the Governor. The successor of each such member shall be appointed for a term of 8 years, except that any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term. A member of the authority is eligible for reappointment. Each appointed member of the authority, be-

fore entering upon his duties, shall take an oath as provided by the Constitution. The Governor may at any time remove any member of the authority for misfeasance, nonfeasance, or malfeasance in office.

The authority shall elect one of its appointed members as chairman and another as vice-chairman, and shall appoint a secretary-treasurer who need not be a member of the authority. Four members of the authority shall constitute a quorum, and the affirmative vote of 4 members shall be necessary for any action taken by vote of the authority. No vacancy in the membership of the authority shall impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the authority.

Before the issuance of any water development revenue bonds under this subchapter, each appointed member of the authority shall give a surety bond to the State in the penal sum of \$25,000 and the secretary-treasurer shall give such a bond in the penal sum of \$50,000, each such surety bond to be conditioned upon the faithful performance of the duties of the office, to be executed by a surety company authorized to transact business in this State, and to be approved by the Governor and filed in the office of the Treasurer of State. Each appointed member of the authority shall receive an annual salary of \$5,000, payable in monthly installments. Each member shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties. All expenses incurred in carrying out such sections shall be payable solely from funds provided under this subchapter, or appropriated for such purpose by the Legislature and no liability or obligation shall be incurred by the authority beyond the extent to which moneys have been provided under this subchapter or such appropriations.

#### § 457. Purposes

It is declared to be the public policy of the State through the establishment, operation and maintenance of water development projects as provided in this subchapter, to preserve, protect, upgrade, conserve, develop, utilize and manage the water resources of the State, to prevent or abate the pollution of water resources, to promote the beneficial use of waters of the State for the protection and preservation of the health, safety, convenience and welfare, the improvement of the economic welfare and employment opportunities of and the creation of jobs for the people of the State, and to assist and cooperate with governmental agencies in achieving such purposes. In furtherance of such public policy the Maine Water Development Authority may initiate, acquire, construct, maintain, repair and operate water development projects or cause the same to be operated pursuant to a lease, sublease or agreement with any person or governmental agency; may make loans and grants to governmental agencies for the acquisition or construction of waste water or water management facilities by such governmental agencies; and may issue water development revenue bonds of this State payable solely from revenues, to pay the cost of such projects. Any water development project shall be determined by the authority to be consistent with any applicable comprehensive plan of water management approved by the Director of Parks and Recreation or in the process of preparation by such director and to be not inconsistent with the standards set for the waters of the State

affected thereby by the Water and Air Environmental Commission. Any resolution of the authority providing for acquiring or constructing such projects or for making a loan or grant for such projects shall include a finding by the authority that such determinations have been made.

§ 458. Powers and duties

1. Duties. The Maine Water Development Authority may:

A. Adopt bylaws for the regulation of its affairs and the conduct of its business;

B. Adopt an official seal;

C. Maintain a principal office and suboffices at such places within the State as it designates;

D. Sue and plead in its own name; be sued and impleaded in its own name with respect to its contracts or torts of its members, employees or agents acting within the scope of their employment, or to enforce its obligations and covenants made under sections 460, 462 and 467. Any such actions against the authority shall be brought in the Superior Court of the county in which the principal office of the authority is located, or in the Superior Court of the county in which the cause of action arose, provided such county is located within this State, and all summonses, exceptions and notices of every kind shall be served on the authority by leaving a copy thereof at the principal office with the person in charge thereof or with the secretary-treasurer of the authority;

E. Make loans and grants to governmental agencies for the acquisition or construction of water development projects by any such governmental agency and adopt rules, regulations and procedures for making such loans and grants;

F. Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease or rent to, or contract for operation by, a governmental agency or person, water development projects, and establish rules and regulations for the use of such projects;

G. Make available the use or services of any water development project to one or more persons, one or more governmental agencies, or any combination thereof;

H. Issue water development revenue bonds and notes and water development revenue refunding bonds of the State, payable solely from revenues as provided in section 460, unless the bonds are refunded by refunding bonds, for the purpose of paying any part of the cost of one or more water development projects or parts thereof;

I. Acquire by gift or purchase, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this subchapter;

J. Acquire, in the name of the State, by purchase or otherwise, on such terms and in such manner as it deems proper, or by the exercise of the

right of condemnation in the manner provided by section 472, such public or private lands, including public parks, playgrounds or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements and interests as it deems necessary for carrying out this subchapter, but excluding the acquisition by the exercise of the right of condemnation of any waste water facility or water management facility owned by any person or governmental agency, and compensation shall be paid for public or private lands so taken;

K. Adopt rules and regulations to protect augmented flow in waters of the State, to the extent augmented by a water development project, from depletion so it will be available for beneficial use, and to provide standards for the withdrawal from waters of the State of the augmented flow created by a water development project which is not returned to the waters of the State so augmented and to establish reasonable charges therefor if deemed necessary by the authority;

L. Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers under this subchapter;

(1) When the cost under any such contract or agreement, other than compensation for personal services, involves an expenditure of more than \$2,000, the authority shall make a written contract with the lowest and best bidder after advertisement for not less than 2 consecutive weeks in a newspaper of general circulation in the State, and in such other publications as the authority determines, which notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids; provided that a contract or lease for the operation of a water development project constructed and owned by the authority or an agreement for cooperation in the acquisition or construction of a water development project pursuant to section 467 is not subject to foregoing requirements and the authority may enter into such contract or lease or such agreement pursuant to negotiation and upon such terms and conditions and for such period as it finds to be reasonable and proper in the circumstances and in the best interests of proper operation or of efficient acquisition or construction of such project.

(2) Each bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance thereof secured.

(3) The authority may reject any and all bids.

(4) A bond with good and sufficient surety, approved by the authority, shall be required of all contractors in an amount equal to at least 50% of the contract price, conditioned upon the faithful performance of the contract.



M. Employ managers, superintendents and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys and other consultants and independent contractors as are necessary in its judgment to carry out this subchapter, and fix the compensation thereof. All expenses thereof shall be payable solely from the proceeds of water development revenue bonds or notes issued under this subchapter, from revenues, or from funds appropriated for such purpose by the Legislature.

N. Receive and accept from any federal agency, subject to the approval of the Governor, grants for or in aid of the construction of any water development project or for research and development with respect to waste water or water management facilities, and receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions are made;

O. Engage in research and development with respect to waste water or water management facilities;

P. Purchase fire and extended coverage and liability insurance for any water development project and for the principal office and suboffices of the authority, insurance protecting the authority and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the authority may agree to provide under any resolution authorizing its water development revenue bonds or in any trust agreement securing the same;

Q. Charge, alter and collect rentals and other charges for the use or services of any water development projects as provided in section 467;

R. Provide coverage for its employees;

S. Do all acts necessary or proper to carry out the powers expressly granted in this subchapter.

#### § 459. Use of funds for study of development project

With the approval and the consent of the controlling board, the Director of Parks and Recreation or the Commissioner of Health and Welfare shall expend, out of any funds available for the purposes, such moneys as are necessary for the study of any proposed water development project, and may use its engineering and other forces, including consulting engineers and sanitary engineers, for the purpose of effecting such study. All such expenses incurred prior to the issuance of water development revenue bonds or notes under this subchapter, shall be paid by the respective director and commissioner incurring such expenses and charged to the appropriate water development project, and the respective director and commissioner shall keep proper records and accounts, showing the amounts so charged. Upon the sale of water development revenue bonds or notes for a water development project, the funds so expended by the respective director and commissioner, with the approval of the Maine Water Development Authority, in connec-

tion with such project, shall be reimbursed to the respective departments from the proceeds of such bonds or notes.

§ 460. Issuance of bonds and notes

The Maine Water Development Authority may, from time to time, issue water development revenue bonds and notes of the State in such principal amount as, in the opinion of the authority, are necessary for the purpose of paying any part of the cost of one or more water development projects or parts thereof. The authority may, from time to time, issue renewal notes, issue bonds to pay such notes and whenever it deems refunding expedient, refund any bonds by the issuance of water development revenue refunding bonds of the State, whether the bonds to be refunded have or have not matured, and issue bonds partly to refund bonds then outstanding, and partly for any other authorized purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded. Except as may otherwise be expressly provided by the authority, every issue of its bonds or notes shall be general obligations of the authority payable out of the revenues of the authority, which are pledged for such payment, without preference or priority of the first bonds issued, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues. Such pledge shall be valid and binding from the time the pledge is made and the revenues so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the authority.

Whether or not the bonds or notes are of such form and character as to be negotiable instruments, the bonds or notes shall have all the qualities and incidents of negotiable instruments, subject only to the provisions of the bonds or notes for registration.

The bonds and notes shall be authorized by resolution of the authority, shall bear such date or dates and shall mature at such time or times, in the case of any such note or any renewals thereof not exceeding 5 years from the date of issue of such original note, and in the case of any such bond not exceeding 40 years from the date of issue, as such resolution or resolutions may provide. The bonds and notes shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as the authority may authorize. The bonds and notes of the authority may be sold by the authority, at public or private sale, at or not less than such price or prices as the authority determines. The bonds and notes shall be executed by the chairman and vice-chairman of the authority, either or both of whom may use a facsimile signature, the official seal of the authority or a facsimile thereof shall be affixed thereto or printed thereon and attested, manually or by

facsimile signature, by the secretary-treasurer of the authority, and any coupons attached thereto shall bear the signature or facsimile signature of the chairman of the authority. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes or coupons ceases to be such officer before delivery of bonds or notes, such signature or facsimile is nevertheless sufficient for all purposes the same as if he had remained in office until such delivery, and in case the seal of the authority has been changed after a facsimile has been imprinted on such bonds or notes, such facsimile seal will continue to be sufficient for all purposes.

Any resolution or resolutions authorizing any bonds or notes or any issue thereof may contain provisions, subject to such agreements with bondholders or noteholders as may then exist, which provisions shall be a part of the contract with the holders thereof, as to: Pledging all or any part of the revenues of the authority to secure the payment of the bonds or notes or of any issue thereof; the use and disposition of revenues of the authority; a covenant to fix, alter and collect rentals and other charges so that pledged revenues will be sufficient to pay costs of operation, maintenance and repairs, pay principal of and interest on bonds or notes secured by the pledge of such revenues, and provide such reserves as may be required by the applicable resolution or trust agreement; the setting aside of reserve funds, sinking funds or replacement and improvement funds and the regulation and disposition thereof; the crediting of the proceeds of the sale of bonds or notes to and among the funds referred to or provided for in the resolution authorizing the issuance of the bonds or notes; the use, lease, sale or other disposition of any water development project or any other assets of the authority; limitations on the purpose to which the proceeds of sale of bonds or notes may be applied and pledging such proceeds to secure the payment of the bonds or notes or of any issue thereof; as to notes issued in anticipation of the issuance of bonds, the agreement of the authority to do all things necessary for the authorization, issuance and sale of such bonds in such amounts as may be necessary for the timely retirement of such notes; limitations and the issuance of additional bonds or notes; the terms upon which additional bonds or notes may be issued and secured; the refunding of outstanding bonds or notes; the procedure, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto, and the manner in which such consent may be given; limitations on the amount of moneys to be expended by the authority for operating, administrative, or other expenses of the authority; securing any bonds or notes by a trust agreement in accordance with section 465; any other matters, of like or different character, which in any way affect the security or protection of the bonds or notes.

Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

§ 461. Exempt from bond issuing requirements

The issuance of water development revenue bonds and notes or water development revenue refunding bonds under this subchapter need not comply with any other law applicable to the issuance of bonds or notes.

§ 462. Trust agreement to secure bonds, notes or refunding bonds

In the discretion of the Maine Water Development Authority any water development revenue bonds or notes or water development revenue refunding bonds issued under this subchapter, may be secured by a trust agreement between the authority and a corporate trustee, which trustee may be any trust company or bank having the powers of a trust company within or without the State.

Any such trust agreement may pledge or assign revenues of the authority to be received, but shall not convey or mortgage any water development project or any part thereof. Any such trust agreement or any resolution providing for the issuance of such bonds or notes may contain such provisions for protecting and enforcing the rights and remedies of the bondholders or noteholders as are reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of property, the construction, improvement, maintenance, repair, operation and insurance of the water development project or projects in connection with which such bonds or notes are authorized, the rentals or other charges to be imposed for the use or services of any water development project, the custody, safeguarding and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such water development project or projects. Any bank or trust company incorporated under the laws of this State which may act as depository of the proceeds of bonds or notes or of revenues may furnish such indemnifying bonds or may pledge such securities as are required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and noteholders and of the trustee, and may restrict the individual right of action by bondholders and noteholders as is customary in trust agreements or trust indentures securing similar bonds. Such trust agreement may contain such other provisions as the authority deems reasonable and proper for the security of the bondholders or noteholders. All expenses incurred in carrying out any such trust agreement may be treated as a part of the cost of the operation of the water development project or projects. Any such trust agreement or resolution authorizing the issuance of water development revenue bonds may provide the method whereby the general administrative overhead expenses of the authority shall be allocated among the several projects acquired or constructed by it as a factor of the operation expense of each such project.

§ 463. Enforcement of rights by holders of bonds and trustees

Any holder of water development revenue bonds issued under this subchapter or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given by this subchapter may be restricted by the applicable resolution or such trust agreement, may by suit, action, mandamus or other proceedings, protect and enforce

any rights under the laws of the State or granted under this subchapter, trust agreement, or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this subchapter, or by the trust agreement or resolution, to be performed by the Maine Water Development Authority or any officer thereof, including the fixing, charging and collecting of rentals or other charges.

§ 464. Bonds not a debt of the State or a political subdivision

Water development revenue bonds and notes and water development revenue refunding bonds issued under this subchapter do not constitute a debt, or a pledge of the faith and credit, of the State or of any political subdivision thereof, and the holders or owners thereof have no right to have taxes levied by the Legislature or taxing authority of any political subdivision of the State for the payment of the principal thereof or interest thereon, but such bonds and notes are payable solely from the revenues and funds pledged for their payment as authorized by this subchapter, unless the notes are issued in anticipation of the issuance of bonds or the bonds are refunded by refunding bonds issued under this subchapter, which bonds or refunding bonds shall be payable solely from revenues and funds pledged for their payment as authorized by such sections. All such bonds and notes shall contain on the face thereof a statement to the effect that the bonds or notes, as to both principal and interest, are not debts of the State or any political subdivision thereof, but are payable solely from revenues and funds pledged for their payment.

All expenses incurred in carrying out this subchapter are payable solely from funds provided under this subchapter. This subchapter does not authorize the Maine Water Development Authority to incur indebtedness or liability on behalf of or payable by the State of any political subdivision thereof.

§ 465. Property and moneys held in trust

All moneys, funds, properties, and assets acquired by the Maine Water Development Authority under this subchapter, whether as proceeds from the sale of water development revenue bonds or as revenues, or otherwise, shall be held by it in trust for the purposes of carrying out its powers and duties, shall be used and reused as provided in this subchapter, and shall at no time be part of other public funds. Such funds, except as otherwise provided in any resolution authorizing its water development revenue bonds or in any trust agreement securing the same, or except when invested pursuant to section 466, shall be kept in depositories as selected by the authority and the deposits shall be secured. The resolution authorizing the issuance of such bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such moneys are paid shall act as trustee of such moneys and hold and apply them for the purposes hereof, subject to such conditions as this subchapter, and such resolution or trust agreement provide.

§ 466. Investment of surplus funds

Moneys in the funds of the Maine Water Development Authority, except as otherwise provided in any resolution authorizing the issuance of its water development revenue bonds or in any trust agreement securing the same, in excess of current needs, may be invested in notes, bonds or other obligations of the United States of America, or of any agency or instrumentality thereof, or in obligations of this State or any political subdivision thereof. Income from all such investments of moneys in any fund shall be credited to such funds as the authority determines, subject to any such resolution or trust agreement, and such investments may be sold at such times as the authority determines.

§ 467. Rentals or other charges; cooperation with agencies; waste water facility; water management facility

The Maine Water Development Authority may charge, alter and collect rentals or other charges for the use or services of any water development project and contract in the manner provided by this section with one or more persons, one or more governmental agencies or any combination thereof, desiring the use or services thereof, and fix the terms, conditions, rentals or other charges for such use or services. Such rentals or other charges shall not be subject to supervision or regulation by any other authority, commission, board, bureau or agency of the State and such contract may provide for acquisition by such person or governmental agency of all or any part of such water development project for such consideration payable over the period of the contract or otherwise as the authority in its sole discretion determines to be appropriate, but subject to any resolution authorizing the issuance of water development revenue bonds or notes or water development revenue refunding bonds of the authority or any trust agreement securing the same. Any governmental agency which has power to construct, operate and maintain waste water facilities or water management facilities may enter into a contract or lease with the authority whereby the use or services of any water development project of the authority will be made available to such governmental agency and pay for such use or services such rentals or other charges as may be agreed to by the authority and such governmental agency.

Any governmental agency or combination thereof may cooperate with the authority in the acquisition or construction of a water development project and shall enter into such agreements with the authority as are necessary, with a view to effective cooperative action and safeguarding of the respective interests of the parties thereto, which agreements shall provide for such contributions by the parties thereto in such proportion as may be agreed upon and such other terms as may be mutually satisfactory to the parties including without limitation the authorization of the construction of the project by one of the parties acting as agent for all of the parties and the ownership and control of the project by the authority to the extent necessary or appropriate for purposes of the issuance of water development revenue bonds by the authority. Any governmental agency may provide such contribution as is required under such agreements by the appropriation of money or, if otherwise authorized by law to issue bonds or notes or levy

taxes or assessments and issue notes or bonds in anticipation of the collection thereof, by the issuance of bonds or notes or by the levying of taxes or assessments and the issuance of bonds or notes in anticipation of the collection thereof, and by the payment of such appropriated money or the proceeds of such bonds or notes to the authority pursuant to such agreements.

Any governmental agency, pursuant to a favorable vote of the electors in an election held before or after the effective date of this section for the purpose of issuing bonds to provide funds to acquire, construct or equip, or provide real estate and interests in real estate for, a waste water facility or a water management facility, whether or not the governmental agency, at the time of such election, had the authority to pay the proceeds from such bonds or notes issued in anticipation thereof to the authority as provided in this section, may issue such bonds or notes in anticipation of the issuance thereof and pay the proceeds thereof to the authority in accordance with its agreement with the authority; provided that the legislative authority of the governmental agency finds and determines that the water development project to be acquired or constructed by the authority in cooperation with such governmental agency will serve the same public purpose and meet substantially the same public need as the facility otherwise proposed to be acquired or constructed by the governmental agency with the proceeds of such bonds or notes.

#### § 468. Maintenance and repair of project

Each water development project, when constructed and placed in operation shall be maintained and kept in good condition and repair by the Maine Water Development Authority or the authority shall cause the same to be maintained and kept in good condition and repair. Each such project shall be operated by such operating employees as the authority employs or pursuant to a contract or lease with a governmental agency or person. All public or private property damaged or destroyed in carrying out the powers granted by this subchapter, shall be restored or repaired and placed in its original condition, as nearly as practicable, or adequate compensation made therefor out of funds provided under this subchapter.

On or before the first day of March in each year, the authority shall make an annual report of its activities for the preceding calendar year to the Governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the year. The authority shall cause an audit of its books and accounts to be made at least once each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operations of its projects.

#### § 469. Water development bonds are lawful investments

All water development revenue bonds issued under this subchapter are lawful investments of banks, societies for savings, building and loan and savings and loan associations, deposit guarantee associations, trust companies, trustees, fiduciaries, insurance companies, including domestic for life and domestic not for life, trustees or other officers having charge of sink-

ing and bond retirement or other special funds of political subdivisions and taxing districts of this State, the Industrial Accident Commission and the State Retirement System, and are acceptable as security for the deposit of public moneys.

§ 470. Exemption from taxes and assessments

The exercise of the powers granted by this subchapter will be in all respects for the benefit of the people of the State, for the improvement of their health, safety, convenience and welfare, and for the enhancement of their residential, agricultural, recreational, economic, commercial and industrial opportunities and is a public purpose. As the operation and maintenance of water development projects will constitute the performance of essential governmental functions, the Maine Water Development Authority shall not be required to pay any taxes or assessments upon any water development project, or upon any property acquired or used by the authority under this subchapter, or upon the income therefrom, and the bonds and notes issued under this subchapter, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the State.

§ 471. Acquisition of property

The Maine Water Development Authority may acquire by purchase, whenever it deems such purchase expedient, any land, property, rights, rights-of-way, franchises, easements and other interests in lands as it deems are necessary or convenient for the construction and operation of any water development project, upon such terms and at such price as it considers reasonable and can be agreed upon between the authority and the owner thereof, and take title thereto in the name of the State.

All governmental agencies, notwithstanding any contrary provision of law, may lease, lend, grant or convey to the authority, at its request, upon such terms as the proper authorities of such governmental agencies deem reasonable and fair and without the necessity for an advertisement, auction, order of court or other action or formality, other than the regular and formal action of the governmental agency concerned, any real property or interests therein including improvements thereto or personal property which is necessary or convenient to the effectuation of the authorized purposes of the authority, including public roads and other real property or interests therein including improvements thereto or personal property already devoted to public use.

§ 472. Appropriation of property; limitation

The Maine Water Development Authority may acquire by appropriation pursuant to paragraph J of section 458 any land, rights, right-of-way, franchises, easements or other property necessary or proper for the construction or the efficient operation of any water development project.

This section does not authorize the authority to take or disturb property or facilities belonging to any public utility or to a common carrier engaged in interstate commerce, which property or facilities are required for the proper



and convenient operation of such public utility or common carrier, unless provision is made for the restoration, relocation or duplication of such property or facilities elsewhere at the sole cost of the authority.

§ 473. Relocation or vacation of roads, railroad, public utility

When the Maine Water Development Authority finds it necessary to change the location of any portion of any public road, state highway, railroad or public utility facility in connection with the construction of a water development project, it shall cause the same to be reconstructed at such location as the division of government having jurisdiction over such road, highway, railroad or public utility facility deems most favorable. Such construction shall be of substantially the same type and in as good condition as the original road, highway, railroad or public utility facility. The cost of such reconstruction, relocation or removal and any damage incurred in changing the location of any such road, highway, railroad or public utility facility shall be paid by the authority as a part of the cost of such water development project.

When the authority finds it necessary that any public highway or portion thereof be vacated by reason of the acquisition or construction of a water development project, the authority may request the Highway Commission, in writing, to vacate such highway or portion thereof if the highway or portion thereof to be vacated is on the state highway system, or, if the highway or portion thereof to be vacated is under the jurisdiction of the county commissioners, the authority shall request the Highway Commission, in writing, to petition the county commissioners to vacate such highway or portion thereof. The authority shall pay to the Highway Commission or to the county, as the case may be, as a part of the cost of such water development project, any amounts required to be deposited with any court in connection with proceedings for the determination of compensation and damages and all amounts of compensation and damages finally determined to be payable as a result of such vacation.

The authority may make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of railroad or public utility facilities in, on, over or under any water development project. Whenever the authority determines that it is necessary that any such facilities installed or constructed in, on, over or under property of the authority pursuant to such regulations be relocated, the public utility owning or operating such facilities shall relocate or remove them in accordance with the order of the authority. The cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location, the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, may be paid by the authority as a part of the cost of such water development project. In case of any such relocation or removal of facilities, the railroad or public utility owning or operating them, its successors or assigns may maintain and operate such facilities, with the necessary appurtenances, in the new location in, on, over or under the property of the authority for as long a period and upon

the same terms as it had the right to maintain and operate such facilities in their former location.

§ 474. Interest in contract prohibited

No officer, member or employee of the Maine Water Development Authority shall be financially interested, directly or indirectly, in a contract of any person with the authority, or in the sale of any property, real or personal, to or from the authority. This section does not apply to contracts or purchases of property, real or personal, between the authority and any governmental agency.

§ 475. Public meetings; inspection of records, journalization

All meetings of the Maine Water Development Authority shall be public and the records of the authority shall be open to public inspection at all reasonable times, except as otherwise provided in this section. All final actions of the authority shall be journalized and such journal shall be open to the inspection of the public at all reasonable times. Any records or information relating to secret processes or secret methods of manufacture or production which may be obtained by the authority are confidential and shall not be disclosed.

§ 476. Liberal construction

This subchapter being necessary for the welfare of the State and its inhabitants shall be liberally construed to effect the purposes thereof.

§ 477. Penalties

Whoever violates section 474 shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year, or by both.