

MAINE STATE LEGISLATURE

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Date: 3-24-08

TRANSPORTATION

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**STATE OF MAINE
SENATE
123RD LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 191, L.D. 599, Bill, "An Act To Create an Airport Authority"

Amend the bill by striking out the title and substituting the following:

'An Act To Facilitate the Creation of Airport Authorities'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 6 MRSA c. 10 is enacted to read:

CHAPTER 10

AIRPORT AUTHORITIES

§171. Purpose; enabling not mandatory; short title

The purpose of this chapter, which may be known and cited as "the Airport Authority Enabling Act," is to facilitate the creation of airport authorities to operate airports and provide air transportation services. This chapter provides a streamlined process for the creation of airport authorities but is not intended and may not be interpreted to preclude the operation of airports or the provision of air transportation services by any other entity or entities under any other law or authority.

§172. Definitions

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

1. Airport authority. "Airport authority" means a quasi-municipal entity formed and chartered pursuant to this chapter to operate an airport and provide air transportation services.

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1 **2. Airport sponsor.** "Airport sponsor" means a municipality, county or group of
2 municipalities or counties that owns and operates an airport and accepts funds or property
3 from the FAA.

4 **3. Board of directors or board.** "Board of directors" or "board" means the board of
5 directors of an airport authority

6 **4. Charter.** "Charter" means a private and special law or a series of private and
7 special laws that establishes an airport authority and defines its responsibilities and
8 authority.

9 **5. Charter territory.** "Charter territory" means the territorial limits of an airport
10 authority as defined in its charter.

11 **6. Director.** "Director" means a member of the board.

12 **7. Founding entity.** "Founding entity" means any municipality or county that has
13 on its own or together with one more other municipalities or counties developed an
14 airport authority proposal for approval under this chapter.

15 **§173. Procedures; legal effect**

16 **1. Necessary provisions.** An airport authority charter must include the following
17 that are not specified in this chapter:

18 A. The corporate name of the airport authority;

19 B. The territorial limits of the airport authority;

20 C. The number of directors of the airport authority;

21 D. The appointing authority responsible for appointing or the method of electing the
22 first board of directors;

23 E. The terms of the directors who are elected or appointed subsequent to the first
24 board. Terms of the first board are determined pursuant to section 174, subsection 4;

25 F. Whether the directors, subsequent to the first board, are appointed or elected.
26 Reference must be made to the appropriate subsections of section 174; and

27 G. The procedures for a local referendum on the creation of the airport authority.

28 **2. Optional provisions.** An airport authority charter may include provisions relating
29 to:

30 A. Special qualifications of directors, other than the residency requirement
31 established under section 174;

32 B. Additional purposes and powers beyond those specified in this chapter;

33 C. Specific rights or responsibilities of founding entities;

34 D. Authorization for the airport authority to acquire the rights, interests, property and
35 assets and assume the debts and liabilities of an airport sponsor; and

36 E. Any other powers or duties necessary to the accomplishment of the purposes for
37 creating the airport authority.

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1 **§174. Board of directors**

2 All of the affairs of an airport authority must be managed by a board of directors
3 whose members must be residents of the charter territory. The number of directors must
4 be specified in the charter. After selection of the first board, each director is nominated
5 and elected or appointed as provided in the charter and in accordance with subsection 1 or
6 2, as applicable. If the charter does not indicate whether the directors are appointed or
7 elected, the directors, after selection of the first board, must be elected in accordance with
8 subsection 1.

9 **1. Nominations and elections; vacancies.** This subsection applies to an airport
10 authority if its charter provides that its directors are elected or if the charter does not
11 indicate whether the directors are elected or appointed.

12 A. Nominations and elections of directors are conducted in accordance with the laws
13 relating to municipal elections.

14 B. When the term of office of a director expires, the director's successor is elected at
15 large by a plurality vote of the voters of the charter territory. For the purpose of
16 election, a special election must be called and held on the date established by the
17 directors. The election must be called by the directors in the same manner as town
18 meetings are called and, for this purpose, the directors are vested with the powers of
19 municipal officers of towns. A vacancy is filled in the same manner for the
20 unexpired term by a special election called by the directors.

21 C. The directors shall appoint a registrar of voters for the airport authority, who may
22 also be the registrar of voters for any town within the airport authority, and fix the
23 registrar's salary. It is the registrar's duty to make and keep a complete list of all the
24 registered voters resident in the charter territory. The list prepared by the registrar
25 governs the eligibility of any voter. Voters who are resident outside the charter
26 territory are not eligible voters, and the registrar of voters shall exclude those voters
27 from the registrar's lists. All warrants issued for elections by the directors must show
28 that only the voters resident within the charter territory are entitled to vote.

29 **2. Appointment.** This subsection applies to an airport authority if its charter
30 provides that its directors are appointed.

31 A. After selection of the first board, each director is appointed as provided in the
32 charter.

33 **3. Eligibility requirements.** When a director ceases to be a resident of the charter
34 territory, the director shall vacate the office of director and the vacancy is filled as
35 provided in subsection 1 or 2, as applicable. All directors are eligible for reelection or
36 reappointment, but a person who is a municipal officer, as defined in Title 30-A, section
37 2001, subsection 10, of any town located, in whole or in part, within the charter territory
38 is not eligible for appointment, nomination or election as a director of that airport
39 authority.

40 **4. First board.** The first board is appointed or elected as provided in the charter. At
41 the first meeting, the initial board of directors shall determine by agreement or, failing to
42 agree, determine by lot the term of office of each director. The terms of the directors
43 must be determined in accordance with the following table.

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| | <u>Total number of directors</u> | <u>TERM</u> | | |
|----|----------------------------------|---------------|----------------|----------------|
| | | <u>1 year</u> | <u>2 years</u> | <u>3 years</u> |
| 1 | | | | |
| 2 | <u>3</u> | <u>1</u> | <u>1</u> | <u>1</u> |
| 3 | <u>4</u> | <u>1</u> | <u>1</u> | <u>2</u> |
| 4 | <u>5</u> | <u>1</u> | <u>2</u> | <u>2</u> |
| 5 | <u>6</u> | <u>2</u> | <u>2</u> | <u>2</u> |
| 6 | <u>7</u> | <u>2</u> | <u>2</u> | <u>3</u> |
| 7 | <u>8</u> | <u>2</u> | <u>3</u> | <u>3</u> |
| 8 | <u>9</u> | <u>3</u> | <u>3</u> | <u>3</u> |
| 9 | <u>10</u> | <u>3</u> | <u>3</u> | <u>4</u> |
| 10 | <u>11</u> | <u>3</u> | <u>4</u> | <u>4</u> |
| 11 | <u>12</u> | <u>4</u> | <u>4</u> | <u>4</u> |
| 12 | <u>13</u> | <u>4</u> | <u>4</u> | <u>5</u> |
| 13 | <u>14</u> | <u>4</u> | <u>5</u> | <u>5</u> |
| 14 | <u>15</u> | <u>5</u> | <u>5</u> | <u>5</u> |
| 15 | | | | |
| 16 | | | | |

17 The directors shall enter on their records the determination made. Vacancies are filled
18 pursuant to subsection 1 or 2.

19 At the original meeting, the directors shall organize by electing from among their
20 members a chair and a clerk, by adopting a corporate seal and by electing a treasurer who
21 may or may not be a director.

22 **5. Organization; conduct of business; employees.** Within one week after each
23 annual election or appointment, the directors shall meet for the purpose of electing a
24 chair, treasurer and clerk to serve for the ensuing year and until their successors are
25 appointed and qualified. The directors from time to time may choose and employ and fix
26 the compensation of any other necessary officers and agents, who serve at the pleasure of
27 the directors. The treasurer shall furnish bond in the sum and with sureties approved by
28 the directors. The airport authority shall pay the cost of the bond.

29 The directors may adopt and establish bylaws consistent with the laws of this State and
30 necessary for the convenience and the proper management of the affairs of the airport
31 authority and perform other acts within the powers delegated by law to the directors.

32 The directors must be sworn to the faithful performances of their duties, including the
33 duties of a member who serves as clerk or clerk pro tem. The directors shall publish an
34 annual report that includes a report of the treasurer.

35 The directors shall appoint and fix the salary of an airport manager who may not be a
36 director. The airport manager has such power and authority as the directors in their
37 bylaws or by resolution specify and delegate to the airport manager. Subject to approval
38 of or authorization from the directors, the airport manager may appoint any other
39 employees necessary to carry out the corporate purposes of the airport authority and may
40 fix their salaries.

41 Business of the airport authority must be conducted in accordance with the applicable
42 provisions of the freedom of access laws, Title 1, sections 401 to 412.

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1 **6. Decisions of the board; conflict of interest.** All decisions of the board of
 2 directors must be made by a majority of those present and voting, except that a vote to
 3 approve the issuing of any bond, note or other evidence of indebtedness payable within a
 4 period of more than 12 months after the date of issuance must be approved by a majority
 5 of the entire appointed board. A quorum of the board of directors consists of the total
 6 number of authorized directors divided by 2 and, if necessary to obtain a whole number,
 7 the resulting number rounded up to the next whole number. Directors are subject to the
 8 conflict of interest provisions of Title 30-A, section 2605.

9 **7. Compensation.** The directors of an airport authority receive compensation as
 10 recommended by the directors and approved by a majority vote of the municipal officers
 11 of municipalities located in whole or in part within the charter territory. Certification of
 12 the vote must be recorded with the Secretary of State and recorded in the bylaws.

13 **8. Retirement.** Directors are not eligible to become members of the Maine Public
 14 Employees Retirement System as a result of their selection as directors.

15 **9. Expenses.** The directors may obtain an office and incur necessary expenses.

16 **§175. Airport authority; general powers; FAA**

17 Except as otherwise provided by law, for the purposes of its incorporation, an airport
 18 authority may own, construct, manage, maintain, enhance, expand or otherwise operate
 19 an airport and provide air transportation services.

20 **1. Subject to applicable laws.** All powers of an airport authority must be exercised
 21 in accordance with applicable federal and state laws and rules, including but not limited
 22 to FAA regulations, the provisions of this Title and the rules of the commissioner.

23 **2. Required approvals.** Before exercising any powers as an airport authority, an
 24 airport authority must obtain and possess all necessary written approvals from the
 25 commissioner and the FAA.

26 **§176. Authority to acquire property; public purpose**

27 To the extent necessary for purposes of incorporation, an airport authority may take
 28 and hold any interest in real estate for an airport or landing field or for the expansion of
 29 an airport or landing field and may acquire air rights and easements over private property
 30 adjoining such airports and landing fields in order to provide unobstructed air space and
 31 safe approaches for the landing and taking off of aircraft using those airports and landing
 32 fields, to place and maintain suitable marks and lights for the safe operation of those
 33 airports and landing fields and to prevent any use of adjoining land that would hinder the
 34 proper development or use of those airports and landing fields. An airport authority may
 35 alter, extend or discontinue any such use of real estate.

36 **1. Purchase or lease.** An airport authority may take and hold an interest in real
 37 estate by gift, purchase, lease or other means.

38 **2. Eminent domain.** For purposes of its incorporation, as a matter of public
 39 exigency, an airport authority may exercise the right of eminent domain in accordance
 40 with section 177 to acquire any interest in real estate, including land outside the airport
 41 authority's charter territory, except that an airport authority may not take an interest in

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1 real estate located outside its charter territory without first obtaining the written consent
2 of the municipal officers of the municipality in which that real estate is located.

3 A. No property rights or easements of a public utility may be taken under this
4 subsection without the approval of the Public Utilities Commission after hearing and
5 upon such notice to the public utility affected by the taking as the commission may
6 order.

7 **3. Public purpose.** Any real estate or interest in real estate lawfully acquired,
8 owned, leased, controlled or occupied by an airport authority for the purposes of its
9 incorporation is declared to be acquired, owned, leased, controlled or occupied for public
10 uses.

11 **§177. Procedure in exercise of right of eminent domain**

12 The right of eminent domain granted in section 176 may be exercised only after
13 complying with the following procedures.

14 **1. Notice.** The airport authority shall provide notice as provided in this subsection.

15 **A.** The owner or owners of record must be notified under this subsection of:

16 (1) The determination of the directors that they will exercise the right of eminent
17 domain;

18 (2) A description and scale map of the land or easement to be taken;

19 (3) The final amount offered for the land or easement to be taken, based on the
20 fair value, as estimated by the airport authority; and

21 (4) The time and place of the hearing provided in subsection 2.

22 **B.** Notice under this subsection may be made:

23 (1) By personal service in hand by an officer duly qualified to serve civil process
24 in this State; or

25 (2) By certified mail, return receipt requested, to the owner's last known address.

26 C. If the owner or owners are not known or if they cannot be notified by personal
27 service or certified mail, notice under this subsection may be given by publication in
28 the same manner as provided in subsection 2.

29 D. Notice under this subsection must be made to any tenants in the same manner as
30 for the owner.

31 **2. Hearing.** The board of directors shall hold a public hearing on the advisability of
32 the proposed exercise of the right of eminent domain under this section. Notice of the
33 hearing must be made by publication in a newspaper of general circulation in the area of
34 the taking and must be given once a week for 2 successive weeks, the last publication to
35 be at least 2 weeks prior to the time appointed for the hearing. The hearing notice must
36 include the time and place of the hearing, a description of the land or easement taken and
37 the names of the owners, if known.

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1 3. Proceedings. An airport authority, in exercising the right of eminent domain
2 conferred upon it by section 176, shall file in the office of the county commissioners of
3 the county in which the property to be taken is located and cause to be recorded in the
4 registry of deeds in that county plans of the location of all lands, real estate, easements or
5 interest therein, and rights to be taken, with an appropriate description and the names of
6 the owners, if known.

7 A. Entry may not be made on any private lands, except to make surveys, until title
8 has vested in the airport authority under this section.

9 B. When for any reason the airport authority fails to acquire property that it is
10 authorized to take and that is described pursuant to this subsection, or if the location
11 so recorded is defective and uncertain, the airport authority shall correct and perfect
12 the description of the location and file a new description. In such a case, the airport
13 authority is liable in damages only for property for which the owner had not
14 previously been paid, to be assessed as of the time of the original taking, and the
15 airport authority is not liable for any acts that would have been justified if the original
16 taking had been lawful.

17 4. Appeal. If any person sustaining damages by any taking by an airport authority
18 under section 176 does not agree with the airport authority upon the sum to be paid for
19 the property, either party, upon petition to the county commissioners of the county in
20 which the property is located, may have the damages assessed by the county
21 commissioners. The procedure and all subsequent proceedings and rights of appeal are
22 according and subject to the same restrictions, conditions and limitations as are or may be
23 prescribed by law in the case of damages by the laying out of highways by the county
24 commissioners, except:

25 A. Title to the lands, real estate, easements or interests therein and other property and
26 rights to be taken do not vest in the airport authority under this section until payment
27 to the owner of the amount awarded or, if such payment is refused upon tender, until
28 tender of the amount is made to the treasurer of the county in which the lands and
29 interests are located, for escrow at interest for the benefit of the owner pending final
30 determination of the amount to which the owner is entitled; and

31 B. In the event of an appeal of the amount awarded as damages for a taking under
32 this section:

33 (1) The petition for assessment of damages must be filed with the clerk of the
34 county commissioners, by either party, within 30 days following the filing and
35 recording of plans of the location of all the property, facilities and rights taken;
36 and

37 (2) If the return of the county commissioners has not been made within 120 days
38 following the filing of the petition for assessment, the county commissioners are
39 conclusively presumed to have confirmed the award of damages by the airport
40 authority and either party may, within 30 days following that 120-day period,
41 appeal the amount of the damages awarded by the airport authority to the
42 Superior Court.

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1 **§178. Make and assume contracts**

2 An airport authority, through its board of directors, in order to carry out the purposes
3 of its incorporation, may contract with persons, governmental entities, utilities or
4 corporations.

5 **§179. Receive government aid; borrow money; issue bonds and notes**

6 **1. Authorization of bonds.** An airport authority, through its board of directors, may
7 issue, in accordance with section 180, bonds, notes or other evidences of indebtedness of
8 the airport authority for any of its corporate purposes, including, but not limited to:

9 A. Paying and refunding its indebtedness;

10 B. Paying any necessary expenses and liabilities incurred under this chapter,
11 including organizational and other necessary expenses and liabilities, whether
12 incurred by the airport authority or any founding entity or any municipality therein or
13 any person residing in unorganized territory encompassed by the airport authority.
14 The airport authority is authorized to reimburse any founding entity or any
15 municipality therein or any person residing in unorganized territory encompassed by
16 the airport authority for any such expenses;

17 C. Paying costs directly or indirectly associated with necessary expenses and
18 liabilities incurred in accordance with the purposes of its incorporation and to cover
19 interest payments during the period of construction of capital projects and for such a
20 period thereafter as the directors may determine;

21 D. Providing reserves for debt service, repairs and replacements or other capital or
22 current expenses that may be required by a trust agreement or resolution securing
23 bonds; and

24 E. Any combination of these purposes.

25 **2. Bonds.** Bonds may be issued by an airport authority as general obligations of the
26 airport authority or as special obligations payable solely from particular funds. The
27 principal of, premium, if any, and interest on all bonds is payable solely from the funds
28 provided for that purpose from revenues. For purposes of this section, "revenues" means
29 the proceeds of bonds and all revenues, rates, fees, charges, assessments, rents and other
30 receipts derived by the airport authority in accordance with the purposes of its
31 incorporation, including, but not limited to, investment earnings and the proceeds of
32 insurance, condemnation, sale or other disposition of properties.

33 A. All bonds, notes and other evidences of indebtedness issued by an airport
34 authority in accordance with this section are legal obligations of the airport authority
35 within the meaning of Title 30-A, section 5701.

36 B. Bonds may be issued under this section without obtaining the consent of any
37 commission, board, bureau or agency of the State or of any municipality
38 encompassed by the airport authority and without any other proceedings or the
39 happening of other conditions or things other than those proceedings, conditions or
40 things that are specifically required by the FAA, this Title, rules of the commissioner
41 or the airport authority's charter.

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1 C. Bonds issued under this section do not constitute a debt or liability of the State or
2 of any municipality encompassed by the airport authority or a pledge of the faith and
3 credit of the State or any such municipality, but the bonds are payable solely from the
4 funds provided for that purpose, and a statement to that effect must be recited on the
5 face of the bonds.

6 **3. Notes.** An airport authority may provide by resolution of its board of directors for
7 the issuance from time to time of notes in anticipation of bonds authorized under this
8 section and of notes in anticipation of the revenues to be collected or received in any year
9 or in anticipation of the receipt of federal or state grants or other aid. The issue of these
10 notes is governed by the applicable provisions of this chapter relating to the issue of
11 bonds, as long as notes in anticipation of revenue mature no later than one year from their
12 respective dates and notes issued in anticipation of federal or state grants or other aid and
13 renewals thereof mature no later than the expected date of receipt of those grants or aid.
14 Notes in anticipation of revenue issued to mature less than one year from their dates may
15 be renewed from time to time by the issue of other notes, as long as the period from the
16 date of an original note to the maturity of any note issued to renew or pay the same or the
17 interest thereon does not exceed one year.

18 **4. Grants and loans.** An airport authority may enter into agreements with the State
19 or the United States, or any agency of either, or any municipality, corporation,
20 commission or board authorized to grant or loan money to or otherwise assist in the
21 financing of projects of the type the airport authority is authorized to carry out and may
22 accept grants and borrow money from any such government, agency, municipality,
23 corporation, commission or board as may be necessary or desirable to accomplish the
24 purposes of the airport authority.

25 **5. Maturity; interest; form; temporary bonds.** The bonds issued under this
26 section must be dated and must mature at such time or times and bear interest at such rate
27 or rates as may be determined by the board of directors and may be made redeemable
28 before maturity, at the option of the airport authority, at such price or prices and under
29 such terms and conditions as may be fixed by the board of directors prior to the issuance
30 of the bonds.

31 A. The board of directors shall determine the form of the bonds issued under this
32 section, including any interest coupons to be attached thereto, and the manner of
33 execution of the bonds and shall fix the denomination or denominations of the bonds
34 and the place or places of payment of principal and interest, which may be at any
35 bank or trust company within or outside the State. The bonds may be issued in
36 coupon or registered form, or both, as the board of directors may determine and
37 provision may be made for the registration of any coupon bonds as to principal alone
38 and as to both principal and interest and for the reconversion into coupon bonds of
39 any bonds registered as to both principal and interest.

40 B. The board of directors may sell bonds issued under this section in such manner,
41 either at public or private sale, and for such price as they may determine to be for the
42 best interests of the airport authority. The proceeds of the bonds of each issue must be
43 used solely for the purpose for which those bonds have been authorized and must be
44 disbursed in such manner and under such restrictions, if any, as the board of directors
45 may provide in the resolution authorizing the issuance of the bonds or in the trust

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1 agreement securing the bonds. The resolution providing for the issuance of bonds and
2 any trust agreement securing the bonds may contain such limitations upon the
3 issuance of additional bonds as the board of directors may determine to be proper,
4 and these additional bonds must be issued under such restrictions and limitations as
5 may be prescribed by that resolution or trust agreement. Prior to the preparation of
6 definitive bonds, the board of directors may, under like restrictions, issue interim
7 receipts or temporary bonds, with or without coupons, exchangeable for definitive
8 bonds when those bonds are executed and are available for delivery. The board of
9 directors may provide for the replacement of any bond that is mutilated, destroyed or
10 lost.

11 C. Bonds issued under this section must be executed in the name of the airport
12 authority by the manual or facsimile signature of such officer or officers as may be
13 authorized in the resolution to execute the bonds, but at least one signature on each
14 bond must be a manual signature. Coupons, if any, attached to the bonds must be
15 executed with the facsimile signature of the officer or officers of the airport authority
16 designated in the resolution. In case any officer whose signature or a facsimile of
17 whose signature appears on any bonds or coupons, ceases to be an officer before the
18 delivery of the bonds, the signature or its facsimile is nevertheless valid and sufficient
19 for all purposes as if the officer had remained in office until the delivery.

20 D. Notwithstanding any provision of this chapter or any recitals in any bonds issued
21 under this section, all bonds issued under this section are negotiable instruments
22 under the laws of this State.

23 **6. Pledges and covenants; trust agreement.** In the discretion of the board of
24 directors of any airport authority, each issue of bonds under this section may be secured
25 by a trust agreement by and between the airport authority and a corporate trustee, which
26 may be any trust company within or outside the State.

27 A. The resolution authorizing the issuance of the bonds under this section, or the
28 trust agreement securing those bonds, may pledge or assign, in whole or in part, the
29 revenues and other money held or to be received by the airport authority and any
30 accounts and contract or other rights to receive the same, whether then existing or
31 thereafter coming into existence and whether then held or thereafter acquired by the
32 airport authority, and the proceeds thereof, but may not convey or mortgage any
33 properties of the airport authority. The resolution may also contain such provisions
34 for protecting and enforcing the rights and remedies of the bondholders as may be
35 reasonable and proper and not in violation of law, including, but not limited to,
36 covenants setting forth the duties of the airport authority and the board of directors in
37 relation to the acquisition, construction, reconstruction, improvement, repair,
38 maintenance, operation and insurance of its airport or any of its other properties; the
39 fixing and revising of rates, fees and charges; the application of the proceeds of
40 bonds; the custody, safeguarding and application of revenues, defining defaults and
41 providing for remedies in the event thereof, which may include the acceleration of
42 maturities; the establishment of reserves; and the making and amending of contracts.
43 The resolution or trust agreement may set forth the rights and remedies of the
44 bondholders and of the trustee, if any, and may restrict the individual right of action
45 by bondholders as is customary in trust agreements or trust indentures securing bonds
46 or debentures of corporations. In addition, the resolution or trust agreement may

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1 contain such other provisions as the board of directors may determine reasonable and
2 proper for the security of the bondholders. All expenses incurred in carrying out the
3 resolution or trust agreement may be treated as a part of the cost of operation. The
4 pledge by any resolution or trust agreement is valid and binding and continuously
5 perfected for the purposes of the Uniform Commercial Code from the time when the
6 pledge is made. All revenues, money, rights and proceeds so pledged and thereafter
7 received by the airport authority are immediately subject to the lien of the pledge
8 without any physical delivery or segregation or further action under the Uniform
9 Commercial Code or otherwise, and the lien of the pledge is valid and binding against
10 all parties having claims of any kind in tort, contract or otherwise against the airport
11 authority irrespective of whether those parties have notice of the lien.

12 B. The resolution authorizing the issuance of bonds under this section, or any trust
13 agreement securing those bonds, may provide that all or a sufficient amount of
14 revenues, after providing for the payment of the cost of repair, maintenance and
15 operation and reserves for those costs as may be provided in the resolution or trust
16 agreement, must be set aside at such regular intervals as may be provided in the
17 resolution or trust agreement and deposited in the credit of a fund for the payment of
18 the interest on and the principal of bonds issued under this chapter as the interest and
19 principal become due and the redemption price or purchase price of bonds retired by
20 call or purchase. The use and disposition of money to the credit of the fund are
21 subject to any regulations provided in the resolution authorizing the issuance of the
22 bonds or in the trust agreement securing the bonds and, except as may otherwise be
23 provided in the resolution or trust agreement, the fund is for the benefit of all bonds
24 without distinction or priority of one over another.

25 7. Trust funds. Notwithstanding any other law, all funds received pursuant to the
26 authority of this chapter are trust funds and must be held and applied solely as provided in
27 this chapter or the airport authority's charter. The resolution authorizing the issuance of
28 bonds or the trust agreement securing the bonds must provide that any officer to whom,
29 or bank, trust company or other fiscal agent to which, that money is paid shall act as
30 trustee of that money and shall hold and apply the same for the purposes hereof, subject
31 to any regulations as may be provided in the resolution or trust agreement or as may be
32 required by this chapter.

33 8. Remedies. Any holder of bonds issued under this section or of any of the coupons
34 appertaining thereto, and the trustee under any trust agreement, except to the extent the
35 rights given may be restricted by the resolution authorizing the issuance of those bonds or
36 trust agreement, may, either at law or in equity, by suit, action, mandamus or other
37 proceeding, including proceedings for the appointment of a receiver to take possession
38 and control of the properties of the airport authority, protect and enforce all rights under
39 the laws of the State, including but not limited to those granted under this chapter, or
40 under such resolution or trust agreement, and may enforce and compel the performance of
41 all duties required by this chapter or by such resolution or trust agreement to be
42 performed by the airport authority or by any officer thereof, including but not limited to
43 the fixing, charging and collecting of rates, fees, payments or charges relating to the
44 services and facilities furnished by the airport authority.

45 9. Refunding bonds. Any airport authority formed under this chapter by resolution
46 of its board of directors may issue refunding bonds for the purpose of paying any of its

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1 bonds at maturity or upon acceleration or redemption. The refunding bonds may be issued
 2 at such time prior to the maturity or redemption of the refunded bonds as the board of
 3 directors determines to be in the public interest. The refunding bonds may be issued in
 4 sufficient amounts to pay or provide the principal of the bonds being refunded, together
 5 with any redemption premium thereon, any interest accrued or to accrue to the date of
 6 payment of such bonds, the expenses of issue of the refunding bonds, the expenses of
 7 redeeming the bonds being refunded and such reserves for debt service or other capital or
 8 current expenses from the proceeds of such refunding bonds as may be required by a trust
 9 agreement or resolution securing bonds. The issue of refunding bonds, the maturities and
 10 other details of and security for the refunding bonds, the rights of the holders of the
 11 refunding bonds and the rights, duties and obligations of the airport authority in respect of
 12 the refunding bonds is governed by the applicable provisions of this chapter relating to
 13 the issue of bonds other than refunding bonds.

14 **10. Tax exemption.** All bonds, notes and other evidences of indebtedness issued by
 15 the airport authority under this section are legal investments for savings banks in this
 16 State and are exempt from state income tax.

17 **11. Bonds are legal investments.** Bonds and notes issued by any airport authority
 18 under this section are securities in which all public officers and public bodies of the State
 19 and its political subdivisions, all insurance companies and associations and other persons
 20 carrying on an insurance business, trust companies, banks, bankers, banking associations,
 21 savings banks and savings associations, including savings and loan associations, credit
 22 unions, building and loan associations, investment companies, executors, administrators,
 23 directors and other fiduciaries, pension, profit-sharing, retirement funds and other persons
 24 carrying on a banking business, and all other persons who are now or may hereafter be
 25 authorized to invest in bonds or other obligations of the State may properly and legally
 26 invest funds, including capital in their control or belonging to them. The bonds and notes
 27 are securities that may properly and legally be deposited with and received by any state,
 28 municipal or public officer or any agency or political subdivision of the State for any
 29 purpose for which the deposit of bonds or other obligations of the State is now or may
 30 hereafter be authorized by law.

31 **§180. Debt limit and approval of voters within airport authority territory**

32 Prior to issuing on behalf of an airport authority under section 179 any bond, note or
 33 other evidence of indebtedness payable within a period of more than 12 months after the
 34 date of issuance, the board of directors shall propose a debt limit for the airport authority
 35 that the board must submit for approval in a referendum in the charter territory of the
 36 airport authority. The referendum must be called, advertised and conducted according to
 37 the law relating to municipal elections, except that the registrar of voters is not required to
 38 prepare or the clerk to post a new list of voters. The voting place for the referendum may
 39 be outside the charter territory of the airport authority if the usual voting place for persons
 40 located within the charter territory is located outside the charter territory. For the purpose
 41 of registering voters, the registrar of voters must be in session on the regular work day
 42 preceding the election. The question presented must conform to one of the following
 43 forms:

44 For establishment of an initial debt limit: "Do you favor establishing the debt limit of
 45 the (insert name of airport authority) at (insert amount)?"; or

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1 For amendment of an existing debt limit: "Do you favor changing the debt limit of
2 the (insert name of airport authority) from (insert current debt limit) to (insert proposed
3 debt limit)?".

4 The voters shall indicate by a cross or check mark placed against the word "Yes" or
5 "No" their opinion on the question.

6 The results must be declared by the board of directors and entered upon the airport
7 authority's records. Due certificate of the results must be filed by the clerk with the
8 Secretary of State.

9 A debt limit proposal becomes effective upon its acceptance by a majority of the
10 legal voters within the charter territory voting at the referendum. Failure of approval by
11 the majority of voters voting at the referendum does not prevent subsequent referenda
12 from being held for the same purpose. The costs of referenda are borne by the airport
13 authority.

14 The board of directors may not issue any bond, note or other evidence of
15 indebtedness payable within a period of more than 12 months after the date of issuance
16 unless the total amount of the debt issued by the directors is no more than an amount
17 approved by referendum under this section.

18 **§181. Fees and assessments**

19 An airport authority, through its board of directors, may impose any user fees, rates
20 or charges for the use of its airport or air transportation services and may, by agreement
21 with the municipal officers of any municipality located in whole or in part within the
22 charter territory of the airport authority, establish payments from the municipality to
23 support the airport authority.

24 **§182. Tax exempt**

25 An airport authority is a public municipal corporation within the meaning of Title 36,
26 section 651, and the property of the authority is exempt from taxation to the extent
27 provided in that section.

28 **Sec. 2. 14 MRSA §8102, sub-§3**, as amended by PL 2005, c. 399, §1, is further
29 amended to read:

30 **3. Political subdivision.** "Political subdivision" means any city, town, plantation,
31 county, administrative entity or instrumentality created pursuant to Title 30-A, chapters
32 115 and 119, incorporated ~~fire-fighting~~ fire-fighting unit that is organized under Title 13-
33 B and is officially recognized by any authority created by statute, quasi-municipal
34 corporation and special purpose district, including, but not limited to, any water district,
35 sanitary district, hospital district, school district of any type, an airport authority
36 established pursuant to Title 6, chapter 10, any volunteer fire association as defined in
37 Title 30-A, section 3151, a transit district as defined in Title 30-A, section 3501,
38 subsection 1, a regional transportation corporation as defined in Title 30-A, section 3501,
39 subsection 2; and any emergency medical service.?

R.O.S.

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SUMMARY

This amendment replaces the bill and creates an airport authority enabling act to facilitate the creation of airport authorities. The enabling act specifies the necessary powers and authority of an airport authority, other than those that will be specific to a particular airport authority. The enabling act provides a model for the creation of an airport authority but does not require an airport to be created, operated or managed by an airport authority established pursuant to the enabling act. An airport authority created under this enabling act has the following characteristics, powers, duties and authority.

- 1. An airport authority is a quasi-municipal entity and as such:
 - A. Is exempt from taxation as are other quasi-municipal entities pursuant to the Maine Revised Statutes, Title 36, section 651;
 - B. Its debt liability is secured in the same manner as for other quasi-municipal entities pursuant to Title 30-A, section 5701;
 - C. Its tort liability is governed by the Maine Tort Claims Act in the same manner as for other quasi-municipal entities;
 - D. Is subject to Maine's freedom of access laws, Title 1, sections 401 to 412; and
 - E. Its directors are subject to the conflict of interest provisions of Title 30-A, section 2605.
- 2. An airport authority is authorized to own, construct, manage, maintain, enhance, expand or otherwise operate an airport and provide air transportation services.
- 3. An airport authority is governed by a board of directors who are authorized to appoint officers and hire employees, including an airport manager, to operate and manage an airport and provide air transportation service.
- 4. An airport authority is subject to all applicable federal and state laws and rules, including Federal Aviation Administration regulations, the provisions of Title 6 and the rules of the Commissioner of Transportation. An airport authority may not exercise its powers until it has obtained all necessary written approvals from the Federal Aviation Administration and the Department of Transportation.
- 5. An airport authority, in a manner similar to other quasi-municipal entities, has the power to:
 - A. Take property for its public purposes by eminent domain, which must be exercised in accordance with certain specified procedures;
 - B. Make and assume contracts;
 - C. Receive government aid, borrow money and issue bonds and notes. As a public entity, its bonds are exempt from state income tax. It may not issue debt payable more than 12 months after date of issuance until it has established a debt limit approved in a local referendum. The debt may not exceed the established debt limit, which may be increased if approved through subsequent referenda; and
 - D. Set fees, rates or charges for the use of its airport and services and, by agreement with the municipal officers of any municipality located in whole or in part within the

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1 airport authority's charter territory, establish payments from the municipality to
2 support the airport authority.

3 6. An airport authority may have other powers, authority or duties as specified in its
4 charter.

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



123rd MAINE LEGISLATURE

LD 599

LR 916(02)

An Act To Create an Airport Authority

Fiscal Note for Bill as Amended by Committee Amendment "A "

Committee: Transportation

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Highway Fund

Fiscal Detail and Notes

This legislation facilitates the creation of airport authorities to operate airports and provide air transportation services. It defines an airport authority as a quasi-municipal entity, but does not require an airport to be created, operated or managed by an airport authority. Additional costs to the Department of Transportation associated with any potential participation in, or support of, the creation of an airport authority would be absorbed within existing budgeted resources.