

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2389

H.P. 1708

House of Representatives, February 27, 1992

Reported by Representative MELENDY for the Joint Standing Committee on Housing and Economic Development pursuant to Joint Order H.P. 1705.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

STATE OF MAINE

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

An Act to Implement the Jobs Creation Bond Package.

(EMERGENCY)



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

4 Whereas, the State is in a severe economic downturn and tens
6 of thousands of jobs have been lost in the State during that
downturn; and

8 Whereas, bond issues for infrastructure construction
10 projects are a proven method of creating jobs; and

12 Whereas, many of the State's infrastructure facilities are
in need of immediate improvement; and

14 Whereas, numerous infrastructure construction projects could
16 begin this summer if funding were available; and

18 Whereas, those projects are urgently needed to create jobs
within the State and to make needed repairs and improvements; and

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

26
28 **Be it enacted by the People of the State of Maine as follows:**

30 **Sec. 1. 10 MRSA §§1023-I and 1026-J are enacted to read:**

32 **§1023-I. Economic Recovery Program Fund**

34 1. **Creation.** The Economic Recovery Program Fund, referred
to in this section as the "fund," is created under the
jurisdiction and control of the authority.

36 2. **Sources of money.** The fund consists of the following:

38 A. All money appropriated or allocated for inclusion in the
40 fund, from whatever source;

42 B. Subject to any pledge, contract or other obligation, all
44 interest, dividends or other pecuniary gains from investment
of money from the fund;

46 C. Subject to any pledge, contract, fee or other
48 obligation, any money that the authority receives in
repayment of advances from the fund; and

2 D. Any other money available to the authority and directed
3 by the authority to be paid into the fund.

4 3. Application of the fund. Money in the fund may be
5 applied to carry out any power of the authority under or in
6 connection with section 1026-J or to pay obligations incurred in
7 connection with the fund. Money in the fund not needed currently
8 to meet the obligations of the authority as provided in this
9 section may be invested in a manner permitted by law.

10 4. Accounts within fund. The authority may divide the fund
11 into separate accounts it determines necessary or convenient for
12 carrying out this section.

13 5. Revolving fund. The fund is a nonlapsing, revolving
14 fund. All money in the fund must be continuously applied by the
15 authority to carry out this section and section 1026-J.

16 **§1026-J. Economic Recovery Program**

17 The Economic Recovery Program, referred to in this section
18 as the "program," is established to provide loans to businesses
19 that do not have sufficient access to credit but demonstrate the
20 ability to survive, preserve and create jobs, and repay the loans.

21 1. Eligibility for loans. Businesses may apply to the
22 authority for loans under the program.

23 A. The projects to be financed must pertain to
24 manufacturing, industrial, recreational or natural resource
25 enterprises, be located in the State and provide significant
26 public benefit in relation to the amount of the loan, as
27 determined by the authority. Public benefits include, but
28 are not limited to, preservation of jobs, increased
29 opportunities for employment, increased capital flows,
30 particularly capital flowing in from outside the State, and
31 increased state and municipal tax revenues. Loan proceeds
32 may be used for any appropriate commercial purpose, as
33 determined by the authority, including working capital.

34 B. The authority must determine that the borrower is a
35 for-profit or nonprofit commercial entity, that it is
36 creditworthy and reasonably likely to repay the loan.

37 C. The authority must determine that the borrower has
38 insufficient access to other funds and that the loan is
39 necessary in order for the public benefits of the
40 application to be realized.

2 D. The authority must determine that the borrower has
3 exhausted all other reasonably available sources of capital
4 in order to minimize the amount of the loan from the fund.

6 2. Loan terms and conditions. Loans may not exceed
7 \$1,000,000 per project. The authority may establish prudent
8 terms and conditions for loans, including limits on the amount of
9 loans for any one project and requiring adequate collateral for
10 the loans. Loan terms may not exceed 20 years in the case of
11 loans primarily secured by real estate, 10 years in the case of
12 loans secured primarily by machinery and equipment and 7 years
13 for other loans. The interest rate charged on each loan may not
14 exceed the prime rate for interest plus 4%, as determined by the
15 authority. The authority may establish conditions, such as
16 balloon payments, to encourage borrowers to make the transition
17 to conventional financing as soon as they are reasonably able to
18 do so.

20 3. Rulemaking. The authority shall establish rules for the
21 implementation of the program established by this section,
22 including, but not limited to, the establishment of fees that may
23 be charged for the administration of the program, and may do so
24 notwithstanding:

26 A. The omission of any such rules from the authority's
27 current regulatory agenda prepared pursuant to Title 5,
28 section 8060 or provided pursuant to Title 5, section
29 8053-A, subsection 2; or

30 B. Any limitation imposed by Title 5, section 8064.

32 **Sec. 2. Criteria for Finance Authority of Maine awarding funds;**
33 **report.** In awarding bond proceeds to businesses or other
34 commercial enterprises in distressed loan situations under the
35 Economic Recovery Program when the demand for funds exceeds the
36 funds available, the Finance Authority of Maine shall consider
37 the following:

- 38 1. The number of jobs likely to be lost if foreclosure
39 occurs;
- 40 2. The immediacy and severity of the threat of foreclosure;
- 41 3. The likelihood of long-term success of the business if
42 assistance is awarded; and
- 43 4. The availability of other sources of assistance to
44 supplement state funds.

2 The Finance Authority of Maine shall report to the joint
4 standing committee of the 116th Legislature having jurisdiction
6 over economic development matters on the implementation of the
Economic Recovery Program. The report must be in writing and
submitted by January 1, 1993.

8 **Sec. 3. Criteria for the Department of Economic and Community
Development awarding funds; report.** In awarding bond proceeds
10 authorized by the \$50,000,000 bond issue for public
infrastructure capital improvements for municipal infrastructure
12 projects when the demand for funds exceeds funds available, the
Department of Economic and Community Development shall establish
14 a weighted ranking system using the following criteria,
objectives and policies.

16 1. Short-term job creation is worth a maximum of 40% of a
18 project's ranking and is based on:

20 A. The estimated number of person-weeks of employment that
the project will create; and

22 B. The ratio of grant funds to the number of hours of
24 employment the project will require.

26 2. The ability of a project to leverage other funds is
worth a maximum of 25% of the project's ranking. Other sources
28 of funding must be currently available or be demonstrated to be
available by the time the award is made. Leveraged funds must
30 relate directly to the viability of the project needing state
bond funding. Under this criterion, points will be awarded to
32 projects on the basis of the ratio of bond funds to matched funds
as follows:

34 A. A 1:1 or greater ratio is worth 25 points;

36 B. A ratio between 1:1 and 3:1 is worth 17 points;

38 C. A ratio of 3:1 or less is worth 8 points; and

40 D. A project that does not qualify for matching funds
42 receives no points in the category.

44 3. The likelihood that the project will create jobs
expected to last longer than one year is worth a maximum of 20%
46 of a project's ranking and is based on the ability of the
applicant to:

48 A. Identify the long-term jobs that the project will
50 create; and

2 B. Indicate when the long-term jobs will be created.

4 4. The severity of job loss statistics in the labor market
6 area in which the project is located is worth a maximum of 15% of
8 a project's ranking and is based on the following:

10 A. The number of unemployed workers in a labor market area
12 in 1989 will be compared with the current number. The
14 quintile of labor market areas with the greatest increase in
16 the number of unemployed receives 10 points, the 2nd
18 quintile receives 8 points, the 3rd quintile receives 6
20 points, the 4th quintile 4 points and the lowest quintile
22 receives 2 points; and

24 B. The percent of unemployed workers in a labor market area
26 will be compared with the statewide percent of workers
28 unemployed. The quintile of labor market areas with the
30 highest rate of unemployment as compared to the statewide
32 average receives 5 points, the 2nd quintile receives 4
34 points, the 3rd quintile receives 3 points, the 4th quintile
36 receives 2 points and the lowest quintile receives one point.

38 5. The Department of Economic and Community Development:

40 A. Shall select and fund at least the highest rated
42 application from each county, except that no single project
44 is eligible to receive more than \$750,000 in funds under
46 this Act and every county must be awarded projects totaling
48 at least \$500,000;

50 B. Shall ensure, to the greatest extent possible, that
52 projected jobs to be created through this Act will not be at
54 the expense of jobs currently in existence;

56 C. May reallocate funds from projects that have not
58 realized acceptable levels of progress, construction or job
60 creation within 90 days following the offer of an award of a
62 grant through this Act; and

64 D. Shall award up to 10 supplemental points for projects
66 providing 200 or more construction jobs or those creating or
68 preserving 200 or more permanent jobs.

70 6. It is the intent of the Legislature that the Department
72 of Economic and Community Development require municipalities in
74 contracting for the use of funds provided under this Act to
76 establish performance standards to be included in contracts for
78 projects requiring:

2 A. To the maximum extent possible, a minimum of 90% of the
persons employed by projects funded through this Act be
Maine residents;

4 B. To the maximum extent possible, that projects funded
6 through this Act purchase materials and services from Maine
suppliers; and

8 C. Contractors and subcontractors on projects in excess of
10 \$250,000 to pursue in good faith affirmative action programs.

12 The Department of Economic and Community Development shall
report to the joint standing committee of the 116th Legislature
14 having jurisdiction over economic development matters on the use
of bond proceeds for municipal infrastructure capital
16 improvements. The reports must be in writing and submitted by
January 1, 1993.

18 **Sec. 4. Criteria for other agencies awarding funds; assistance;
20 report.** The Department of Education, Board of Trustees of the
Maine Technical College System, Board of Trustees of the
22 University of Maine System, the Maine State Housing Authority and
the Department of Economic and Community Development in
24 administering bond proceeds for other than municipal
infrastructure projects, to the maximum extent possible, shall
26 follow the criteria established for the Department of Economic
and Community Development in section 3 in selecting projects to
28 receive funds authorized by this Act. If requested, the
Department of Economic and Community Development shall assist
30 those agencies in developing guidelines for project approval.

32 The agencies governed by this section shall each report to
the joint standing committee of the 116th Legislature having
34 jurisdiction over economic development matters on the use of bond
proceeds for public infrastructure capital improvements. The
36 reports must be in writing and submitted by January 1, 1993.

38 **Sec. 5. Administration.** In administering the municipal
capital construction project program established in the
40 \$50,000,000 bond issue for public infrastructure capital
improvements, the Commissioner of Economic and Community
42 Development may take necessary, reasonable action.

44 **Sec. 6. Application; contingent on bond issue.** This Act takes
effect only if a \$50,000,000 general revenue bond issue for
46 infrastructure capital improvements and job creation and
retention and a \$56,000,000 general and highway revenue bond
48 issue for transportation infrastructure capital improvements are
approved by the voters of the State..

2 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.

4
6 **STATEMENT OF FACT**

8 This bill is accompanying legislation to the \$106,000,000
bond issue referendum recommended by the Jobs Commission and will
10 go into effect only if that bond issue is approved by the voters
at a special election in April. The bill contains the statutory
12 and unallocated language necessary to implement the job-creation
bond issue this summer.

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