

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 887

S.P. 331

In Senate, February 28, 1991

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by President PRAY of Penobscot

Cosponsored by Senator KANY of Kennebec, Representative CLARK of Millinocket and Representative MICHAUD of East Millinocket.

STATE OF MAINE

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

An Act to Strengthen Municipal Borrowing Alternatives.

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

2
3 **Sec. 1. 30-A MRSA §5902, sub-§1, ¶A**, as amended by PL 1989, c.
4 104, Pt. C, §§8 and 10, is further amended to read:

6 A. To foster and promote by all reasonable means the
7 provision of adequate capital markets and facilities for
8 borrowing money by counties, municipalities, School
9 Administrative Districts, community school districts,
10 quasi-municipal corporations and other governmental units
11 and ~~for the financing of~~ to finance their respective public
12 improvements and other municipal purposes within the State
13 from proceeds of bonds ~~or~~ notes, any other form of debt or
14 leases issued by those governmental units;

16 **Sec. 2. 30-A MRSA §5903, sub-§6-C** is enacted to read:

18 6-C. Municipal bond insurance fund. "Municipal bond
19 insurance fund" means any fund or funds established by the bank
20 to provide reserves to insure payment of any state or municipal
21 issuance of debt, pursuant to a bond insurance program
22 established by the bank.

24 **Sec. 3. 30-A MRSA §5953, sub-§1, ¶¶B and C**, as amended by PL
25 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

26 B. Authorize and issue its bonds and notes payable solely
27 from the revenues or funds available to the bank for that
28 purpose; and

29 C. Otherwise assist governmental units as provided in this
30 chapter; and

34 **Sec. 4. 30-A MRSA §5953, sub-§1, ¶D** is enacted to read:

36 D. Borrow money and make the borrowing proceeds available
37 to the municipality at terms agreed upon by the bank and the
38 municipality.

40 **Sec. 5. 30-A MRSA §5953-A, sub-§1**, as enacted by PL 1989, c.
41 48, §§19 and 31, is amended to read:

42 **1. Loan application.** A municipality may apply for a loan
43 from the revolving loan fund, the proceeds of which shall must be
44 used to acquire, design, plan, construct, enlarge, repair or
45 improve a publicly owned sewage or water system, sewage or water
46 treatment plant or to implement a related management program.

48 The bank may prescribe any application form or procedure required
49 of a municipality for a loan under this section. The application
50 shall must include any information that the bank determines

2 necessary for the purpose of implementing this section and
section 6006-A.

4 **Sec. 6. 30-A MRSA §5954, sub-§1, ¶¶N and O**, as amended by PL
1989, c. 104, Pt. C, §§8 and 10, are amended to read:

6
8 N. Fix and prescribe any form of application or procedure
to be required of a governmental unit for the purpose of any
10 loan or the purchase of its municipal securities, and fix
the terms and conditions of any such loan or purchase and to
12 enter into agreements with governmental units with respect
to any such loan or purchase; and

14 O. Do all acts and things necessary, convenient or
desirable to carry out the powers expressly granted or
16 necessarily implied in this chapter; and

18 **Sec. 7. 30-A MRSA §5954, sub-§1, ¶P** is enacted to read:

20 P. In accordance with the limitations and restrictions of
22 this chapter, cause any of its powers, duties, programs or
operations to be carried out by one or more nonprofit
24 corporations. Nonprofit corporations acting at the
direction of the bank must be organized and operated under
26 the Maine Nonprofit Corporation Act.

28 **Sec. 8. 30-A MRSA §5955, sub-§2**, as amended by PL 1989, c.
104, Pt. C, §§8 and 10, is further amended to read:

30 **2. Charges.** Impose and collect charges, whether or not the
32 loan is made or evidence of borrowing or program participation is
shown, or the municipal securities are purchased, for its costs
34 and services, in review or, consideration or servicing of any
proposed loan to a governmental unit or purchase of municipal
36 securities of the governmental unit, whether or not the loan is
made or the municipal securities are purchased;

38 A. Any proposed or outstanding loan;

40 B. A loan agreement to borrow on behalf of a municipality;
or

42 C. A program participation agreement with a governmental
44 unit.

46 **Sec. 9. 30-A MRSA §5959, sub-§1**, as enacted by PL 1989, c. 48,
§§20 and 31, is amended to read:

48
50 **1. Rules.** The Department of Environmental Protection
Appropriate state agencies and the bank may adopt rules and
52 policies necessary to implement sections 5953-A and 6006-A to
ensure the self-sustaining nature of the fund created under

2 section 6006-A and also to ensure compliance with the Federal
Water Pollution Control Act, Title VI;

4 A. Implement sections 5953-A, 6006-A and 6006-B to ensure
6 the self-sustaining nature of the funds created under
sections 6006-A and 6006-B; and

8 B. Ensure compliance with the Federal Water Pollution
10 Control Act, Title VI and the Federal Safe Drinking Water
Act and their amendments.

12 **Sec. 10. 30-A MRSA §5959, sub-§2, ¶C, as enacted by PL 1989,**
14 **c. 48, §§20 and 31, is amended to read:**

16 C. The bank is designated by the State as the
18 instrumentality empowered to administer ~~the revolving loan~~
20 ~~fund in conjunction with the Department of Environmental~~
~~Protection to accept capitalization grants made under the~~
~~Federal Water Pollution Control Act, Title VI and to manage~~
~~the revolving loan fund in accordance with that Act;~~

22 (1) Administer the revolving loan funds, in conjunction
24 with the Department of Environmental Protection;

26 (2) Accept capitalization grants or other deposits of
28 funds from the Federal Government or any other source
made under the Federal Water Pollution Control Act,
Title VI or the Federal Safe Drinking Water Act; and

30 (3) Manage the revolving loan funds in accordance with
32 applicable federal and state laws, rules and
regulations.

34 **Sec. 11. 30-A MRSA §6006, sub-§1-A, ¶C, as enacted by PL 1989,**
36 **c. 48, §§25 and 31, is amended to read:**

38 C. The minimum amount of any capital reserve fund shall
40 must be equal to the amounts required under the resolutions
42 pursuant to which the bonds secured by the capital reserve
44 fund are issued. These amounts are referred to in this
46 chapter as the "required minimum reserve." With respect to
48 bonds secured by a capital reserve fund for which the
50 resolution authorizing the issuance of those bonds states
52 that the provisions of subsection 5 apply, the required
minimum reserve shall must be, as of any date of
computation, an aggregate amount equal to at least the
largest amount of money required by the terms of all
contracts between the bank and its bondholders of the bonds
to be raised in the then current or any succeeding calendar
year for the payment of interest on and maturing principal
of that portion of the outstanding bonds, the proceeds of
which were applied solely to the purchase of municipal

2 securities or municipal bonds and sinking fund payments
4 required by the terms of any such contracts to sinking funds
6 established for the payment or redemption of the bonds, all
8 calculated on the assumption that the bonds will cease to be
10 outstanding after the date of the computation because of the
12 payment of the bonds at their respective maturities and the
14 payments of the required money to sinking funds and the
16 application thereof in accordance with the terms of all such
18 contracts to the retirement of the bonds. The required
20 minimum reserve for bonds secured by a capital reserve to
22 which the provisions of subsection 5 apply may be less than
24 that required by this paragraph if the bank so determines
26 and only when the reserve is applied to:

28 (1) Any bond or note sold to fund a municipal lease
30 pool whose term is 5 years or less;

32 (2) Any bond for which no principal is paid to
34 bondholders until final maturity; or

36 (3) Any loan, bond, lease or evidence of participation
38 that has a term of 5 years or less.

40 **Sec. 12. 30-A MRSA §§6006-B, 6006-C and 6013-A** are enacted to
42 read:

44 **§6006-B. Water revolving loan fund**

46 **1. Establishment; administration.** A revolving loan fund
48 under the jurisdiction and direction of the bank is established
50 as provided in this section.

A. There is established in the custody of the bank a
special fund to be known as "the water revolving loan fund,"
or in this section as "the fund," to provide loans to
municipalities for acquiring, designing, planning,
constructing, enlarging, repairing or improving drinking
water systems and drinking water treatment plans and for
implementing related management programs.

B. The bank shall administer the water revolving loan
fund. The fund must be invested in the same manner as
permitted for investment of funds belonging to the State or
held in the State Treasury. The fund must be established
and held separate and used and administered for the purpose
of this section. The fund consists of the following:

(1) Sums that are appropriated by the Legislature or
transferred to the fund from time to time by the
Treasurer of State;

- 2 (2) Principal and interest received from the repayment
3 of loans made from the fund;
- 4 (3) Interest earned from the investment of fund
5 balances;
- 6 (4) Private gifts, bequests and donations made to the
7 State for any purposes for which the fund has been
8 established;
- 9 (5) The proceeds of notes or bonds issued by the bank
10 for the purpose of deposit in the fund;
- 11 (6) Other funds from the State or Federal Government
12 or any public or private source received for any of the
13 purposes for which the fund has been established; and
- 14 (7) Capitalization grants and awards or payments in
15 any other form made to the State or an instrumentality
16 of the State by the United States, or any of its
17 agencies or instrumentalities, for any of the purposes
18 for which the fund has been established. These amounts
19 must be paid directly into the fund without need for
20 appropriation by the State.

26 2. Uses. The water revolving loan fund may be used for one
27 or more of the following purposes:

- 28 A. For any of the purposes established in any federal law
29 or program that provides funds eligible to be deposited into
30 the fund pursuant to this section;
- 31 B. To make loans to municipalities under this section and
32 section 5953-A;
- 33 C. To make loans to refund bonds or notes of a municipality
34 issued after December 31, 1988, for the purpose of financing
35 the construction or any capital improvement or management
36 program described in this section;
- 37 D. To guarantee or insure, directly or indirectly, the
38 payment of notes or bonds, or any other form of evidence of
39 indebtedness incurred by a municipality in the
40 accomplishment of the activities eligible to be funded under
41 this section;
- 42 E. To guarantee or insure, directly or indirectly, funds
43 established by municipalities for the purpose of financing
44 construction of any capital improvement described in this
45 section;

2 F. To invest available fund balances and to credit net
4 interest income on those balances to the water revolving
6 loan fund;

8 G. To make payments to the Federal Government or State
10 Government as they may be required by law applying to the
12 use of funds raised through tax-exempt borrowing by either
14 the State, the bank or a municipality as any such funds may
16 have been deposited into or used in conjunction with the
18 fund;

20 H. To invest as a source of revenue or security for the
22 payment of principal and interest on general or special
24 obligations of the bank if the proceeds of the sale of
26 obligations have been deposited in the fund or loaned to
28 eligible participants in the programs financed with the
30 fund, or as a source of revenue to subsidize municipal loan
32 payment obligations;

34 I. To pay the costs of the bank; and

36 J. To pay the costs required under the Federal Safe
38 Drinking Water Act or other federal law or program that
40 provides money for deposit to the fund for the purposes of
42 this section.

44 3. Establishment of accounts. To accomplish the purposes
46 of this section, the bank may establish accounts and subaccounts
48 within the water revolving loan fund, including, but not limited
50 to, accounts to segregate a portion or portions of the water
52 revolving loan fund as security for bonds issued by the bank for
deposit in the water revolving loan fund or for bonds issued by
the bank the proceeds of which are used for the purposes of this
section or invested for the benefit of specified projects
receiving financial assistance from the water revolving loan fund.

4. Application; procedures. The bank may prescribe any
application form or procedure that in its judgment is necessary
and reasonable for a municipality to follow to obtain funds or
participate in the water revolving loan fund. The application
must include any information, supporting documents or
certifications that the bank determines necessary for the purpose
of implementing this section.

5. Borrowing conditions. The bank may make loans to
municipalities or borrow money on behalf of municipalities for
any of the purposes set forth in this section. Each loan or
other form of evidence of participation in the program must be
made subject to terms and conditions in a form agreed to by the
bank and any municipality and must be evidenced by loan or
participation agreement or agreements executed by the bank and
the municipality stating the rate, term and payment schedule for

2 any payments to be made to the bank. The agreement may contain
3 other terms and conditions the bank considers desirable.

4 **§6006-C. Municipal lease finance program**

6 1. Establishment; administration. A municipal lease
7 finance program under the jurisdiction and direction of the bank
8 is established to provide or assist municipalities and
9 governmental entities in the financing of leases by which a
10 municipality may acquire or obtain the right to use personal or
11 real property. The municipal lease finance program must provide
12 methods of direct or indirect financing, insurance, borrowing,
13 credit enhancement and other financial tools for the lease,
14 lease-purchase, rental or right of use of any real or personal
15 property or other authorized activity of a municipality.

16
17 2. Powers. The bank may make loans to municipalities or
18 borrow money on behalf of municipalities for any of the purposes
19 of this section. The bank may purchase, refinance or enter into
20 leases with or on behalf of municipalities. The bank may
21 purchase or refinance for or on the behalf of any municipality
22 any municipal lease that may be held or issued by any 3rd party.
23 The bank may issue its bonds or notes for the purchase of
24 municipal leases on behalf of a municipality or group of
25 municipalities or for the establishment of a pool of funds to be
26 used for the purchase, financing or other means of acquisition of
27 leases used by a municipality or group of municipalities. The
28 bank shall establish prudent standards for the terms and
29 conditions of any lease financing made available to a
30 municipality or group of municipalities. Terms and conditions
31 include, but are not limited to, the general obligation of the
32 municipality, and liens on any real or personal property held by
33 the municipality whether being financed by the specific lease or
34 not, and sinking funds.

35
36 3. Application; eligibility. The bank may prescribe and
37 require an application or procedure for a municipality to
38 participate in any form of lease financing assistance made
39 available under this section. An application must include any
40 information that the bank decides is necessary for implementing
41 this section, including, but not limited to, supporting
42 documents, certifications, feasibility studies, financial data,
43 utilization studies or other applicable information. A
44 municipality is not eligible to participate in any lease finance
45 assistance made available under this section unless, in the sole
46 judgment of the bank, the municipality has satisfactorily
47 demonstrated that it can assure that it will pay the principal,
48 interest, fees and related charges on the bond, debt or other
49 instrument issued by the bank on behalf of the municipalities or
50 purchased by the bank from the municipality as well as the costs
51 for operation and maintenance of any real or personal property
52 acquired or made available for use by the municipality by virtue

2 of the lease finance assistance. Satisfactory assurance can be
3 demonstrated if a municipality has:

4 A. Established a method of payment by assessment, rate,
5 charges or other mechanism satisfactory to the bank; or

6
7 B. Provided collateral sufficient to assure payment.

8
9 4. State not liable. Bonds, notes, leases or other forms
10 of debt or liability entered into or issued by the bank under
11 this section are not in any way a debt or liability of the State
12 and do not constitute a loan of the credit of the State or create
13 any debt or debts, liability or liabilities on behalf of the
14 State or constitute a pledge of the faith and credit of the
15 State. Each bond, note, lease or other evidence of debt or
16 liability entered into by the bank must contain a statement to
17 the effect that the bank is obligated to pay the principal,
18 interest, redemption premium, if any, and other amounts payable
19 solely from the sources pledged for that purpose by the bank, and
20 that neither the faith and credit nor the taxing power of the
21 State is pledged to the payment of the principal, interest,
22 premium, charge, fee or other amount on the bond, note, lease or
23 other form of indebtedness, as the case may be.

24
25 5. Lease finance agreement. Lease financing and
26 refinancing, lease purchase, loans and other forms of
27 indebtedness or obligations incurred by a municipality due to the
28 bank under the terms of this section must be evidenced by and be
29 made in accordance with the terms and conditions specified in a
30 lease finance agreement to be executed by the bank and the
31 municipality or group of municipalities. The lease finance
32 agreement must specify, among other things, the terms and
33 conditions for the disbursement of lease finance proceeds, the
34 term and interest rate of the lease, the scheduling of lease
35 payments or bond payments as the case may be, and any other terms
36 and conditions determined necessary or desirable by the bank.

37 **§6013-A. Maine Municipal Bond Insurance Fund**

38
39 1. Establishment. The Maine Municipal Bond Insurance Fund
40 is established in the custody of the bank and under its
41 jurisdiction and direction to provide credit enhancement in the
42 form of bond insurance to municipalities, state instrumentalities
43 and other governmental units on debt issued by them in the form
44 of bonds, notes or other evidences of indebtedness.

45
46 2. Administration. The bank shall administer the Maine
47 Municipal Bond Insurance Fund. The fund must be invested in the
48 same manner as permitted for investment of funds belonging to the
49 State or held in the State Treasury. The fund must be
50 established and held separate and apart from any other funds or
51 money of the State or the bank and must be used and administered
52

2 exclusively for the purpose of this section. The fund consists
3 of the following:

4 A. Sums that are appropriated by the Legislature or
5 transferred to the fund from time to time by the Treasurer
6 of State;

8 B. Premiums, fees, charges, assessments received from
9 municipalities that are obtaining directly or indirectly, in
10 whole or in part, credit enhancement or other benefit from
11 use of the fund;

12 C. Interest or other gains realized from the investment of
13 fund balances;

14 D. Private gifts, bequests and donations made to the State
15 for any of the purposes for which the fund has been
16 established;

17 E. The proceeds of notes or bonds issued by the bank for
18 the purpose of deposit in the fund;

19 F. Other funds from any public or private source received
20 for use for any of the purposes for which the fund has been
21 established;

22 G. Other funds from any public or private source received
23 as part of an agreement with the bank for a joint venture
24 undertaken for any of the purposes for which the fund has
25 been established; and

26 H. Grants, awards or other payments made to the State or an
27 instrumentality of the State by the United States for any of
28 the purposes for which the fund has been established. These
29 amounts must be paid directly into the fund without need for
30 appropriation by the State.

31 3. Use and maintenance of the fund. The Maine Municipal
32 Bond Insurance Fund must be used and maintained in the following
33 manner.

34 A. All money held in the fund may be used only to make
35 payments pursuant to bond insurance contracts, to pay any or
36 all operating expenses of the administration and operation
37 of the Maine Municipal Bond Insurance Fund and to maintain
38 the fund at an amount equal to the minimum insurance
39 reserve. The minimum insurance reserve is that amount
40 determined by actuarial study solicited by the bank as being
41 necessary and prudent for the operation of the program. The
42 bank may not enter into any contract for bond insurance
43 unless it certifies that at the time of execution the
44 amounts of money required to meet reserve minimums, as
45 of the time of execution of the contract, are sufficient to
46 meet the minimum insurance reserve.

2 determined by the most recent actuarial study, are in the
4 fund or will be deposited in the fund as part of the
6 execution of the contract. Any money in the fund in excess
8 of that needed to maintain the minimum insurance reserve may
10 be used by the bank for any of its authorized activities.

12 B. To ensure the maintenance of the fund, a required
14 minimum reserve, valued at cost, market, amortized value or
16 other methods as determined proper by the actuarial method,
18 must be determined. An amount equal to the determined
20 required minimum reserve must be annually appropriated and
22 paid for deposit in the fund. The amount of the minimum
24 reserve deposit, if any, must be certified by the executive
26 director of the bank to the Governor as the amount necessary
28 to restore any fund to an amount equal to the required
30 minimum reserve for the average aggregate amount of bond
32 insurance contracts outstanding during the 12-month period
34 prior to certification.

36 4. Operation and eligibility. The bond insurance program
38 shall operate, determine eligibility and make payments as follows.

40 A. The bank is authorized to operate a bond insurance
42 program and may:

44 (1) Establish fund insurance contracts;

46 (2) Charge and collect premiums;

48 (3) Make appropriate payments;

50 (4) Sell bonds and notes of the bank, regardless of
52 any other limitations or restrictions in this chapter,
54 the proceeds of which may be used to meet the minimum
56 reserve requirement of the Maine Municipal Bond
58 Insurance Fund authorized and created by this section;
60 and

62 (5) Do all other things necessary, proper or desirable
64 to administer and operate a municipal bond insurance
66 program.

68 B. The bond insurance program may provide bond insurance to
70 any public issuer of debt, including governmental units,
72 municipalities, instrumentalities of the State, and the
74 State. The bank may establish an application or procedure,
76 requesting such information as it considers necessary or
78 desirable, for eligible participants to apply for the
80 benefits of the program. Acceptance of an applicant for
82 participation in the program is in the sole judgment of the
84 bank. Participation in the program must be evidenced by and
86 made in accordance with the terms and conditions specified

2 in a contract of insurance to be executed by the bank and
4 the participating unit. The contract of insurance must
6 state the terms and conditions under which insurance
8 coverage is provided, the premiums, payments or assessments
that may be due and payable or called for under the terms of
the contract, the schedule upon which payments must be made
and any other terms and conditions determined as necessary
or desirable by the bank.

10 C. Contracts for insurance entered into under this section
12 are not in any way a debt or liability of the State and do
14 not constitute a loan of the credit of the State or create
16 any obligation or obligations, debt or debts or liability or
18 liabilities on behalf of the State or constitute a pledge of
20 the faith and credit of the State. All obligations to pay
22 under the terms of any contracts of insurance entered into
24 or issued under this chapter are payable solely from the
26 revenues or funds pledged in the Maine Municipal Bond
28 Insurance Fund and not from any other revenues, funds or
30 assets of the bank or the State. There is no obligation
32 implied, stated or expressed in this section from the bank
34 or the State to make any payment to or on behalf of any 3rd
party, including, but not limited to, bond holders,
coinsurers, program participants or any other party
whatsoever, from any source other than the bond insurance
fund created in this section. Each bond insurance contract
must contain on its face a statement to the effect that the
bank is obligated to make any payments called for in the
contract only from the assets and revenues available in the
bond insurance fund and not from any other revenues or
assets of the bank and that neither the full faith and
credit of the bank or the State nor the taxing power of the
State is pledged to make any payments of any type or kind
called for in the contract of bond insurance.

36 **Sec. 13. Appropriation.** The following funds are appropriated
38 from the General Fund to carry out the purposes of this Act.

1991-92

40 **MAINE MUNICIPAL BOND BANK**

42 **Maine Municipal Bond Insurance Fund**

44 All Other \$3,000,000
46

48 **STATEMENT OF FACT**

50 This bill directs the Maine Municipal Bond Bank to establish
new methods for providing assistance to governmental entities in

obtaining necessary capital funds. The methods of assistance
proposed in the bill will allow governmental entities to:

1. Tap new markets for long-term financing;

2. Provide benefits of scale to reduce costs and allow
access to sources of funds in municipal borrowing; and

3. Provide new forms of credit enhancement to reduce
interest rates and related costs and charges associated with
governmental borrowing for environmental infrastructure, schools,
roads and other major capital cost items.

Specifically, the bill makes the necessary technical and
perfecting changes in the Maine Municipal Bond Bank laws to
enable the bank to operate:

1. A revolving loan fund for clean drinking water;

2. A municipal bond insurance program for credit
enhancement of debt issue by governmental entities; and

3. A municipal lease financing program to assist
municipalities in obtaining lower cost lease financing for major
items that may be prudent to lease rather than purchase,
including but not limited to computer systems, portable
classrooms or telephone systems.