

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2222

S.P. 816

In Senate, May 7, 1999

An Act to Retain Jobs at Paper Production Facilities in the State.

(AFTER DEADLINE)

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MICHAUD of Penobscot.
Cosponsored by Representative CLARK of Millinocket and
Senators: CATHCART of Penobscot, DAVIS of Piscataquis, President LAWRENCE of York,
Representatives: CAMPBELL of Holden, CARR of Lincoln, JOY of Crystal, Speaker ROWE
of Portland, STANLEY of Medway.

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

4 Whereas, paper companies have been selling and offering to
6 sell their Maine assets and have been closing or limiting
production at their paper production facilities in the State; and

8 Whereas, the employees of one paper production facility in
10 the State have been conducting negotiations with the owner to
purchase the facility; and

12 Whereas, it is essential to the continued success of the
14 negotiations that the State demonstrate immediately that the
State will make available under certain conditions financial
16 assistance for employee buyouts of paper production facilities in
the State; 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. 10 MRSA §963-A, sub-§10, ¶P,** as amended by PL 1997, c.
28 500, §3, is further amended to read:

30 P. Any workers' compensation residual market mechanism
project; and

32 **Sec. 2. 10 MRSA §963-A, sub-§10, ¶Q,** as enacted by PL 1997, c.
34 500, §4, is amended to read:

36 Q. Any clean fuel vehicle project; and

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

40 R. Any paper industry job retention project.

42 **Sec. 4. 10 MRSA §963-A, sub-§42-C** is enacted to read:

44 42-C. Paper industry job retention project. "Paper
46 industry job retention project" means the acquisition and
48 improvement of a paper production facility in the State that is
projected to retain as an operating business a facility that, at
the time of application for financial assistance, employs at
least 500 persons.

50 **Sec. 5. 10 MRSA §1043, sub-§2, ¶I,** as amended by PL 1995, c. 4,
52 §6, is further amended to read:

2 I. The project will, to the extent possible, cooperate with
4 representatives of the Department of Labor and the
6 Department of Human Services regarding employment
opportunities for recipients of the services of those
departments; and

8 **Sec. 6. 10 MRSA §1043, sub-§2, ¶J**, as enacted by PL 1995, c. 4,
10 §7, is amended to read:

12 J. In the case of major business expansion projects, the
14 applicant is creditworthy and there is a strong likelihood
16 that the revenue obligation securities will be repaid
18 through the revenues of the project and any other sources of
revenues and collateral pledged to the repayment of those
pledged revenues to repay the obligations, including:

20 (1) Whether individuals or entities obligated to repay
22 the obligations have demonstrated sufficient revenues
24 from the project or from other sources to repay the
obligations, and a strong probability that those
26 revenues will continue to be available for the term of
the revenue obligation securities;

28 (2) Whether the applicant demonstrates a strong
30 probability that the project will continue to operate
and provide the public benefits projected to be created
32 for the term of the revenue obligation securities;

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

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

44 (5) Whether the applicant meets or exceeds industry
46 average financial performance ratios commonly accepted
in determining creditworthiness in that industry;

48 (6) Whether the applicant demonstrates that the need
50 for authority assistance is due to the reduced cost and
increased flexibility of the financing for the project
52 that result from authority assistance and not from an
inability to obtain necessary financing without the

2 capital reserve fund security provided by the
authority; and

4 (7) Whether collateral securing the repayment
6 obligation is reasonably sufficient under the
circumstances.

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

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

18 K. In the case of a paper industry job retention project,
19 the applicant is creditworthy and there is a strong
20 likelihood that the revenue obligation securities will be
21 repaid through the revenues of the project and any other
22 sources of revenues and collateral pledged to the repayment
23 of those securities. In making this determination, the
24 authority shall consider factors it considers necessary to
25 measure and evaluate the sufficiency of the pledged revenues
26 to repay the securities, including:

28 (1) Whether individuals or entities obligated to repay
29 the securities have demonstrated sufficient revenues
30 from the project or from other sources to repay the
31 securities and a strong probability that those revenues
32 will continue to be available for the term of the
33 securities;

34 (2) Whether the applicant demonstrates a strong
35 probability that the project will continue to operate
36 and to provide the public benefits projected to be
37 created for the term of the securities. If, as a
38 condition of the financial assistance, a significant
39 interest in the owner of the project will be owned or
40 controlled by or for the benefit of all of the
41 employees of the project at the time financial
42 assistance is provided, then such ownership is prima
43 facie evidence that the project will benefit the public;

44 (3) Whether the applicant demonstrates that the
45 benefits projected to be created by the project are
46 enhanced through the use of financial assistance from
47 the authority;

48 (4) Whether the applicant's creditworthiness is
49 demonstrated by such factors as historical financial
50 performance;

2 performance, management ability and the applicant's
3 plan for marketing products or service;

4 (5) Whether the applicant meets or exceeds industry
5 average financial performance ratios commonly accepted
6 in determining creditworthiness in that industry;

7 (6) Whether collateral securing the repayment
8 obligation, valued in place and in use, is reasonably
9 sufficient under the circumstances; and

10 (7) Whether the owner will make an important equity
11 contribution to the project. For purposes of the
12 authority's consideration of the project, the net
13 present value of any contractual labor cost reductions
14 that, as a condition of the financial assistance, will
15 be in effect at the time financial assistance is
16 provided must be treated as the equivalent of cash
17 equity.

18
19 **Sec. 8. 10 MRSA §1053, sub-§6, as repealed and replaced by PL**
20 **1997, c. 781, §1, is amended to read:**

21
22 **6. Securities outstanding.** The principal amount of revenue
23 obligation securities the authority may have outstanding at any
24 one time, to which subsection 5 is stated to apply in the trust
25 agreement or other document, may not exceed an aggregate
26 principal amount equal to \$657,000,000 \$777,000,000 as follows:
27

28 A. The sum of \$330,000,000 consisting of not more than
29 \$275,000,000 for loans and up to \$55,000,000 for use of bond
30 proceeds to fund capital reserve funds for revenue
31 obligation securities issued pursuant to this subchapter
32 relating to loans for electric rate stabilization projects;

33 B. The sum of \$120,000,000 consisting of not more than
34 \$100,000,000 for loans and up to \$20,000,000 for use of bond
35 proceeds to fund capital reserve funds for revenue
36 obligation securities issued pursuant to this subchapter
37 relating to loans for major business expansion projects;

38 C. The sum of \$57,000,000 consisting of not more than
39 \$45,000,000 for loans and up to \$12,000,000 for use of bond
40 proceeds to fund capital reserve funds for revenue
41 obligation securities issued pursuant to this subchapter
42 relating to workers' compensation residual market mechanism
43 projects; and

44 D. The sum of \$150,000,000 less the aggregate outstanding
45 balance of mortgage loans secured by capital reserve funds
46 pursuant to section 1032 for all other revenue obligation
47 securities issued pursuant to this subchapter; and
48

2 E. The sum of \$120,000,000 consisting of not more than
3 \$100,000,000 for loans and up to \$20,000,000 for use of bond
4 proceeds to fund capital reserve funds for revenue
5 obligation securities issued pursuant to this subchapter
6 relating to loans for paper industry job retention projects.

8 The amount of revenue obligation securities issued to refund
9 securities previously issued may not be taken into account in
10 determining the principal amount of securities outstanding,
11 provided that proceeds of the refunding securities are applied as
12 promptly as possible to the refunding of the previously issued
13 securities. In computing the total amount of revenue obligation
14 securities of the authority that may at any time be outstanding
15 for any purpose, the amounts of the outstanding revenue
16 obligation securities that have been issued as capital
17 appreciation bonds or as similar instruments are valued as of any
18 date of calculation at their then current accreted value rather
19 than their face value.

20

22

SUMMARY

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 This bill expands the Finance Authority of Maine's ability
25 to support employee purchases of paper industry assets in the
26 State by:

28

 1. Adding any paper industry job retention project to the
29 list of eligible projects;

30

 2. Defining "paper industry job retention project";

32

 3. Listing the criteria for a certificate of approval for a
33 paper industry job retention project; and

34

36

 4. Limiting the principal amount of revenue obligation
37 securities the Finance Authority of Maine may have outstanding in
38 conjunction with a paper industry job retention project.

38