

MAINE STATE LEGISLATURE

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(EMERGENCY)
SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1839

S. P. 703

Office of the Secretary of the Senate

The Committee on Local and County Government suggested. Approved by a Majority of the Legislative Council pursuant to Joint Rule 27 and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Danton of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

AN ACT Concerning Tax Anticipation Notes and Tax Collections in the City of Saco.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the City of Saco has encountered difficulty in raising funds to meet its payroll and other operating expenses and to refund its temporary indebtedness; and

Whereas, the City of Saco desires to borrow from financial institutions and to provide a pledge of its tax receipts on terms and conditions which require the enactment of the following legislation; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. Pledge authorized. The City of Saco is authorized to pledge, hypothecate or otherwise encumber moneys raised by local ad valorem property taxation, received or to be received on account of such taxes levied during the

calendar year 1980, as security for its notes issued during the calendar year 1980 in anticipation of taxes upon the terms and conditions as provided in this Act.

Sec. 2. Agreement authorized. In any order or resolution of the city council of the City of Saco authorizing or relating to the issuance of notes to which section 1 applies, the city council may authorize any one or more officers or agents of the city to enter into an agreement with a trust company or national banking association or state bank, having in any case the powers of a trust company in the State of Maine, acting on behalf of the purchasers of said notes, that such notes or any part of them or any additional notes to which section 1 applies will be secured as provided herein. From the time such an agreement is executed and delivered, the procedures of this Act shall apply and all moneys received or to be received in payment of ad valorem property taxes thereafter until both the principal of and the interest on all notes secured thereby have been fully paid shall be pledged to the payment of such notes and shall immediately upon receipt by the City of Saco be subject to the lien of such pledge without physical delivery or other act. Except as against the claims of bondholders for the payment of principal and interest due during calendar year 1980 on the bonded indebtedness of the City of Saco, the lien of such pledge shall be valid and binding against all persons having claims of any kind, in tort, contract or otherwise against the City of Saco, irrespective of whether such persons have notice thereof. Neither the agreement nor any order or resolution authorizing it or the notes secured thereby need be filed, recorded or made subject of any notice under the Revised Statutes, Title 11, or any other statute, except in the records of the city. A purchaser of said notes shall not be disqualified from serving as the depository of such escrow account.

Sec. 3. Procedure. At all times when the principal of and interest on notes secured pursuant to this Act are unpaid, whether then due or not, all money received by the City of Saco in payment of local ad valorem property taxes subject to the lien of this Act shall be paid by said city forthwith to the trust company, national banking association or state bank named in the agreement relating thereto, to be held in a separate escrow account as the payment of such principal and interest, until the amount in such escrow account shall be sufficient to pay such principal and interest in full. The trust company, national banking association or state bank holding money in such an escrow account shall invest such money in obligations issued or guaranteed by the United States or certificates of deposit in banks having capital and surplus in excess of \$5,000,000 or repurchase agreements secured by such obligations or certificates, and all interest or other increment on such investment shall be credited to the escrow account, unless the amount then held is sufficient to make all payments required by this section, in which case the interest or increment shall be returned to the city. When any payment of the principal of or interest on notes secured as provided herein is due, the holder of the escrow account shall make that payment from the money held therein and may liquidate investments, make transfers to paying agents or take such other action as may be necessary to make such payment; provided, however, that the holder of the escrow account shall not be liable for any payment in excess of the amount held in the escrow account nor for

any loss of principal suffered therein because of any permitted investment or the need to liquidate the same. If notes secured as provided in this Act are issued in form payable by the city at any time without penalty or premium, the holder of the escrow account may, in its discretion, in lieu of investing the funds therein, apply them to the prepayment of all or any part of such notes. Until the notes are certified by the city and the noteholders as fully paid or funds held in the escrow account created pursuant to any agreement authorized by section 2 are sufficient to make such payment, such agreement shall remain in effect and may provide procedures relating to the time and manner of deposits in the escrow account. After the payment of notes or provisions therefor has been made, as aforesaid, the agreement shall terminate and any remaining funds shall be immediately made available to the city.

Sec. 4. Construction. It is expressly found and declared that the financial condition of the City of Saco and the public reaction thereto requires extraordinary legislative intervention and this Act is enacted as an exercise of the reserved sovereign powers of the State to preserve the public peace, health and safety in the City of Saco and to limit the effect such condition and reaction may have on the cities and towns in the State; to restore and insure public confidence in the ability and willingness of the City of Saco, and to preserve such confidence in other cities and towns in the State, to pay their debts and provide essential municipal services; and to protect the credit of all the cities and towns in the State, all of which may be damaged by the inability of the City of Saco to secure temporary financing. Accordingly, this Act shall be liberally construed to the end that operating funds shall continue to be available to the City of Saco in the form of loans in anticipation of taxes and the pledge of and lien against taxes provided herein shall be paramount against all persons and for all purposes.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is reflected in the emergency preamble.