

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 309

H.P. 230

House of Representatives, January 27, 1995

An Act to Encourage Major Business Expansion in Maine.

(EMERGENCY)

Reference to the Committee on Business and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Speaker GWADOSKY of Fairfield.
Cosponsored by Representative JACQUES of Waterville and
Representatives: AHEARNE of Madawaska, BARTH of Bethel, BIRNEY of Paris,
CAMERON of Rumford, CAMPBELL of Holden, CHASE of China, CHIZMAR of Lisbon,
CLOUTIER of South Portland, DAGGETT of Augusta, DAVIDSON of Brunswick,
DESMOND of Mapleton, DORE of Auburn, FARNUM of South Berwick, GIERINGER of
Portland, GOOLEY of Farmington, GOULD of Greenville, HARTNETT of Freeport,
HATCH of Skowhegan, HICHBORN of LaGrange, JOSEPH of Waterville, KERR of Old
Orchard Beach, KONTOS of Windham, LEMONT of Kittery, LIBBY of Kennebunk,
LINDAHL of Northport, LOOK of Jonesboro, MADORE of Augusta, MERES of
Norridgewock, MITCHELL of Vassalboro, MORRISON of Bangor, MURPHY of Berwick,
NADEAU of Saco, NICKERSON of Turner, O'GARA of Westbrook, PERKINS of
Penobscot, POIRIER of Saco, POULIOT of Lewiston, RICHARDSON of Portland,
ROTONDI of Madison, SIMONEAU of Thomaston, SIROIS of Caribou, STONE of Bangor,
TAYLOR of Cumberland, TUFTS of Stockton Springs, TUTTLE of Sanford, TYLER of
Windham, VIGUE of Winslow, WINN of Glenburn, Senators: ABROMSON of Cumberland,
AMERO of Cumberland, BEGLEY of Lincoln, BENOIT of Franklin, BUTLAND of
Cumberland, CAREY of Kennebec, CIANCHETTE of Somerset, GOLDTHWAIT of
Hancock, HARRIMAN of Cumberland, KIEFFER of Aroostook, LAWRENCE of York,
PARADIS of Aroostook.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 **Whereas,** there is a need to provide incentives to encourage
major business expansions within the State in order to create new
employment opportunities, provide a broader tax base and improve
8 the economy of the State; and

10 **Whereas,** access to financing for major projects at reduced
interest rates provides a substantial incentive to businesses to
12 relocate to Maine or expand Maine activities; and

14 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
16 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
18 safety; now, therefore,

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

22 **Sec. 1. 10 MRSA §963-A, sub-§10, ¶M,** as amended by PL 1993, c.
712, §3, is further amended to read:

24
26 M. Any aboveground oil replacement or upgrade project,
including equipment installed to meet requirements for
gasoline service station vapor control and petroleum liquids
28 transfer vapor recovery; ~~or~~

30 **Sec. 2. 10 MRSA §963-A, sub-§10, ¶N,** as enacted by PL 1993, c.
712, §4, is amended to read:

32
34 N. Any electric rate stabilization project; or

36 **Sec. 3. 10 MRSA §963-A, sub-§10, ¶O** is enacted to read:

38 O. Any major business expansion project.

40 **Sec. 4. 10 MRSA §963-A, sub-§31-A** is enacted to read:

42 31-A. Major business expansion project. "Major business
expansion project" means any building, structure, machinery,
equipment or facility proposed to be constructed, rehabilitated,
expanded, modernized or acquired in the State by a business
entity, that has a projected cost of \$5,000,000 or more, that is
projected to result in a net gain of at least 100 job
opportunities within the State or the retention of at least 100
jobs and that benefits from financing assistance from the
authority including use of a capital reserve fund pursuant to
section 1053. A major business expansion project does not
50

2 include electric rate stabilization projects or projects
3 primarily involved in the provision of housing or retail sales to
4 consumers.

5 **Sec. 5. 10 MRSA §1043, sub-§2, ¶F,** as amended by PL 1985, c.
6 344, §63, is further amended to read:

7 F. In the case of projects ~~which~~ that are primarily
8 pollution-control facilities:

9 (1) The proposed users of the facilities make a
10 contribution to the economy of the State;

11 (2) A public benefit will result from including the
12 facilities in the project; and

13 (3) It is unlikely that public facilities meeting the
14 needs of the users and securing comparable public
15 benefit will become available in the reasonably
16 foreseeable future; and

17 **Sec. 6. 10 MRSA §1043, sub-§2, ¶I,** as repealed and replaced by
18 PL 1987, c. 697, §10, is amended to read:

19 I. The project will, to the extent possible, cooperate with
20 representatives of the Department of Labor and the
21 Department of Human Services regarding employment
22 opportunities for recipients of the services of those
23 departments; and

24 **Sec. 7. 10 MRSA §1043, sub-§2, ¶J** is enacted to read:

25 J. In the case of major business expansion projects, the
26 applicant is creditworthy and there is a strong likelihood
27 that the revenue obligation securities will be repaid
28 through the revenues of the project and any other sources of
29 revenues and collateral pledged to the repayment of those
30 securities. In order to make this determination, the
31 authority shall consider such factors as it considers
32 necessary to measure and evaluate the sufficiency of the
33 pledged revenues to repay the obligations, including:

34 (1) Whether individuals or entities obligated to repay
35 the obligations have demonstrated sufficient revenues
36 from the project or from other sources to repay the
37 obligations, and a reasonable certainty that those
38 revenues will continue to be available for the term of
39 the revenue obligation securities;

2 (2) Whether the applicant demonstrates a reasonable
4 certainty that the project will continue to operate and
 provide the public benefits projected to be created for
 the term of the revenue obligation securities;

6 (3) Whether the applicant demonstrates that the
8 benefits projected to be created by the project are
 enhanced through the use of financing assistance from
 the authority;

10 (4) Whether the applicant's creditworthiness is
12 demonstrated by such factors as historical financial
14 performance, management ability, its plan for marketing
 its product or service and its ability to access
 conventional financing;

16 (5) Whether the applicant demonstrates that the need
18 for authority assistance is due to the reduced cost and
20 increased flexibility of the financing for the project
22 that result from authority assistance and not from an
 inability to obtain necessary financing without the
 capital reserve fund security provided by the
 authority; and

24 (6) Whether collateral securing the repayment
26 obligation is reasonably sufficient under the
 circumstances.

28 Financing assistance for any one major business expansion
30 project may not exceed \$25,000,000 in loan amount. The
32 authority may establish, pursuant to rules adopted in
34 accordance with Title 5, chapter 375, subchapter II,
 application procedures, approval criteria and reasonable
 fees for major business expansion projects.

36 **Sec. 8. 10 MRSA §1053, sub-§6**, as amended by PL 1993, c. 712,
38 §5, is further amended to read:

40 **6. Securities outstanding.** The authority may not have at
42 any one time outstanding revenue obligation securities to which
44 subsection 5 is stated in the trust agreement or other document
46 to apply in principal amount exceeding an amount equal to
48 \$150,000,000 less the aggregate outstanding balance of mortgage
50 loans secured by capital reserve funds pursuant to section 1032.
 Notwithstanding any other provision of this subsection, the
 authority may additionally have outstanding at any one time up to
 \$120,000,000 of bonds under this subchapter relating to loans for
 electric rate stabilization projects and \$120,000,000 of bonds
 under this subchapter relating to loans for major business
 expansion projects, in each case consisting of not more than

2 \$100,000,000 for loans and up to \$20,000,000 for use of bond
3 proceeds to fund capital reserve funds. The amount of revenue
4 obligation securities issued to refund securities previously
5 issued may not be taken into account in determining the principal
6 amount of securities outstanding, provided that proceeds of the
7 refunding securities are applied as promptly as possible to the
8 refunding of the previously issued securities. In computing the
9 total amount of revenue obligation securities of the authority
10 that may at any time be outstanding for any purpose, the amounts
11 of the outstanding revenue obligation securities that have been
12 issued as capital appreciation bonds or as similar instruments
13 are valued as of any date of calculation at their then current
14 accreted value rather than their face value.

15 **Sec. 9. 10 MRSA §1054**, as amended by PL 1987, c. 393, §12, is
16 further amended to read:

17 **§1054. Taxable bond option**

18
19 With respect to all or any portion of any issue of any bonds
20 or any series of bonds ~~which that~~ the authority may issue in
21 accordance with the limitations and restrictions of this
22 subchapter, the authority may covenant and consent that the
23 interest on the bonds ~~shall-be~~ is includable, under the United
24 States Internal Revenue Code of 1954 1986 or any subsequent
25 corresponding internal revenue law of the United States, in the
26 gross income of the holders of the bonds to the same extent and
27 in the same manner that the interest on bills, bonds, notes or
28 other obligations of the United States is includable in the gross
29 income of the holders under the United States Internal Revenue
30 Code or any subsequent law. Bonds Except with respect to bonds
31 issued to finance major business expansion projects, bonds issued
32 pursuant to this section ~~shall~~ are not be subject to any
33 limitations or restrictions of any law ~~which that~~ may limit the
34 authority's power to issue those bonds or to the procedures set
35 forth in section 1043 or in section 1044, subsections 1, 11 and
36 12; except that the limitations of section 1044, subsection 1
37 apply to any action or proceeding in any court to contest the
38 issuance of bonds issued pursuant to this section, substituting
39 the date of final authority approval of the issuance of the bonds
40 for the date of the issuance of the certificate of approval. The
41 foregoing grant of power ~~shall~~ may not be construed as limiting
42 the inherent power of the State or its agencies under any other
43 provision of law to issue debt, the interest on which is
44 includable in the gross income of the holders of the interest
45 under the United States Internal Revenue Code or any subsequent
46 law.

47
48 **Sec. 10. Loans authorized.** The Finance Authority of Maine may
49 make loans for major business expansion projects, as defined
50

2 in the Maine Revised Statutes, Title 10, section 963-A, from up
to \$100,000,000 of the proceeds of revenue obligation securities
4 secured by capital reserve funds pursuant to Title 10, section
1053. Any revenue obligation securities for major business
6 expansion projects secured by capital reserve funds pursuant to
Title 10, section 1053 are limited obligations of the Finance
8 Authority of Maine payable from revenues from borrowers and any
capital reserve funds pledged for those securities as those funds
are administered under Title 10, chapter 110, subchapter III and
10 are not payable from any other assets or funds of the Finance
Authority of Maine.

12

Emergency clause. In view of the emergency cited in the
14 preamble, this Act takes effect when approved.

16

18

STATEMENT OF FACT

20

This bill allows the Finance Authority of Maine to issue up
to \$100,000,000 in revenue obligation securities relating to
22 major business expansion projects, defined as projects of more
than \$5,000,000, creating or retaining more than 100 jobs. The
24 securities may be backed by capital reserve funds requiring
appropriation of amounts necessary to refill the reserve if drawn
26 upon to pay debt service on the bonds.