

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1349

H. P. 1132

House of Representatives, March 17, 1981

On Motion of Representative Kany of Waterville, reconsidered reference and referred to the Committee on Public Utilities. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative C. W. Smith of Mars Hill.

Cosponsors: Representative J. Martin of Eagle Lake, Senator McBreairty of Aroostook and Senator Violette of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

**AN ACT Providing for Certain Public Utility Bond Financing by the Maine Municipal Bond Bank.**

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

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

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, quasi-municipal corporations and public utilities and for the financing of their respective public improvements, **including in such term for purposes of this Article public utility improvements**, and other municipal purposes **both within and outside of the State from proceeds of bonds or notes issued by such governmental units, including in such term for purposes of this Article public utilities as provided in this section**, and to assist such governmental units 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 as sound and preferred securities for investment.

Sec. 2. 30 MRSA § 5163, sub-§ 7, as enacted by PL 1971, c. 558, is amended to read:

**7. Governmental unit.** “Governmental unit” means any county, city, town, ~~school administrative district~~ **School Administrative District**, community school district or other quasi-municipal corporation within the State, **and also means any public utility subject to the jurisdiction of the Public Utilities Commission which is an electrical company or a water company as defined in Title 35, section 15.**

Sec. 3. 30 MRSA § 5163, sub-§ 8, as amended by PL 1973, c. 97, § 1, is further amended by adding at the end a new sentence to read:

**In the case of a governmental unit which is a public utility, “municipal security” means any bond or notes or evidence of indebtedness issued thereby and payable from rates, charges or other revenue.**

Sec. 4. 30 MRSA § 5163, sub-§ 9-A, is enacted to read:

**9-A. Public Utility Bond Reserve Fund.** “Public Utility Bond Reserve Fund” means any of the funds of that designation created or established as provided in section 5171-A.

Sec. 5. 30 MRSA § 5168, as enacted by PL 1971, c. 588, is amended by adding after the 2nd paragraph a new paragraph to read:

**Any issue of bonds, the proceeds of which are used to acquire municipal securities of one or more governmental units which are public utilities, shall be special obligations of the bank payable only from designated funds specified for that purpose. Any such bonds may be additionally secured by a pledge of any grants, subsidies, contributions, funds or money from the United States or the State, or any governmental unit or any person, firm or corporation or a pledge of any income or revenue, funds or money of the bank from any source whatsoever, but any such additional security shall be specifically designated by the bank for such purpose and shall be held and accounted for separately.**

Sec. 6. 30 MRSA § 5168, as enacted by PL 1971, c. 588, is amended by adding at the end a new paragraph to read:

**Bonds or notes of the bank, the proceeds of which are used to acquire municipal securities of one or more governmental units which are public utilities, shall be authorized by separate resolution distinct and apart from any resolution authorizing bonds, the proceeds of which are used to acquire municipal securities of governmental units which are not public utilities.**

Sec. 7. 30 MRSA § 5171, sub-§ 7 is enacted to read:

**7. Limitation.** Section 5171-A may not apply to and no money held in the reserve fund may be available to make any payment on account of any bond, the proceeds of which were used to acquire municipal securities of one or more governmental units which are public utilities.

Sec. 8. 30 MRSA § 5171-A is enacted to read:

**§ 5171-A. Public Utility Bond Reserve Fund**

1. **Public Utility Bond Reserve Fund.** The bank may establish one or more Public Utility Bond Reserve Funds, which shall be designated in a manner which identifies the bonds secured thereby and into which there shall be deposited all proceeds of bonds required to be deposited therein by the terms of any contract between the bank and its bondholders, or of any resolution of the bank with respect to such bonds and all other money received by the bank for the purpose of the deposit. Money in a Public Utility Bond Reserve Fund shall secure and be available exclusively for the payment of principal and interest on bonds, for the benefit of which the particular fund was created and the proceeds of which were used to acquire municipal securities of one or more governmental units which are public utilities.

2. **Transfer.** Money in any Public Utility Bond Reserve Fund at any time in excess of the amount required by contract or resolution to be in the fund, whether by reason of investment or otherwise, may be withdrawn and applied by the bank in accordance with the contract or resolution creating the fund.

3. **Administration.** All Public Utility Bond Reserve Funds shall be kept separate and apart from other funds of the bank and shall in all respects be invested, valued and otherwise administered as provided in the contract or resolution applying thereto.

Sec. 9. 30 MRSA § 5173, as enacted by PL 1971, c. 558, is amended to read:

**§ 5173. Additional reserves and funds**

The bank may establish such additional and further reserves or such other funds or accounts as may be, in its discretion, necessary, desirable or convenient to further the accomplishment of the purposes of the bank and to comply with the provisions of any agreement made by or any resolution of the bank, and the bank shall establish such additional funds and accounts as it deems necessary to separately account for all money received by it, as bond proceeds, municipal security principal and interest payments or otherwise, on account of bonds, the proceeds of which were used to acquire municipal securities of governmental units which are public utilities to the end that the public utility financing activities of the bank shall be entirely separate and apart from all other financing undertaken by it.

Sec. 10. 30 MRSA § 5185, as enacted by PL 1971, c. 558, is amended by adding at the end the following new sentence:

**In the case of any governmental unit which is a public utility, the issuance of bonds or notes by such governmental unit are subject to review and approval by the Public Utilities Commission as provided in Title 35 and the bank may not purchase any municipal security of such a governmental unit until it has received**

**a certificate from the Public Utilities Commission approving such transaction or stating that its review and approval is not required by Title 35.**

#### STATEMENT OF FACT

The purpose of this bill is to amend the Maine Municipal Bond Bank laws to allow electric and water companies subject to the jurisdiction of the Public Utilities Commission to use the bond bank as a borrowing vehicle. Certain water and electric companies under existing federal legislation and rules and regulations may issue tax exempt securities under the "Two County Rule." This legislation will allow these utilities to borrow at reduced interest rates, thus reducing the cost of electric and water service to their customers. The "moral" obligation of the State which exists with regard to municipal and quasi-municipal financing will not be involved in the proposed public utility financing, and the utility financing will have its own and separate bond reserve fund.