

MAINE STATE LEGISLATURE

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(Governor's Bill)
SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1898

H. P. 1767

House of Representatives, January 25, 1980

Referred to the Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Kany of Waterville.

Cosponsors: Mr. Norris of Brewer, Mr. Elias of Madison and Mr. Vose of Eastport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

**AN ACT to Expand the Kinds of Projects Eligible for Financing Under the
Municipal Securities Approval Act.**

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

Sec. 1. 30 MRSA § 5325, sub-§ 1, as last amended by PL 1979, c. 324, § 1, is repealed and the following enacted in its place:

1. Kinds of projects. To acquire, construct, reconstruct, renew and replace, within the corporate limits of the municipality, the following kinds of projects:

- A. Industrial-commercial projects;**
- B. Pollution-control projects;**
- C. Health care projects;**
- D. Water supply systems;**
- E. Recreational projects;**
- F. Multi-level parking facilities;**
- G. Multi-family housing units secured by mortgages and consistent with a municipally-approved community development program;**

H. Energy generating systems;**I. Energy distribution systems; and****J. Combined projects;**

Sec. 2. 30 MRSA § 5325, sub-§ 4, as last amended by PL 1979, c. 324, § 2, is further amended to read:

4. Acquisition of property. The municipal officers are authorized and empowered to acquire from funds provided under the authority of this chapter lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, which are located within the State as they deem necessary or convenient for the construction or operation of any ~~industrial-commercial, pollution control, health care, water supply system, recreational or combined project, and any multi-level private parking facility~~ **project enumerated in subsection 1** upon the terms and conditions that they deem reasonable and proper, and to dispose of any of the foregoing in the exercise of its powers and the performance of its duties under this chapter;

Sec. 3. 30 MRSA § 5325, sub-§ 6, as last amended by PL 1979, c. 324, § 3, is further amended to read:

6. Government contracts. To enter into contracts with the State or the Federal Government or any agency or instrumentality thereof or with any other municipality providing for or relating to ~~an industrial-commercial, pollution control, health care, water supply system, recreational or combined facility, or a multi-level private parking facility~~ **any project enumerated in subsection 1**; provided, in the case of contracts with the Federal Government involving pollution-control facilities, that the consent of the Board of Environmental Protection is first obtained, such board being authorized to grant its consent notwithstanding Title 38, section 362;

Sec. 4. 30 MRSA § 5325, sub-§ 7, as last amended by PL 1979, c. 324, § 4, is further amended to read:

7. Government aid. To accept from any authorized agency of the State or the Federal Government loans or grants for the planning, construction or acquisition of any ~~industrial-commercial, pollution control, health care, water supply system, recreational or combined facility or any multi-level private parking facility~~ **project enumerated in subsection 1** and to enter into agreements with such agency respecting any such loans or grants, and to receive and accept aid and 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 and contributions may be made; provided, in the case of loans, grants or other aid from the Federal Government involving pollution-control facilities, that the consent of the Board of Environmental Protection is first obtained, such board being authorized to grant such consent notwithstanding Title 38, section 362; and

Sec. 5. 30 MRSA § 5326, sub-§§ 1-A and 1-B are enacted to read:

1-A. **Energy generating system project.** “Energy generating system project” means an energy generating system owned, in whole or in part, by a municipality, corporation or firm and which uses biomass, peat, solar, waste, water, wind, wood or coal, but does not include nuclear fuel sources and oil.

1-B. **Energy distribution system project.** “Energy distribution system project” means an energy distribution system owned, in whole or in part, by a municipality, corporation or firm, and which uses biomass, peat, solar, waste, water, wind, wood, coal or natural gas, but does not include nuclear fuel sources and oil.

Sec. 6. 30 MRSA § 5326, sub-§ 2, as last amended by PL 1975, c. 707, § 3, is further amended to read:

2. **Industrial-commercial project.** “Industrial-commercial project” means any building, structure, machinery, equipment or facilities, including transportation equipment or facilities, which may be deemed necessary for manufacturing, processing, assembling, storing, distributing, retailing or receiving raw materials or manufactured products, or research, or **office space**, or for public accommodation, including, but not limited to, lodging, dining or conventions, together with all lands, property, rights, rights-of-way, franchises, easements and interests in lands which may be acquired by the municipality for the construction or operation of such project.

Sec. 7. 30 MRSA § 5326, sub-§ 3-A, as amended by PL 1979, c. 324, § 6, is further amended to read:

3-A. **Combined project.** “Combined project” means any combination of an industrial-commercial project, a pollution-control project, a water supply system project, and a recreational project, **an energy generating system and an energy distribution system** undertaken by a single municipality for a common lessee or group of lessees.

Sec. 8. 30 MRSA § 5326, sub-§ 4, as last amended by PL 1979, c. 324, § 7, is further amended to read:

4. **Project.** “Project” means industrial-commercial project, pollution-control project, health care project, water supply system project, recreational project, **multi-level parking facilities, multi-family housing units secured by mortgages and consistent with a municipally approved community development program, energy generating system, energy distribution system** or combined project as the context may permit or require.

Sec. 9. 30 MRSA § 5326, sub-§ 5, first sentence, as last amended by PL 1979, c. 324, § 8, is further amended to read:

“Cost” as applied to ~~an industrial-commercial, pollution-control, health care, water supply system, recreational or combined~~ any project shall include the

purchase price of any project, the cost of construction, the cost of all labor, materials, machinery and equipment, the cost of improvements, the cost of all lands, property, rights, easements and franchises acquired, financing charges, premiums for lease rental insurance, interest prior to and during construction and, if deemed advisable by the municipal officers, for not more than one year after completion of construction, cost of plans and specifications, surveys and estimates of cost and of revenues, cost of engineering and legal services, reserves for payment of future debt service on bonds of not more than the maximum amount of interest plus annual serial principal or sinking fund payment due in any 12-month period, and all other expenses necessary or incident to determining the feasibility or practicability or such construction, administrative expense and such other expenses as may be necessary or incident to the financing authorized.

Sec. 10. 30 MRSA § 5326, sub-§ 10 is enacted to read:

10. Mortgage. "Mortgage," as the term refers to multi-family housing units, means an interest-bearing obligation secured by a mortgage and consistent with a note which is a first lien on land and improvements constituting one or more housing units, which obligation may or may not be insured or guaranteed in any manner, in part or in full, by the United State or any instrumentality thereof or by the State or any instrumentality thereof.

Sec. 11. 30 MRSA § 5328, sub-§ 3, as last amended by PL 1979, c. 324, §§ 9 and 10, is further amended by adding after the 3rd sentence the following new sentence:

In the case of an energy generating system or energy distribution system, no project may be approved unless the Public Utilities Commission has certified to the authority that all licenses required from that department have been issued or none are required and the Office of Energy Resources has certified to the authority that the project is in accord with state energy policy.

Sec. 12. 30 MRSA § 5328, sub-§ 4, as last amended by PL 1979, c. 324, §§ 11 and 12, is repealed and the following enacted in its place:

4. Policy. It shall be the policy of the authority in considering the propriety of issuing a certificate of approval to determine to its satisfaction that:

- A. The project will make a significant contribution to the economic growth of, the control of pollution in or the betterment of the health of the inhabitants of the State;**
- B. Adequate provision is being made to meet any increased demand upon public facilities that might result from the project;**
- C. In cases where it is proposed to relocate an energy generating system, energy distribution system, industrial-commercial, water supply system or recreational facility existing in the State, there is a clear economic justification for the relocation; and**
- D. In the case of projects including pollution-control facilities, the proposed**

users of the facilities make a significant contribution to the economy of the State, a substantial public benefit will result from the inclusion of the facilities in the project, and it is unlikely that public facilities meeting the needs of the users and securing comparable public benefit will become available in the reasonable foreseeable future;

4-A. Health care project. In the case of a health care project, the authority may not issue a certificate of approval until it has determined:

A. That the project will be owned or operated by a municipality or nonprofit or charitable institution or organization which is exempt from federal taxation pursuant to the United States Internal Revenue Code, Section 501, as amended, and which is engaged in the operation of, or formed for the purpose of, operating a health care facility in which health care is or will be rendered under the general direction of persons licensed to practice medicine in the State and which is, or will be upon completion, licensed as a health care facility under the laws of the State;

B. That the project will enable or assist a municipality or nonprofit institution or organization to provide health care to the residents of the project's proposed of existing service area; and

C. That the project has been reviewed and approved by the appropriate regional and state health service agencies or by the agency of the State which serves as the designated planning agency of the State for purposes of the United States Social Security Act, Section 1122, as amended.

4-B. Water supply system project. In the case of a water supply system project, the authority may not issue a certificate until it has determined:

A. That the project will result in substantial public benefits; and

B. That the issuance of securities for the project has been reviewed and approved by the Public Utilities Commission in accordance with Title 35, chapter 9.

4-C. Energy generating system or energy distribution system project. In the case of an energy generating system or energy distribution system project which is intended to produce or distribute energy for sale to any person, municipality, firm, corporation or the State, the authority may not issue a certificate until it has determined:

A. That the issuance of securities for the project has been reviewed and approved by the Public Utilities Commission in accordance with Title 35, chapter 9.

4-D. Advice to departments. If the authority is satisfied that the determinations of this section can be made and that a certificate of approval can be issued upon receipt of the certificate or certificates required by subsection 3, the authority may so advise the departments concerned, which may treat such advice as the completion of arrangements for financing for the purposes of Title

38, section 451, subsection 1, paragraph B.

Sec. 13. 30 MRSA § 5340, as last amended by PL 1979, c. 324, § 15, is further amended to read:

§ 5340. Leasehold or other interests of lessee taxable

The leasehold or other interest of the lessee of any ~~industrial-commercial, pollution control, water supply system, recreational or combined project or any multi-level private parking facility~~ **project** is subject to taxation in the manner provided for similar interests in Title 36, section 551, subject to Title 36, section 651, 655 and 656.

Sec. 14. 30 MRSA § 5341, as last amended by PL 1979, c. 324, § 16, is further amended to read:

§ 5341. Purpose

It is declared that there is a statewide need for industrial-commercial, pollution-control, health care, water supply system, recreational **projects, multi-family housing units, energy generating systems, energy distribution systems** and combined projects and for multi-level private parking facilities to provide enlarged opportunities for gainful employment by the people, to restore purity to the air, the water or the earth of the State which are fouled with, among other things, industrial and other waste materials and pollutants, to more adequately serve the working people of this State, and to provide a more healthy environment and thus to insure the preservation and betterment of the economy of the State and the living standards and health of its inhabitants.

STATEMENT OF FACT

This bill amends the Municipal Securities Approval Act by adding multi-family housing units consistent with a municipally-approved community development program, energy generating systems and energy distribution systems to the lists of projects eligible for municipal revenue bond financing.