

# MAINE STATE LEGISLATURE

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(Filing No. S-453

**BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**

Reported by:

**MINORITY**

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**STATE OF MAINE  
SENATE  
121ST LEGISLATURE  
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT **B** to S.P. 666, L.D. 1818, Bill, "An Act To Amend the Economic Development Laws"

Amend the bill by striking out all of section 10 and inserting in its place the following:

**Sec. 10. 5 MRSA §13120-P, sub-§§2 and 3,** as amended by PL 2003, c. 281, §8, are further amended to read:

**2. Redevelopment of property.** Except as provided in section 13120-Q, the authority may undertake the redevelopment of property as an owner or lender for subsequent use and sale under the following conditions:

A. The property has been previously and materially used as a commercial facility or the property is suitable for adaptive use as a commercial or industrial facility;

B. The property is currently not in productive commercial use or is expected to be taken out of productive commercial use within the immediate future;

~~C. The property has not been placed under a purchase option or contract;~~

D. The authority, using due diligence, has determined that:

(1) There is a reasonable expectation that the property will become financially viable following its redevelopment; and

2 (2) The economic benefits, including the restoration  
4 of employment opportunities, expected to result from  
6 the redevelopment justify the risks associated with the  
authority's equity, security or other interest in the  
property; and

8 E. At A municipality, another governmental entity or a  
10 local development corporation has provided or will provide  
12 in connection with the acquisition or redevelopment of the  
14 property assistance whose value is at least 25% of the total  
16 cost--to--acquire,--redevelop--and--return value of the  
authority's assistance for acquiring, redeveloping and  
returning the property to productive commercial use will--be  
borne-by-the-municipality-or-local-development-corporation.

The authority may finance undeveloped land or personal property  
18 only if the undeveloped land or personal property is part of the  
20 overall redevelopment project.

22 **3. Development of property.** Except as provided in section  
24 13120-Q, the authority may undertake the development of property  
as an owner or lender for subsequent use and sale under the  
following conditions:

26 A. The property consists of real estate that is zoned,  
28 sited or otherwise suitable for development as a commercial  
facility;

30 B. The property is currently not in productive commercial  
32 use;

34 ~~C. The property has not been placed under a purchase option~~  
~~or contract;~~

36 D. The authority, using due diligence, has determined that:

38 (1) There is a reasonable expectation that the  
40 property will become financially viable following its  
development;

42 (2) The development of the property will create  
44 employment opportunities and other economic benefits  
within the region; and

46 (3) The economic benefits expected to result from the  
48 development justify the risks associated with the  
authority's equity, loan or other interest in the  
property; and

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2 E. At A municipality, another governmental entity or a  
3 local development corporation has provided or will provide  
4 in connection with the acquisition or development of the  
5 property assistance whose value is at least 25% of the total  
6 cost-to-acquire,-develop-and-bring value of the authority's  
7 assistance for acquiring, developing and bringing  
8 the property to productive commercial use will-be-borne-by-the  
9 municipality-or-local-development-corporation.

10 The authority may finance undeveloped land or personal property  
11 only if the undeveloped land or personal property is part of the  
12 overall development project.'

13 Further amend the bill by striking out all of sections 13 to  
14 25 and inserting in their place the following:

15 'Sec. 13. 10 MRSA §1464, as amended by PL 1989, c. 501, Pt.  
16 DD, §25, is further amended to read:

17 **§1464. Regional Ride Share Services Matching Fund Program**

18 There is established, to carry out the purposes of this  
19 chapter, a Regional Ride Share Services Matching Fund Program to  
20 be administered by the Department of ~~Economic--and--Community~~  
21 Development Transportation.

22 **Sec. 14. 20-A MRSA §12705, sub-§1, as amended by PL 2003, c.**  
23 **20, Pt. 00, §2 and affected by §4, is further amended to read:**

24 **1. Membership.** The board of trustees consists of 13  
25 appointed voting members, one ex officio voting member and 2 one  
26 ex officio, nonvoting ~~members~~ member as follows:

27 C. Twelve from the field of business and industry, the  
28 field of labor, the field of education and the general  
29 public;

30 D. The Commissioner of Education, or the commissioner's  
31 successor, who serves as an ex officio voting member;

32 ~~E.--The Commissioner of Economic and Community Development,~~  
33 ~~or the commissioner's successor, who serves as an ex officio~~  
34 ~~nonvoting member;~~

35 F. The Commissioner of Labor, or the commissioner's  
36 successor, who serves as an ex officio nonvoting member; and

37 G. One member who is from the student body of one of the  
38 community college campuses at the time of appointment and  
39 who is a permanent resident of the State. To be eligible  
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for appointment as a student member, a student must be enrolled for a minimum of 12 credit hours per semester.

The student member is a full voting member of the board of trustees and serves for a 2-year term and until a successor is qualified. By January 1st of every 2nd year, the president of the system shall solicit a list of 6 eligible students from the student governments from 6 of the campuses within the Maine Community College System, the 7th campus being excluded in accordance with this subsection. The Governor shall then nominate a student trustee chosen from the list within 30 days of receiving the list of names. The nomination is subject to review by the joint standing committee of the Legislature having jurisdiction over education matters and to confirmation by the Legislature. The student trustee may not come from the same campus in any 2 consecutive terms. In the event that the student trustee transfers from one campus to another during the student's term of appointment, the student's original campus of enrollment is the campus excluded when the next student trustee is appointed.

**Sec. 15. 30-A MRSA c. 206, sub-c. 3,** as enacted by PL 2003, c. 451, Pt. NNN, §2, is repealed.

**Sec. 16. 30-A MRSA c. 206, sub-c. 4** is enacted to read:

**SUBCHAPTER 4**

**PINE TREE DEVELOPMENT ZONES**

**§5250-H. Findings and declaration of necessity**

**1. Legislative finding.** The Legislature finds that there is a need to encourage development in economically distressed areas of the State in order to:

**A. Provide new employment opportunities;**

**B. Improve existing employment opportunities;**

**C. Improve and broaden the tax base; and**

**D. Improve the general economy of the State.**

**2. Authorization.** For the reasons set out in subsection 1, a unit of local government or 2 or more cooperating units of local government may develop a program for improving a district within its boundaries or their collective boundaries, as the case may be:

- 2           A. To provide impetus for targeted business development;
- 4           B. To increase employment; and
- 6           C. To provide the facilities outlined in the development  
8           program adopted by the participating units of local  
          government.
- 10          3. Declaration of public purpose. The Legislature declares  
12          that the actions required to assist the implementation of these  
14          development programs are for a public purpose and that the  
          execution and financing of these programs are a public purpose.

16          **§5250-I. Definitions**

18           As used in this subchapter, unless the context otherwise  
          indicates, the following terms have the following meanings.

- 20           1. Affiliated business. "Affiliated business" means a  
22           member of a group of 2 or more businesses in which more than 50%  
24           of the voting stock of each member corporation or more than 50%  
26           of the ownership interest in a business other than a corporation  
          is directly or indirectly owned by a common owner or owners,  
          either corporate or noncorporate, or by one or more of the member  
          businesses.
- 28           2. Applicant. "Applicant" means any unit of local  
30           government and any group of cooperating units of local government  
32           in the State that apply for designation as a Pine Tree  
          Development Zone under section 5250-J.
- 34           3. Average employment during base period. "Average  
36           employment during base period" for a business means the total  
38           number of qualified employees of that business on each of 6  
          consecutive measurement days in each of the 3 calendar years in  
          the base period as chosen by the business divided by 18.
- 40           4. Base level of employment. "Base level of employment"  
42           means the greater of either the total employment in the State of  
44           a business and its affiliated businesses as of the December 31st  
          immediately preceding its certification as a qualified Pine Tree  
          Development Zone business or its average employment during the  
          base period.
- 46           5. Base period. "Base period" means the 3 calendar years  
48           prior to the year in which a business is certified as a qualified  
          Pine Tree Development Zone business.

2 6. Commissioner. "Commissioner" means the Commissioner of  
Economic and Community Development.

4 7. Department. "Department" means the Department of  
Economic and Community Development.

6  
8 8. Financial services. "Financial services" means services  
provided by an insurance company subject to taxation under Title  
10 36, chapter 357; a financial institution subject to taxation  
under Title 36, chapter 819; or a mutual fund service provider as  
12 defined in Title 36, section 5212, subsection 1, paragraph E.

14 9. Labor market average weekly wage. "Labor market average  
weekly wage" means the average weekly wage as published by the  
16 Department of Labor for the labor market or markets in which  
potential qualified Pine Tree Development Zone employees are  
18 located for the 12 most recently reported months preceding the  
date of application for zone designation.

20 10. Labor market unemployment rate. "Labor market  
unemployment rate" means the average unemployment rate as  
22 published by the Department of Labor for the labor market or  
markets in which potential qualified Pine Tree Development Zone  
24 employees are located for the 12 most recently reported months  
26 preceding the date of application for zone designation.

28 11. Manufacturing. "Manufacturing" means the production of  
tangible personal property intended to be sold or leased  
ultimately for final use or consumption or the production of  
30 tangible personal property pursuant to a contract with the  
Federal Government or any agency thereof.

32  
34 12. Person. "Person" has the same meaning as defined in  
Title 36, section 111, subsection 3.

36 13. Pine Tree Development Zone. "Pine Tree Development  
Zone" or "zone" means a specified area within the boundaries of a  
38 unit of local government, or within the boundaries of cooperating  
units of local government in a multijurisdictional application,  
40 that has been designated by the commissioner as a Pine Tree  
Development Zone in accordance with section 5250-J.

42  
44 14. Pine Tree Development Zone benefits. "Pine Tree  
Development Zone benefits" means:

46 A. The exclusion from the limitations established under  
section 5223, subsection 3 of tax increment financing  
48 districts included within a Pine Tree Development Zone;

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B. Expanded employment tax increment financing benefits under Title 36, chapter 917;

C. The sales tax exemptions under Title 36, section 1760, subsections 86 and 87; and

D. The Pine Tree Development Zone tax credits provided by Title 36, sections 2529 and 5219-W.

15. Production. "Production" has the same meaning as defined in Title 36, section 1752, subsection 9-B.

16. Qualified business activity. "Qualified business activity" means a business activity that is conducted within a Pine Tree Development Zone and is directly related to financial services, manufacturing or a targeted technology business for which the business receives a certificate from the commissioner pursuant to section 5250-O.

17. Qualified Pine Tree Development Zone business. "Qualified Pine Tree Development Zone business" or "qualified business" means any for-profit business in this State engaged in financial services, manufacturing or a targeted technology business that adds qualified Pine Tree Development Zone employees above its base level of employment in this State and that meets the following criteria:

A. It demonstrates that the establishment or expansion of operations within the Pine Tree Development Zone would not occur within the State absent the availability of the Pine Tree Development Zone benefits. The department shall investigate whether the business has met the requirements of this paragraph and provide an advisory opinion to the Executive Director of the Bureau of Revenue Services in the Department of Administrative and Financial Services, who shall make the final determination; and

B. It has received a certificate as a qualified business pursuant to section 5250-O.

18. Qualified Pine Tree Development Zone employees. "Qualified Pine Tree Development Zone employees" means new, full-time employees hired in this State by a qualified Pine Tree Development Zone business for work directly in one or more qualified business activities for whom a retirement program subject to the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 101 to 1461 (2003) and group health insurance are provided and whose wages derived from employment within the Pine Tree Development Zone are greater than the average annual per capita wages in the local labor market



area in the county in which the qualified employee is employed.  
Qualified Pine Tree Development Zone employees must be residents  
of this State.

**19. State average weekly wage.** "State average weekly wage"  
means the average weekly wage as published by the Department of  
Labor for the State as a whole for the 12 most recently reported  
months preceding the date of application for zone designation.

**20. State unemployment rate.** "State unemployment rate"  
means the average unemployment rate published by the Department  
of Labor for the State as a whole for the 12 most recently  
reported months preceding the date of application for zone  
designation.

**21. Targeted technology business.** "Targeted technology  
business" means a business primarily involved in a targeted  
technology as defined in Title 5, section 15301.

**22. Unit of local government.** "Unit of local government"  
means a municipality, county, plantation, unorganized territory  
or Indian tribe.

**§5250-J. Pine Tree Development Zones**

**1. Creation.** One or more units of local government, or an  
organization representing one or more units of local government,  
may apply to the commissioner for the designation of a Pine Tree  
Development Zone within the boundaries of the unit or units of  
local government in accordance with the requirements of this  
subchapter. County governments may apply on behalf of  
unorganized territories. Groups of units of local government may  
apply for multijurisdictional or joint projects. Multijurisdictional  
applications require designation of one unit  
of local government as the lead applicant and consent for that  
designation by each participating unit of local government.  
Counties may also apply on behalf of a consortium of units of  
local government. The designation of a Pine Tree Development Zone  
may not conflict with the provisions of a municipal or other unit  
of local government charter. Zones that meet the requirements of  
subsection 2 are authorized for designation as follows:

A. Aroostook County, including up to 100 acres of land  
reserved for the Aroostook Band of Micmacs and the Houlton  
Band of Maliseet Indians;

B. The Androscoggin Valley region, including the Lewiston  
Enterprise Community Zone as designated by the federal  
Agriculture, Rural Development, Food and Drug

Administration, and Related Agencies, Appropriations Act, Public Law 105-277 (1999);

C. The Penobscot Valley region, including up to 500 acres of land reserved for the Penobscot Nation; and

D. Washington County and the Downeast region, including up to 500 acres of land reserved for the Passamaquoddy Tribe.

No more than one zone may be established in each of the areas specified in paragraphs A to D, except that the commissioner may designate up to 4 additional zones through the process established in section 5250-L.

**2. Requirements for designation.** The commissioner shall adopt rules establishing the minimum requirements for the designation of Pine Tree Development Zones. Additionally, each participating unit of local government must agree to maintain at least one prepermitted construction or development site available within the zone on a continual basis throughout the term of the zone.

**3. Limitations.** The designation of Pine Tree Development Zones is subject to the following limitations:

A. The total area of a zone, including all noncontiguous parcels, may not exceed 5,000 acres;

B. A zone located in Aroostook County as described in subsection 1, paragraph A may include property that is also included within the Aroostook County Empowerment Zone as designated by the federal Community Renewal Tax Relief Act of 2000, Public Law 106-554;

C. Pine Tree Development Zone benefits may not be used to encourage or facilitate the transfer of existing positions or property of a qualified business or affiliated businesses into a zone from a location elsewhere in the State;

D. Pine Tree Development Zone benefits may not be provided based upon any employees or positions transferred by the business or affiliated businesses into a Pine Tree Development Zone from a location elsewhere in the State;

E. A Pine Tree Development Zone may not consist of more than 20 noncontiguous parcels of property;

F. All property included within the boundaries of a Pine Tree Development Zone must be suitable for one or more qualified Pine Tree Development Zone business activities;

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2 G. All property included within a Pine Tree Development  
3 Zone must meet one of the following:

4  
5 (1) The property is located within a market area for  
6 which the labor market unemployment rate is greater  
7 than the state unemployment rate at the time of the  
8 application; or

9  
10 (2) The property is included within a county in which  
11 the average weekly wage is below the state average  
12 weekly wage at the time of the application.

13  
14 In the case of a multijurisdictional or joint application,  
15 the requirements of this paragraph are met if the combined  
16 unemployment rate of the cooperating units of local  
17 government meets the requirements of subparagraph (1) or the  
18 average weekly wage of the cooperating units of local  
19 government, on a per-employed-worker basis, meets the  
20 requirements of subparagraph (2); and

21  
22 H. The restrictions contained in paragraph G may be waived  
23 for property that is contained within a labor market area  
24 that has sustained a greater than 5% loss of population or  
25 employed workers during the 3-year period immediately  
26 preceding the time of application if the loss was caused by  
27 business closings.

28  
29 4. Application. An application for designation of a Pine  
30 Tree Development Zone must include, but is not necessarily  
31 limited to, the following:

32  
33 A. A narrative description of the Pine Tree Development  
34 Zone to be designated;

35  
36 B. Maps and any other information necessary to clearly  
37 identify the geographic boundaries of the Pine Tree  
38 Development Zone and any subzones it may include;

39  
40 C. Evidence that the Pine Tree Development Zone meets the  
41 requirements of subsection 3;

42  
43 D. Any information evidencing economic distress; and

44  
45 E. A development plan that includes:

46  
47 (1) Documentation of all municipal commitments required  
48 under subsection 2;

2 (2) A description of how the Pine Tree Development Zone  
3 will be administered, including any related interlocal  
4 cooperative agreements;

5 (3) A description of the goals and objectives to be  
6 accomplished through the Pine Tree Development Zone;

7 (4) A description of the resources to be committed to  
8 the Pine Tree Development Zone by the applicant or  
9 applicants; and

10 (5) Plans for accomplishing the goals and objectives,  
11 including a marketing plan and related time line and  
12 milestones.

13 5. Termination. All Pine Tree Development Zone  
14 designations approved under this subchapter and all Pine Tree  
15 Development Zone benefits are terminated on December 31, 2018.

16 §5250-K. Procedure

17 1. Notice and hearing. Before designating a Pine Tree  
18 Development Zone or adopting a development plan, the municipal  
19 officers of each applicant unit of local government or the  
20 municipal officers' designee must hold at least one public  
21 hearing. Notice of the hearing must be published at least 10  
22 days before the hearing in a newspaper of general circulation  
23 servicing the section of the State in which the local government is  
24 located.

25 2. Vote of unit of local government legislative body. Each  
26 applicant unit of local government must designate that portion of  
27 the Pine Tree Development Zone contained within its boundaries  
28 and take all actions required to satisfy the requirements of  
29 section 5250-J, subsection 2 by majority vote of its municipal  
30 officers.

31 3. Effective date. The establishment of a Pine Tree  
32 Development Zone is effective upon designation by the  
33 commissioner.

34 4. Administration of zone. The participating units of  
35 local government may contract or otherwise arrange with a public  
36 or private organization including a regional council as described  
37 in section 2302 to administer activities authorized under this  
38 subchapter. The organization may act as the lead entity for the  
39 purpose of filing and administering the Pine Tree Development  
40 Zone.

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2       5. Amendments. The designation, size, location, number and  
3       configuration of the parcels in a Pine Tree Development Zone or  
4       the terms of the development plan may be amended by an  
5       affirmative vote of all the participating units of local  
6       government as evidenced by a majority vote of the municipal  
7       officers of each unit of local government. An amendment may not  
8       result in the zone's being out of compliance with any of the  
9       requirements in section 5250-J.

10       **§5250-L. Selection criteria**

12       1. Review and selection. The commissioner shall review  
13       applications and select zones for designation based upon the  
14       following criteria:

16               A. Severity of economic distress within the region affected  
17               by the Pine Tree Development Zone;

18               B. Viability of a development plan described under section  
19               5250-J, subsection 4, paragraph E;

22               C. Commitment of local and regional financial resources;

24               D. Partnerships with public and private organizations; and

26               E. Impact on surrounding regions of the Pine Tree  
27               Development Zone.

28       **§5250-M. Program administration; rules**

30       The commissioner shall administer this subchapter. The  
31       commissioner shall adopt rules pursuant to the Maine  
32       Administrative Procedure Act for implementation of Pine Tree  
33       Development Zones, including, but not limited to, rules for  
34       determining and certifying eligibility, selecting zones for  
35       designation and evaluating on a periodic basis the progress and  
36       success of each zone in achieving its goals. Rules adopted under  
37       this section are routine technical rules as defined in Title 5,  
38       chapter 375, subchapter 2-A.

40       **§5250-N. Unorganized territory**

42       For the purposes of this subchapter, a county may act as a  
43       municipality for the unorganized territory within the county and  
44       may designate development districts within the unorganized  
45       territory. When a county acts under this section, the county  
46       commissioners act as the municipality and as the municipal  
47       legislative body, the State Tax Assessor acts as the municipal  
48       assessor and the unorganized territory education and services  
49       fund receives the funds designated for the municipal general fund.  
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**§5250-O. Certification of qualified business**

A business may apply to the commissioner for certification as a qualified Pine Tree Development Zone business. Upon review and determination by the commissioner that a business is a qualified Pine Tree Development Zone business, the commissioner shall issue a certificate of qualification to the business that includes a description of the qualified business activity for which the certificate is being issued.

**§5250-P. Report**

By January 15, 2004, the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over economic development matters regarding rulemaking and progress in implementing Pine Tree Development Zones. Not later than April 1, 2005 and April 1st of each odd-numbered year thereafter, the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over economic development matters on the status of the Pine Tree Development Zones.'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment, which is the minority report of the committee, does the following:

1. Allows the Maine Rural Development Authority to finance projects in which the subject property is under purchase option or contract, so that the value and ownership of the property may be established more easily and with greater accuracy;

2. Clarifies that a municipality, another governmental entity or a local development corporation may meet its requirement to contribute 25% of the authority's contribution using any type of assistance, not limited to cash;

3. Deletes all the provisions of the bill that concern transfer of the Department of Economic and Community Development's statutory responsibility for energy conservation, other than the provision of law concerning the ride share program. The program was repealed in the bill. The amendment transfers authority over the ride share program from the Department of Economic and Community Development to the Department of Transportation;

COMMITTEE AMENDMENT "B" to S.P. 666, L.D. 1818

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4. Repeals the provision of law allowing the Commissioner of Economic and Community Development to serve on the Board of Trustees of the Maine Community College System;

5. Simplifies the process for amending provisions governing a Pine Tree Development Zone, including allowing amendment by majority vote of municipal officers within a zone; and

6. Corrects an error that was created when Public Law 2003, chapters 426 and 451 both enacted a new Title 30-A, chapter 206, subchapter 3 in the Maine Revised Statutes with similar section numbers by repealing subchapter 3 as enacted by Public Law 2003, chapter 451, Part NNN, section 2 and enacting it as subchapter 4 with new section numbers.

**FISCAL NOTE REQUIRED**  
**(See attached)**

**COMMITTEE AMENDMENT**

**121st Maine Legislature  
Office of Fiscal and Program Review**

**LD 1818**

**An Act to Amend the Economic Development Laws**



**LR 2621(03)**

**Fiscal Note for Bill as Amended by Committee Amendment **B****

**Committee: Business, Research and Economic Development**

**Fiscal Note Required: Yes**

**Minority Report**

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**Fiscal Note**

Minor cost increase - General Fund

**Fiscal Detail and Notes**

Additional costs to the Finance Authority of Maine and to the Department of Transportation can be absorbed utilizing existing budgeted resources.