

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST SPECIAL SESSION-1997

Legislative Document

No. 1817

H.P. 1280

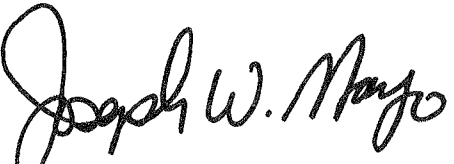
House of Representatives, April 17, 1997

**An Act to Amend the Laws Governing the Maine Health and Higher
Educational Facilities Authority.**

(AFTER DEADLINE)

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule
205.
Reference to the Committee on Health and Human Services suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative MITCHELL of Portland.
Cosponsored by Senator CAREY of Kennebec and
Representatives: FULLER of Manchester, JOYNER of Hollis, KERR of Old Orchard Beach,
MITCHELL of Vassalboro, ROWE of Portland, SAXL of Portland, STEVENS of Orono.

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

4 **Whereas,** the activities authorized in this legislation will
6 allow eligible borrowers under the Maine Health and Higher
Educational Facilities Authority to obtain cost savings; and

8 **Whereas,** the cost savings available to eligible borrowers
10 under the Maine Health and Higher Educational Facilities
Authority are benefits that can have an immediate impact on the
12 cost of the provision of health care and higher education
services in the State; and

14 **Whereas,** the timely availability of any cost-saving measures
16 can increase the benefit to both the State and the eligible
borrowers; and

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

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

26 **Sec. 1. 22 MRSA §2053, sub-§3-B** is enacted to read:

28 **3-B. Eligible entity.** "Eligible entity" means a facility
30 or institution eligible to participate in financing or other
borrowing services authorized by this chapter and includes a
32 participating community health or social service facility, a
participating health care facility or a participating institution
34 for higher education.

36 **Sec. 2. 22 MRSA §2055, sub-§14,** as amended by PL 1993, c. 390,
§17, is further amended to read:

38 **14. Apportionment.** To charge to and equitably apportion
40 among participating health care facilities and participating
institutions for higher education its administrative costs and
42 expenses incurred in the exercise of the powers and duties
conferred by this chapter; and

44 **Sec. 3. 22 MRSA §2055, sub-§15,** as amended by PL 1993, c. 390,
46 §18, is further amended to read:

48 **15. Other acts.** To do all things necessary or convenient
to carry out the purposes of this chapter. In carrying out the
50 purposes of this chapter, the authority may undertake a project

2 for 2 or more participating health care facilities jointly or 2
or more participating institutions for higher education jointly,
4 and, upon undertaking the project, all other provisions of this
chapter apply to and for the benefit of the authority and such
6 joint participants.;

8 **Sec. 4. 22 MRSA §2055, sub-§§16 and 17** are enacted to read:

10 **16. Bulk purchases.** To purchase, lease or otherwise
12 acquire, finance, sell and transfer for, to or on behalf of
14 itself and any eligible entities organized pursuant to the United
16 States Internal Revenue Code, Section 501 or in partnership with
18 any of its eligible entities organized pursuant to the United
20 States Internal Revenue Code, Section 501 commodities necessary
22 for the daily operation of the facilities of the eligible
entities and for their employees, including, but not limited to,
electricity, petroleum products, fuel oil and natural gas. For
purposes authorized in this subsection, the University of Maine
System and its colleges and universities are eligible
participating institutions under the definition of eligible
participant for the authority; and

24 **17. Nonprofit corporation.** In accordance with the
26 limitations and restrictions of this chapter, to cause any of its
28 powers, duties, programs or operations to be carried out by one
30 or more nonprofit corporations. Nonprofit corporations acting at
32 the direction of the authority must be organized and operated
under the Maine Nonprofit Corporation Act. For the purposes
authorized in this section the University of Maine System and its
colleges and universities are eligible participating institutions
under the definition of eligible participant for the authority.

34 **Sec. 5. 22 MRSA §2077** is enacted to read:

36 **§2077. Lease finance program**

38 **1. Establishment; administration.** A lease finance program
40 under the jurisdiction and direction of the authority is
42 established to provide for or assist with financing leases for
44 eligible entities to acquire the use of personal or real
46 property. The lease finance program must provide methods of
48 direct or indirect financing, insurance, borrowing, credit
enhancement and other financial tools for the lease,
lease-purchase, rental or right of use of any real or personal
property or other authorized activity of an eligible entity. For
the purposes authorized in this section the University of Maine
System and its colleges and universities are eligible
participating institutions under the definition of eligible
participant for the authority.

2 2. Eligible entity defined. For purposes of this section
3 "eligible entity" means an eligible entity, as defined in section
4 2053, subsection 3-B, that is organized pursuant to the United
5 States Internal Revenue Code, Section 501.

6 3. Powers. The authority may make loans or borrow money on
7 behalf of any eligible entity for any of the purposes of this
8 section. The authority may purchase, refinance or enter into
9 leases with or on behalf of any eligible entity. The authority
10 may purchase or refinance for or on behalf of any eligible entity
11 any lease that is held or issued by a 3rd party. The authority
12 may issue its bonds or notes for the purchase of leases on behalf
13 of any eligible entity or any group of those entities or for the
14 establishment of a pool of funds to be used for the purchase,
15 financing or other means of acquisition of leases. The authority
16 shall establish prudent standards for the terms and conditions of
17 any lease financing made available to any eligible entity or any
18 group of those entities. Terms and conditions include, but are
19 not limited to, the general obligation of the eligible entity,
20 liens on any real or personal property held by the eligible
21 entity whether financed by the specific lease or not and sinking
22 funds held by or available to the eligible entity.

23 4. Application; eligibility. The authority may prescribe
24 and require an application or procedure for an eligible entity to
25 participate in any form of lease financing assistance made
26 available under this section. An application must include any
27 information that the authority decides is necessary for
28 implementing this section, including, but not limited to,
29 supporting documents, certifications, feasibility studies,
30 financial data, utilization studies or other applicable
31 information. An eligible entity may not participate in any lease
32 finance assistance made available under this section unless, in
33 the sole judgment of the authority, the eligible entity has
34 satisfactorily demonstrated that it will pay the principal,
35 interest, fees and related charges on the bond, debt, or other
36 instrument issued by the authority on its behalf or purchased by
37 the bank from the eligible entity as well as the costs for
38 operation and maintenance of any real or personal property
39 acquired or made available for use by the eligible entity by
40 virtue of the lease assistance. Satisfactory assurance can be
41 demonstrated if an eligible entity has:

42 A. Established a method of payment by fee, rate, charges,
43 assessment or other mechanism satisfactory to the authority;
44 or

45 B. Provided collateral sufficient to ensure payment.

2 5. State not liable. Bonds, notes, leases or other forms
4 of debt or liability entered into or issued by the authority
6 under this section are not in any way a debt or liability of the
8 State and do not constitute a loan of the credit of the State or
10 create any debt or debts, liability or liabilities on behalf of
12 the State or constitute a pledge of the faith and credit of the
14 State. Each bond, note, lease or other evidence of debt or
16 liability entered into by the authority must contain a statement
to the effect that the authority is obligated to pay the
principal, interest, redemption premium, if any, and any other
amounts payable solely from the sources pledged for that purpose
by the authority and that neither the faith and credit nor the
taxing power of the State is pledged to the payment of the
principal, interest, premium, charge, fee or other amount of the
bond, note, lease or other form of indebtedness, as the case may
be.

18 6. Lease finance agreement. Lease financing and
20 refinancing, lease purchase, loans and other forms of
22 indebtedness or obligations incurred by an eligible entity due
24 the authority under the terms of this section must be evidenced
26 by and be made in accordance with the terms and conditions
28 specified in a lease finance agreement to be executed by the
30 authority and any eligible entity or any group of those
entities. The lease finance agreement must specify, among other
things, the terms and conditions for the disbursement of lease
finance proceeds, the term and interest rate of the lease, the
scheduling of lease payments or bond payments, as the case may
be, and any other terms and conditions determined necessary or
desirable by the authority.

32 7. Utilization of municipal lease finance program. The
34 authority, for the benefit of its eligible entities, may utilize
36 the municipal lease finance program created in Title 30-A,
section 6006-C for the purposes of this section.

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

40 SUMMARY

42 This bill allows the Maine Health and Higher Educational
44 Facilities Authority to act as a conduit for its eligible
46 borrowers to purchase commodities in bulk and allow it to
48 purchase electricity on behalf of its eligible borrowers if
utility deregulation laws are enacted. Such group purchasing has
the potential to provide substantial savings to hospitals,
nursing homes and colleges across the State. The bill also
50 creates a lease financing program in the Maine Health and Higher

2 Educational Facilities Authority identical to the one created by
the Legislature for use by local governments through the Maine
4 Municipal Bond Bank. The tax-exempt lease financing that this
program makes available can provide savings over many of the
6 product and vendor lease financing currently available on the
market. Savings achieved in both programs, to the extent that
they are used by health care facilities, has the potential to
8 reduce costs to the State through reduced cost for reimbursement.