

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

SECOND REGULAR SESSION-2012

Legislative Document

No. 1644

S.P. 543

In Senate, December 21, 2011

An Act To Expand the Availability of Natural Gas to Maine Residents

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 19, 2011. Referred to the Committee on Energy, Utilities and Technology pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 218.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator KATZ of Kennebec.

Cosponsored by Representative BLODGETT of Augusta and

Senator: McCORMICK of Kennebec, Representative: MARTIN of Eagle Lake.

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

2 **Sec. 1. 10 MRSA §962, first ¶**, as amended by PL 1985, c. 344, §5, is further
3 amended to read:

4 There is a statewide need to provide enlarged opportunities for gainful employment
5 to the people of the State and to ~~insure~~ ensure the preservation and betterment of the
6 economy and the general health, safety and welfare of the State and its inhabitants; to
7 provide a more healthy environment through the restoration of purity to the air, the water
8 ~~of~~ and the earth of the State ~~which that~~ are fouled with, among other things, industrial and
9 other waste materials and pollutants, and to ~~insure~~ ensure the preservation and betterment
10 of the living standards and health of its inhabitants; to stimulate a larger flow of private
11 investment funds from banks, investment institutions, insurance companies and other
12 financial institutions, including pension and retirement funds, to help finance planning,
13 development, acquisition, construction, improvement, expansion and placing in operation
14 of industrial, manufacturing, recreational, fishing, agricultural, business and natural
15 resource enterprises and eligible projects of the State and its political subdivisions; ~~and~~
16 to increase the access of smaller ~~business~~ businesses and veterans to financing at reasonable
17 terms and rates; to diversify sources of energy available to the citizens and businesses of
18 the State; and to distribute available domestic sources of natural gas to citizens and
19 businesses of the State to decrease their reliance on foreign oil.

20 **Sec. 2. 10 MRSA §962, sub-§5**, as amended by PL 1989, c. 559, §1, is further
21 amended to read:

22 **5. Natural resource financing.** Provide natural resource financing; ~~and~~

23 **Sec. 3. 10 MRSA §962, sub-§6**, as enacted by PL 1989, c. 559, §2, is amended to
24 read:

25 **6. Student financial assistance programs.** Provide and administer a
26 comprehensive, consolidated system of student financial assistance programs; and

27 **Sec. 4. 10 MRSA §962, sub-§7** is enacted to read:

28 **7. Bonds for natural gas projects.** Issue bonds to provide financing for energy
29 distribution system projects that expand the supply of natural gas in the State.

30 **Sec. 5. 10 MRSA §1043, sub-§2, ¶O**, as enacted by PL 2011, c. 261, §4, is
31 amended to read:

32 O. In the case of an energy distribution system project regulated by the Public
33 Utilities Commission with respect to rates or terms of service or that requires, for
34 construction or operation, authorization or certification from the commission, the
35 following conditions are met.

36 (1) The energy distribution system project has received all authorizations or
37 certifications from the Public Utilities Commission necessary for construction
38 and operation of the project. The authority may issue a certificate of approval for

1 a project that has received conditional approvals or certifications from the
2 commission, except that the authority's certificate becomes legally effective only
3 upon fulfillment of the conditional provisions of the commission's certificates or
4 approvals. If the commission has approved rates to be charged by the project or
5 has issued a certificate of public convenience and necessity for the project, the
6 authority shall take into consideration any findings and conclusions of law of the
7 commission, including any findings and conclusions pertaining to the need for
8 the project and the financial viability of the project.

9 (2) The authority has reviewed and considered any comments provided by the
10 Director of the Governor's Office of Energy Independence and Security and the
11 Public Advocate.

12 (3) The authority has determined that the applicant is creditworthy and that there
13 is a reasonable likelihood that the revenue obligation securities will be repaid
14 through the revenues of the project and any other sources of revenues and
15 collateral pledged to the repayment of those securities. In order to make these
16 determinations, the authority shall consider such factors as it considers necessary
17 and appropriate in light of the special purpose or other nature of the business
18 entity owning the project and the specific purposes of the project to measure and
19 evaluate the project and the sufficiency of the pledged revenues to repay the
20 obligations, including, but not limited to:

21 (a) Whether the individuals or entities obligated to repay the obligations
22 have demonstrated sufficient revenues from the project or from other sources
23 to repay the obligations and a reasonable probability that those revenues will
24 continue to be available for the term of the revenue obligation securities;

25 (b) Whether the applicant demonstrates a reasonable probability that the
26 project will continue to operate and provide the public benefits projected to
27 be created for the term of the revenue obligation securities;

28 (c) Whether the applicant's creditworthiness is demonstrated by factors such
29 as its historical financial performance, management ability, plan for
30 marketing its product or service and ability to access conventional financing;

31 (d) Whether the applicant meets or exceeds industry average financial
32 performance ratios commonly accepted in determining creditworthiness in
33 that industry;

34 (e) Whether the applicant demonstrates that the need for authority assistance
35 is due to the reduced cost and increased flexibility of the financing for the
36 project that result from authority assistance and not from an inability to
37 obtain necessary financing without the capital reserve fund security provided
38 by the authority;

39 (f) Whether collateral securing the repayment obligation is reasonably
40 sufficient under the circumstances;

41 (g) Whether the proposed project enhances the opportunities for economic
42 development;

- 1 (h) The effect that the proposed project financing has on the authority's
- 2 financial resources;
- 3 (i) The financial performance of similar projects;
- 4 (j) The need for the project, as determined by the Public Utilities
- 5 Commission and as indicated by any comments provided by the Director of
- 6 the Governor's Office of Energy Independence and Security, other public
- 7 officials and members of the public;
- 8 (k) The nature and extent of customer commitment to use the project or the
- 9 fuel or energy the project distributes or transmits; ~~and~~
- 10 (l) The cost advantages to end users of the fuel or energy to be distributed or
- 11 transmitted by the project, to the extent those advantages may affect market
- 12 penetration by the project; ~~and~~
- 13 (m) The nature and extent of the applicant's equity contribution to payment
- 14 of the costs of the project; such a contribution may not be less than 25% of
- 15 the expected cost of the project.

16 **Sec. 6. 10 MRSA §1053, sub-§5-A** is enacted to read:

17 **5-A. Capital reserve for natural gas projects.** There is a minimum capital reserve

18 requirement and a maximum capital reserve requirement for bonds issued for energy

19 distribution system projects for natural gas, as follows:

20 A. The minimum capital reserve requirement is an amount equal to the principal and

21 interest due on those bonds in the fiscal year immediately following the fiscal year in

22 which a certification is made to the Governor pursuant to subsection 5; and

23 B. The maximum capital reserve requirement is an amount equal to the maximum

24 amount of the principal and interest due on those bonds in any year during which

25 those bonds are outstanding.

26 **Sec. 7. 10 MRSA §1053, sub-§6, ¶A,** as amended by PL 2011, c. 261, §6, is

27 further amended to read:

28 A. The sum of \$330,000,000 consisting of not more than \$275,000,000 for loans and

29 up to \$55,000,000 for use of bond proceeds to fund capital reserve funds for revenue

30 obligation securities issued pursuant to this subchapter relating to loans for electric

31 rate stabilization projects or loans for energy distribution system projects, ~~except that~~

32 ~~the authority's maximum financial liability for any energy distribution system project~~

33 ~~may not exceed the limits established annually by the authority;~~

34 **SUMMARY**

35 This bill authorizes the Finance Authority of Maine to issue bonds for energy

36 distribution system projects that expand the supply of natural gas in the State. The

37 authority is authorized to issue a certificate of approval to an applicant for a natural gas

38 project only if the applicant contributes at least 25% of the expected cost of the project.

1 This bill also establishes in statute minimum and maximum capital reserve requirements
2 for bonds that are issued for natural gas projects.