

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1252

H.P. 871

House of Representatives, March 30, 2009

An Act To Create the Maine Fishery Infrastructure Tax Credit

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative WATSON of Bath.
Cosponsored by Senator DAMON of Hancock and
Senator: PERRY of Penobscot.

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

2 **Sec. 1. 5 MRSA §13070-J, sub-§1, ¶D**, as amended by PL 2005, c. 519, Pt.
3 TTT, §1, is further amended to read:

4 D. "Economic development incentive" means:

- 5 (1) Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;
- 6 (2) The Governor's Training Initiative Program under Title 26, chapter 25,
7 subchapter 4;
- 8 (3) Municipal tax increment financing under Title 30-A, chapter 206;
- 9 (4) The jobs and investment tax credit under Title 36, section 5215;
- 10 (5) The research expense tax credit under Title 36, section 5219-K;
- 11 (6) Reimbursement for taxes paid on certain business property under Title 36,
12 chapter 915;
- 13 (7) Employment tax increment financing under Title 36, chapter 917;
- 14 (8) The shipbuilding facility credit under Title 36, chapter 919;
- 15 (9) The credit for seed capital investment under Title 36, section 5216-B; or
- 16 (10) The credit for pollution-reducing boilers under Title 36, section 5219-Z; or
- 17 (11) The credit for Maine fishery infrastructure contributions under Title 36,
18 section 5216-D.

19 **Sec. 2. 12 MRSA c. 903, sub-c. 8** is enacted to read:

20 **SUBCHAPTER 8**

21 **MAINE FISHERY INFRASTRUCTURE TAX CREDIT CERTIFICATES**

22 **§10331. Tax credit certificates**

23 **1. Authorization.** In order to encourage equity contribution in infrastructure
24 improvements and facilities that enhance the State's fisheries, the department is
25 authorized to issue certificates of eligibility for the Maine fishery infrastructure
26 contribution tax credit permitted by Title 36, section 5216-D, subject to the requirements
27 of this section.

28 **2. Eligibility for tax credit certificate; rules.** The department shall adopt rules in
29 accordance with the Maine Administrative Procedure Act to implement this subchapter.
30 Rules adopted pursuant to this subsection are major substantive rules as defined by Title
31 5, chapter 375, subchapter 2-A. The rules must establish requirements for public fishery
32 infrastructure project eligibility for a tax credit certificate and must include at least the
33 following.

1 A. A tax credit certificate may be issued in an amount not more than 50% of the
2 amount of cash actually contributed to an eligible public fishery infrastructure project
3 in any calendar year.

4 B. Eligible public fishery infrastructure projects must be determined by the
5 department to have a public benefit and constitute:

6 (1) A publicly owned infrastructure improvement or facility that enhances the
7 State's fisheries; or

8 (2) A privately owned infrastructure improvement or facility that is publicly
9 accessible.

10 C. A tax credit certificate may not be issued for a contribution to an eligible public
11 fishery infrastructure project in which the contributor has a financial interest.

12 3. Credit certificate limit. The aggregate contribution eligible for tax credits under
13 this subchapter may not exceed \$5,000,000 per eligible public fishery infrastructure
14 project.

15 4. List of projects. The department shall develop and maintain a list of public
16 fishery infrastructure projects eligible under this subchapter.

17 5. Revocation of tax credit certificate. The department may revoke a tax credit
18 certificate under this subchapter if any representation to the department in connection
19 with the application for the certificate proves to have been false when made or if the
20 applicant violates any conditions established by the department and stated in the tax
21 credit certificate. The revocation may be in full or in part as the department determines.
22 The department shall specify the amount of credit being revoked and send notice of the
23 revocation to the contributor and to the State Tax Assessor.

24 6. Reports. As a condition for determination of eligibility or continuation of
25 eligibility for a tax credit certificate under this subchapter, the department may require
26 any information or reports from the eligible public fishery infrastructure project that it
27 considers necessary.

28 **Sec. 3. 36 MRSA §5216-D** is enacted to read:

29 **§5216-D. Maine fishery infrastructure contribution tax credit**

30 1. Definitions. As used in this section, unless the context otherwise indicates, the
31 following terms have the following meanings.

32 A. "Certificate" means a tax credit certificate issued by the Department of Inland
33 Fisheries and Wildlife pursuant to Title 12, chapter 903, subchapter 8.

34 B. "Contribution" means a contribution for which a certificate has been received.

35 C. "Contributor" means a taxpayer who has received a certificate.

36 2. Credit. A contributor, except for a flow-through entity subject to the franchise
37 tax imposed pursuant to chapter 819, is entitled to a credit against the tax otherwise due
38 under this Part equal to the amount of the tax credit certificate issued by the Department

1 of Inland Fisheries and Wildlife in accordance with Title 12, section 10331 and as limited
2 by subsection 3. In the case of partnerships, limited liability companies, S corporations,
3 nontaxable trusts and any other entities that are treated as flow-through entities for tax
4 purposes under the Code, except for flow-through entities subject to the franchise tax
5 imposed pursuant to chapter 819, the individual partners, members, stockholders,
6 beneficiaries or equity owners of such entities must be treated as the contributors under
7 this section and are allowed a credit against the tax otherwise due from them under this
8 Part in proportion to their respective interests in those partnerships, limited liability
9 companies, S corporations, nontaxable trusts or other flow-through entities. Except as
10 limited or authorized by subsection 3 or 4, 25% of the credit must be taken in the taxable
11 year the investment is made and 25% per year must be taken in each of the next 3 taxable
12 years.

13 **3. Limitation.** The amount of the credit allowed under this section for any one
14 taxable year may not exceed 50% of the tax imposed by this Part on the contributor for
15 the taxable year before application of the credit.

16 **4. Carry-forward.** A credit under this section not taken because of the limitation in
17 subsection 3 must be taken in the next taxable year in which the credit may be taken, and
18 the limitation of subsection 3 also applies to the carry-forward years. In no case may this
19 carry-forward period exceed 15 years.

20 **5. Recapture; interest; time limit.** In the event that the Department of Inland
21 Fisheries and Wildlife revokes a certificate, there must be added to the tax imposed on the
22 contributor under this Part for the taxable year in which the revocation occurs an amount
23 equal to the excess of the amount of credit revoked over the amount of credit not yet
24 taken, plus interest at the legal rate.

25 The penalty specified in this subsection may be imposed only for the shorter of 5 tax
26 years and the number of years a tax credit was allowed under a certificate subsequently
27 revoked by the Department of Inland Fisheries and Wildlife.

28 **Sec. 4. Application.** This Act applies to tax years beginning on or after January 1,
29 2010.

30 SUMMARY

31 This bill provides an income tax credit for contributions to eligible public fishery
32 infrastructure projects in the State. Eligible projects must be certified by the Department
33 of Inland Fisheries and Wildlife, which is required to adopt rules for determination of
34 eligibility. Tax certificates may be issued for up to \$5,000,000 per project. Credits must
35 be taken in increments of 25% over 4 years and may not exceed 50% of the total tax
36 imposed on the contributor for the applicable year. Unused credits may be carried
37 forward for up to 15 years.