

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

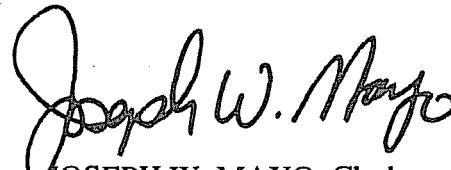
No. 1759

H.P. 1304

House of Representatives, January 20, 1994

**An Act to Encourage Economic Development Through Investment
Incentives for Aquaculture.**

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Housing and Economic Development suggested and ordered
printed.


JOSEPH W. MAYO, Clerk

Presented by Representative FAIRCLOTH of Bangor.
Cosponsored by Representative TOWNSEND of Eastport, Senator VOSE of Washington and
Representatives: COLES of Harpswell, MICHAUD of East Millinocket, SKOGLUND of St.
George, Senators: BALDACCI of Penobscot, DUTREMBLE of York, PINGREE of Knox.

2 Preamble. Two thirds of both Houses of the Legislature
3 deeming it necessary in accordance with the Constitution of
4 Maine, Article IX, Section 14, to authorize the issuance of bonds
5 on behalf of the State of Maine to provide funds for the
6 development of aquaculture in the State.

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

8 PART A

10 Sec. A-1. 10 MRSA §963-A, sub-§3-A is enacted to read:

12 3-A. Aquaculture. "Aquaculture" has the same meaning as in
14 Title 12, section 6001, subsection 1.

16 Sec. A-2. 10 MRSA §§988-C and 988-D are enacted to read:

18 §988-C. Aquaculture Capital Investment Fund

20 1. Creation. The Aquaculture Capital Investment Fund,
22 referred to in this section as the "fund," is created and
established under the jurisdiction and control of the authority.

24 2. Sources of money. The following must be paid to the
26 fund:

28 A. All money appropriated for inclusion in the fund;

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

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

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

40 3. Application of fund. Money in the fund may be applied
42 to carry out any power of the authority under or in connection
44 with section 988-D, including, without limitation, to pledge or
46 transfer and deposit money in the fund as security for and to
48 apply money in the fund in payment of principal, interest,
50 dividends and other amounts due on secured loans or equity
interests. Money in the fund may be used for direct loans in
connection with a project eligible under section 988-D. The
authority, pursuant to the Maine Administrative Procedure Act,
Title 5, chapter 375, subchapter II, shall adopt rules consistent
with section 988-D for determining eligibility, feasibility,

2 terms, conditions and security for direct loans or secured loans
4 or investments. Money in the fund not needed currently to meet
6 the obligations of the authority as provided in this section may
8 be invested in a manner permitted by law.

10 4. Accounts within fund. The authority may divide the fund
12 into separate accounts as it determines necessary or convenient
14 for carrying out this section, including, but not limited to,
16 accounts reserved for direct loan funds.

18 5. Revolving fund. The fund is a nonlapsing, revolving
20 fund. All money in the fund must be continuously applied by the
22 authority to carry out this section and section 988-D.

24 **§988-D. Aquaculture capital investment program**

26 1. Program established. There is established a program to
28 provide assistance in the financing and development of
30 aquaculture projects designed to increase the State's capacity to
32 produce, harvest, store, process, distribute, market and improve
34 the quality of its aquaculture products. The goals of the
36 program are to expand the opportunities for aquaculture
38 enterprises and to promote the quality of Maine aquaculture
40 products nationally and internationally.

42 2. Eligible projects. To be eligible for assistance under
44 the program, projects must be located in the State and must
46 consist of the construction, renovation or acquisition of land,
48 buildings, equipment, docks, wharves, piers or vessels used in
50 connection with a commercial aquaculture enterprise. Financing
assistance may be provided with respect to the soft costs
associated with eligible projects, but not for working capital.

3. Eligible borrowers. The following are eligible for
assistance under the program: profit and nonprofit businesses,
producer groups, cooperatives and governmental entities.

4. Assistance provided. The authority may provide
assistance in the form of direct loans or security for commercial
loans or equity investments, subject to the following limitations.

A. In the case of direct loans, funds may be provided from
the fund established under section 988-C for up to 45% of
total project costs. Borrowers shall contribute at least
10% of total project costs in equity or the equivalent and
the balance of project costs may be financed by a lender.
The authority may provide that repayment of loans from the
fund and the security for loans may be subordinate to the
lender loan. The interest rate, other loan terms and
conditions and fees to the authority may be established by

2 the authority by rulemaking pursuant to the Maine
3 Administrative Procedure Act, Title 5, chapter 375,
4 subchapter II, provided that the interest rate is not less
5 than 5% per year and loan terms do not exceed 10 years for
6 equipment, 20 years for vessels and 25 years for real estate.

7
8 B. In the case of security for commercial loans, funds may
9 be provided from the fund established under section 988-C to
10 the lender as collateral for the loan on terms and
11 conditions established by the authority by rulemaking
12 pursuant to the Maine Administrative Procedure Act, Title 5,
13 chapter 375, subchapter II, provided that funds deposited
14 with the lender do not exceed 45% of the total loan. The
15 authority may also provide funds to a lender as a deposit in
16 the name of the authority at a reduced rate of interest
17 provided that the interest savings to the lender is passed
18 on to the borrower in the form of a lower interest rate on
19 the loan.

20 C. In the case of security for equity investments, the
21 authority may pledge or deposit money from the fund
22 established under section 988-C as security for up to 30% of
23 a direct equity investment in an eligible borrower on terms
24 and conditions established by the authority by rulemaking
25 pursuant to the Maine Administrative Procedure Act, Title 5,
26 chapter 375, subchapter II.

27
28 D. Assistance from the fund pursuant to this section may
29 not exceed in aggregate 45% of total project costs of an
30 eligible project. The authority may establish a mechanism
31 for reserving funds for or giving priority to projects in
32 enterprises or areas of the State determined to require
33 special assistance.

34
35 E. Each applicant must demonstrate a reasonable likelihood
36 that it would not be able to obtain financing or investment
37 sufficient for the project's needs on reasonable terms
38 without assistance from the fund, that there is a reasonable
39 likelihood that it will be able to repay the loan or secured
40 investment and that the project will assist in accomplishing
41 the purposes of this subchapter.

42
43 **Sec. A-3. Appropriation.** The following funds are appropriated
44 from the General Fund to carry out the purposes of this Part.

45
46 1994-95

47
48 MAINE SCIENCE AND TECHNOLOGY
FOUNDATION

2 **Maine Science and Technology**
3 **Foundation**

4 All Other \$120,000

6 Provides funds to be distributed to the
7 Aquaculture Innovation Center, established
8 pursuant to the Maine Revised Statutes,
9 Title 5, section 13124. Funds not used
10 before July 1, 1995 must be carried forward,
11 but all funds must be obligated by the
12 foundation before September 30, 1995.

14

16 **PART B**

18 **Sec. B-1. Authorization of bonds to provide for aquaculture.** The
19 Treasurer of State is authorized, under the direction of the
20 Governor, to issue bonds in the name and behalf of the State in
21 an amount not exceeding \$5,000,000 to raise funds for aquaculture
22 development as authorized by section 6 of this Part. The bonds
23 are a pledge of the full faith and credit of the State. The
24 bonds may not run for a period longer than 20 years from the date
25 of the original issue of the bonds. At the discretion of the
26 Treasurer of State, with the approval of the Governor, any
27 issuance of bonds may contain a call feature.

28

30 **Sec. B-2. Records of bonds issued to be kept by the Treasurer of**
31 **State.** The Treasurer of State shall keep an account of each bond
32 showing the number of the bond, the name of the successful bidder
33 to whom sold, the amount received for the bond, the date of sale
34 and the date when payable.

34

36 **Sec. B-3. Sale; how negotiated; proceeds appropriated.** The
37 Treasurer of State may negotiate the sale of the bonds by
38 direction of the Governor, but no bond may be loaned, pledged or
39 hypothecated on behalf of the State. The proceeds of the sale of
40 the bonds, which must be held by the Treasurer of State and paid
41 by the Treasurer of State upon warrants drawn by the State
42 Controller, are appropriated solely for the purposes set forth in
43 this Part. Any unencumbered balances remaining at the completion
44 of the project in section 6 of this Part lapse to the debt
45 service account established for the retirement of these bonds.

46 **Sec. B-4. Interest and debt retirement.** The Treasurer of State
47 shall pay interest due or accruing on any bonds issued under this
48 Part and all sums coming due for payment of bonds at maturity.

2 **Sec. B-5. Disbursement of bond proceeds.** The proceeds of the
bonds must be expended as set out in section 6 of this Part under
the direction and supervision of the Finance Authority of Maine.

4 **Sec. B-6. Allocations from General Fund bond issue; aquaculture.**
6 The proceeds of the sale of bonds must be expended as designated
in the following schedule.

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1994-95

10 **FINANCE AUTHORITY OF MAINE**

12 **Aquaculture Capital Investment Fund** \$5,000,000

14 **Sec. B-7. Contingent upon ratification of bond issue.** Sections 1
to 6 of this Part do not become effective unless the people of
the State have ratified the issuance of bonds as set forth in
this Part.

20 **Sec. B-8. Appropriation balances at year end.** At the end of each
fiscal year, all unencumbered appropriation balances representing
state money carry forward. Bond proceeds that have not been
expended within 10 years after the date of the sale of the bonds
lapse to General Fund debt service.

26 **Sec. B-9. Bonds authorized but not issued.** Any bonds authorized
but not issued, or for which bond anticipation notes are not
issued within 5 years of ratification of this Act, are
deauthorized and may not be issued; except that the Legislature
may, within 2 years after the expiration of that 5-year period,
extend the period for issuing any remaining unissued bonds or
bond anticipation notes for an additional amount of time not to
exceed 5 years.

34 **Sec. B-10. Referendum for ratification; submission at general**
36 **election; form of question; effective date.** This Act must be submitted
to the legal voters of the State of Maine at the next general
election in the month of November following passage of this Act.
The municipal officers of this State shall notify the inhabitants
of their respective cities, towns and plantations to meet, in the
manner prescribed by law for holding a general election, to vote
on the acceptance or rejection of this Act by voting on the
following question:

44 "Do you favor a \$5,000,000 bond issue to assist in the
46 development of jobs in the aquaculture industry in this
State?"

48 The legal voters of each city, town and plantation shall
50 vote by ballot on this question and designate their choice by a

2 cross or check mark placed within a corresponding square below
the word "Yes" or "No." The ballots must be received, sorted,
4 counted and declared in open ward, town and plantation meetings
and returns made to the Secretary of State in the same manner as
6 votes for members of the Legislature. The Governor shall review
the returns and, if a majority of the legal votes are cast in
8 favor of the Act, the Governor shall proclaim the result without
delay, and the Act becomes effective 30 days after the date of
the proclamation.

10 The Secretary of State shall prepare and furnish to each
12 city, town and plantation all ballots, returns and copies of this
Act necessary to carry out the purpose of this referendum.

14 16 STATEMENT OF FACT

18 This bill creates the Aquaculture Capital Investment Fund to
20 provide funding for research, development and capital investment
for aquaculture and to assist in the development of jobs in the
22 aquaculture industry, which is the cultivation of marine
organisms, and provides for a bond issue of \$5,000,000 for that
24 fund. The bill also increases funding for the Aquaculture
Innovation Center.

26
28
30 This document has not yet been reviewed to determine the
need for cross-reference, stylistic and other technical
32 amendments to conform existing law to current drafting standards.