

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

SECOND REGULAR SESSION-2010

Legislative Document

No. 1530

S.P. 590

In Senate, December 17, 2009

An Act To Facilitate Recovery Zone Facility Bonds

(EMERGENCY)

Submitted by the Finance Authority of Maine pursuant to Joint Rule 204.

Received by the Secretary of the Senate on December 17, 2009. Referred to the Committee on Business, Research and Economic Development pursuant to Joint Rule 308.2 and ordered printed.

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

JOY J. O'BRIEN
Secretary of the Senate

Presented by President MITCHELL of Kennebec.
Cosponsored by Speaker PINGREE of North Haven and
Senators: BARTLETT of Cumberland, RECTOR of Knox, SCHNEIDER of Penobscot,
Representatives: PIOTTI of Unity, SIROIS of Turner, SMITH of Monmouth.

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

3 Whereas, the United States Congress has enacted the American Recovery and
4 Reinvestment Act of 2009; and

5 Whereas, the American Recovery and Reinvestment Act of 2009 provides for the
6 issuance by counties of recovery zone facility bonds, the interest on which will be exempt
7 from federal income tax pursuant to the United States Internal Revenue Code; and

8 Whereas, the purpose of the American Recovery and Reinvestment Act of 2009,
9 including its provisions regarding recovery zone facility bonds, is to provide immediate
10 benefit to the economies of the states; and

11 Whereas, in the judgment of the Legislature, these facts create an emergency within
12 the meaning of the Constitution of Maine and require the following legislation as
13 immediately necessary for the preservation of the public peace, health and safety; now,
14 therefore,

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

16 **Sec. 1. 10 MRSA §963-A, sub-§10**, as amended by PL 2009, c. 372, Pt. D, §§1
17 to 3, is further amended to read:

18 **10. Eligible project.** "Eligible project" means any of the following:

19 A. Any eligible enterprise;

20 D. Any vessel registered under the law of the United States or a state;

21 E. Any energy conservation project;

22 F. Any energy distribution system project;

23 G. Any energy generating system project;

24 H. Any pollution-control project;

25 I. Any water supply system project;

26 J. Any underground oil storage facility replacement project, including equipment
27 installed to meet requirements for gasoline service station vapor control and
28 petroleum liquids transfer vapor recovery;

29 K. Any overboard discharge replacement project;

30 L. Any hazardous waste or solid waste recycling or reduction project;

31 M. Any aboveground oil replacement or upgrade project, including equipment
32 installed to meet requirements for gasoline service station vapor control and
33 petroleum liquids transfer vapor recovery;

34 N. Any electric rate stabilization project;

35 O. Any major business expansion project;

- 1 P. Any workers' compensation residual market mechanism project;
- 2 Q. Any clean fuel vehicle project;
- 3 R. Any paper industry job retention project;
- 4 S. Any transmission facilities project; and
- 5 T. An Efficiency Maine project.

6 ~~In addition to and without limiting this subsection, eligible~~ "Eligible project" also means
7 includes any project, the financing of which through the issuance of revenue obligation
8 securities would result in the interest on the revenue obligation securities qualifying, as of
9 the date of issuance, as tax-exempt under the 26 United States Code, Title 26, Section
10 103, as amended.

11 "Eligible project" includes any "recovery zone property," as defined under 26 United
12 States Code, Section 1400U-3, as amended, the financing of which through the issuance
13 of revenue obligation securities would result in the interest on the revenue obligation
14 securities qualifying, as of the date of issuance, as tax-exempt under 26 United States
15 Code, Section 103, as amended.

16 **Sec. 2. 10 MRSA §963-A, sub-§39-A** is enacted to read:

17 **39-A. Municipal officers.** "Municipal officers" means municipal officers as defined
18 in Title 30-A, section 2001, subsection 10. "Municipal officers" also means the county
19 commissioners of any county but solely for the purpose of authorizing and facilitating the
20 issuance of recovery zone facility bonds.

21 **Sec. 3. 10 MRSA §963-A, sub-§40-A** is enacted to read:

22 **40-A. Municipality.** "Municipality" means any municipality as defined in Title
23 30-A, section 2001, subsection 8. "Municipality" also means any county but solely for
24 the purpose of issuing recovery zone facility bonds.

25 **Sec. 4. 10 MRSA §963-A, sub-§44-A** is enacted to read:

26 **44-A. Recovery zone facility bond.** "Recovery zone facility bond" has the same
27 meaning as in 26 United States Code, Section 1400U-3, as amended.

28 **Sec. 5. 10 MRSA §963-A, sub-§49,** as enacted by PL 1985, c. 344, §7, is
29 amended to read:

30 **49. Revenue obligation security.** "Revenue obligation security" or "security"
31 means a note, bond, interim certificate, debenture or other evidence of indebtedness,
32 including any recovery zone facility bond, payment of which is secured by a pledge of
33 revenues, as provided in section 1045-A or 1065, or by assignment or pledge of other
34 eligible collateral.

35 **Sec. 6. 10 MRSA §1061-B** is enacted to read:

1 **§1061-B. Designation of issuer of recovery zone facility bonds**

2 To the extent permitted by federal law, the county commissioners of any county may
3 authorize the authority to issue recovery zone facility bonds on behalf of that county
4 pursuant to subchapter 3 or a municipality to issue recovery zone facility bonds on behalf
5 of that county pursuant to this subchapter.

6 Sec. 7. 10 MRSA §1074-A is enacted to read:

7 **§1074-A. Recovery zone facility bonds**

8 1. Recovery zones. To the extent permitted by federal law, the Governor may
9 establish by executive order a procedure for the designation by counties, with the
10 approval of the Governor, of recovery zones as defined under 26 United States Code,
11 Section 1400U-1, as amended. The authority shall provide the Governor with such
12 assistance as may be required to carry out this section including obtaining information
13 regarding poverty, unemployment, rate of home foreclosures and other information
14 concerning general distress for the purpose of providing a comprehensive basis for
15 designation of recovery zones.

16 2. Reallocation. To the extent permitted by federal law, the Governor may establish
17 by executive order a procedure for the reallocation of any allocation to counties of a
18 portion of the national recovery zone facility bond limitation established pursuant to 26
19 United States Code, Section 1400U-1, as amended, and for the reallocation of any portion
20 of a county's allocation of the national recovery zone facility bond limitation waived by
21 that county, including designation of the authority as the issuer of recovery zone facility
22 bonds pursuant to any reallocation. For purposes of this subsection, a county must be
23 considered to have waived any allocation to it of a portion of the national recovery zone
24 facility bond limitation to the extent that revenue obligation securities for that allocation
25 have not been issued by that county prior to April 1, 2010.

26 Sec. 8. 10 MRSA §1074-B is enacted to read:

27 **§1074-B. Allocation of certain national bond limitations**

28 To the extent permitted by federal law, the Governor may establish by executive
29 order a procedure for the reallocation of any allocation of a portion of a national bond
30 limitation to the State or to any issuer or governmental entity within the State pursuant to
31 26 United States Code, Sections 54D, 54E, 54F and 1400U-1 and for the reallocation of
32 any portion of a national bond limitation that is not used within the applicable time period
33 specified in federal law or that has been waived by an issuer or governmental entity
34 within the State, except that allocation of the national recovery zone facility bond
35 limitation established pursuant to 26 United States Code, Section 1400U-1, as amended,
36 must be carried out pursuant to section 1074-A.

37 Sec. 9. 30-A MRSA §934, as amended by PL 1999, c. 717, §1, is further amended
38 to read:

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§934. Loans

The county commissioners may obtain loans of money for the use of their county and cause notes, obligations or bonds, with coupons for lawful interest, to be issued for payment of the loans. These loans may not exceed \$10,000, except in Franklin County and Aroostook County as provided in sections 935 and 935-A and except to the extent authorized pursuant to Title 10, chapter 110, without first obtaining the consent of the county, substantially as provided in section 122 or by countywide referendum pursuant to section 938.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill facilitates the issuance of recovery zone facility bonds authorized by the federal American Recovery and Reinvestment Act of 2009.