

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST SPECIAL SESSION-1997

Legislative Document

No. 1725

S.P. 568

In Senate, April 1, 1997

**An Act to Authorize Interlocal Agreements for Construction and
Operation of Public Education Fiber-optic Transmission Systems.**

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator PARADIS of Aroostook.
Cosponsored by Representative O'NEAL of Limestone and
Senators: KIEFFER of Aroostook, MICHAUD of Penobscot, Representatives: AHEARNE of
Madawaska, BELANGER of Wallagrass, DESMOND of Mapleton, SIROIS of Caribou,
WATSON of Farmingdale, WHEELER of Bridgewater.

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

Sec. 1. 20-A MRSA c. 608 is enacted to read:

CHAPTER 608

INTERLOCAL AGREEMENTS FOR PUBLIC
EDUCATION SYSTEMS

§15801. Interlocal agreements for public education fiber-optic
transmission systems

1. Agreements authorized. Two or more school administrative units, including municipalities, school administrative districts, community school districts and applied technology regions, are authorized to enter into interlocal agreements in accordance with Title 30-A, chapter 115 and may organize or cause to be organized public nonprofit corporations under Title 13, chapter 81 or Title 13-B for the purpose of planning, financing, constructing, owning, leasing, lease-purchasing and operating one or more public education fiber-optic transmission systems for purposes of interactive audio and visual communication and transmission of data for educational purposes.

2. Financial commitment of participating school administrative units. Any participating school administrative unit or applied technology region may agree in an interlocal agreement to pay fees, assessments and other payments in connection with the financing, construction, ownership, leasing and operation of public education fiber-optic transmission systems on such terms as the interlocal agreement may provide and may pledge the full faith and credit of the municipality, school administrative district, community school district or applied technology region for those purposes.

3. Legal and tax status of nonprofit corporations. A corporation organized for the purposes described in this section is a public municipal corporation as that term is used in Title 36, section 651, subsection 1, paragraph D and its real and personal property is exempt from municipal property taxation to the extent provided by Title 36, section 651, subsection 1, paragraph D. The applicable interlocal agreement or the articles of incorporation or bylaws of the corporation must provide that:

A. The corporation is authorized to issue bonds, notes and other securities in accordance with and in furtherance of the purposes described in this section;

2 B. The corporation has the authority to acquire, lease and
sell property in futherance of its purposes;

4 C. The board of directors constitutes the governing body of
the corporation;

6 D. Each director of the corporation is elected by the
8 governing body of a school administrative unit or an applied
10 technology region participating in the corporation;

12 E. The corporation is organized and continuously operated
as a public nonprofit corporation, no part of the net
14 earnings of which may inure to the benefit of any member,
director, officer or other private person; and

16 F. Upon dissolution or liquidation of the corporation,
18 title to all of its property vests in one or more of the
school administrative units or applied technology regions
20 participating in the corporation.

22 4. Bonding authority. Any corporation organized in a
manner that satisfies the requirements of this section, whether
24 organized prior to or after the effective date of this section,
is deemed for all purposes as organized pursuant to this
26 section. If so provided in the applicable interlocal agreement,
any such corporation has the power, in addition to any other
28 powers that may be delegated under Title 30-A, chapter 115, to
issue, on behalf of the school administrative units or applied
30 technology regions participating in the corporation, revenue
obligation securities for the financing of public education
32 fiber-optic transmission systems in accordance with the
provisions applicable to the issuance of revenue bonds for
34 revenue-producing municipal facilities under Title 30-A, chapter
213.

36 In applying the provisions of Title 30-A, chapter 213 to this
38 section for the issuance of revenue obligation securities:

40 A. Any corporation described in this section whose
membership includes school administrative units or applied
42 technology regions with an aggregate population of 1,000 or
more according to the most recent Federal Decennial Census
44 is deemed to be a city with a population of 1,000 or more
according to the most recent Federal Decennial Census;

46 B. The members of the board of directors of the corporation
are deemed to be the municipal officers, the treasurer of
48 the corporation is deemed to be the treasurer of the
municipality and the public education fiber-optic

2 transmission system is deemed to be a telecommunications
system; and

4 C. Title 30-A, section 5404, subsection 2 may not be
construed to prohibit the assignment or pledge as collateral
6 security of any contract of a municipality, school
administrative district, community school district or
8 applied technology region described in this section or any
or all of the payments under this section, nor may the
10 prohibitions or limitations of that subsection be construed
to restrict any rights or obligations of a municipality,
12 school administrative district, community school district or
applied technology region arising under an interlocal
14 agreement described in this section.

16 5. Mixed-use agreements. Any corporation organized in a
manner that satisfies the requirements of this section may enter
18 into mixed-use agreements with public or private persons or
entities providing for the joint ownership or use of one or more
20 fiber-optic cable systems. Mixed-use agreements may provide that
each party to the agreement must own or use a discrete portion of
22 the fiber-optic cable system or systems or any allocable portion
of the capacity of the fiber-optic system.

24 6. Relationship to other laws. Notwithstanding any law,
26 charter or ordinance to the contrary, the power to enter into
interlocal agreements conferred upon a school administrative unit
28 or applied technology region pursuant to this section may be
exercised, in the case of a municipality with a town or city
30 council, by the school committee with the approval of the
council; in the case of a municipality without such a council, by
32 the school committee with the approval of the town meeting; and,
in the case of a school administrative district, community school
34 district or applied technology region, by action of the school
board, district school committee or cooperative board with the
36 approval of the voters at a budget meeting, a special budget
meeting or a district meeting referendum.

38 The obligation of a school administrative unit or applied
40 technology region to pay any fees, assessments or other payments
in accordance with any agreement entered into pursuant to this
42 section or any interlocal agreement authorized by this section
does not constitute a "debt" or "indebtedness" of the school
44 administrative unit or applied technology region within the
meaning of any statutory, charter or ordinance provision limiting
46 the incurrence or the amount of indebtedness, nor does the
authorization or incurrence of the obligation or any action to
48 raise funds to meet the obligation require nor may it be subject
to any voter referendum or approval under any law, charter or
50 ordinance.

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SUMMARY

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6 This bill authorizes school administrative units, including
8 municipalities, school administrative districts, community school
10 districts and applied technology regions to enter into interlocal
12 agreements and to form nonprofit corporations in order to
14 construct and operate fiber-optic cable systems for educational
16 purposes to provide interactive audio-visual communication among
school administrative units. Such fiber-optic systems have the
potential to improve public education and to reduce school
transportation and construction costs by providing a practical
and inexpensive means of consolidating school programs,
particularly in the more rural areas of the State. This bill
provides school administrative units with the fiscal powers
required to construct and finance fiber-optic systems.