

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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Legislative Document

No. 1697

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H. P. 1452

House of Representatives, April 22, 1977

Referred to Committee on Education. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Wood of Sanford.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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**AN ACT to Expand the Borrowing Capacity of Private  
Post-secondary Educational Institutions.**

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

**Sec. 1.** 30 MRSA § 5162, as enacted by PL 1971, c. 558 is amended to read:

**§ 5162. Declaration of necessity**

It is declared to be in the public interest and to be the policy of the State of Maine to foster and promote by all reasonable means the provision of adequate capital markets and facilities for borrowing money by counties, cities, towns, School Administrative Districts, community school districts, **private post-secondary educational institutions**, quasi-municipal corporations and for financing of their respective public improvements and other ~~municipal~~ purposes within the State from proceeds of bonds or notes issued by such governmental units **and such educational institutions**, and to assist such governmental units **and such educational institutions** in fulfilling their needs for such purposes by use of creation of indebtedness and to the extent possible to reduce costs of indebtedness to taxpayers and residents of the State and to encourage continued investor interest in the purchase of bonds or notes of such governmental units **and such educational institutions** as sound and preferred securities for investment. It is in the public interest and is the policy of the State to encourage its governmental units **and private post-secondary educational institutions** to continue their independent undertakings of public improvements and other ~~municipal~~ purposes and the financing thereof and to assist them therein by making funds available at reduced interest costs for orderly financing of such purposes especially during periods of restricted credit or money supply, particularly for those governmental units **and private**

**post-secondary educational institutions** not otherwise able to borrow for such purposes. It is further declared that current credit and municipal bond market conditions require the exercise of the powers of the State in the interest of its governmental units **and private post-secondary educational institutions** to further and implement such policies by authorizing a state instrumentality to be created as a body corporate and politic to have full powers to borrow money and to issue its bonds and notes to make funds available through the facilities of such instrumentality at reduced rates and on more favorable terms for borrowing by such governmental units through the purchase by such instrumentality of the bonds or notes of such governmental units **and such educational institutions** in fully marketable form and by granting broad powers to such instrumentality to accomplish and to carry out the aforesaid policies of the State which are in the public interest of the State and of its taxpayers and residents.

Sec. 2. 30 MRSA § 5163, sub-§ 9-A is enacted to read:

9-A. **Private post-secondary educational institution.** "Private post-secondary educational institution" means any non public institution of higher education located in Maine which meets the requirements of and conforms to the definitions contained in section 1201 of the Higher Education Act of 1965, as amended, 29 U.S.C. 1141 and section 491 of the Higher Education Act of 1965, as amended, 26 U.S.C. 1088.

Sec. 3. 30 MRSA § 5165, 1st ¶, as enacted by PL 1971, c. 558, is amended to read:

The bank, for the purposes authorized by this Act, is authorized and empowered to lend money to governmental units **and private post-secondary educational institutions** through the purchase by the bank of municipal securities of governmental units **and private post-secondary educational institutions** in fully marketable form. The bank, for the purposes authorized by this Act, is authorized and empowered to authorize and issue its bonds and notes payable solely from the revenues or funds therefor available to the bank, and to otherwise assist governmental units **and private post-secondary educational institutions** as provided in this Act.

Sec. 4. 30 MRSA § 5166, ¶¶ K through N as enacted by PL 1971, c. 558 are amended to read:

**K.** To make, enter into and enforce all contracts or agreements necessary, convenient or desirable for the purposes of the bank or pertaining to any loan to a governmental unit **or private post-secondary educational institution** or any purchase or sale of municipal securities or other investments or to the performance of its duties and execution or carrying out of any of its powers under this Act;

**L.** To purchase or hold municipal securities of governmental units **or private post-secondary educational institutions** at such prices and in such manner as the bank shall deem advisable, and to sell municipal securities acquired or held by it at such prices without relation to cost and in such manner as the bank shall deem advisable;

**M.** To invest any funds or moneys of the bank not then required for loan to governmental units or private post-secondary educational institutions and for the purchase of municipal securities in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury, except as otherwise permitted or provided by this Act;

**N.** To fix and prescribe any form of application or procedure to be required of a governmental unit or private post-secondary educational institution for the purpose of any loan or the purchase of its municipal securities, and to fix the terms and conditions of any such loan or purchase and to enter into agreements with governmental units with respect to any such loan or purchase; and

**Sec. 5.** 30 MRSA § 5167, sub-§ 1, as enacted by PL 1971, c. 558 is amended to read:

**1. Loans.** Make loans of money to any person, firm or corporation other than a governmental unit or private post-secondary educational institution or purchase securities issued by any person, firm or corporation other than a governmental unit or private post-secondary educational institution or for investment, except as provided in this Act, or

**Sec. 6.** 30 MRSA § 5180, as enacted by PL 1971, c. 558 is amended to read:  
**§ 5180. Insurance or guaranty**

The bank is authorized and empowered to obtain from any department or agency of the United States of America or nongovernmental insurer any insurance or guaranty, to the extent now or hereafter available, as to, or of, or for, the payment or repayment of, interest or principal, or both, or of any part thereof, on any bonds or notes issued by the bank, or on any ~~municipal~~ securities of governmental units or private post-secondary educational institutions purchased or held by the bank, pursuant to this Act; and notwithstanding any other provisions of this Act to enter into any agreement or contract whatsoever with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the bank to perform and fulfill the terms of any agreement made with the holders of the bonds or notes of the bank.

**Sec. 7.** 30 MRSA § 5181, 2nd and 3rd ¶¶, as enacted by PL 1971, c. 558 are amended to read:

Any funds or moneys in the custody or control of the Treasurer of State whether the same shall become available by reason of any grant, allocation or appropriation by the United States of America or the State or agencies thereof to assist any governmental unit or private post-secondary educational institution in payment of its ~~municipal~~ securities owned or held by the bank, or required by the terms of any other law to be paid to holders or owners of ~~municipal~~ such securities upon failure or default of a governmental unit or private post-secondary educational institution to pay the principal of or interest on its ~~municipal~~ securities as and when due and payable, shall, to the extent that any such funds or moneys be applicable with respect to ~~municipal~~ such securities of a particular governmental unit or private post-secondary

**educational institution** which are then owned or held by the bank and as to which such governmental unit or **private post-secondary educational institution** has failed or defaulted to make payment of principal or interest as and when due and payable be paid and deposited by the Treasurer of State in the General Fund and made available to the bank.

The extent that the Treasurer of State shall be the custodian at any time of any funds or moneys due or payable to a governmental unit or **private post-secondary educational institution** at any time subsequent to written notice to the Treasurer of State from the bank to the effect that such governmental unit or **private post-secondary educational institution** has not paid or is in default as to the payment of principal of or interest on any ~~municipal~~ securities of such governmental unit or **private post-secondary educational institution** then held or owned by the bank, the Treasurer of State shall withhold the payment of such funds or moneys from such governmental unit or **private post-secondary educational institution** until the amount of such principal or interest then due and unpaid has been paid to the bank, or the Treasurer of State has been advised that arrangements, satisfactory to the bank, have been made for the payment of such principal and interest.

**Sec. 8. 30 MRSA § 5183, sub-§§ 1, 2 and 3, as enacted by PL 1971, c. 558 is amended to read:**

1. **Loans.** In connection with any loan to a governmental unit or **private post-secondary educational institution**, to consider the need, desirability or eligibility of such loan, the ability of such governmental unit or **private post-secondary educational institution** to secure borrowed money from other sources and the costs thereof, and the particular public improvement or purpose to be financed by the ~~municipal~~ securities to be purchased by the bank;

2. **Charges.** To impose and collect charges for its costs and services in review or consideration of any proposed loan to a governmental unit or **private post-secondary educational institution** or purchase of ~~municipal~~ securities of such governmental unit or **private post-secondary educational institution**, and to impose and collect charges therefor whether or not such loan shall have been made or such ~~municipal~~ securities shall have been purchased;

3. **Purchased.** To fix and establish any and all terms and provisions with respect to any purchase of ~~municipal~~ securities by the bank, including dates and maturities of such bonds, provisions as to redemption or payment prior to maturity, and any and all other matters which in connection therewith are necessary, desirable or advisable in the judgment of the bank;

**Sec. 9. 30 MRSA § 5185, as enacted by PL 1971, c. 558 is amended to read:**  
**§ 5185. Purchase of municipal securities**

Notwithstanding any general law or special Act or other statute applicable to or constituting any limitation on the maximum rate of interest per year payable on bonds or notes, or as to annual interest cost to maturity of money borrowed or received upon issuance of bonds or notes, every governmental unit or **private post-secondary educational institution** is authorized and empowered to contract to pay interest on, or an interest cost per year for,

money borrowed from the bank and evidenced by its ~~municipal~~ securities purchased by the bank notwithstanding any statutory limitations as to rate of interest per year payable or as to annual interest cost to maturity of money borrowed by such governmental unit or private post-secondary educational institution. Every governmental unit or private post-secondary educational institution is authorized and empowered to contract with the bank with respect to such loan or purchase and such contract shall contain the terms and conditions of such loan or purchase. Every governmental unit or private post-secondary educational institution is authorized and empowered to pay fees and charges required to be paid to the bank for its services. Notwithstanding any general or special Act or other statute applicable to or constituting any limitation on the sale on bonds or notes, any governmental unit or private post-secondary educational institution may sell bonds or notes to the bank without limitation as to denomination and such bonds or notes may be fully registered, registerable as to principal only or in bearer form, may bear interest at such rate or rates all in accordance with this section, may be evidenced in such manner and may contain other provisions not inconsistent herewith, and may be sold to the bank without advertisement at such price or prices as may be determined, all as shall be provided in respect of the foregoing or other matters in the proceedings of the governing body of the governmental unit or private post-secondary educational institution pursuant to which the bonds or notes are authorized to be issued. The governing body of the governmental unit or private post-secondary educational institution may provide for the exchange of coupon bonds for fully registered bonds and of fully registered bonds for coupon bonds and for the exchange of any such bonds after issuance for bonds of larger or smaller denominations, all in such manner as may be provided in the proceedings authorizing their issuance, provided the bonds in changed form or denominations shall be exchanged for the surrendered bonds in the same aggregate principal amounts and in such manner that no overlapping interest is paid, and such bonds in changed form or denominations shall bear interest at the same rate or rates and shall mature on the same date or dates as the bonds for which they are exchanged. Where any exchange is made under this section the bonds surrendered by the holders at the time of the exchange shall be cancelled. The exchange shall be made only at the request of the holders of the bonds to be surrendered. The governmental unit or private post-secondary educational institution may require all expenses incurred in connection with the exchange to be paid by the holders. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be officers before the delivery of such bonds, such signatures shall be valid or sufficient for all purposes, the same as if they had remained in office.

Sec. 10. 30 MRSA § 5186, as amended by PL 1973, c. 97, § 2 is further amended to read:

#### § 5186. Remedies on default of municipal securities

In the event of default by a governmental unit or private post-secondary educational institution in the payment of interest on or principal of any ~~municipal~~ securities owned or held by the bank as and when due and payable

by said governmental unit and private post-secondary educational institution, the bank shall proceed to enforce payment pursuant to applicable provisions of law of such interest or principal or other amounts then due and payable.

Sec. 11. 30 MRSA § 5187, as enacted by PL 1971, c. 558 is amended to read:

**§ 5187. Purchase of anticipation notes**

The bank may purchase notes of any governmental unit or private post-secondary educational institution issued in anticipation of the sale of ~~municipal~~ securities in an amount not exceeding at any one time outstanding the authorized amount of such ~~municipal~~ securities; the issue and sale of such anticipation notes to be in accordance with the laws applying to the governmental unit or private post-secondary educational institution issuing such notes. In connection with any such purchase of anticipation notes, the bank may by agreement with such governmental unit or private post-secondary educational institution impose such terms, conditions and limitations as in its opinion shall be proper in the circumstances and for the purposes and security of the bank and the holders of its bonds or notes, and the bank shall thereupon enforce all such rights, remedies and provisions of law as it shall have under this section or elsewhere in this Act provided or as otherwise provided by law.

Sec. 12. 30 MRSA § 5189, as enacted by PL 1971, c. 558, is amended to read:

**§ 5189. State services**

All officers, departments, boards, agencies, divisions and commissions of the State are authorized and empowered to render any and all of such services to the bank as may be within the area of their respective governmental functions as fixed or established by law and as may be requested by the bank. All of such officers, departments, boards, agencies, divisions and commissions are authorized and directed to comply promptly with any such reasonable request by the bank as to the making of any study or review as to desirability, need, cost or expense with respect to any such ~~public~~ project, purpose or improvement, or the financial feasibility thereof or the financial or fiscal responsibility or ability in connection therewith of any governmental unit or private post-secondary educational institution making application for loan to the bank and for the purchase by the bank of ~~municipal~~ securities to be issued by such governmental unit or private post-secondary educational institution. The cost and expense of any service requested by the bank shall, at the request of the officer, department, board, agency, division or commission rendering such service, be met and provided for by the bank.

**STATEMENT OF FACT**

The purpose of this bill is to permit private post-secondary educational institutions to be eligible for the services of the Maine Municipal Bond Bank.