

MAINE STATE LEGISLATURE

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"R. of S.

L.D. 1193

(Filing No. H- 561)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 879, L.D. 1193, Bill, "An Act to Increase the Availability of Funding for Health Care"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 22 MRSA §2052, as amended by PL 1991, c. 50, §1, is further amended to read:

§2052. Declaration of necessity

It is declared that for the benefit of the people of the State, the increase of their commerce, welfare and prosperity and the improvement of their health and living conditions, it is essential that ~~hospitals,--community-mental health care facilities and--nursing-homes~~ within the State be provided with appropriate additional means to expand, enlarge and establish health care, ~~hospital,--community-mental-health,--nursing-home~~ facilities and other related facilities; that this and future generations of students be given the fullest opportunity to learn and to develop their intellectual capacities; and that it is the purpose of this chapter to provide a measure of assistance and an alternative method to enable ~~hospitals,--community--mental health care facilities,--nursing-homes~~ and institutions for higher education in the State to provide the facilities and structures ~~which-are~~ ~~seerely~~ needed to accomplish the purposes of this chapter, all to the public benefit and good, and the exercise of the powers, to the extent and manner provided in this chapter, is declared the exercise of an essential governmental function.

Sec. 2. 22 MRSA §2053, sub-§2, as amended by PL 1991, c. 50, §2, is further amended to read:

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2 **2. Bonds and notes.** "Bonds" and "notes" mean bonds and
3 notes of the authority issued under this chapter, including
4 refunding bonds, notwithstanding that the same may be secured by
5 mortgage or the full faith and credit of the authority or the
6 full faith and credit of a participating hospital, ~~or of a~~
7 ~~participating--community--mental~~ health care facility or of a
8 participating institution for higher education, or any other
9 lawfully pledged security of a participating hospital, ~~or of a~~
10 ~~participating--community--mental~~ health care facility or of a
11 participating institution for higher education.

12 **Sec. 3. 22 MRSA §2053, sub-§2-A,** as enacted by PL 1991, c. 50,
13 §3, is amended to read:

14 **2-A. Community mental health facility.** "Community mental
15 health facility" means a community-based facility that renders
16 mental health services to members of the general public, that is
17 exempt from taxation under the United States Internal Revenue
18 Code, Section 501 and that is licensed by the Department of
19 Mental Health and Mental Retardation under Title 34 34-B, section
20 1203-A.

21 **Sec. 4. 22 MRSA §2053, sub-§2-B** is enacted to read:

22 **2-B. Community health center.** "Community health center"
23 means an incorporated nonprofit health facility that provides
24 comprehensive primary health care to citizens in a community.

25 **Sec. 5. 22 MRSA §2053, sub-§3-A,** as enacted by PL 1991, c.
26 584, §1, is amended to read:

27 **3-A. Health care facility.** "Health care facility" means
28 any a nursing home or boarding home that is, or will be upon
29 completion, licensed under the laws of the State, a hospital, a
30 community mental health facility or a community health center.

31 **Sec. 6. 22 MRSA §2053, sub-§4-C,** as corrected by RR 1991, c.
32 2, §78, is repealed.

33 **Sec. 7. 22 MRSA §2053, sub-§5,** as amended by PL 1991, c. 584,
34 §3, is further amended to read:

35 **5. Participating health care facility.** "Participating
36 health care facility" means ~~any--hospital,--nursing--home--or~~
37 ~~boarding--home~~ a health care facility that, pursuant to this
38 chapter, undertakes the financing and construction or acquisition
39 of a project or undertakes the refunding or refinancing of
40 existing indebtedness as provided in and permitted by this
41 chapter.

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2 Sec. 8. 22 MRSA §2053, sub-§6, ¶A, as amended by PL 1991, c.
50, §4, is further amended to read:

4 A. In the case of a participating hospital--~~ex-~~
participating--community--mental health care facility, the
6 acquisition, construction, improvement, reconstruction or
equipping of, or construction of an addition or additions
8 to, any a structure designed for use as a hospital,
~~community--mental-health--facility,--clinic,--nursing-home-or~~
10 either health care ~~or--nursing--care~~ facility, congregate
housing facility, laboratory, laundry, nurses or interns
12 residence or other multi-unit housing facility for staff,
employees, patients or relatives of patients admitted for
14 treatment in the hospital,--community--mental health care
facility ~~or--nursing--home~~, doctors office building,
16 administration building, research facility, maintenance,
storage or utility facility or other structures or
18 facilities related to any of the foregoing or required or
useful for the operation of the project, or the refinancing
20 of existing indebtedness in connection with any of the
foregoing, including parking and other facilities or
22 structures essential or convenient for the orderly conduct
of the hospital,--community--mental health care facility ~~or~~
24 nursing-home. "Project" also includes all real and personal
property, lands, improvements, driveways, roads, approaches,
26 pedestrian access roads, rights-of-way, utilities, easements
and other interests in land, parking lots, machinery and
28 equipment, and all other appurtenances and facilities either
on, above or under the ground which that are used or usable
30 in connection with the structures mentioned in this
paragraph, and includes landscaping, site preparation,
32 furniture, machinery and equipment and other similar items
necessary or convenient for the operation of a particular
34 facility or structure in the manner for which its use is
intended, but does not include such items as food, fuel,
36 supplies or other items which that are customarily
considered as a current operating charge. In the case of a
38 hospital, as defined in subsection 4, paragraph B, a
community health center or ~~in-the-case-of~~ a community mental
40 health facility ~~as-defined-in-subsection-2-A~~, "project" does
not include any facilities, structures or appurtenances, the
42 use of which is not directly related to the provision of
patient care by its members; and

44 Sec. 9. 22 MRSA §2053, sub-§7, as amended by PL 1991, c. 50,
46 §5, is further amended to read:

48 7. Refinancing of existing indebtedness. "Refinancing of
existing indebtedness" means liquidation, with the proceeds of
50 bonds or notes issued by the authority, of any an indebtedness of

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2 a hospital, ~~community~~ mental health care facility, ~~nursing-home~~
3 or institution for higher education incurred to finance or aid in
4 financing a lawful purpose of such that hospital, ~~community~~
5 mental health care facility, ~~nursing-home~~ or institution for
6 higher education not financed pursuant to this chapter which that
7 would constitute a project had it been undertaken and financed by
8 the authority, or consolidation of such indebtedness with
9 indebtedness of the authority incurred for a project related to
10 the purpose for which the indebtedness of the hospital, ~~community~~
11 mental health care facility, ~~nursing-home~~ or institution for
12 higher education was incurred.

13 **Sec. 10. 22 MRSA §2054, sub-§1**, as amended by PL 1991, c. 50,
14 §6, is further amended to read:

15 **1. Authority.** The "Maine Health and Higher Educational
16 Facilities Authority," established by Title 5, chapter 379, is
17 constituted a public body corporate and politic and an
18 instrumentality of the State, and the exercise by the authority
19 of the powers conferred by this chapter is deemed and held to be
20 the performance of an essential public function. The authority
21 consists of 12 members, one of whom must be the Bank
22 Superintendent of Banking, ex officio,; one of whom must be the
23 Commissioner of Human Services, ex officio,; one of whom must be
24 the Commissioner of Education, ex officio,; one of whom must be
25 the Treasurer of State, ex officio,; and 8 of whom must be
26 residents of the State appointed by the Governor. Not more than
27 4 of the appointed members may be members of the same political
28 party. Three of the appointed members must be trustees,
29 directors, officers or employees of hospitals ~~or community~~ mental
30 health care facilities and one of such these appointed members
31 must be a person having a favorable reputation for skill,
32 knowledge and experience in state and municipal finance, either
33 as a partner, officer or employee of an investment banking firm
34 which that originates and purchases state and municipal
35 securities, or as an officer or employee of an insurance company
36 or bank whose duties relate to the purchase of state and
37 municipal securities as an investment and to the management and
38 control of a state and municipal securities portfolio. Of the 3
39 members first appointed who are trustees, directors, officers or
40 employees of hospitals, one shall serve for 2 years, one for 3
41 years and one for 4 years. Of the 5 remaining members initially
42 appointed, one shall serve for one year, one for 2 years, one for
43 3 years, one for 4 years and one for 5 years. For the 2 members
44 whose terms expire in 1980 and 1981, the Governor shall appoint
45 as successors, for terms of 5 years each, persons who are
46 trustees, members of a corporation or board of governors,
47 officers or employees of institutions for higher education.
48 Annually, the Governor shall appoint, for a term of 5 years, a
49 successor to the member whose term expires. Members shall
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2 continue in office until their successors have been appointed and
 4 qualified. The Governor shall fill any vacancy for the unexpired
 6 terms. A member of the authority is eligible for reappointment.
 8 Any non-ex officio member of the authority may be removed by the
 10 Governor, after hearing, for misfeasance, malfeasance or willful
 12 neglect of duty. Each member of the authority before entering
 14 upon the member's duties must take and subscribe the oath or
 16 affirmation required by the Constitution of Maine, Article IX. A
 18 record of each such oath must be filed in the office of the
 20 Secretary of State. The Bank Superintendent of Banking, the
 Treasurer of State, the Commissioner of Human Services and the
 Commissioner of Education may designate their deputies to
 represent them with full authority and power to act and vote in
 their behalf or, in the case of the Bank Superintendent of
 Banking, the Commissioner of Human Services and the Commissioner
 of Education, any member of their staffs to represent them as
 members at meetings of the authority with full power to act and,
 in the case of the Bank Superintendent of Banking, the
 Commissioner of Human Services and the Commissioner of Education,
 to vote in their behalf.

22 Sec. 11. 22 MRSA §2054, sub-§7, as amended by PL 1991, c. 50,
 24 §7, is further amended to read:

26 7. Conflict of interest. Notwithstanding any other law to
 28 the contrary, it does not constitute a conflict of interest for a
 trustee, director, officer or employee of a hospital, ~~community~~
 30 mental health care facility ~~or nursing home~~ or for a trustee,
 32 member of a corporation or board of governors, officer or
 34 employee of an institution for higher education to serve as a
 36 member of the authority, if such trustee, director, member of a
 corporation or board of governors, officer or employee abstains
 from deliberation, action and vote by the authority under this
 chapter in specific respect to the hospital, ~~community~~ mental
 health care facility, ~~nursing home~~ or institution for higher
 education of which such member is a trustee, director, member of
 a corporation or board of governors, officer or employee.

38 Sec. 12. 22 MRSA §2055, first ¶, as amended by PL 1991, c. 50,
 40 §8, is further amended to read:

42 The purpose of the authority is to assist participating
 44 hospitals, ~~participating community~~ mental health care facilities
 and participating institutions for higher education in the
 46 undertaking of projects and the refinancing of existing
 indebtedness which that are declared to be public purposes and
 48 for the purposes of this chapter the authority is authorized and
 empowered:

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2 **Sec. 13. 22 MRSA §2055, sub-§5**, as amended by PL 1991, c. 50,
§9, is further amended to read:

4 **5. Projects.** To determine the location and character of
any project to be financed under this chapter, and to acquire,
6 construct, reconstruct, renovate, improve, replace, maintain,
repair, extend, enlarge, operate, lease, as lessee or lessor, and
8 regulate the same, to enter into contracts for any or all of such
purposes, to enter into contracts for the management and
10 operation of a project, and to designate a participating
~~hospital,--a-participating-community-mental~~ health care facility
12 or a participating institution for higher education as its agent
to determine the location and character of a project undertaken
14 by the participating ~~hospital,--participating-community-mental~~
health care facility or participating institution for higher
16 education under this chapter and as the agent of the authority,
to acquire, construct, reconstruct, renovate, improve, replace,
18 maintain, repair, extend, enlarge, operate, lease, as lessee or
lessor, and regulate the same, and, as the agent of the
20 authority, to enter into contracts for any or all of such
purposes, including contracts for the management and operation of
22 such project;

24 **Sec. 14. 22 MRSA §2055, sub-§8**, as amended by PL 1991, c. 50,
§10, is further amended to read:

26 **8. Rules.** To establish rules for the use of a project or
any portion thereof and to designate a participating ~~hospital,--a~~
28 ~~participating--community--mental~~ health care facility or a
participating institution for higher education as its agent to
30 establish rules for the use of a project undertaken by the
participating ~~hospital,--participating--community--mental~~ health
32 care facility or participating institution for higher education;

34 **Sec. 15. 22 MRSA §2055, sub-§12**, as amended by PL 1991, c.
36 584, §4, is further amended to read:

38 **12. Loans.** To make loans to any a participating ~~hospital,~~
~~participating----community----mental~~ health care facility,
40 participating institution for higher education, other entity
eligible to use the authority or consortium of entities eligible
42 to use the authority for the cost of a project in accordance with
an agreement between the authority and the participating entity
44 or entities, provided except that no such loan may exceed the
total cost of the project as determined by the participating
46 entity or entities, and approved by the authority;

48 **Sec. 16. 22 MRSA §2055, sub-§13**, as amended by PL 1991, c. 50,
§11, is further amended to read:

13. **Refund.** To make loans to a participating hospital,
participating--community--mental health care facility or a
participating institution for higher education to refund
outstanding obligations, mortgages or advances issued, made or
given by such participating hospital,~~participating--community~~
mental health care facility or participating institution for
higher education for the cost of the project;

Sec. 17. 22 MRSA §2055, sub-§14, as amended by PL 1991, c. 50,
§12, is further amended to read:

14. **Apportionment.** To charge to and equitably apportion
among participating hospitals,~~participating--community--mental~~
health care facilities and participating institutions for higher
education its administrative costs and expenses incurred in the
exercise of the powers and duties conferred by this chapter; and

Sec. 18. 22 MRSA §2055, sub-§15, as amended by PL 1991, c. 50,
§13, is further amended to read:

15. **Other acts.** To do all things necessary or convenient
to carry out the purposes of this chapter. In carrying out the
purposes of this chapter, the authority may undertake a project
for 2 or more participating hospitals~~--jointly,--2--or--more~~
~~participating--community--mental~~ health care facilities jointly or
2 or more participating institutions for higher education
jointly, and, ~~thereupon~~ upon undertaking the project, all other
provisions of this chapter apply to and for the benefit of the
authority and such joint participants.

Sec. 19. 22 MRSA §2057, as amended by PL 1991, c. 50, §14, is
further amended to read:

§2057. Acquisition of property by authority

The authority is authorized and empowered, directly or by
and through a participating hospital,~~a participating--community~~
mental health care facility or a participating institution for
higher education, as its agent, to acquire by purchase or by gift
or devise such lands, structures, property, real or personal,
rights and air rights, rights-of-way, franchises, easements and
other interests in lands, including lands lying under water and
riparian rights, and air rights, which that are located within
inside or without outside the State, as it may ~~deem~~ determines
necessary or convenient for the construction or operation of a
project, upon such terms and at such prices as may be considered
by it to be reasonable and can be agreed upon between it and the
owner ~~thereof~~ of lands, including lands lying under water and
riparian rights, and air rights, that are located inside or
outside the State, and to take title thereto to lands, including

lands lying under water and riparian rights, and air rights, that are located inside or outside the State in the name of the authority or in the name of a participating hospital, ~~a participating community mental health~~ care facility or a participating institution for higher education as its agent.

Sec. 20. 22 MRSA §2058, as amended by PL 1991, c. 50, §15, is further amended to read:

§2058. Conveyance of title to participating institutions

When the principal of and interest on bonds of the authority issued to finance the cost of a particular project or projects for a participating hospital, ~~a participating community mental health~~ care facility or a participating institution for higher education, including any refunding bonds issued to refund and refinance such bonds, have been fully paid and retired or when adequate provision has been made to fully pay and retire the same, and all other conditions of the resolution or trust agreement authorizing and securing the same have been satisfied and the lien of such resolution or trust agreement has been released in accordance with the provisions ~~thereof~~ of the bonds, the authority shall promptly do such things and execute such deeds and conveyances as are necessary and required to convey title to such project or projects to such participating hospital, ~~participating community mental health~~ care facility or participating institution for higher education, free and clear of all liens and encumbrances, all to the extent that title to such project or projects is not, at the time, vested in such participating hospital, ~~participating community mental health~~ care facility or participating institution for higher education.

Sec. 21. 22 MRSA §2060, sub-§2, as amended by PL 1991, c. 50, §16, is further amended to read:

2. **General obligations.** Except as may otherwise be expressly provided by the authority, every issue of its bonds, notes or other obligations are is a general obligations obligation of the authority payable from any revenues or ~~monies~~ money of the authority available ~~therefor~~ for the payment of the obligation and not otherwise pledged, subject only to any agreements with the holders of particular bonds, notes or other obligations pledging any particular revenues or ~~monies~~ money and subject to any agreements with any a participating hospital, ~~participating community mental health~~ care facility or participating institution for higher education. Notwithstanding that such bonds, notes or other obligations may be payable from a special fund, they are and must be deemed to be for all purposes negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, Article 8, subject only

to the provisions of such bonds, notes or other obligations for registration.

Sec. 22. 22 MRSA §2060, sub-§4, ¶A, as amended by PL 1991, c. 50, §17, is further amended to read:

A. Pledging the full faith and credit of the authority, the full faith and credit of a participating hospital, ~~---a participating--community--mental health~~ care facility or a participating institution of higher education, all or any a part of the revenues of a project or any a revenue-producing contract or contracts made by the authority with any an individual, partnership, corporation or association or other body, public or private, to secure the payment of the bonds or of any a particular issue of bonds, subject to such agreements with bondholders as may then exist;

Sec. 23. 22 MRSA §2061, sub-§1, as amended by PL 1991, c. 50, §18, is further amended to read:

1. **Assistance.** Such project will enable or assist a hospital, ~~---community--mental health~~ care facility ~~ex--nursing--home~~ to fulfill its obligation to provide health care ~~ex--nursing--care~~ facilities or an institution for higher education to provide educational facilities within the State;

Sec. 24. 22 MRSA §2061, sub-§2, as amended by PL 1991, c. 584, §5, is further amended to read:

2. **Review.** Each project for a hospital, ~~---community--mental health~~ care facility ~~ex--nursing--home~~ has been reviewed and approved to the extent required by the agency of the State that serves as the Designated Planning Agency of the State or by the Department of Human Services in accordance with the provisions of the Maine Certificate of Need Act of 1978, as amended, or, in the case of a project for a hospital, has been reviewed and approved by the Maine Health Care Finance Commission to the extent required by chapter 107;

Sec. 25. 22 MRSA §2061, sub-§3, as amended by PL 1991, c. 50, §20, is further amended to read:

3. **Lease.** Such project will be leased to, or owned by, a hospital, ~~---community--mental health~~ care facility, ~~---nursing--home~~ or institution for higher education ~~within~~ inside the State; and

Sec. 26. 22 MRSA §2063, as amended by PL 1991, c. 50, §21, is further amended to read:

§2063. Credit of State not pledged

2 Bonds and notes issued under this chapter do not constitute
 4 or create any a debt or debts, liability or liabilities on behalf
 6 of the State or of any a political subdivision thereof of the
 8 State other than the authority or a loan of the credit of the
 10 State or a pledge of the faith and credit of the State or of any
 12 such political subdivision other than the authority, but are
 14 payable solely from the funds provided ~~therefor~~ for the bonds and
 16 notes. All such bonds and notes must contain on the face ~~thereof~~
 18 of the bonds and notes a statement to the effect that neither the
 20 State nor any a political subdivision thereof of the State is
 22 obligated to pay the same or the interest ~~thereon~~ on the bonds
 24 and notes, except from revenues of the project or the portion
 26 thereof of the project for which they are issued and that neither
 28 the faith and credit nor the taxing power of the State or of any
 a political subdivision thereof of the State is pledged to the
 payment of the principal of or the interest on such bonds or
 notes. The issuance of bonds or notes under this chapter may not
 directly or indirectly or contingently obligate the State or any
 a political subdivision thereof of the State to levy or to pledge
 any form of taxation whatever ~~therefor~~ for the bonds and notes or
 to make any an appropriation for their payment. Nothing in this
 section contained may prevent nor be construed to prevent the
 authority from pledging its full faith and credit or the full
 faith and credit of a participating hospital, ~~a participating~~
 community---mental health care facility or participating
 institution for higher education to the payment of bonds or notes
 or issue of notes or bonds authorized pursuant to this chapter.

30 Sec. 27. 22 MRSA §2064, as amended by PL 1991, c. 50, §22, is
 further amended to read:

32 §2064. Rents and charges

34 The authority is authorized to fix, revise, charge and
 36 collect rates, rents, fees and charges for the use of and for the
 38 services furnished or to be furnished by each project and to
 40 contract with any a person, partnership, association or
 42 corporation, or other body, public or private, in respect thereof
 44 of rates, rents, fees and charges. Such rates, rents, fees and
 46 charges must be fixed and adjusted in respect of the aggregate of
 48 rates, rents, fees and charges from such project so as to provide
 50 funds sufficient with other revenues or ~~money~~ money available
~~therefor~~ for the project, if any, to pay the cost of maintaining,
 repairing and operating the project and each and every portion
~~thereof~~ of the project, to the extent that the payment of such
 cost has not otherwise been adequately provided for, to pay the
 principal of and the interest on outstanding bonds or notes of
 the authority issued in respect of such project as the same
 become due and payable, and to create and maintain reserves

2 required or provided for in any a resolution authorizing, or
trust agreement securing, such bonds or notes of the authority.
4 Such rates, rents, fees and charges are not subject to
supervision or regulation by any a department, commission, board,
6 body, bureau or agency of this State other than the authority. A
sufficient amount of the revenues derived in respect of a
8 project, except such part of such revenues as may be necessary to
pay the cost of maintenance, repair and operation and to provide
10 reserves and for renewals, replacements, extensions, enlargements
and improvements as may be provided for in the resolution
12 authorizing the issuance of any bonds or notes of the authority
or in the trust agreement securing the same, must be set aside at
14 such regular intervals as may be provided in such resolution or
trust agreement in a sinking or other similar fund which that is
16 hereby pledged to, and charged with, the payment of the principal
of and the interest on such bonds or notes as the same become
18 due, and the redemption price or the purchase price of bonds
retired by call or purchase as therein provided. Such pledge is
20 valid and binding from the time when the pledge is made; the
rates, rents, fees and charges and other revenues or other moneys
22 money so pledged and thereafter later received by the authority
are immediately subject to the lien of such pledge without any
24 physical delivery thereof of the revenues or money or further
act, and the lien of any such pledge is valid and binding as
26 against all parties having claims of any kind in tort, contract
or otherwise against the authority, irrespective of whether such
28 parties have notice thereof of the lien. Neither the resolution
nor any a trust agreement nor any a other agreement nor any lease
30 by which a pledge is created need be filed or recorded except in
the records of the authority. The use and disposition of moneys
32 money to the credit of such sinking or other similar fund are
subject to the resolution authorizing the issuance of such bonds
34 or notes or of such trust agreement. Except as may otherwise be
provided in such resolution or such trust agreement, such sinking
36 or other similar fund may be a fund for all such bonds or notes
issued to finance projects at a particular participating
38 ~~hospital,--participating--community--mental~~ health care facility or
participating institution for higher education without
40 distinction or priority of one over another, provided the
authority in any such resolution or trust agreement may provide
42 that such sinking or other similar fund is the fund for a
particular project at a participating ~~hospital,--participating~~
44 ~~community--~~ mental health care facility or participating
institution for higher education and for the bonds issued to
46 finance a particular project and may, additionally, permit and
provide for the issuance of bonds having a subordinate lien in
48 respect of the security herein authorized in this chapter to
other bonds of the authority, and, in such case, the authority
50 may create separate sinking or other similar funds in respect of
such subordinate lien bonds.

