

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 278

S.P. 111

In Senate, February 7, 2013

**An Act To Provide Greater Access to Capital for Certain Businesses
Through Advance Payment of Employment Tax Increment
Financing Benefits**

Submitted by the Department of Economic and Community Development pursuant to Joint Rule 204.

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator PATRICK of Oxford.

Cosponsored by Representative BENNETT of Kennebunk and

Senator: KATZ of Kennebec, Representatives: CHASE of Wells, FREDETTE of Newport, GILBERT of Jay, JOHNSON of Greenville, LOCKMAN of Amherst, MASTRACCIO of Sanford, VOLK of Scarborough.

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

2 **Sec. 1. 5 MRSA §13120-A, first ¶**, as amended by PL 2011, c. 563, §10, is
3 further amended to read:

4 The Maine Rural Development Authority, as established by section 12004-F,
5 subsection 18 and referred to in this subchapter as the "authority," is a body both
6 corporate and politic and a public instrumentality of the State established for the purpose
7 of providing loans to communities for the development of commercial facilities on a
8 speculative basis and for serving as lender or investor in the acquisition, development,
9 redevelopment and sale of commercial facilities in areas where economic needs are not
10 supported by private investment. The authority may also provide loans to businesses that
11 are eligible for an advance payment of employment tax increment financing benefits
12 under Title 36, section 6754 or that currently do not own real estate and that are not
13 supported by private investment.

14 **Sec. 2. 36 MRSA §6753, sub-§8-A** is enacted to read:

15 **8-A. Extraordinary circumstances.** "Extraordinary circumstances" means that a
16 qualified business plans to add at least 50 net new qualified employees in the State or
17 make an investment of \$50,000,000 or more in the State.

18 **Sec. 3. 36 MRSA §6753, sub-§10-A** is enacted to read:

19 **10-A. Net present value calculation.** "Net present value calculation" means the
20 present value of the projected revenue from the 5-year or 10-year benefit to the applicant
21 under this chapter as determined by the State Tax Assessor.

22 **Sec. 4. 36 MRSA §6754, sub-§1**, as amended by PL 2011, c. 240, §44, is further
23 amended to read:

24 **1. Generally.** Subject to the provisions of ~~subsection~~ subsections 2 and 4, a
25 qualified business is entitled to reimbursement of Maine income tax withheld during the
26 calendar year for which reimbursement is requested and attributed to qualified employees
27 after July 1, 1996 in the following amounts.

28 A. For qualified employees employed by a qualified business in labor market areas
29 in this State in which the labor market unemployment rate is at or below the State's
30 unemployment rate at the time of application, the reimbursement is equal to 30% of
31 Maine income tax withheld during each of the first 5 calendar years for which
32 reimbursement is requested and attributed to those qualified employees. The
33 percentage of reimbursement for the 6th to 10th years of the employment tax
34 increment financing development program is established based upon the labor market
35 unemployment rate at the beginning of the 6th year.

36 B. For qualified employees employed by a qualified business in labor market areas in
37 this State in which the labor market unemployment rate is greater than the State's
38 unemployment rate at the time of application, the reimbursement is equal to 50% of
39 Maine income tax withheld during each of the first 5 calendar years for which

1 reimbursement is requested and attributed to those qualified employees. The
2 percentage of reimbursement for the 6th to 10th years of the employment tax
3 increment financing development program is established based upon the labor market
4 unemployment rate at the beginning of the 6th year.

5 C. For qualified employees employed by a qualified business in labor market areas in
6 this State in which the labor market unemployment rate is greater than 150% of the
7 State's unemployment rate at the time of application, the reimbursement is equal to
8 75% of Maine income tax withheld during each of the first 5 calendar years for which
9 reimbursement is requested and attributed to those qualified employees. The
10 percentage of reimbursement for the 6th to 10th years of the employment tax
11 increment financing development program is established based upon the labor market
12 unemployment rate at the beginning of the 6th year.

13 D. For qualified Pine Tree Development Zone employees, as defined in Title 30-A,
14 section 5250-I, subsection 18, employed directly in the qualified business activity of
15 a qualified Pine Tree Development Zone business, as defined in Title 30-A, section
16 5250-I, subsection 17, for whom a certificate of qualification has been issued in
17 accordance with Title 30-A, section 5250-O, the reimbursement under this subsection
18 is equal to 80% of Maine income tax withheld each year for which reimbursement is
19 requested and attributed to those qualified employees for a period of no more than 10
20 years for a tier 1 location as defined in Title 30-A, section 5250-I, subsection 21-A
21 and no more than 5 years for a tier 2 location as defined in Title 30-A, section 5250-I,
22 subsection 21-B. Reimbursement under this paragraph may not be paid for years
23 beginning after December 31, 2028.

24 **Sec. 5. 36 MRSA §6754, sub-§4** is enacted to read:

25 **4. Advance payment permitted.** The commissioner, under extraordinary
26 circumstances, may provide an advance payment in anticipation of reimbursement under
27 subsection 1 to a qualified business using a net present value calculation, determined by
28 the commissioner and the State Tax Assessor, based on an estimate of future employment
29 tax increment financing benefits. The payment must be made in the form of a loan from
30 the Maine Rural Development Authority pursuant to applicable requirements in Title 5,
31 chapter 383, subchapter 9. The commissioner and the State Tax Assessor shall establish
32 procedures for determining any variations between advance payments and final benefits
33 due and for repayment of loans from the Maine Rural Development Authority under this
34 subsection.

35 **SUMMARY**

36 This bill allows the Commissioner of Economic and Community Development, under
37 extraordinary circumstances, to provide advance payments of employment tax increment
38 financing benefits to a qualified business based on a net present value calculation of the
39 projected employment tax increment financing benefit to the business. The advance
40 payment must be made in the form of a loan through the Maine Rural Development
41 Authority, pursuant to applicable conditions and requirements.