

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2016

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Legislative Document

No. 1686

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S.P. 694

In Senate, March 30, 2016

### **An Act To Amend the Finance Authority of Maine Act**

(AFTER DEADLINE)

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Submitted by the Finance Authority of Maine and approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator VOLK of Cumberland.  
Cosponsored by Representative HERBIG of Belfast.

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

2 **Sec. 1. 10 MRSA §962, sub-§2**, as amended by PL 2011, c. 586, §1, is further  
3 amended to read:

4 **2. Revenue obligation securities.** Issue revenue obligation securities to finance  
5 eligible projects, except that revenue obligation securities may not be issued for energy  
6 distribution system projects after or energy generating system projects unless the  
7 authority issued a certificate of approval for those eligible projects before January 1, 2018  
8 2020 pursuant to section 1044, subsection 13 subchapter 3;

9 **Sec. 2. 10 MRSA §963-A, sub-§13, ¶B**, as amended by PL 1987, c. 141, Pt. B,  
10 §7, is further amended to read:

11 B. For a system ~~which that~~ does generate electricity, an energy generating system  
12 which, including wires, cables and other material and equipment necessary and  
13 convenient for the delivery of electricity from the electricity generating facility to the  
14 transmission and distribution utility system within the State, that uses biomass, peat,  
15 solar, waste, water and related dams, wind, wood or coal; and which that is owned, in  
16 whole or in part, by an individual, municipality, corporation, limited liability  
17 company or other governmental entity or business association ~~which that~~ qualifies as  
18 a cogenerator or small power producer under Title 35-A, chapter 33.

19 **Sec. 3. 10 MRSA §1043, sub-§2, ¶O**, as amended by PL 2011, c. 655, Pt. MM,  
20 §8 and affected by §26, is further amended to read:

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

25 (1) The energy distribution system project or the energy generating system  
26 project has received all authorizations or certifications from the Public Utilities  
27 Commission necessary for construction and operation of the project. The  
28 authority may issue a certificate of approval for a project that has received  
29 conditional approvals or certifications from the commission, except that the  
30 authority's certificate becomes legally effective only upon fulfillment of the  
31 conditional provisions of the commission's certificates or approvals. If the  
32 commission has approved rates to be charged by the project or has issued a  
33 certificate of public convenience and necessity for the project, the authority shall  
34 take into consideration any findings and conclusions of law of the commission,  
35 including any findings and conclusions pertaining to the need for the project and  
36 the financial viability of the project.

37 (2) The authority has reviewed and considered any comments provided by the  
38 Director of the Governor's Energy Office and the Public Advocate.

39 (3) The authority has determined that the applicant is creditworthy and that there  
40 is a reasonable likelihood that the revenue obligation securities will be repaid  
41 through the revenues of the project and any other sources of revenues and

1 collateral pledged to the repayment of those securities. In order to make these  
2 determinations, the authority shall consider such factors as it considers necessary  
3 and appropriate in light of the special purpose or other nature of the business  
4 entity owning the project and the specific purposes of the project to measure and  
5 evaluate the project and the sufficiency of the pledged revenues to repay the  
6 obligations, including, but not limited to:

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

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

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

17 (d) Whether the applicant meets or exceeds industry average financial  
18 performance ratios commonly accepted in determining creditworthiness in  
19 that industry;

20 (e) Whether the applicant demonstrates that the need for authority assistance  
21 is due to the reduced cost and increased flexibility of the financing for the  
22 project that result from authority assistance and not from an inability to  
23 obtain necessary financing without the capital reserve fund security provided  
24 by the authority;

25 (f) Whether collateral securing the repayment obligation is reasonably  
26 sufficient under the circumstances;

27 (g) Whether the proposed project enhances the opportunities for economic  
28 development;

29 (h) The effect that the proposed project financing has on the authority's  
30 financial resources;

31 (i) The financial performance of similar projects;

32 (j) The need for the project, as determined by the Public Utilities  
33 Commission and as indicated by any comments provided by the Director of  
34 the Governor's Energy Office, other public officials and members of the  
35 public;

36 (k) The nature and extent of customer commitment to use the project or the  
37 fuel or energy the project distributes or transmits;

38 (l) The cost advantages to end users of the fuel or energy to be distributed or  
39 transmitted by the project, to the extent those advantages may affect market  
40 penetration by the project; and

1 (m) The nature and extent of the applicant's equity contribution to payment  
2 of the costs of the project; such a contribution may not be less than 25% of  
3 the expected cost of the project.

4 This paragraph is repealed January 1, ~~2018~~ 2020.

5 **Sec. 4. 10 MRSA §1044, sub-§13**, as enacted by PL 2011, c. 586, §4, is amended  
6 to read:

7 **13. Limitation.** The authority may not issue revenue obligation securities for energy  
8 distribution system projects or energy generating system projects unless the authority  
9 issued a certificate of approval for the energy distribution system project or energy  
10 generating system project before January 1, ~~2018~~ 2020. Notwithstanding this subsection,  
11 revenue refunding securities may be issued to refund any outstanding revenue obligation  
12 securities.

13 **Sec. 5. 10 MRSA §1053, sub-§6, ¶A**, as amended by PL 2011, c. 586, §5, is  
14 further amended to read:

15 A. The sum of \$180,000,000 consisting of not more than \$150,000,000 for loans and  
16 up to \$30,000,000 for use of bond proceeds to fund capital reserve funds for revenue  
17 obligation securities issued pursuant to this subchapter relating to loans for electric  
18 rate stabilization projects, loans for energy generating system projects or loans for  
19 energy distribution system projects;

20 **SUMMARY**

21 This bill clarifies the authority for the issuance of revenue obligation securities  
22 pertaining to financing assistance for energy generating system projects under the  
23 Finance Authority of Maine Act.

24 The bill prohibits the Finance Authority of Maine from issuing revenue obligation  
25 securities for an energy generating system project unless the authority has issued a  
26 certificate of approval before January 1, 2020.