

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

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Legislative Document

No. 1617

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S. P. 423

In Senate, April 3, 1975

Taken from the table by the President and referred to Committee on Energy. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Cianchette of Somerset.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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AN ACT Creating the Maine Industrial Authority.

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

to MRSA Pt. 15, c. 1401, is enacted to read:

PART 15

INDUSTRIAL AUTHORITIES

CHAPTER 1401

MAINE INDUSTRIAL AUTHORITY

§ 13001. Title

This chapter shall be known as, and may be cited as, the "Maine Industrial Authority Act."

§ 13002. Findings, purposes and declarations of necessity

It is found and declared that the State of Maine, by virtue of its physical location, climate, industrial base and dependence on imported oil, is in a comparatively disadvantaged position in comparison with other states of the United States in providing easy and economical access to markets for its products; and that in the past decades, the lack of employment opportunities within the State has forced the youth of the State to look elsewhere for employment; and that the unemployment rate within the State has been substantially in excess of the national average; that the State's economically disadvantageous position is due, in part, to the uncertainty of supply and high cost of petroleum products; and that the State possesses a number of

natural resources which are unique in the northeast region of the United States, including, but not limited to, resources which can be developed for alternate sources of energy, as well as deepwater ports, vast undeveloped land areas, many freshwater lakes and ponds and major intrastate river systems; and that economics of modern bulk oil transportation dictate the use of "super tankers" which require deepwater ports; and that along the northeast seaboard, Maine is the only state which naturally possesses such deepwater ports; and that oil interests have shown and are currently showing interest in locating a bulk oil terminal and an oil refinery within the State which would insure an adequate supply of petroleum products to the State at a competitive cost; and that the State, despite recent legislation, possesses inadequate means to protect from environmental and economic damage its coastal resources which represent one of its most valuable assets.

It is, therefore, the purpose of this chapter to protect the safety, health and welfare of the people of the entire State by the development by private enterprise and public initiative and acquisition of a means by which to stimulate the economic, industrial and commercial development, the coordination, creation and improvement of new and existing transportation facilities enabling products to move more efficiently within the State and reach market places, and the development of independent sources of energy, and to protect and provide for the utilization of Maine's unique natural resources in the most efficient manner. It is, therefore, declared that it is the policy of this State to protect the safety, health and welfare of the people by providing new and expanded employment opportunities, new and modernized transportation facilities, more efficient utilization of available sources of energy, and the protection of natural resources through the planned development of the same consistent with environmental protection and for these purposes, the establishment, creation and operation of the Maine Industrial Authority is declared the exercise of an essential governmental function.

### § 13003. Definitions

As used in this chapter unless the context otherwise indicates the following words shall have the following meanings:

1. **Authority.** "Authority" means the Maine Industrial Authority created and established as a public body, corporate and politic, of the State of Maine by section 13004 or any board, body, commission, department, office or officer succeeding to the principal functions thereof or to whom the powers conferred upon the authority by this chapter shall be given by law.

2. **Bonds and notes.** "Bonds" and "notes" mean bonds and notes of the authority issued under this chapter, including refunding bonds and notes.

3. **Cost.** "Cost" as applied to a project or any portion thereof financed under this chapter shall mean the cost of construction, building, acquisition, equipping, alteration, enlargement, reconstruction and remodeling of a project and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interest acquired, necessary to, used for, useful for or in connection with, a project and all other undertakings

which the authority deems reasonable or necessary for the development of a project, including but not limited to the cost of demolishing or removing any building or structures on land so acquired; the cost of acquiring any lands to which such building or structures may be moved, including dredging, draining or filling on such lands or other site preparation; the cost of all machinery and equipment, financing charges, interest prior to and during construction, and, if judged advisable by the authority, for a period after completion of such construction; the cost of financing the project, including interest on bonds and notes issued by the authority to finance the project; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions and improvements; cost of architectural, engineering, financial, legal or other special services, plans, specifications, studies, surveys, estimates of cost and revenues; administrative and operating expenses, expenses necessary or incident to determining the feasibility or practicability of constructing the project; and such other expenses necessary or incident to the construction and acquisition of the project, the financing of such construction and acquisition and the placing of the project in operation.

4. **Participating industry.** "Participating industry" means those industries, businesses or service facilities which locate within the territorial limits of the authority or which are parties to a contract or agreement with the authority or which, for any reason, come within the jurisdiction or control of the Maine Industrial Authority.

5. **Project.** "Project" means the acquisition, reconstruction, improvement, reconstruction or equipping of, or construction of, an addition or additions to, any structure designed for use within the territorial limits of the authority or other structure or facilities related to any of the foregoing or required or useful for the operation of the project, or the refinancing of existing indebtedness in connection with any of the foregoing, including parking and other facilities or structures essential or convenient for the orderly conduct of such participating industry and shall include all real and personal property, lands, improvements, roads, approaches, pedestrian access roads, rights-of-way, utilities, easements, machinery and equipment, and all other appurtenances and facilities either on, above or under the ground which are used or usable in connection with the aforementioned structures, and shall include landscaping, site preparation, furniture, machinery and equipment and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended, but shall not include such items as are customarily considered a current operating charge.

6. **Territorial limits.** "Territorial limits" of the authority shall mean that portion of the land, water and air of the State that the Legislature shall, by subsequent legislation, designate.

§ 13004. **Maine Industrial Authority; executive director**

1. **Authority.** There is created a body politic and corporate to be known as the "Maine Industrial Authority." Said authority is constituted a public body, corporate and politic, and an instrumentality of the State, and the

exercise by the authority of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental and public function. Said authority shall consist of 16 members who shall be residents of the State of Maine, 12 of whom shall be regular members and shall be appointed by the Governor, with the advice and consent of the Executive Council, not more than 7 of such appointed members to be members of the same political party, and who shall generally represent the following areas of interest within the State: Organized labor, recreational industry, fishing and fish processing industry, manufacturing industry, transportation industry, the field of finance, conservation, energy, a selectman or duly elected municipal officer from one of the municipalities within the territorial limits of the authority, and 3 regular members representing the public generally. There shall additionally be elected in the January of the convening of each legislative session of the Legislature of the State of Maine one member each of the Senate and House of Representatives to serve as regular members for the duration of that legislative session. The Commissioner of the Department of Commerce and Industry and the Commissioner of the Department of Transportation shall be members of the authority, ex officio, but shall not be regular members and shall have no voting privileges. The 12 initially appointed members of the authority shall be appointed for terms which shall expire on the last day of January of the next year the Legislature is in regular session. Following their appointment and thereafter,  $\frac{1}{2}$  shall be appointed for 2-year terms and  $\frac{1}{2}$  for 4-year terms which shall expire on the last day of February in the next year in which the Legislature is in regular session. Members shall continue in office until their successors have been appointed, and qualified. The Governor, with the advice and consent of the Executive Council, shall fill any vacancy for the unexpired term. A member of the authority shall be eligible for reappointment. Any regular member of the authority may be removed by the Governor and Executive Council, after hearing, for misfeasance, malfeasance or willful neglect of duty. Each regular member of the authority, before entering upon his duties, shall take and subscribe the oath or affirmation required by the Constitution, Article IX. A record of each oath shall be filed in the office of the Secretary of State. The Commissioner of the Department of Commerce and Industry and the Commissioner of the Department of Transportation may designate their deputies or any member of their staffs to represent them as ex officio members at meetings of the authority with full power to act in their behalf.

2. Chairman; vice-chairman; executive director. The authority shall, at its organizational meeting and annually thereafter, elect one of its regular members as chairman and one as vice-chairman, and shall appoint an executive director, who shall not be a member of the authority and who shall serve at the pleasure of the authority and receive such compensation as shall be fixed by the authority.

3. Duties of executive director. The executive director shall keep a record of the proceedings of the authority and shall be custodian of all books, documents and papers filed with the authority, the minute book or journal of the authority and of its official seal. He may cause copies to be made of

all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.

4. Powers of authority. The powers of the authority shall be vested in the regular members thereof in office from time to time and 7 regular members of the authority shall constitute a quorum at any meeting of the authority. No vacancy in the regular membership of the authority shall impair the right of such regular members to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under this chapter may be authorized by resolution approved by a majority of the regular members present at any regular or special meeting, which resolution shall take effect immediately or by a resolution circularized or sent to each regular member of the authority, which shall take effect at such time as a majority of the regular members of the authority shall have signed an assent to such resolution. Resolutions of the authority need not be published or posted. The authority may delegate by resolution to one or more of its members or its executive director such powers and duties as it may deem proper.

5. Bond. Each regular member of the authority shall, before any notes, bonds or other evidences of indebtedness are issued, execute a surety bond in the penal sum of \$50,000 and the executive director shall execute a surety bond in the penal sum of \$100,000, or, in lieu thereof, the chairman of the authority shall execute a blanket position bond covering each member, the executive director and the employees of the authority, each surety bond to be conditioned upon the faithful performance of the duties of the office or offices covered, to be executed by a surety company authorized to transact business in this State as surety and to be approved by the Attorney General and filed in the office of the Secretary of State. The cost of each surety bond shall be paid by the authority.

6. Expenses. The regular members of the authority shall receive compensation in the sum of \$30 per day for the performance of their duties and each such regular member shall be paid his necessary expenses incurred while engaged in the performance of such duties.

7. Conflict of interest. Notwithstanding any other law to the contrary, it shall not be or constitute a conflict of interest for a trustee, director, officer or employee of a participating industry to serve as a regular member of the authority, provided such trustee, director, officer or employee shall abstain from deliberation, action and vote by the authority under this chapter in specific respect to the participating industry of which such regular member is a trustee, director, officer or employee.

8. Organizational Meeting. Within 30 days of the appointment of a majority of the members of the authority, the Commissioner of the Department of Commerce and Industry shall, upon 7 day's written notice, call an organizational meeting of the authority.

**§ 13005. Powers of authority**

The purpose of the authority shall be to assist in the planning, financing and construction of a project or projects, including a modern industrial complex and adequate and proximate energy supply and related incidences thereto, which are declared to be public purposes and, for the purposes of this chapter, the authority is authorized and empowered:

1. **Bylaws.** To have perpetual succession as a body politic and corporate and to adopt bylaws for the regulation of its affairs and the conduct of its business;

2. **Seal.** To adopt an official seal and alter the same at pleasure;

3. **Office.** To maintain an office at such place or places as it may designate;

4. **Sue.** To sue and be sued in its own name, and plead and be impleaded;

5. **Leases, contracts and prerequisite approvals.** To enter into long as well as short term leases and contracts upon such terms and conditions as it shall deem to be in the best interest of the State consistent with the purposes of this chapter with such private or public bodies, personal or corporate, as it in its discretion deems proper, for the privilege of doing business with the authority or within the territorial limits of the authority, to build, construct and operate projects, including structures, plants or facilities of any kind within the territorial limits of the authority or in conjunction with and consistent with the purposes of the authority. In making a determination as to the persons with which it shall contract, lease or make other arrangements and the terms and conditions of such relationship, the authority shall consider and give preference to the best interests of the State, including but not limited to employment opportunities, coordination and compatibility with existing facilities and activities, including transportation, environmental safeguards and minimization of ecological risk, and anticipated direct and indirect benefit to the people of the State as a whole; and further, whenever practicable, in the opinion of the authority, give preference to Maine persons, firms, corporations and labor. In no event shall any of the terms and conditions of any contract, lease or other arrangement be less stringent than those required by state law or rule and regulation of any state agency upon similar activities within the State and all applicable licenses, permits and other approvals required by law shall apply to all contracts and agreements and all activities within the territorial limits of the authority;

6. **Bonds.** To borrow money and issue bonds, notes, bond anticipation notes and other obligations of the authority for any of its corporate purposes, and to fund or refund the same at or prior to their maturity, all as provided in this chapter;

7. **Rates and fees.** Generally, to fix and revise from time to time and charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and to contract with any person, partnership, association, corporation or other body, public or private, in respect thereof;

8. Rules and regulations. To establish rules and regulations for the use of a project or any portion thereof and to designate agents to establish rules and regulations for the use of a project undertaken by such participating industry;

9. Consultants and agents. To employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as may be necessary in its judgment and to fix their compensation;

10. Grants. To receive and accept or contract for from the Federal Government, foreign governments, or the State or other states, or any other public agency, person, corporation or any other source, loans or grants for or in aid of the construction of projects or any portion thereof, and to receive and accept loans, grants, aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for purposes consistent with this chapter for which such loans, grants, aid and contributions are made;

11. Mortgages. To mortgage any project and the site thereof for the benefit of the holders of bonds or notes or other obligations issued to finance such project;

12. Apportionment. To charge to and equitably apportion among participating industries its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter;

13. Other acts. To do all things necessary or convenient to carry out the purposes of this chapter. In carrying out the purposes of this chapter, the authority may undertake a project for 2 or more participating industries jointly, and, thereupon, all other provisions of this chapter shall apply to and for the benefit of the authority and such joint participants.

14. Notwithstanding anything in this chapter to the contrary, until such time as the Legislature shall, by subsequent legislation, establish the territorial limits of the authority, the authority shall not exercise any of the powers granted it in this chapter except those which in its discretion are reasonable and necessary to organize it as a body corporate, and to study, plan and recommend as soon as possible to the Legislature for its consideration the location and desirable territorial limits of any project.

#### § 13006. Payment of expenses

All expenses incurred in carrying out this chapter shall be payable solely from funds provided under the authority of this chapter and no liability or obligation shall be incurred by the authority beyond the extent to which moneys shall have been provided under this chapter.

#### § 13007. Acquisition of property by the authority

The authority is authorized and empowered, directly or indirectly, to acquire such lands, structures, property, real or personal, rights, rights-of-way, franchises, easements and other interests in lands, including lands lying under



water and riparian rights, which are located within the territorial limits of the authority as it may deem necessary or convenient for the construction or operation of a project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of the authority. If compensation for such property so taken cannot be agreed upon by the parties, the authority may proceed in accordance with Title 23, chapter 3, subchapter III. In no event, however, shall the property rights, easements, franchises or other interests of a public utility be acquired without agreement from the public utility and approval of the Maine Public Utilities Commission.

#### § 13008. Notes of the authority

The authority is authorized from time to time to issue its negotiable notes for any corporate purpose, including the payment of all or any part of the cost of any project, and renew from time to time any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed and delivered in the same manner as bonds. Any resolution or resolutions authorizing notes of the authority or any issue thereof may contain any provisions which the authority is authorized to include in any resolution or resolutions authorizing bonds of the authority or any issue thereof, and the authority may include in any notes, any terms, covenants or conditions which it is authorized to include in any bonds. All such notes shall be payable from the proceeds of bonds or renewal notes or from the revenues of the authority or other moneys available therefor and not otherwise pledged, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

#### § 13009. Bonds of the authority

1. Negotiable. The authority is authorized from time to time to issue its negotiable bonds for the purpose of financing all or a part of the cost of any projects authorized. In anticipation of the sale of such bonds, the authority may issue negotiable bond anticipation notes and may renew the same from time to time. Such notes shall be paid from any revenues of the authority or other moneys available therefor and not otherwise pledged, or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond resolution of the authority may contain.

2. General obligations. Except as may otherwise be expressly provided by the authority, every issue of its bonds, notes or other obligations shall be general obligations of the authority, payable from any revenues or moneys of the authority available therefor and not otherwise pledged, subject only to any agreements with the holders of particular bonds, notes or other obligations pledging any particular revenues or moneys and subject to any agreements with any participating industry. Notwithstanding that such bonds,

notes or other obligations may be payable from a special fund, they shall be and be deemed to be, for all purposes, negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, Article 8, subject only to the provisions of such bonds, notes or other obligations for registration.

3. Issuance. The bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the regular members of the authority and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates, bear interest at such rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption as such resolution or resolutions may provide. The bonds or notes may be sold at public or private sale for such price or prices as the authority shall determine. The power to fix the date of sale of bonds, to receive bids or proposals, to award and sell bonds, and to take all other necessary action to sell and deliver bonds may be delegated to the executive director of the authority by resolution of the authority. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds.

4. Provisions. Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions which shall be a part of the contract with the holders of the bonds to be authorized, as to:

A. Pledging the full faith and credit of the authority and all or any part of the revenues of a project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation, association or other body, politic or private, to secure the payment of the bonds or of any particular issue of bonds, subject to such agreements with bondholders as may then exist;

B. The rentals, fees and other charges to be charged, the amounts to be raised in each year thereby and the use and disposition of the revenues;

C. The setting aside of reserves or sinking funds and the regulation and disposition thereof;

D. Limitations on the right of the authority or its agent to restrict and regulate the use of the project;

E. Limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds;

F. Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds;

G. The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

H. Limitations on the amount of moneys derived from the project to be expended for operating, administrative or other expenses of the authority;

I. Defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default;

J. The mortgaging of a project and the site thereof for the purpose of securing the bonds; and

K. Such other additional covenants, agreements and provisions as are judged advisable or necessary by the authority for the security of the holders of such bonds.

5. Personal liability. Neither the members of the authority nor any person executing the bonds, notes, bond anticipation notes or other obligations shall be liable personally on the bonds, notes, bond anticipation notes or other obligations, or be subject to any personal liability or accountability by reason of the issuance thereof.

6. Purchase. The authority shall have the power, out of any funds available therefor, to purchase its bonds or notes. The authority may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

#### § 13010. Trust agreement to secure bonds

In the discretion of the authority any bonds issued under this chapter may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or any portion thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper, and not in violation of law, including particularly such provisions as have been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof. Any bank or trust company incorporated under the laws of this State or of the United States, which may act as a depository of the proceeds of bonds or of revenues or other moneys, may furnish such indemnifying bonds or pledge such securities as may be required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition, any such trust agreement or resolution may contain such other provisions as the authority

may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out such trust agreement or resolution may be treated as a part of the cost of the operation of a project.

§ 13011. Credit of state not pledged

Bonds, notes, bond anticipation notes or other obligations issued under this chapter shall not constitute or create any debt or debts, liability or liabilities on behalf of the State or of any political subdivision thereof 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 such political subdivision other than the authority, but shall be payable solely from the funds provided therefor. All such bonds and notes shall contain on the face thereof a statement to the effect that neither the State of Maine nor any political subdivision thereof shall be obligated to pay the same or the interest thereon, except from revenues of the project or the portion thereof for which they are issued and that neither the faith and credit nor the taxing power of the State of Maine or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds or notes. The issuance of bonds or notes under this chapter shall not directly or indirectly or contingently obligate the State or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Nothing in this section contained shall prevent nor be construed to prevent the authority from pledging its full faith and credit or the full faith and credit of a participating industry to the payment of bonds or notes or issue of notes or bonds authorized pursuant to this chapter.

§ 13012. Rents and charges

The authority is authorized to fix, revise, charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by each project and to contract with any person, partnership, association, corporation or other body, public or private, in respect thereof. Such rates, rents, fees and charges shall be fixed and adjusted in respect of the aggregate of rates, rents, fees and charges from such project so as to provide funds sufficient with other revenues or moneys available therefor, if any, to pay the cost of maintaining, repairing and operating the project and each and every portion thereof, to the extent that the payment of such cost has not otherwise been adequately provided for, to pay the principal of and the interest on outstanding bonds or notes of the authority issued in respect of such project as the same shall become due and payable, and to create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, such bonds or notes of the authority. Such rates, rents, fees and charges shall not be subject to supervision or regulation by any department, commission, board, body, bureau or agency of this State other than the authority. A sufficient amount of the revenues derived in respect of a project, except such part of such revenues as may be necessary to pay the cost of maintenance, repair and operation and to provide reserves and for renewals, replacements, extensions, enlargements and improvements as may be provided for in the resolution authorizing the issuance of any bonds or notes of the authority or in the trust agreement securing the same,

shall be set aside at such regular intervals as may be provided in such resolution or trust agreement in a sinking or other similar fund which is pledged to, and charged with, the payment of the principal of and the interest on such bonds or notes as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the rates, rents, fees and charges and other revenues or other moneys 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 shall be 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 or any trust agreement nor any other agreement nor any lease to which the authority is a party need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the resolution authorizing the issuance of such bonds or notes or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking or other similar fund may be a fund for all such bonds or notes issued to finance projects without distinction or priority of one over another, provided the authority in any such resolution or trust agreement may provide that such sinking or other similar fund shall be the fund for a particular project and for the bonds issued to finance a particular project and may, additionally, permit and provide for the issuance of bonds having a subordinate lien in respect of the security authorized to other bonds of the authority, and, in such case, the authority may create separate sinking or other similar funds in respect of such subordinate lien bonds.

#### § 13013. Trust funds

All moneys received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds or notes or as revenues, are trust funds to be held and applied solely as provided in this chapter. Any officer with whom, or any bank or trust company with which, such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this chapter, subject to such regulations as this chapter and the resolution authorizing bonds or notes of any issue or the trust agreement securing such bonds or notes provide.

The authority shall have the power to contract with the holders of any of its bonds, notes, bond anticipation notes and other obligations as to the custody, collection, securing, investment and payment of any moneys of the authority and to carry out such contract.

#### § 13014. Enforcement of rights and duties

Any holder of bonds, notes, bond anticipation notes, other notes or other obligations issued under this chapter or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds, may,

either at law or in equity, by suit, action, mandamus, foreclosure or other proceedings, protect and enforce any and all rights under the laws of the State or granted under this chapter or under such resolution or trust agreement, 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 authority or by any member, officer, employee or agent thereof, including the fixing, charging and collecting of the rates, rents, fees and charges authorized and required by such resolution or trust agreement to be fixed, established and collected.

#### § 13015. Exemption from taxation

The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the State, for the increase of their commerce, welfare and prosperity, and will constitute the performance of an essential governmental function, and neither the authority nor its agent shall or may be required to pay any taxes or assessments upon or in respect of a project or projects or any property acquired, used by the authority or its agent or under the jurisdiction, control, possession or supervision of the same or upon the activities of the authority or its agent in the operation or maintenance of a project or projects under this chapter, or upon income or other revenues received therefrom, and any bonds, notes and other obligations issued under this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, as well as the income and property of the authority, are at all times exempt from taxation of every kind by the State and by the municipalities and all other political subdivisions of the State. In lieu of local, municipal and quasi-municipal taxes, charges and assessments, the authority shall pay to the applicable local governmental entities a sum in an amount to reasonably compensate said governmental entity for services rendered and tax revenues lost by virtue of this section. In the event that no agreement can be reached as to the amount of said sum, the parties shall submit the impasse to the State Board of Arbitration whose decision shall be binding and final. After making provisions for the payment of the principal and interest of any and all outstanding obligations of the authority as provided and the proper and necessary costs of administering, maintaining, operating and servicing the authority, including reasonable reserves for such purposes, the authority shall within 2 months after the close of its fiscal year pay over to the General Fund of the State the net revenues received by the authority from its leases, contracts and all other revenue-producing activities during the preceding fiscal year.

#### § 13016. Bonds declared legal investments

Bonds and notes issued by the authority under this chapter are made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, trust companies, banks, bankers, banking associations, savings banks and savings associations, including savings and loan associations, credit unions, building and loan associations, investment companies, executors, administrators, trustees and other fiduciaries, pension, profit-sharing, retirement funds and other persons carrying on a

banking business, and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital in their control or belonging to them. Such bonds and notes are made securities which may properly and legally be deposited with and received by any state, municipal or public officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.

§ 13017. Annual report

Within 2 months after the close of each fiscal year of the authority, the executive director of the authority shall prepare and submit a complete financial report to the Governor, the Executive Council and the Legislature, duly audited and certified by the auditor of accounts of the operations and activities of the authority during the preceding fiscal year to be distributed in the same way as state departmental reports.

§ 13018. Refunding bonds

1. Refunding. The authority is authorized to provide for the issuance of bonds of the authority for the purpose of refunding any bonds of the authority then outstanding, at or prior to maturity, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase or maturity of such bonds, and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a project or any portion thereof.

2. Use of proceeds. The proceeds of any such bonds issued for the purpose of refunding outstanding bonds, may, in the discretion of the authority, be applied to the purchase or retirement at maturity thereof and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority.

3. Escrow proceeds. Any such escrowed proceeds, pending such use may, at the discretion of the authority, be invested and reinvested in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner.

4. **Investments.** The portion of the proceeds of any such bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a project may be invested and reinvested in obligations of, or guaranteed by, the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost. The interest, income and profits, if any, earned or realized on such investment may be applied to the payment of all or any part of such cost or may be used by the authority in any lawful manner.

5. **Conditions.** All such bonds shall be subject to this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter.

#### § 13019. Agreement of the State

The State does pledge to and agree with the holders of any bonds, notes and other obligations issued under this chapter, and with those parties who may enter into contracts with the authority pursuant to this chapter, that the State will not limit, alter, restrict or impair the rights vested in the authority and the participating industries to acquire, construct, reconstruct, maintain and operate any project as defined in this chapter or to establish, revise, charge and collect rates, rents, fees and other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation thereof and to fulfill the terms of any agreements made with the holders of bonds, notes or other obligations authorized and issued by this chapter and with the parties who may enter into contracts with the authority pursuant to this chapter, or in any way impair the rights or remedies of the holders of such bonds, notes or other obligations of such parties until the bonds, notes and other obligations, together with interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged and such contracts are fully performed on the part of the authority. Nothing in this chapter precludes such limitation or alteration if and when adequate provision is made by law for the protection of the holders of such bonds, notes or other obligations of the authority or those entering into such contracts with the authority. The authority is authorized to include this pledge and undertaking for the State in such bonds, notes or other obligations or contracts.

#### § 13020. Act cumulative; no notice required

Neither this chapter nor anything contained in this chapter is or shall be construed as a restriction or limitation upon any powers which the Maine Industrial Port Authority might otherwise have under any laws of this State, and this chapter is cumulative of any such powers. This chapter does and shall be construed to provide a complete, additional and alternative method for doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws. Neither the making of contracts nor the issuance of bonds, notes, refunding bonds and other obligations pursuant to this chapter need comply with the requirements of



any other state law applicable to the making of contracts and the issuance of bonds, notes and other obligations, for the construction and acquisition of any project undertaken pursuant to this chapter. No proceedings, notice or approval shall be required for the issuance of any bonds, notes and other obligations or any instrument as security therefor, except as is provided in this chapter.

§ 13021. Act liberally construed

This chapter, being necessary for the welfare of the State and its inhabitants, shall be liberally construed so as to effect its purposes.

STATEMENT OF FACT

The purpose of this bill is reflected in the legislative findings, purposes and declarations of necessity as set forth in this Act.