

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

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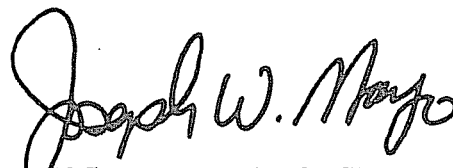
H.P. 879

House of Representatives, April 6, 1993

**An Act to Increase the Availability of Funding for Health Care.**

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Reference to the Committee on Human Resources suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Speaker MARTIN of Eagle Lake.

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

2  
3 Sec. 1. 22 MRSA §2052, as amended by PL 1991, c. 50, §1, is  
4 further amended to read:

6 **§2052. Declaration of necessity**

8 It is declared that for the benefit of the people of the  
9 State, the increase of their commerce, welfare and prosperity and  
10 the improvement of their health and living conditions, it is  
11 essential that hospitals, community health centers, community  
12 mental health facilities and nursing homes within the State be  
13 provided with appropriate additional means to expand, enlarge and  
14 establish health care, hospital, community health center,  
15 community mental health, nursing home and other related  
16 facilities; that this and future generations of students be given  
17 the fullest opportunity to learn and to develop their  
18 intellectual capacities; and that it is the purpose of this  
19 chapter to provide a measure of assistance and an alternative  
20 method to enable hospitals, community health centers, community  
21 mental health facilities, nursing homes and institutions for  
22 higher education in the State to provide the facilities and  
23 structures ~~which are sorely~~ needed to accomplish the purposes of  
24 this chapter, all to the public benefit and good, and the  
25 exercise of the powers, to the extent and manner provided in this  
26 chapter, is declared the exercise of an essential governmental  
27 function.

28  
29 Sec. 2. 22 MRSA §2053, sub-§2, as amended by PL 1991, c. 50,  
30 §2, is further amended to read:

32 2. **Bonds and notes.** "Bonds" and "notes" mean bonds and  
33 notes of the authority issued under this chapter, including  
34 refunding bonds, notwithstanding that the same may be secured by  
35 mortgage or the full faith and credit of the authority or the  
36 full faith and credit of a participating hospital, of a  
37 participating community health center, of a participating  
38 community mental health facility or of a participating  
39 institution for higher education, or any other lawfully pledged  
40 security of a participating hospital, of a participating  
41 community health center, of a participating community mental  
42 health facility or of a participating institution for higher  
43 education.

44  
45 Sec. 3. 22 MRSA §2053, sub-§2-B and 4-D are enacted to read:

46  
47 2-B. Community health center. "Community health center"  
48 means an incorporated nonprofit health facility that provides  
49 comprehensive primary health care to citizens in a community.  
50

2           **4-D. Participating community health center.** "Participating  
3 community health center" means any community health center that,  
4 pursuant to this chapter, undertakes the financing and  
5 construction or acquisition of a project or undertakes the  
6 refunding or refinancing of existing indebtedness as provided in  
7 and permitted by this chapter.

8           **Sec. 4. 22 MRSA §2053, sub-§6, ¶A,** as amended by PL 1991, c.  
9 50, §4, is further amended to read:

10           A. In the case of a participating hospital, a participating  
11 community health center or a participating community mental  
12 health facility, the acquisition, construction, improvement,  
13 reconstruction or equipping of, or construction of an  
14 addition or additions to, any structure designed for use as  
15 a hospital, community health center, community mental health  
16 facility, clinic, nursing home or other health care or  
17 nursing care facility, congregate housing facility,  
18 laboratory, laundry, nurses or interns residence or other  
19 multi-unit housing facility for staff, employees, patients  
20 or relatives of patients admitted for treatment in the  
21 hospital, community health center, community mental health  
22 facility or nursing home, doctors office building,  
23 administration building, research facility, maintenance,  
24 storage or utility facility or other structures or  
25 facilities related to any of the foregoing or required or  
26 useful for the operation of the project, or the refinancing  
27 of existing indebtedness in connection with any of the  
28 foregoing, including parking and other facilities or  
29 structures essential or convenient for the orderly conduct  
30 of the hospital, community health center, community mental  
31 health facility or nursing home. "Project" also includes all  
32 real and personal property, lands, improvements, driveways,  
33 roads, approaches, pedestrian access roads, rights-of-way,  
34 utilities, easements and other interests in land, parking  
35 lots, machinery and equipment, and all other appurtenances  
36 and facilities either on, above or under the ground which  
37 that are used or usable in connection with the structures  
38 mentioned in this paragraph, and includes landscaping, site  
39 preparation, furniture, machinery and equipment and other  
40 similar items necessary or convenient for the operation of a  
41 particular facility or structure in the manner for which its  
42 use is intended, but does not include such items as food,  
43 fuel, supplies or other items which that are customarily  
44 considered as a current operating charge. In the case of a  
45 hospital, as defined in subsection 4, paragraph B, a  
46 community health center as defined in subsection 2-B or in  
47 the ease of a community mental health facility as defined in  
48 subsection 2-A, "project" does not include any facilities,  
49 structures or appurtenances, the use of which is not  
50 directly related to the provision of patient care by its  
51 members; and  
52

2           **Sec. 5. 22 MRSA §2053, sub-§7**, as amended by PL 1991, c. 50,  
3 §5, is further amended to read:

4  
5           **7. Refinancing of existing indebtedness.** "Refinancing of  
6 existing indebtedness" means liquidation, with the proceeds of  
7 bonds or notes issued by the authority, of any indebtedness of a  
8 hospital, community health center, community mental health  
9 facility, nursing home or institution for higher education  
10 incurred to finance or aid in financing a lawful purpose of such  
11 that hospital, community health center, community mental health  
12 facility, nursing home or institution for higher education not  
13 financed pursuant to this chapter which that would constitute a  
14 project had it been undertaken and financed by the authority, or  
15 consolidation of such indebtedness with indebtedness of the  
16 authority incurred for a project related to the purpose for which  
17 the indebtedness of the hospital, community health center,  
18 community mental health facility, nursing home or institution for  
19 higher education was incurred.

20  
21           **Sec. 6. 22 MRSA §2054, sub-§1**, as amended by PL 1991, c. 50,  
22 §6, is further amended to read:

23           **1. Authority.** The "Maine Maine Health and Higher  
24 Educational Facilities Authority", established by Title 5,  
25 chapter 379, is constituted a public body corporate and politic  
26 and an instrumentality of the State, and the exercise by the  
27 authority of the powers conferred by this chapter is deemed and  
28 held to be the performance of an essential public function. The  
29 authority consists of 12 members, one of whom must be the Bank  
30 Superintendent of Banking, ex officio; one of whom must be the  
31 Commissioner of Human Services, ex officio; one of whom must be  
32 the Commissioner of Education, ex officio; one of whom must be  
33 the Treasurer of State, ex officio; and 8 of whom must be  
34 residents of the State appointed by the Governor. Not more than  
35 4 of the appointed members may be members of the same political  
36 party. Three of the appointed members must be trustees,  
37 directors, officers or employees of hospitals, community health  
38 centers or community mental health facilities and one of such  
39 these appointed members must be a person having a favorable  
40 reputation for skill, knowledge and experience in state and  
41 municipal finance, either as a partner, officer or employee of an  
42 investment banking firm which that originates and purchases state  
43 and municipal securities, or as an officer or employee of an  
44 insurance company or bank whose duties relate to the purchase of  
45 state and municipal securities as an investment and to the  
46 management and control of a state and municipal securities  
47 portfolio. Of the 3 members first appointed who are trustees,  
48 directors, officers or employees of hospitals, one shall serve  
49 for 2 years, one for 3 years and one for 4 years. Of the 5  
50 remaining members initially appointed, one shall serve for one  
51 year, one for 2 years, one for 3 years, one for 4 years and one  
52

2 for 5 years. For the 2 members whose terms expire in 1980 and  
4 1981, the Governor shall appoint as successors, for terms of 5  
6 years each, persons who are trustees, members of a corporation or  
8 board of governors, officers or employees of institutions for  
10 higher education. Annually, the Governor shall appoint, for a  
12 term of 5 years, a successor to the member whose term expires.  
14 Members shall continue in office until their successors have been  
16 appointed and qualified. The Governor shall fill any vacancy for  
18 the unexpired terms. A member of the authority is eligible for  
20 reappointment. Any non-ex officio member of the authority may be  
22 removed by the Governor, after hearing, for misfeasance,  
24 malfeasance or willful neglect of duty. Each member of the  
26 authority before entering upon the member's duties must take and  
subscribe the oath or affirmation required by the Constitution of  
Maine, Article IX. A record of each such oath must be filed in  
the office of the 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.

28 **Sec. 7. 22 MRSA §2054, sub-§7**, as amended by PL 1991, c. 50,  
30 §7, is further amended to read:

32 **7. Conflict of interest.** Notwithstanding any other law to  
34 the contrary, it does not constitute a conflict of interest for a  
36 trustee, director, officer or employee of a hospital, community  
38 health center, community mental health facility or nursing home  
40 or for a trustee, member of a corporation or board of governors,  
42 officer or employee of an institution for higher education to  
44 serve as a 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 health center, community mental health 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.

46 **Sec. 8. 22 MRSA §2055, first ¶**, as amended by PL 1991, c. 50,  
48 §8, is further amended to read:

50 The purpose of the authority is to assist participating  
52 hospitals, participating community health centers, participating  
community mental health facilities and participating institutions  
for higher education in the undertaking of projects and the

refinancing of existing indebtedness which that are declared to be public purposes and for the purposes of this chapter the authority is authorized and empowered:

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

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

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

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

Sec. 11. 22 MRSA §2055, sub-§12, as amended by PL 1991, c. 584, §4, is further amended to read:

12. **Loans.** To make loans to any participating hospital, participating community health center, participating community mental health facility, participating institution for higher education, other entity eligible to use the authority or consortium of entities eligible to use the authority for the cost of a project in accordance with an agreement between the authority and the participating entity or entities, provided except that no such loan may exceed the total cost of the project

2 as determined by the participating entity or entities, and  
3 approved by the authority;

4 **Sec. 12. 22 MRSA §2055, sub-§13**, as amended by PL 1991, c. 50,  
5 §11, is further amended to read:

6  
7 **13. Refund.** To make loans to a participating hospital, a  
8 participating community health center, a participating community  
9 mental health facility or a participating institution for higher  
10 education to refund outstanding obligations, mortgages or  
11 advances issued, made or given by such participating hospital,  
12 participating community health center, participating community  
13 mental health facility or participating institution for higher  
14 education for the cost of the project;

15  
16 **Sec. 13. 22 MRSA §2055, sub-§14**, as amended by PL 1991, c. 50,  
17 §12, is further amended to read:

18  
19 **14. Apportionment.** To charge to and equitably apportion  
20 among participating hospitals, participating community health  
21 centers, participating community mental health facilities and  
22 participating institutions for higher education its  
23 administrative costs and expenses incurred in the exercise of the  
24 powers and duties conferred by this chapter; and

25  
26 **Sec. 14. 22 MRSA §2055, sub-§15**, as amended by PL 1991, c. 50,  
27 §13, is further amended to read:

28  
29 **15. Other acts.** To do all things necessary or convenient  
30 to carry out the purposes of this chapter. In carrying out the  
31 purposes of this chapter, the authority may undertake a project  
32 for 2 or more participating hospitals jointly, 2 or more  
33 participating community health centers jointly, 2 or more  
34 participating community mental health facilities jointly or 2 or  
35 more participating institutions for higher education jointly,  
36 and, thereupon, all other provisions of this chapter apply to and  
37 for the benefit of the authority and such joint participants.

38  
39 **Sec. 15. 22 MRSA §2057**, as amended by PL 1991, c. 50, §14, is  
40 further amended to read:

41 **§2057. Acquisition of property by authority**

42  
43 The authority is authorized and empowered, directly or by  
44 and through a participating hospital, a participating community  
45 health center, a participating community mental health facility  
46 or a participating institution for higher education, as its  
47 agent, to acquire by purchase or by gift or devise such lands,  
48 structures, property, real or personal, rights and air rights,  
49 rights-of-way, franchises, easements and other interests in  
50 lands, including lands lying under water and riparian rights, and  
51 air rights, which that are located within or without the State,  
52



2 as it may--deem determines necessary or convenient for the  
3 construction or operation of a project, upon such terms and at  
4 such prices as may be considered by it to be reasonable and can  
5 be agreed upon between it and the owner thereof, and to take  
6 title thereto in the name of the authority or in the name of a  
7 participating hospital, a participating community health center,  
8 a participating community mental health facility or a  
participating institution for higher education as its agent.

10 **Sec. 16. 22 MRSA §2058**, as amended by PL 1991, c. 50, §15, is  
11 further amended to read:

12 **§2058. Conveyance of title to participating institutions**

13  
14 When the principal of and interest on bonds of the authority  
15 issued to finance the cost of a particular project or projects  
16 for a participating hospital, a participating community health  
17 center, a participating community mental health facility or a  
18 participating institution for higher education, including any  
19 refunding bonds issued to refund and refinance such bonds, have  
20 been fully paid and retired or when adequate provision has been  
21 made to fully pay and retire the same, and all other conditions  
22 of the resolution or trust agreement authorizing and securing the  
23 same have been satisfied and the lien of such resolution or trust  
24 agreement has been released in accordance with the provisions  
25 thereof, the authority shall promptly do such things and execute  
26 such deeds and conveyances as are necessary and required to  
27 convey title to such project or projects to such participating  
28 hospital, participating community health center, participating  
29 community mental health facility or participating institution for  
30 higher education, free and clear of all liens and encumbrances,  
31 all to the extent that title to such project or projects is not,  
32 at the time, vested in such participating hospital, participating  
33 community health center, participating community mental health  
34 facility or participating institution for higher education.

35  
36 **Sec. 17. 22 MRSA §2060, sub-§2**, as amended by PL 1991, c. 50,  
37 §16, is further amended to read:

38  
39 **2. General obligations.** Except as may otherwise be  
40 expressly provided by the authority, every issue of its bonds,  
41 notes or other obligations are is a general obligations  
42 obligation of the authority payable from any revenues or moneys  
43 money of the authority available therefor and not otherwise  
44 pledged, subject only to any agreements with the holders of  
45 particular bonds, notes or other obligations pledging any  
46 particular revenues or moneys money and subject to any agreements  
47 with any participating hospital, participating community health  
48 center, participating community mental health facility or  
49 participating institution for higher education. Notwithstanding  
50 that such bonds, notes or other obligations may be payable from a  
51 special fund, they are and must

2 be deemed to be for all purposes negotiable instruments within  
the meaning of and for all the purposes of the Uniform Commercial  
4 Code, Article 8, subject only to the provisions of such bonds,  
notes or other obligations for registration.

6 **Sec. 18. 22 MRSA §2060, sub-§4, ¶A**, as amended by PL 1991, c.  
50, §17, is further amended to read:

8  
10 A. Pledging the full faith and credit of the authority, the  
full faith and credit of a participating hospital, a  
12 participating community health center, a participating  
community mental health facility or a participating  
14 institution of higher education, all or any part of the  
revenues of a project or any revenue-producing contract or  
16 contracts made by the authority with any individual,  
partnership, corporation or association or other body,  
18 public or private, to secure the payment of the bonds or of  
any particular issue of bonds, subject to such agreements  
with bondholders as may then exist;

20  
22 **Sec. 19. 22 MRSA §2061, sub-§1**, as amended by PL 1991, c. 50,  
§18, is further amended to read:

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

30  
32 **Sec. 20. 22 MRSA §2061, sub-§2**, as amended by PL 1991, c. 584,  
§5, is further amended to read:

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

44 **Sec. 21. 22 MRSA §2061, sub-§3**, as amended by PL 1991, c. 50,  
§20, is further amended to read:

46  
48 3. **Lease.** Such project will be leased to, or owned by, a  
hospital, community health center, community mental health  
50 facility, nursing home or institution for higher education within  
the State; and

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

4           **§2063. Credit of State not pledged**

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

32           **Sec. 23. 22 MRSA §2064**, as amended by PL 1991, c. 50, §22, is  
further amended to read:

34           **§2064. Rents and charges**

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

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

2

## STATEMENT OF FACT

4

6

This bill allows community health centers to participate in projects under the Maine Health and Higher Educational Facilities Authority Act.