

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 660

H.P. 490

House of Representatives, February 11, 2003

An Act To Create the Maine Humanities Authority

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative DUNLAP of Old Town.
Cosponsored by Senator MARTIN of Aroostook and
Representatives: ADAMS of Portland, COWGER of Hallowell, KOFFMAN of Bar Harbor,
McKEE of Wayne, NORBERT of Portland, PERRY of Bangor, SUSLOVIC of Portland,
Senator: ROTUNDO of Androscoggin.

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

2
4 **Sec. 1. 5 MRSA §12004-F, sub-§19** is enacted to read:

6 19. Maine Legislative 27 MRSA §701
 Humanities Authority Per Diem

8 **Sec. 2. 27 MRSA c. 21** is enacted to read:

10 CHAPTER 21

12 MAINE HUMANITIES AUTHORITY

14 §701. Purpose

16 The Maine Humanities Authority, as established in Title 5,
18 section 12004-F, subsection 19, and referred to in this chapter
20 as "the authority," is a body both corporate and politic in the
22 State established for the general purposes of acquiring and
 financing works of art and literature, historic preservation,
 library acquisitions and archival protection.

24 It is declared that the purposes of this chapter are public
26 and that the authority is performing a governmental function in
 carrying out this chapter.

28 §702. Directors; appointment; president; vacancy

30 The authority consists of a board of 5 directors, who are
32 broadly representative of arts, cultural and humanities interests
34 in the State. Four directors are appointed by the Governor, each
36 to serve for 4 years, except that, for the initial terms, one
38 director is appointed for one year, one for 2 years and one for 3
40 years. The remaining director is the Chair of the Maine
 Humanities Council or its successor organization or the chair's
 designee and serves as chair of the board of directors and
 president of the authority. The directors shall elect a treasurer
 and such other officers as the board of directors may from time
 to time determine necessary. The Governor shall fill a vacancy
 for an unexpired term.

42 1. Meetings of directors; compensation. All the powers of
44 the authority may be exercised by the board of directors in
46 lawful meeting and a majority of the directors is necessary for a
48 quorum. Regular meetings of the board of directors may be
 established by bylaw and notice need not be given to the
 directors of the regular meeting. Each director must be
 compensated according to the provisions of Title 5, chapter 379.

50 2. Actions at law or in equity. Actions at law or in equity
 in the courts of this State may be brought by or against the

2 authority as if the authority were a private corporation, except
3 that its property may not be attached, trusteeed or sequestered,
4 but, if a judgment recovered against the authority is not paid
5 within 30 days, its personal property may be seized on execution.

6 **§703. Bonds**

8 **1. Authorization.** The authority may provide by resolution
9 from time to time for the issuance of bonds for the purpose of
10 funding the acquisition, financing or protection of works of art
11 and literature, historic preservation, library acquisitions,
12 archival protection and the fulfillment of other undertakings
13 that the authority may assume. The bonds of the authority do not
14 constitute a debt of the State, or of any agency or political
15 subdivision thereof, but are payable solely from the revenue of
16 the authority, and neither the faith nor credit nor taxing power
17 of the State, or any political subdivision thereof, is pledged to
18 payment of the bonds. Any provision of law to the contrary
19 notwithstanding, all bonds issued pursuant to this chapter are
20 fully negotiable. If a director whose signature appears on the
21 bonds or coupons ceases to be a director before the delivery of
22 those bonds, that signature is valid and sufficient for all
23 purposes as if that director had remained a director until
24 delivery.

26 **2. Resolution; prospective issues.** The authority may by
27 resolution authorizing prospective issues provide:

28 A. The manner of executing the bonds and coupons;

30 B. The form and denomination of the bonds;

32 C. Maturity dates;

34 D. Interest rates on the bonds;

36 E. For redemption prior to maturity and the premium payable;

38 F. The place or places for the payment of interest and
40 principal;

42 G. For registration if the authority determines it to be
43 desirable;

44 H. For the pledge of any revenue for securing payment;

46 I. For the replacement of lost, destroyed or mutilated
48 bonds;

- 2 J. For the setting aside of reserve and sinking funds and
4 the regulations and disposition of reserve and sinking funds;
- 6 K. For limitation on the issuance of additional bonds;
- 8 L. For the procedure, if any, by which the contract with
10 the bondholder may be abrogated or amended;
- 12 M. For the manner of sale and purchase of the bonds;
- 14 N. For covenants against pledging of any of the revenue of
16 the authority;
- 18 O. For covenants fixing and establishing rates and charges
20 for use of the authority's facilities and services made
22 available so as to provide at all times funds sufficient to
24 pay all costs of operation and maintenance, meet and pay the
26 principal and interest of all bonds as they severally become
28 due and payable; for the creating of such revenues for the
30 principal and interest of all bonds; and for the meeting of
32 contingencies and the operation and maintenance of the
34 authority's facilities as the directors determine;
- 36 P. For any other covenants as to rates and charges the
38 directors determine;
- 40 Q. For covenants as to the rights, liability, powers and
42 duties arising upon the breach by the authority of any
44 covenant, condition or obligation;
- 46 R. For covenants as to the bonds to be issued, as to the
48 issuance of those bonds in escrow and otherwise and as to
50 the use and disposition of the proceeds;
- S. For covenants as to the use of the authority's
 facilities and their maintenance and replacement, the
 insurance to be carried on them and the use and disposition
 of insurance money;
- T. For the issuance of bonds in series;
- U. For the performance of any acts as may be in the
 discretion of the directors necessary, convenient or
 desirable to secure the bonds or make the bonds more
 marketable; and
- V. To issue bonds on terms and conditions to effectuate the
 purpose of this chapter.

2 3. Money received. All money received from any bonds issued
3 must be applied solely for the acquisition, financing or
4 protection of works of art and literature, historic preservation,
5 library acquisitions, archival protection and the fulfillment of
6 other undertakings that are within the power of the authority.
7 There is created a lien upon the money until so applied in favor
8 of the bondholders or any trustee as may be provided in respect
9 to the bonds.

10 4. Trust indenture. In the discretion of the directors, the
11 bonds may be secured by a trust indenture by and between the
12 authority and a corporate trustee, which may be any trust company
13 or bank having the powers of a trust company, located either
14 within or outside the State. The trust indenture may pledge or
15 assign the revenues of the authority or any part of it. Any
16 indenture may set forth the rights and remedies of the
17 bondholders and the trustee, may restrict the individual right of
18 action of bondholders and may contain any other provisions the
19 directors may determine reasonable and proper for the security of
20 bondholders. Expenses incurred in carrying out any trust
21 indenture may be treated as a part of maintenance.

22 5. Rights of bondholders. Provisions may be made for
23 protecting and enforcing the rights and remedies of the
24 bondholders, including covenants as to acquisition of property,
25 construction, maintenance, operation and repair, insurance and
26 the custody, security and application of all funds.

27 6. Depositories. Any trust company or bank having the
28 powers of a trust company and located either within or outside
29 the State may act as depositories of the proceeds of the bonds
30 and revenue and may furnish indemnity or pledge such securities
31 as may be required by the authority.

32 7. Tax free. The purposes of this chapter being public and
33 for the benefit of the people of the State, the authority bonds
34 are free from taxation by the State.

35 8. Revenue refunding bonds. The authority may issue revenue
36 refunding bonds for the purpose of refunding the revenue bonds
37 issued under this chapter. The issuance of any refunding bonds
38 must be the same as provided for in this chapter relating to
39 revenue bonds.

40 9. Default. In the event of default on the bonds and in the
41 event the default continues for a period of 3 months, action may
42 be brought to enforce the rights of the bondholders by ensuring
43 that the operation by the directors is in conformity with the
44 covenants of the bonds or indenture.

2 **§704. Property of the State**

4 All real and personal property owned by and in the name of
6 the authority is deemed property of the State and entitled to the
8 privileges and exemptions of property of the State, except
 insofar as waived by the duly authorized contract or other
 written instrument of the authority or by this chapter.

10 **§705. Conflict of interest**

12 A member, officer or employee of the authority may not
14 acquire any interest, direct or indirect, in any contract or
16 proposed contract of the authority or participate in any decision
18 on any contract entered into by the authority if the member,
20 officer or employee has any interest, direct or indirect, in any
22 firm, partnership, corporation or association that is party to
24 the contract or financially involved in any transaction with the
 authority. This prohibition is not applicable to the acquisition
 of any interest in notes or bonds of the authority issued in
 connection with any contracts or agreements of the authority or
 to the execution of agreements by banking institutions for the
 deposit or handling of authority funds in connection with any
 contract.

26

SUMMARY

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30 This bill creates the Maine Humanities Authority and gives
32 the authority bonding authority for the purpose of financing,
 protecting or acquiring works of art, literature, archives and
 library acquisitions.