

MAINE STATE LEGISLATURE

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L.D. 129

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STATE OF MAINE
SENATE
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 68, L.D. 129, Bill, "An Act to Amend the Defense Finance and Accounting Service Financial Assistance Laws"

Amend the bill by inserting after the enacting clause and before section 1 the following:

'Sec. 1. 30-A MRSA §5271, sub-§10, as enacted by PL 1991, c. 886, §1 and affected by §2, is amended by amending the first paragraph to read:

10. Project costs. "Project costs" means any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by a municipality that are listed in a DFAS development program as costs of improvements, including public works, acquisition, construction or rehabilitation of land or improvements for sale or lease to, or use by, commercial or industrial users, or the United States Government or any agency or instrumentality of the United States Government, within a DFAS project area, plus any costs incidental to those improvements, reduced by any income, special assessments or other revenues, other than DFAS revenues, received or reasonably expected to be received by the municipality in connection with the implementation of this plan.

Sec. 2. 30-A MRSA §5272, sub-§4, as enacted by PL 1991, c. 886, §1 and affected §2, is amended to read:

4. Assistance. The DFAS financial assistance program provides for a municipality to receive a portion of the increased sales and personal income taxes generated as a result of implementing the DFAS development program to pay for the cost of implementing the program. In addition, the DFAS financial assistance program vests a municipality with the same authority as is set forth in section 5275, subsection 4.'

COMMITTEE AMENDMENT

Further amend the bill by inserting after section 1 the following:

'Sec. 2. 30-A MRSA §5272, sub-§7, as enacted by PL 1991, c. 886, §1 and affected by §2, is amended to read:

7. **Calculation of DFAS revenues.** Annually, the State Tax Assessor shall determine the DFAS revenues generated from the implementation of the DFAS development program, based upon the method set forth in section 5272, subsection 10, and on or before April 15th, forward a statement of the amount of DFAS revenues to be received by the municipality to the Commissioner of Administrative and Financial Services.

Sec. 3. 30-A MRSA §5272, sub-§8, as enacted by PL 1991, c. 886, §1 and affected by §2, is amended to read:

8. **DFAS program fund.** To manage properly the DFAS revenues received pursuant to subsection 5, the municipality:

A. Shall establish a DFAS program fund that consists of the following:

(1) A development sinking fund account that is pledged to and charged with the payment of the interest, premium, if any, and principal as the interest, premium, if any, and principal fall due, and the necessary charges of paying interest on, principal of and redemption price of any notes, bonds or other evidences of indebtedness that were issued to fund or refund ~~the cost of the DFAS program fund~~ project costs; and

(2) A project cost account that is pledged to and charged with the payment of project costs as outlined in the financial plan and are paid in a manner other than described in subparagraph (1);

B. Shall annually set aside all DFAS revenues payable paid to the municipality for public purposes and deposit all those revenues to the appropriate DFAS program fund account in the following priority:

(1) To the development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on that amount, to satisfy all ~~annual debt service on~~ interest on, premium, if any, and principal of any and all bonds and notes issued to implement the DFAS development program due within the 12 months following the date of receipt of such funds; and

2 (2) To the project cost account, an amount sufficient,
3 together with the estimated future revenues to be
4 deposited to the account and earnings on that amount,
5 to satisfy all annual project costs to be paid from the
6 account;

8 C. May make transfers between DFAS program fund accounts as
9 required in paragraphs A and B, as long as the transfers do
10 not result in a balance in the development sinking fund
11 account that is insufficient to ~~cover~~ pay the annual
12 obligations of that account as and when due; and

14 D. Shall annually return to the State's General Fund any
15 DFAS revenues in excess of those estimated to be required to
16 satisfy the obligations of the DFAS program fund.'

18 Further amend the bill by inserting after section 3 the
19 following:

20 'Sec. 4. 30-A MRS §5273, sub-§2, as enacted by PL 1991, c.
21 886, §1 and affected by §2, is amended to read:

24 2. Local approval. Before adopting a DFAS development
25 program, the municipal legislative body or the municipal
26 legislative body's designee shall hold at least one public
27 hearing. Notice of the hearing must be published at least 10
28 days before the hearing in a newspaper of general circulation
29 within the municipality.

30 If the municipality has a charter, the same local approval as is
31 required for the issuance of general obligation debt must be
32 obtained in accordance with the provisions of the charter. Once
33 approved, the DFAS development program may be altered or amended
34 only after meeting the requirements for adoption under this
35 subsection.'

38 Further amend the bill in section 5 in paragraph E by
39 striking out all of the first paragraph (page 1, lines 39 to 44
40 in L.D.) and inserting in its place the following:

42 'E. The applicant municipality has successfully negotiated
43 an agreement with the Federal Government that insures a
44 revenue stream sufficient to retire the debt incurred in
45 implementing the DFAS development program. Forms that this
46 agreement may take include, but are not limited to, the
47 following:'

48 Further amend the bill in section 5 in paragraph E by
49 striking out all of subparagraph (3) (page 2, lines 32 to 36 in
50 L.D.) and inserting in its place the following:

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'(3) Any other form of assurance that revenues will be available for the repayment of the debt incurred in implementing the DFAS development program, either in lump sum or payments applied over time, should the facility close or employment levels fall below an acceptable level.'

Further amend the bill by inserting after section 5 the following:

'Sec. 6. 30-A MRS §5273, sub-§6, as enacted by PL 1991, c. 886, §1 and affected by §2, is amended to read:

6. Certificate of approval. Upon approval of the DFAS development program, the commissioner shall issue a certificate of approval. For a period of 30 days following the issuance of the certificate of approval, any interested or aggrieved parties have the right to challenge or appeal the issuance of the certificate of approval, or any infirmities in connection with the application for, or proceedings relating to the issuance of the certificate of approval. After the expiration of the 30-day period, the issuance of the certificate of approval and the results of all proceedings relating to it are final, binding and unappealable, and no party has any right to appeal, challenge or otherwise seek judicial or administrative review of the issuance of the certificate of approval or seek to obtain any injunctive or declaratory relief with respect to it.'

Further amend the bill by renumbering the sections to read consecutively.

Further amend the bill by inserting before the statement of fact the following:

'FISCAL NOTE

This bill reduces the potential future cost to the State if actual Defense Finance and Accounting Service or DFAS revenues are not sufficient to cover the payment of revenue bond debt issued by the City of Bangor. It requires the city to negotiate debt retirement assurances with the Federal Government.

The elimination of the requirement that the Commissioner of Economic and Community Development adopt rules pertaining to DFAS program administration will achieve some minimal additional savings.'

R. of S.

COMMITTEE AMENDMENT "A" to S.P. 68, L.D. 129

STATEMENT OF FACT

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This amendment incorporates a series of technical corrections that are necessary to enhance the marketability of the debt that can be issued in conjunction with the DFAS Financial Assistance Program.

Reported by Senator Cleveland for the Committee on Taxation.
Reproduced and Distributed Pursuant to Senate Rule 12.
(1/26/93) (Filing No. S-14)

COMMITTEE AMENDMENT