

MAINE STATE LEGISLATURE

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New draft of S. P. 178, L. D. 692

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1915

S. P. 550

In Senate, June 3, 1975

Reported by the Majority from Committee on Energy and printed under
Joint Rules No. 18.

HARRY N. STARBRANCH, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT Creating the Passamaquoddy Hydro-electric Tidal Power Authority.

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

Sec. 1. 10 MRSA c. 906 is enacted to read:

PART 13

PASSAMAQUODDY HYDRO-ELECTRIC

TIDAL POWER AUTHORITY

CHAPTER 1201

GENERAL PROVISIONS

§ 11001. Title

This chapter shall be known as, and may be cited as, the "Passamaquoddy Hydro-electric Tidal Power Authority Act."

§ 11002. Intent

It is recognized by the people of the State of Maine that the tidal waters of Cobscook Bay are a valuable natural resource and possess an enormous potential for electric power generation.

Maine and her neighboring New England States are reliant on imported petroleum supplies for the generation of most of her electric power and pay higher costs for electric power than other regions of the United States. The threat of hostile petroleum embargoes by foreign nations and the escalating costs of oil have caused a spiraling inflation and have plunged our economy

into depression, unemployment and a general economic chaos which is threatening the health, standard of living and economic well-being of Maine's citizens.

Sources of cheap electrical energy, such as nuclear power plants and coal-fired electric power plants, possess unresolved threats to our environment, but the cost of fuel, running water, for hydro-electric power plants is free. Tidal hydro-electric power is not affected by droughts or floods and the fuel is reliable. The tides at Eastport do not stand still, but ebb and flow daily. Petroleum is a nonrenewable resource and a finite resource. The energy of the tides is renewable and reliable.

The Passamaquoddy Hydro-electric Power Project is a project for the public interest and is socially desirable. The energy crisis has stimulated a recession which has exaggerated the already chronic unemployment of eastern Maine. The high cost of electrical energy and the region's distance from the major markets of the large metropolitan areas has put Maine in an economically disadvantageous position.

A tidal project, requiring a massive injection of capital into eastern Maine, would drain the pool of unemployment, reduce the relief rolls and stimulate economic growth by holding out enormous possibilities for industrial development. The uniqueness of the tidal project would attract a new influx of tourists and stimulate the recreation industry. Also, large areas of Cobscook Bay might be used for aquaculture.

The fourfold increase in the cost of petroleum has at long last made the Passamaquoddy tidal power project feasible.

Recognizing a valuable natural resource and the public interest and social desirability of harnessing the energy of the tides, it is, therefore, the purpose of this Act to create the Passamaquoddy Hydro-electric Tidal Power Authority, for the purpose of harnessing the enormous latent potential electric energy of the tidewaters of Cobscook Bay, for the benefit of not only the citizens of Maine and the entire nation, but to insure an adequate, self-sufficient supply of electric energy for our children and future generations.

§ 11003. Incorporation

There is hereby created a public body corporate and politic to be known as the "Passamaquoddy Hydro-electric Tidal Power Authority," hereinafter called the "authority," which shall have the powers and duties as set forth in this chapter, with a principal office at the City of Eastport, County of Washington, State of Maine, and such branch offices in the State of Maine as the directors may determine.

§ 11004. Territorial limits

The territorial limits of the Passamaquoddy Hydro-electric Tidal Power Authority shall comprise and include the following towns and plantations in the County of Washington, State of Maine: Whiting, Trescott, Lubec, Edmunds, Dennyville, Pembroke, Perry, Eastport, Robbinston and Calais.

§ 11004-A. Definitions

As used in this chapter, the following words and terms shall have the following meanings, unless the context indicates another or different meaning or intent:

1. Authority. "Authority" means the Passamaquoddy Hydro-electric Tidal Power Authority created and established as a public body corporate and politic of the State of Maine by section 11003 or any board, body, commission, department 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" means bonds and notes of the authority issued under this chapter, including refunding bonds, notwithstanding that the same may be secured by mortgage or the full faith and credit of the authority or the full faith and credit of a participating utility, or any other lawfully pledged security of a participant in the authority;

3. Costs. "Costs" 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 any project and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interest acquired, necessary to, used for or 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, the cost of all machinery and equipment, financing charges, interest prior to or 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 extension, enlargements, additions and improvements; cost of architectural, engineering, financial, legal or other special services, plans, specifications, studies, surveys, estimates of cost and revenues; administrating 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. Project. "Project" means the acquisition, construction, improvement, reconstruction, equipping of, or construction of, an addition or additions to any structure designed for use of the authority; and shall include, but not be limited to, dams, locks, canals, aqueducts, reservoirs, draw-spans, ditches, drains, roads, tunnels, pen-stocks, culverts, flumes, conduit mains, power houses, transmission lines, poles, substations, transformers, conduits, high-voltage transmission lines, piers, roadways, railway tracks, storage facilities, administration buildings, research facilities, maintenance, storage or utility

facilities; and shall include all real and personal property, lands, improvements, driveways, roads, approaches, rights-of-way, parking lots, machinery, equipment and any and all other appurtenances and facilities either on, above or under the ground which are used or useable for the operation of the project 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.

§ 11005. Authority

The authority shall consist of a board of directors, consisting of 7 members, appointed by the Governor with the advice and consent of the Executive Council, one of whom shall be designated by the Governor to be chairman. Each director shall serve for a term of 5 years and shall continue in office until his successor has been appointed and qualified. The initial terms of directors shall be respectively 1, 1, 2, 2, 3, 4 and 5 years. The initial term of the chairman shall be 5 years, and the initial terms of the remaining 6 directors shall be determined by the board of directors by lot. One member shall be a banker, one shall be an attorney, one shall be an engineer, one shall be an accountant, one shall have experience in the field of hydro-electric power generation, one shall be a consumer representing the public-at-large and one shall be a consumer representing a non-profit consumer organization. None of the members shall have been employed by a private utility and none shall have derived any income from a private utility within 10 years prior to their appointment. At the expiration of the term of each director and of each succeeding director, the Governor shall appoint, with the advice and consent of the Council, a successor who shall hold office for a term of 5 years or until his successor has been appointed and qualified. In the event of a vacancy occurring in the office of a director by death, resignation or otherwise, the Governor shall appoint, with the advice and consent of the Council, his successor who shall hold office for the unexpired term.

The authority shall elect a secretary and treasurer who are experienced and knowledgeable about bonds and bonding, finance and business management. The authority shall elect an executive director or general manager who is not a member of the authority and who has experience and knowledge in the generation of power and in business management. Five members of the authority shall constitute a quorum who, for all purposes, must act unanimously. No vacancy in the authority shall impair the right of a quorum of the members to exercise all the rights and perform all the duties of the authority. Before the issuance of any revenue bonds under the provisions of this chapter, each appointed member of the authority shall execute a bond in the penalty of \$25,000 and the secretary, treasurer and executive director shall execute a bond in the penalty of \$50,000. Each such bond shall be approved by the Attorney General and conditioned upon the faithful performance of the duties of his office, which bonds shall be filed in the office of the State Auditor.

Each director shall receive \$50 per diem, in addition to travelling expenses, for each meeting that he or she attends for services as director.

A director may be removed by the Governor and Executive Council, after hearing, for malfeasance, misfeasance or willful neglect of duty. Each direc-

tor, before entering upon his duties, shall take and subscribe the oath or affirmation required by Article IX of the State Constitution. A record of each such oath shall be filed in the office of the Secretary of State.

All contracts and agreements relating to the construction of dams, locks, canals, reservoirs and other projects as defined in section 11004-A, subsection 4, shall be made subject to the approval of the board of directors.

§ 11006. Power of the authority

The purpose of the authority shall be to construct hydro-electric tidal generation facilities in the United States, State of Maine territory in Cobscook Bay, Washington County, which facilities are hereinafter referred to as projects and are hereby declared to be public purposes. 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 or offices 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. Projects. To determine the location and character of any project to be financed under this chapter and to acquire, construct, reconstruct, renovate, improve, replace, maintain, repair, extend, enlarge, operate, lease, as lessee or lessor, and regulate the same; to enter into contracts for any or all of such purposes, to enter in contracts for management and operation of a project and to designate agents to determine the location and character of a project undertaken under this chapter; to enter into contracts for the management and operation of such project, which shall include, but not be limited to, the acquisition, purchase, holding, leasing, mortgaging, selling, transferring and disposing of any property, real, personal or mixed, tangible or intangible, or any interests therein, the building, constructing, maintaining and operating of canals, dams, locks, aqueducts, reservoirs, draw-spans, ditches, drains and roads, and the laying and constructing of necessary or desirable tunnels, pen-stocks, culverts, flumes, conduits, mains and other pipes necessary or incident to the project building, acquiring, constructing and maintaining power houses and any and all structures necessary, useful or customarily used and employed in the manufacture, generation and transmission of tidal hydro-electric power; building power transmission lines, pole lines, substations, transformers, conduits, high voltage transmission lines and any and all things necessary to enable the interconnection of the power generated by the project to the electric utility system known as the New England Power Pool or other such regional power pool grid.
6. Acquisition of property by authority. To acquire by purchase or by gift or devise, such lands, structures, property, real or personal, rights, rights-of-way, franchises, easements and other interests in land, including lands

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 in the name of the authority.

7. Eminent domain. To acquire by eminent domain property within the territorial limits of the authority by proceeding in accordance with Title 35, chapter 263 for the specified purposes of building and constructing a project, high voltage transmission lines and any and all things necessary to enable interconnection between the project and the New England Power Pool grid or other such regional power pool grid; and to have the power of eminent domain outside the territorial limits of the authority only for the specified purpose of building and constructing high voltage transmission lines and all things necessary to enable interconnection with the New England Power Pool grid or other such regional power pool grid. 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.

8. Distribution of power.

A. To transmit, distribute, sell or exchange tidal electric power within the district for industrial uses. The transmission, distribution, sale and exchange within the territorial limits of the authority shall not be subject to the general laws relating to electric utilities; provided, however, that no electric power shall be distributed, sold or exchanged by the authority for other than industrial uses or consumption. For the purposes of this section "industrial uses" of electric power shall mean and include users with a demand in excess of 400 k.w.;

B. To enter into contracts with public or private electric utilities for the mutual exchange of unused excess power upon suitable exchange terms for the purpose of economical operation and for providing emergency or breakdown relief;

C. To lease lands in Cobscook Bay, under such terms and conditions as shall be reasonable, to entities either public or private for the purposes of aquaculture;

D. To issue bonds, notes or other obligations of the authority for any of its corporate purposes, and to fund or refund the same;

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

F. To establish rules and regulations for a project or any portion thereof;

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

H. To receive and accept from any public agencies, including the Government of the United States of America, loans or grants for or in aid of the construction of a project 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 the purposes for which such loans, grants, aid or contributions are made;

I. To mortgage any project or part thereof including a lease-hold interest in its site, for the benefit of the holders of bonds issued to finance such project;

J. To acquire, lease, hold, mortgage and dispose of real and personal property or any interest therein for the purposes of the authority and the exercise of its powers in the performance of its duties under this chapter.

§ 11007. 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 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.

§ 11008. Bonds of the authority

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 hereby. 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.

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. Notwithstanding that such bonds, notes or other obligations may be payable from a special fund, they shall be deemed to be for all purposes negotiable instruments within the meaning of and

for all the purposes of Article 8 of the Uniform Commercial Code, subject only to the provisions of such bonds, notes or other obligations for registration.

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 board of directors 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.

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 :

1. Pledging the full faith and credit of the authority, 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 or association or other body, public 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;
2. The rentals, rates, fees, tolls and other charges to be charged, and the amounts to be raised in each year thereby and the use and disposition of the revenues;
3. The setting aside of reserves or sinking funds and the regulation and disposition thereof;
4. Limitations on the right of the authority or its agents to restrict and regulate the use of the project;
5. 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;
6. Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds;
7. 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;

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

9. 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;

10. The mortgaging of a project and the site thereof, including a leasehold interest for the purpose of securing the bonds; and

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

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.

In case any of the members or officers of the authority whose signatures appear on any notes or bonds or coupons shall cease to be such members or officers before the delivery of such notes or bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such members or officers had remained in office until such delivery.

The authority shall have 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.

§ 11009. 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 in this section 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 which may act as 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 to the foregoing, 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 ex-

penses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of a project.

§ 11010. Credit of the State not pledged

Bonds and notes 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 herein 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 the provisions of 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 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 to the payment of bonds or notes or issue of notes or bonds authorized pursuant to this chapter.

§ 11011. Rents, rates, fees, tolls and charges

The authority is authorized to fix, revise, charge and collect rates, rents, fees, tolls 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 or corporation, or other body, public or private, in respect thereof. Such rates, rents, fees, tolls and charges shall be fixed and adjusted in respect of the aggregate of rates, rents, fees, tolls 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, in the event of redemption of bonds prior to maturity in accordance with the terms thereof, any premiums which may be payable therefor; 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, tolls 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 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 hereby 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, tolls 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 nor any trust agreement or any other agreement or any lease by which a pledge is created 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 provisions of 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 bonds or notes issued by the authority to finance projects, 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 herein 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.

§ 11012. Trust funds

All moneys received pursuant to 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 the bonds or notes of any issue or the trust agreement securing such bonds or notes provide.

§ 11013. Enforcement of rights and duties

Any holder of bonds, notes, bond anticipation 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 or other proceedings protect and enforce any and all rights under the laws of the State or granted hereunder 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 officer, employee or agent thereof, including the fixing, charging and collecting of the rents, rates, fees, tolls and charges herein authorized and required by the provisions of such resolution or trust agreement to be fixed, established and collected.

§ 11014. Exemption from taxation

The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the State, for the increase of their commerce, welfare and prosperity and for the improvement of their health and living conditions and will constitute the performance of an essential governmental function. The authority shall not be required to pay any taxes or assessments upon or in respect of a project or projects or any property acquired or used by the authority or upon the activities of the authority in the operation or maintenance of a project or projects under this chapter, or upon income or other revenues received therefrom. 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 which will reasonably compensate said governmental entity for services rendered to, required by, or necessitated by activities within the authority, and as a result of the acquisition of property by the authority. 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 and Conciliation 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 property 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 Local Government Fund as established by Title 30, section 5055, the net revenues received by the authority from its leases, contracts and all other revenue-producing activities during the preceding fiscal year.

§ 11015. Bonds declared legal investments

Bonds and notes issued by the authority under the provisions of this chapter are hereby 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 hereby made securities which may properly and legally be deposited with and received by any state or 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.

§ 11015-A. Default in payment of bonds

In the event of default on the bonds and in the event such default continues for a period of 3 months, action may be brought to enforce the rights of the bondholders by insuring that the operation by the directors be in conformity with the covenants of the bonds or indenture.

§ 11016. Annual report

Within 4 months after the close of each fiscal year of the authority, the directors of the authority shall prepare and submit a complete financial report to the Governor and the bank commissioner, 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 manner as state departmental reports.

§ 11017. Refunding bonds

The authority is hereby authorized to provide for the issuance of bonds of the authority for the purpose of refunding any bonds of the authority then outstanding, 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.

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 or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the 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.

Any such escrowed proceeds, pending such use, may be invested and reinvested in obligations of, or guaranteed by, the United States of America, or the State, or in certificates of deposit or time deposits of banks within or without the State secured by obligations of, or guaranteed by, the United States of America, or the State, 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.

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, or the State, or in certificates of deposit or time deposit of banks within or without the State secured by obligations of, or guaranteed by, the United States of America or the State, 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.

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.

§ 11018. Source of 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 under this chapter, beyond the extent to which moneys shall have been provided under this chapter.

§ 11019. Public Utilities Commission

The Passamaquoddy Hydro-electric Tidal Power Authority shall be subject to the rules and regulations of the Public Utilities Commission as established in Title 35, Part I, chapters 1, 3, 5, 7, 9, 11, 13, 15 and 17. The Public Utilities Commission shall not establish rates or terms that shall jeopardize the financial security of the authority nor impair the sale of bonds.

§ 11020. Chapter cumulative; no notice required

Neither this chapter nor anything herein contained is or shall be construed as a restriction or limitation upon any powers which the 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 the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds, notes and other obligations and refunding bonds under this chapter need not comply with the requirements of any other state law applicable to the issuance of bonds, notes and other obligations; and contracts for the construction and acquisition of any project undertaken pursuant to this chapter need not comply with the provisions of any other state law applicable to contracts for the construction and acquisition of state-owned property. 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.

§ 11021. Environmental law

Facilities acquired, constructed, operated or maintained under this chapter and land upon which the facilities are located shall be subject to such of the environmental laws of the State of Maine as would be applicable to private enterprise were the facilities owned or operated by the private sector.

§ 11022. Chapter 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.

§ 11023. Constitutional construction

The provisions of this chapter are severable and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect nor impair any of the remaining provisions.

§ 11024. Conflict of interest

No member, officer or employee of the Passamaquoddy Hydro-electric Tidal Power Authority shall acquire any interest, direct or indirect, in any contract or proposed contract of said authority nor shall any member, officer or employee participate in any decision or any contract entered into by the authority if he has any interest, direct or indirect, in any firm, partnership, corporation or association which will be party to such contract or financially involved in any transaction with the authority, except this prohibition shall not be applicable to the acquisition of any interest in notes or bonds of the authority issued in connection with any contracts or agreements of the authority or to the execution of agreements by banking institutions for the deposit or handling of authority funds in connection with any contracts or to act as trustee under any trust indenture, or to utility services, the rates for which are fixed or controlled by a governmental agency.

§ 11025. Penalty

Any individual, firm, corporation or association which violates section 11024 and enters into contracts or indirectly or directly influences any contract of said authority shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500 or by imprisonment for not more than 9 months, or by both.

§ 11026. Transition of the authority

When all bonds and the interest thereon shall have been paid or a sufficient amount for the payment of all bonds and the interest to maturity thereon shall have been set aside in trust for the benefit of the bondholders and shall continue to be held for that purpose, the Passamaquoddy Hydro-electric Tidal Power Authority shall continue to operate the Passamaquoddy Hydro-electric Tidal Power complex, and the revenues derived from said operation shall be deposited in the General Fund.

In the event that following the repayment of all the bonds and interests, repairs, expansion, or other major changes that cannot be funded by revenues

derived from the operation of the Passamaquoddy Hydro-electric Tidal Power complex, the Passamaquoddy Hydro-electric Tidal Power Authority may issue bonds in accordance with the provisions of this chapter.

Sec. 2. P&SL 1945, c. 65, as last amended by P&SL 1959, c 156, is repealed.

Sec. 3. P&SL 1959, c. 156, is repealed.

Sec. 4. **Appropriation.** There is appropriated to the Passamaquoddy Hydro-electric Tidal Power Authority from the General Fund the sum of \$7,000 for the biennium to carry out the purposes of this Act. The breakdown shall be as follows:

	1975-76	1976-77
PASSAMAQUODDY HYDRO-ELECTRIC TIDAL POWER AUTHORITY		
Personal services	(6) \$3,000	(6) \$3,000
All other	500	500
	<u>\$3,500</u>	<u>\$3,500</u>

STATEMENT OF FACT

The purpose of this bill is to provide safeguards and protection for the public, the State of Maine, the Passamaquoddy Hydro-electric Tidal Power Authority and the bond investors. This bill creates changes required by law and provides a minimum appropriation for the operation of the Passamaquoddy Hydro-electric Tidal Power Authority for the biennium.