

MAINE STATE LEGISLATURE

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L.D. 1723

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STATE OF MAINE
SENATE
116TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1275, L.D. 1723, Bill, "An Act to Increase the Jurisdiction of the Loring Development Authority of Maine"

Amend the amendment by striking out all of section 7 and inserting in its place the following:

Sec. 7. 5 MRSA §13080-G, sub-§2, ¶B, as enacted by PL 1993, c. 474, §1, is amended to read:

B. Bonds issued under this section do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to other laws or charters relating to the authorization, issuance or sale of bonds. Notwithstanding this paragraph, the authority may issue bonds in an original principal amount not to exceed \$20,000,000 to which the authority may designate section 13080-N to apply. Bonds issued under this article are declared to be issued for an essential public and governmental purpose and, together with interest on and income from the bonds, are exempt from all taxes.

Sec. 8. 5 MRSA §13080-G, sub-§2, ¶C is enacted to read:

C. Bonds may not be issued by the authority until the authority has received a certificate of approval from the Finance Authority of Maine authorizing issuance of bonds. Before issuing a certificate of approval under this section, the authority shall determine that there is a reasonable likelihood that the income, proceeds, revenues and funds of

2 the authority derived from or held for activities under this
3 article will be sufficient to pay principal, interest and
4 all other amounts that may at any time become due and
5 payable under the bonds. In making this determination, the
6 Finance Authority of Maine must consider the authority's
7 analysis of the proposed bond issue and the revenues to make
8 payments on the bond and may require such information,
9 projections, studies and independent analyses as it
10 considers necessary or desirable and may charge the
11 authority reasonable fees and expenses. The issuance by the
12 Finance Authority of Maine of a certificate of approval
13 under this section does not constitute an endorsement of the
14 bonds or the projects or purposes for which those bonds are
15 issued and neither the authority nor any other person or
16 entity, including, without limitation, any holders of bonds
17 of the authority, have any cause of action against the
18 Finance Authority of Maine with respect to any such
19 certificate of approval. The Finance Authority of Maine may
20 require that it be indemnified, defended and held harmless
21 by the authority for any liability or cause of action
22 arising out of or with respect to the bonds.'

23 Further amend the amendment by inserting after section 8 the
24 following:

25 'Sec. 9. 5 MRSA §13080-N is enacted to read:

26 **§13080-N. Capital reserve funds; obligation of State**

27 **1. Capital reserve fund.** The authority may create and
28 establish one or more capital reserve funds and may pay into any
29 such capital reserve fund money appropriated and made available
30 by the State for the purposes of any such fund, any proceeds of
31 sale by the authority of bonds to the extent determined by the
32 authority and any other money available to the authority. For
33 purposes of this section, the amount of any letter of credit,
34 insurance contract, surety bond or similar financial undertaking
35 available to be drawn on and applied to obligations to which
36 money in any such fund may be applied is considered and counted
37 as money in the capital reserve fund.

38 **2. Application.** Money held in any capital reserve fund,
39 except as provided in this section, must be used solely with
40 respect to bonds, repayment of which is secured by any such fund
41 and solely for the payment of principal of the securities, the
42 purchase or redemption of the securities, including any fees or
43 premiums, or the payment of interest on the securities. In
44 addition, if the authority obtains a letter of credit, insurance
45 contract, surety bond or similar financial undertaking to
46 establish and fund a capital reserve fund under subsection 1,
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2 money in the fund may be used to pay, when due, whether by
3 acceleration or otherwise, all reimbursement obligations of the
4 authority established in connection with that letter of credit,
5 insurance contract, surety bond or similar financial undertaking,
6 including, but not limited to, all fees, expenses, indemnities
7 and commissions. Money in excess of the reserve requirement
8 established as provided in subsection 3 may be transferred to
9 other funds and accounts of the authority.

10 3. Reserve requirement. The authority may provide that
11 money in a capital reserve fund under subsection 2 may not be
12 withdrawn at any time in an amount that would reduce the amount
13 of that fund below an amount, referred to in this section as the
14 "capital reserve requirement," established by the authority,
15 except for the purpose of paying the amount due and payable with
16 respect to bonds, repayment of which is secured by that fund, or
17 reimbursement obligations of the authority with respect to any
18 letter of credit, insurance contract, surety bond or similar
19 financial undertaking pertaining to that fund.

20 4. Issuance limit. The authority may provide that it will
21 not issue bonds if the capital reserve requirement established by
22 the authority with respect to securities outstanding and then to
23 be issued and secured by a capital reserve fund will exceed the
24 amount of that fund, including the amount available under any
25 letter of credit, insurance contract, surety bond or other
26 similar financial undertaking given to secure the capital reserve
27 requirement, at the time of issuance, unless the authority, at
28 the time of issuance of the securities, deposits in that fund
29 from proceeds of the securities to be issued, or from other
30 sources, an amount that, together with the amounts then in that
31 fund and amounts available under any letter of credit, insurance
32 contract, surety bond or other similar financial undertaking will
33 not be less than the capital reserve requirement.

34 5. Appropriation. On or before December 1st, annually, the
35 authority shall certify to the Governor the amount, if any,
36 necessary to restore the amount in any capital reserve fund. In
37 trust agreements or other pertinent documents between the
38 authority and the Governor, it must be clearly stated that this
39 subsection applies to the capital reserve requirement. The
40 Governor shall pay from the Contingent Account to that fund as
41 much of the amount as is available in the Contingent Account and
42 shall transmit to the Legislature a certification and a statement
43 of the amount, if any, remaining to be paid and the amount
44 certified must be appropriated and paid to the authority during
45 the then current state fiscal year.

46 6. Securities outstanding. The authority may not have at
47 any one time outstanding bonds, which, in the trust agreement or
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SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1275,
L.D. 1723

2 other document, subsection 5 is stated to apply to, in principal
3 amount exceeding an amount equal to \$20,000,000. The amount of
4 bonds issued to refund securities previously issued may not be
5 taken into account in determining the principal amount of
6 securities outstanding, provided that proceeds of the refunding
7 securities are applied as promptly as possible to the refunding
8 of the previously issued securities. In computing the total
9 amount of bonds of the authority that may at any time be
10 outstanding for any purpose, the amounts of outstanding bonds
11 that have been issued as capital appreciation bonds or as similar
12 instruments are valued as of any date of calculation at their
13 then current accreted value rather than their face value.'

14 Further amend the amendment by renumbering the sections to
15 read consecutively.

16 Further amend the amendment by striking out all of the
17 fiscal note and inserting in its place the following:

20 **FISCAL NOTE**

21 The bill authorizes the Loring Development Authority of
22 Maine to issue up to \$20,000,000 in bonds that would be secured
23 by the moral obligation of the State. In the event of a default
24 by any borrowers, future General Fund appropriations for debt
25 service may be required.'

28 **STATEMENT OF FACT**

29 This amendment establishes a capital reserve fund as
30 security for bonds issued by the Loring Development Authority of
31 Maine and a limitation of \$20,000,000 in bonds that may be
32 secured by the State's moral obligation. In addition, this
33 amendment requires that the authority obtain a certificate of
34 approval from the Finance Authority of Maine prior to issuance of
35 bonds. The Finance Authority of Maine would issue a certificate
36 of approval if it determines that there is a reasonable
37 likelihood that the bonds will be repaid from revenues, income or
38 other funds available to the Loring Development Authority of
39 Maine.

42 The amendment also replaces the fiscal note on the bill.

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46 SPONSORED BY: Rockwell P
47 (Senator PINGREE)

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49 COUNTY: Knox

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