

MAINE STATE LEGISLATURE

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L.D. 1863

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DATE: *May 30, 1997*

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TAXATION

Reported by: *Senator Ruhlin*

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STATE OF MAINE
SENATE
118TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S.P. 641, L.D. 1863, Bill, "An
Act to Encourage Major Investments in Shipbuilding Facilities and
to Encourage the Preservation of Jobs"

Amend the bill in section 1 by inserting before that part
designated "§6851." the following:

§6850. Purpose and intent

The Legislature finds that encouragement of major
investments in shipbuilding facilities in this State and the
preservation of substantial numbers of jobs are in the public
interest and promote the general welfare of the people of the
State. The Legislature further finds that the enactment of
incentives as set forth in this chapter to promote major
shipbuilding investments in the State and substantial job
retention is necessary in order to ensure the long-term survival
of the shipbuilding industry in this State, to preserve numerous
opportunities for jobs for the people of the State, to make this
State more competitive in the shipbuilding industry and thus to
ensure the preservation and betterment of the economy of the
State for the benefit of its people. The Legislature further
finds that the foregoing benefits to the State and its people far
exceed the costs to the State of providing the incentives set
forth in this chapter. The Legislature further finds that the
provisions of this chapter are necessary to accomplish these
objectives.

The Legislature recognizes that the incentives offered by
the State pursuant to this chapter are intended to induce major
investments in shipbuilding facilities and that any party who

2 accepts and reasonably relies upon these inducements in making
3 qualified investments is entitled to the full realization of
4 these incentives without impairment by subsequent changes in
5 law. The Legislature recognizes that when determining whether a
6 project is financially feasible, an investing party must rely in
7 good faith upon the Legislature to assure that the promised
8 incentives of this law will be available for a period of up to 20
9 years and that a party's confidence in the full realization of
10 these benefits is a critical factor in inducing it to make the
11 desired investment. It is the intent of this Legislature that
12 all successor Legislatures honor the commitments held out by this
13 chapter.'

14 Further amend the bill in section 1 in that part designated
15 "~~§6851.~~" in subsection 1, in the last line (page 1, line 16 in
16 L.D.) by inserting after the following: "chapter" the
17 following: 'and does not participate in the Employment Tax
18 Increment Financing Program established in section 6752 while
19 receiving this credit'

20 Further amend the bill in section 1 in that part designated
21 "~~§6851.~~" by striking out all of subsection 4 and inserting in its
22 place the following:

23
24 '4. Exception year. "Exception year" means the first
25 calendar year in which a certified applicant has employment of
26 less than 5,000 if the total Maine income taxes deducted and
27 withheld by the certified applicant from qualified employees for
28 that year totals at least \$6,000,000. Beginning January 1, 2003,
29 "exception year" means the first calendar year in which a
30 certified applicant has employment of less than 3,500 if the
31 total Maine income taxes deducted and withheld by the certified
32 applicant from qualified employees for that year totals at least
33 \$6,000,000. A certified applicant is allowed 2 exception years
34 between January 1, 1999 and December 31, 2018.'

35 Further amend the bill in section 1 in that part designated
36 "~~§6851.~~" in subsection 7 in paragraph C in the first line (page
37 2, line 1 in L.D.) by striking out the following: "5,000" and
38 inserting in its place the following: '6,500'

39 Further amend the bill in section 1 in that part designated
40 "~~§6851.~~" in subsection 8 in the last line (page 2, line 12 in
41 L.D.) by inserting after the following: "employee." the
42 following: "Qualified employee" also means a full-time employee
43 for whom a retirement program is provided subject to the Employee
44 Retirement Income Security Act of 1974, 29 United States Code,
45 Sections 101 to 1461, as amended, and for whom group health
46 insurance is provided and whose income calculated on a calendar
47 year basis is greater than the average annual per capita income
48 in the State.'

2 Further amend the bill in section 1 in that part designated
3 "**§6851.**" by striking out all of subsection 9 and inserting in its
4 place the following:

6 '9. Qualified investment. "Qualified investment" means
7 expenditures incurred after October 1, 1996 totaling at least
8 \$200,000,000 related to the construction, improvement,
9 modernization or expansion of a shipbuilding facility within the
10 State that results in, supports or enables the utilization of an
11 approximately 10-acre facility that will enable the applicant to
12 erect ships on a flat surface and launch them on an abutting dry
13 dock, including, without limitation, all expenditures for
14 investigation; planning; design; engineering; permitting;
15 acquisition; financing; construction; demolition; alteration;
16 relocation; remodeling; repair; reconstruction; clearing;
17 filling; grading; reclamation of land; activities undertaken to
18 upgrade a waterway serving the facility; capitalized interest;
19 professional services, including, but not limited to,
20 architectural, engineering, legal, accounting or financial
21 services; administration; environmental and utility costs,
22 including, without limitation, sewerage treatment plants, water,
23 air and solid waste equipment and treatment plants, environmental
24 protection devices, electrical facilities, storm or sanitary
25 sewer lines, water lines or amenities, any other utility
26 services, preparation of environmental impact studies, informing
27 the public about the facility and environmental impact and
28 environmental remediation, mitigation, clean-up and protection
29 costs; related offices, support facilities and structures; and
30 any of the foregoing expenditures made or costs incurred prior to
31 or after the effective date of this chapter or certification of
32 an applicant and regardless of whether the expenditure relates to
33 an activity or improvement within or outside of the approximately
34 10-acre facility. "Qualified investment" includes only
35 expenditures that are capitalized for federal income tax
36 purposes. Except for employees who are engaged in the design,
37 engineering and construction of the facility, "qualified
38 investment" does not include the salaries or other compensation
39 paid to the employees of the qualified applicant or of any
40 affiliate of the qualified applicant.'

42 Further amend the bill in section 1 in that part designated
43 "**§6851.**" in subsection 10 in paragraph A in the first line (page
44 3, line 1 in L.D.) by striking out the following: "Involving the
45 use of" and inserting in its place the following: 'Built at'

46 Further amend the bill in section 1 in that part designated
47 "**§6852.**" by striking out all of subsection 3 (page 3, lines 26 to
48 31 in L.D.) and inserting in its place the following:
49
50

2 '3. Memorandum of agreement. Upon issuance of a
3 certificate of approval to a qualified applicant, the
4 commissioner shall enter into an agreement on behalf of the State
5 with the qualified applicant. That agreement must provide that
6 the State shall allow the credit provided for in this chapter as
7 it is in effect on the date the certificate of approval issues
8 for as long as the applicant qualifies for the credit provided
9 for in this chapter on the date the certificate issues.'

10 Further amend the bill in section 1 in that part designated
11 "~~§6852.~~" in subsection 4 in the 4th line (page 3, line 36 in
12 L.D.) by striking out the following: "~~that was the subject of~~
13 ~~the qualified investment~~" and inserting in its place the
14 following: 'in which a qualified investment was made'

16 Further amend the bill in section 1 in that part designated
17 "~~§6852.~~" in subsection 4 in the last line (page 3, line 42 in
18 L.D.) by inserting after the following: "certificate" the
19 following: 'only'

20 Further amend the bill in section 1 in that part designated
21 "~~§6852.~~" in subsection 4 in paragraph B in the 4th line from the
22 end (page 4, line 9 in L.D.) by striking out the following:
23 "~~transfer~~" and inserting in its place the following: 'transferor'

26 Further amend the bill in section 1 in that part designated
27 "~~§6852.~~" by striking out all of subsection 5 and inserting in its
28 place the following:

30 '5. Revocation of certificate. A certificate of approval
31 must be revoked by the commissioner if the certified applicant
32 has not made qualified investment expenditures of at least
33 \$150,000,000 within 5 years and \$200,000,000 within 10 years
34 after issuance of the certificate of approval or if the
35 shipbuilding facility is closed or transferred in an unapproved
36 transfer within 5 years after issuance of the certificate of
37 approval. A certified applicant whose certificate of approval is
38 revoked within 5 years after issuance of the certificate of
39 approval shall pay to the State the amount of any credits claimed
40 by the certified applicant under this chapter prior to revocation
41 of the certificate. A certified applicant whose certificate of
42 approval is revoked between 6 and 10 years after issuance of the
43 certificate of approval shall pay to the State the amount of any
44 credit claimed by the certified applicant under this chapter
45 between the 6th year and the year in which the certificate is
46 revoked.'

48 Further amend the bill in section 1 in that part designated
49 "~~§6852.~~" in subsection 6 in the last line (page 4, line 38 in

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L.D.) by inserting after the following: "commissioner" the following: 'or the State Tax Assessor'

Further amend the bill in section 1 in that part designated "§6853." in subsection 1 in the 5th line (page 4, line 46 in L.D.) by striking out the following: "the first"

Further amend the bill in section 1 in that part designated "§6853." in subsection 1 in the 6th line (page 4, line 47 in L.D.) by inserting after the following: "Assessor" the following: 'on or after July 1st of each calendar year'

Further amend the bill in section 1 in that part designated "§6853." by inserting after subsection 1 the following:

'1-A. Calendar year 1999 credit. Notwithstanding subsection 1, the credit to be taken in calendar year 1999 may be taken in 2 parts. The first part is a credit against the first \$1,000,000 that otherwise would be required to be remitted to the assessor on or after January 1, 1999. The remainder of the credit allowed for 1999 pursuant to this section and section 6856, if applicable, may not be taken until after July 1, 1999.'

Further amend the bill in section 1 in that part designated "§6853." in subsection 2 in the 2nd line (page 5, line 8 in L.D.) by striking out the following: "on withholding taxes" and inserting in its place the following: 'under subsection 1'

Further amend the bill in section 1 in that part designated "§6853." in subsection 2 by striking out all of paragraph B and inserting in its place the following:

'B. A credit is not allowed for a calendar year in which the qualified applicant has employment of less than 5,000 unless that calendar year is an exception year. Beginning January 1, 2003, a credit is not allowed for a calendar year in which the qualified applicant has employment of less than 3,500 unless that calendar year is an exception year.'

C. Total credits under this section may not exceed \$60,000,000 to any certified applicant or transferee.'

Further amend the bill in section 1 in that part designated "§6854." in subsection 1 in the 3rd line (page 5, line 41 in L.D.) by inserting after the following: "Assessor" the following: 'and the commissioner'

Further amend the bill in section 1 in that part designated "§6854." in subsection 1 in paragraph A in the last line (page 5, line 46 in L.D.) by striking out the following: "and"

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2 Further amend the bill in section 1 in that part designated
 4 "~~§6854.~~" in subsection 1 in paragraph B in the last line (page 5,
 line 50 in L.D.) by striking out the following: "year." and
 6 inserting in its place the following: 'year; and'

8 Further amend the bill in section 1 in that part designated
 "~~§6854.~~" in subsection 1 by inserting at the end the following:

10 'C. The incremental level of qualified investments made for
 12 the calendar year immediately preceding the report year.'

14 Further amend the bill in section 1 in that part designated
 "~~§6854.~~" by inserting after subsection 2 the following:

16 '3. Report to Legislature. The State Tax Assessor shall
 18 report, to the joint standing committee of the Legislature having
 20 jurisdiction over taxation matters, aggregate data on employment
 22 levels and qualified investment amounts of a certified applicant
for each year beginning with expenditures incurred after October
1, 1996. The report must be made during the first regular
session of each Legislature beginning with the 120th Legislature.'

24 Further amend the bill in section 1 in that part designated
 26 "~~§6855.~~" in subsection 1 in the 6th line (page 6, line 25 in
 L.D.) by striking out the following: "granting."

28 Further amend the bill in section 1 in that part designated
 30 "~~§6855.~~" in subsection 1 in the 9th line (page 6, line 28 in
 L.D.) by striking out the following: "grant."

32 Further amend the bill in section 1 in that part designated
 34 "~~§6855.~~" in subsection 1 in the 10th line (page 6, line 29 in
 L.D.) by striking out the following: "grant."

36 Further amend the bill in section 1 in that part designated
 38 "~~§6855.~~" in subsection 1 in the 23rd line (page 6, line 42 in
 L.D.) by striking out the following: "conveyance."

40 Further amend the bill in section 1 in that part designated
 42 "~~§6855.~~" in subsection 1 in the 27th line (page 6, line 46 in
 L.D.) by striking out the following: "grant."

44 Further amend the bill in section 1 in that part designated
 46 "~~§6855.~~" by striking out all of subsection 2 and inserting in its
 place the following:

48 '2. Conveyance by State. The State is authorized to lease
 50 to a certified applicant for a period of up to 5 years or until a
qualified investment of \$150,000,000 is made, whichever is

2 sooner, all or any part of the State's right, title and interest
 4 in the submerged and intertidal lands not exceeding 15 acres
 6 located as described in subsection 1 as necessary or convenient
 8 for the certified applicant to construct, improve, modernize or
 10 expand a shipbuilding facility. At the end of the lease period,
 12 the State is authorized to convey to a certified applicant the
 14 same property that was leased. The conveyance must be made for
 16 consideration equal to the fair market value of submerged lands
at the time of conveyance. The provisions of Title 12, chapters
202 and 202-A do not apply to any conveyance or lease. Failure
on the part of the certified applicant to purchase any submerged
or intertidal lands under this subsection does not relieve the
certified applicant of liability for violation of any state or
federal environmental laws or regulations or local ordinances
affecting submerged or intertidal lands during the lease period.'

18 Further amend the bill in section 1 by striking out all of
 those parts designated "~~§6856.~~" and "~~§6857.~~" (page 7, lines 10
 to 35 in L.D.) and inserting in their place the following:

20 **'§6856. Accelerated credit**

22 Beginning July 1, 1999, if a certified applicant has
 24 employment in any calendar year of at least 5,500, the credit
 26 authorized in section 6853 must be increased to \$3,125,000. If
 28 employment is at least 6,000, the credit must be increased to
\$3,250,000. If employment is at least 6,500, the credit must be
increased to \$3,375,000. If employment is 7,000 or more, the
credit must be increased to \$3,500,000.

30 **§6857. Decelerated credit**

32 Beginning July 1, 2003, if a certified applicant has
 34 employment in any calendar year of less than 5,000 but equal to
 36 or greater than 4,500, the credit authorized in section 6853 must
 38 be decreased to \$2,875,000. If employment is less 4,500 but
equal to or greater than 4,000, the credit must be decreased to
\$2,750,000. If employment is less than 4,000 but equal to or
greater than 3,500, the credit must be reduced to \$2,625,000.

40 **§6858. Maine preference**

42 As part of the contractual inducement for the qualified
 44 applicant to make a qualified investment and for the State to
 46 provide the credit pursuant to this chapter, the qualified
 48 applicant agrees when awarding contracts, purchasing supplies or
subcontracting work related to a qualified investment or
qualified ship to give, to the greatest extent possible,
preference to Maine workers, companies and bidders provided the
 50 supplies, products and bids meet the standards required by the

2 qualified applicant for best value, including, without
limitation, quality and delivery, and are competitively priced.

4 The qualified applicant further agrees in conjunction with
the Department of Economic and Community Development to sponsor
6 regional seminars for Maine businesses on how to do business with
the qualified applicant.'

8
10 Further amend the bill by inserting at the end before the
summary the following:

12
14 **FISCAL NOTE**

16 **1998-99**

18 **REVENUES**

20	General Fund	(\$949,000)
	Other Funds	(51,000)

22
24 The credit against employee withholding taxes for certain
employers will decrease General Fund revenue by \$949,000 in
26 fiscal year 1998-99 and up to \$2,372,500 in fiscal year 1999-2000
due to the special allowance for a two-part credit in calendar
28 year 1999. The corresponding loss of dedicated revenue to the
Local Government Fund for state-municipal revenue sharing will be
30 \$51,000 and up to \$178,500 in fiscal years 1998-99 and 1999-2000,
respectively.

32 The credit against employee withholding taxes for certain
employers will decrease General Fund revenue by an estimated
34 \$2,847,000 annually, beginning in fiscal year 2000-01, subject to
certain eligibility requirements. The corresponding decreases in
36 dedicated revenue to the Local Government Fund for
state-municipal revenue sharing will be \$153,000 annually.
38 Depending on certain employment levels, the decreases in revenue
may be higher or lower in some years.

40
42 This credit will decrease General Fund revenue from interest
income beginning as soon as fiscal year 1999-2000. The amounts
can not be determined at this time.

44
46 To the extent that a certified applicant has a tax liability
to the State in a year in which this credit is received, some
48 portion of the \$3,000,000 will be returned to the State in the
form of income tax. This amount can not be determined at this
50 time. The corresponding gains of revenue to the Local Government
Fund also can not be determined.

2 This bill also conveys the interest of the State in certain
public lands and exempts this conveyance from the requirements of
4 the Maine Revised Statutes, Title 12, chapters 202 and 202-A.
This exemption will result in an unbudgeted reduction of
6 dedicated revenue to the Submerged Lands Fund.'

8

SUMMARY

10

This amendment, which is the majority report of the
12 committee, makes changes to the bill, including the following:

- 14 1. It adds a statement of purpose;
- 16 2. It prohibits receiving the shipbuilding facility credit
and employment tax increment financing funds;
- 18 3. It redefines "exception year," "qualified employee" and
20 "qualified investment";
- 22 4. It requires the Department of Economic and Community
Development to enter into a memorandum of agreement with a
24 certified applicant;
- 26 5. It amends the transfer and revocation of certificate of
approval processes;
- 28 6. It changes the effective date of the credit to begin on
30 July 1, 1999, with one exception;
- 32 7. It amends the limitation on credit allowed;
- 34 8. It amends the reporting requirements of a certified
applicant and the State Tax Assessor;
- 36 8. It amends the conveyance of the submerged lands process;
- 38 10. It strikes contract language in the bill;
- 40 11. It provides for an accelerated and decelerated credit
42 process if employment levels increase or decrease to certain
levels;
- 44 12. It adds "Maine preference" language for contract
46 awards; and
- 48 13. It adds a fiscal note to the bill.