

MAINE STATE LEGISLATURE

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Minority

INSURANCE AND FINANCIAL SERVICES

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

128TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 83, L.D. 237, Bill, "An Act To Establish a State Bank"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 5 MRSA §12004-F, sub-§19 is enacted to read:

19.

Maine Green Bank, Board of Expenses Only 9-B MRSA §1253
Directors

Sec. 2. 5 MRSA §12004-I, sub-§2-H is enacted to read:

2-H.

Banking Maine Green Bank Expenses Only 9-B MRSA §1254
Advisory Committee

Sec. 3. 9-B MRSA c. 125 is enacted to read:

CHAPTER 125

MAINE GREEN BANK

§1251. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Advisory committee. "Advisory committee" means the Maine Green Bank Advisory Committee under section 1254.

2. Bank. "Bank" means the Maine Green Bank established in section 1252.

COMMITTEE AMENDMENT

1 **3. Board.** "Board" means the Board of Directors of the Maine Green Bank under
2 section 1253.

3 **4. Bureau.** "Bureau" means the Department of Professional and Financial
4 Regulation, Bureau of Financial Institutions.

5 **5. Instrumentalities.** "Instrumentalities" means institutions and entities owned by
6 the State, including, but not limited to, the University of Maine System, the Maine
7 Maritime Academy, the Maine Community College System, the Maine Educational Loan
8 Authority, the Loring Development Authority of Maine, the Midcoast Regional
9 Redevelopment Authority, the Maine Municipal Bond Bank, the Maine Turnpike
10 Authority, the Maine State Lottery Commission, the Maine Housing Authority, the Maine
11 Technology Institute, the Maine Ferry Service, Dirigo Health, the Baxter State Park
12 Authority and the Finance Authority of Maine.

13 **6. Participation loan.** "Participation loan" means a loan in which one or more than
14 one bank, bank holding company, state-chartered or federally chartered financial
15 institution, any other financial institution or any other lender that provides financial
16 services participates pursuant to a written agreement with the originator of the loan.

17 **7. Political subdivision.** "Political subdivision" has the same meaning as in Title
18 30-A, section 2252.

19 **8. Public funds.** "Public funds" means funds under control of, or in the custody of,
20 state, county or local government-owned instrumentalities or entities.

21 **§1252. Bank established; purposes**

22 **1. Established.** The Maine Green Bank is established and is a public body corporate
23 and politic and an instrumentality of the State.

24 **2. Purposes.** The bank is established for the following purposes:

25 A. To increase per capita income of residents and families in the State;

26 B. To raise living standards, lessen destitution and hunger by providing expanding
27 opportunities, livelihoods and incomes and to strengthen families' livelihoods by
28 providing human resources to enable enterprises to grow, hire workers, produce
29 goods and services and provide well-paying jobs increasing the common wealth of
30 communities in the State;

31 C. To reduce vulnerability to periodic financial collapses and recessions, to stabilize
32 property values and reduce negative equity due to property price declines during and
33 after financial collapses and recessions and to lessen the state economy's exposure to
34 global cyclical downturn risks;

35 D. To increase government revenues from profits generated by the bank to enable tax
36 rate reductions by returning these profits to the Maine Budget Stabilization Fund
37 established in Title 5, section 1532;

38 E. To expand credit, liquidity and the supply of money, increasing local lending
39 within communities and regions that are expanding local businesses;

40 F. To reduce costs paid by instrumentalities and political subdivisions for basic
41 banking services;

- 1 G. To increase profitability of businesses in the State, including community banks,
2 credit unions and financial institutions, by increasing liquidity and reducing the
3 businesses' tax burdens;
- 4 H. To increase economic activity, augment job creation, raise business and farm
5 access to capital and expand local enterprises;
- 6 I. To offer programs to renovate and reoccupy derelict vacant properties, improving
7 the attractiveness and vitality of communities in the State;
- 8 J. To provide programs to develop commercial and industrial enterprises that do not
9 harm the environment, raise carbon emissions or increase the rate of climate change;
- 10 K. To expand natural resource-based enterprises, including farming, forestry,
11 fisheries, conservation, aquaculture, ecotourism, clean energy and recreation, and
12 provide working capital loans, farm financing, infrastructure and enterprise
13 incubation resources;
- 14 L. To reduce foreclosures by furnishing capital to refinance mortgage loans at lower
15 interest rates and raising personal incomes and livelihoods;
- 16 M. To provide greater income opportunities and affordable housing availability to
17 enable residents to obtain shelter to reduce homelessness;
- 18 N. To furnish safe depository services for state agencies, instrumentalities and
19 political subdivisions that cannot be confiscated under the provisions of the federal
20 Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203,
21 which allows creditors of failed large banks to seize their customers' deposits if any
22 global systemically important financial institution fails;
- 23 O. To finance medical and dental health enterprises, facilities, equipment,
24 laboratories, training and comprehensive elderly care;
- 25 P. To create and expand socially responsible enterprises that work toward
26 community needs and goals;
- 27 Q. To issue emergency loan relief to enterprises and communities hit by natural
28 disasters, floods, hurricanes or other incidents of unexpected destruction;
- 29 R. To offer, buy, sell and service real estate-backed mortgages on property in the
30 State and secured loans;
- 31 S. To offer community water, sewer, transportation, road, rail, bridge, electrical,
32 cable, broadband, telephone conduit and public utility loans and other infrastructure
33 financing;
- 34 T. To lessen stress on those who have to pay college loans by offering college debt
35 refinancing at lower rates for Maine residents;
- 36 U. To reduce the tax burden of debt service costs to pay for capital improvements by
37 issuing and refinancing debt at lower interest rates;
- 38 V. To lower inequality in the concentration of wealth;
- 39 W. To cut loan delinquency rates by increasing family income;
- 40 X. To provide financial services unavailable in the private sector;

- 1 Y. To capitalize solar energy, wind energy and other renewable energy projects that
2 reduce carbon emissions;
- 3 Z. To provides funds for state lending programs at lower rates;
- 4 AA. To act as a correspondent bank for community banks;
- 5 BB. To increase the credit rating of the State and its citizens by raising funds needed
6 to pay state debts and expanding economic activity and personal income throughout
7 the State; and
- 8 CC. To provide higher returns than commercial banks on investments of taxpayer
9 funds.

10 **§1253. Board of directors; duties and powers**

11 **1. Members.** The Maine Green Bank Board of Directors is the bank's governing
12 body and consists of at least 17 members as follows.

13 A. The State Treasurer, the Commissioner of Labor, the Commissioner of Education,
14 the Commissioner of Health and Human Services and the Commissioner of
15 Agriculture, Conservation and Forestry, or their designees, shall serve as ex officio
16 nonvoting members of the board. Ex officio members may vote in the event of a tie
17 vote of other board members.

18 B. At least 12 members appointed by the Governor, subject to review by the joint
19 standing committee of the Legislature having jurisdiction over insurance and
20 financial services matters and to confirmation by the Senate.

21 C. Of the members appointed under paragraph B, the Governor must appoint at least
22 one board member from each of the 16 counties of the State. Ex officio members may
23 be counted as representatives of the county in which they reside at the beginning of
24 their term. The gender and party enrollment of board members must correspond to
25 the gender and party enrollment of the State's population.

26 D. The board shall oversee the operation, management and control of the bank in
27 accordance with this chapter. The board shall designate its chair, vice-chair and
28 secretary and shall determine the location of the bank's offices, which must be within
29 the State. The board may also identify and select other offices and officers among its
30 members to carry out its operations.

31 **2. Meetings; quorum.** The board shall establish the frequency of regular board
32 meetings in bylaws and public notice requirements for meetings through rulemaking
33 under subsection 5. A special meeting may be called at any time upon notice by the
34 Governor or by 5 board members. A majority of board members constitutes a quorum to
35 transact business. At the discretion of the board, meetings may be conducted remotely by
36 telephone or by using audio or video conferencing technology.

37 **3. Appointment of president; employment of officers and agents.** The board shall
38 appoint as president and chief executive officer of the bank a person with extensive
39 banking experience and education. The board may appoint and employ any other
40 subordinate bank officers, employees and agents that it considers necessary, define duties,
41 designate titles and fix compensation. The board may discharge any person appointed and

1 employed under this subsection. Political affiliation may not be a factor in the selection of
2 officers.

3 4. Compensation. Board members are eligible for compensation according to the
4 provisions of Title 5, section 12004-F, subsection 19.

5 5. Rulemaking. The board shall adopt bylaws and operating policies by rule and
6 shall enforce orders necessary to fulfill its functions under this section. Rules adopted
7 pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375,
8 subchapter 2-A.

9 6. Terms. Except ex officio board members, members serve a 5-year term of office.
10 One term of office must end and a new one must begin in January of each calendar year.

11 **§1254. Advisory committee**

12 The Governor shall appoint the Maine Green Bank Advisory Committee, as
13 established in Title 5, section 12004-I, subsection 2-H, subject to review by the joint
14 standing committee of the Legislature having jurisdiction over insurance and financial
15 services matters and confirmation by the Senate.

16 1. Members. The advisory committee consists of 17 members as follows.

17 A. Members must represent the State's financial, business, agricultural and labor
18 sectors.

19 B. At least 2 members must be officers of state-chartered financial institutions.

20 C. Of the members appointed, there must be a resident from each of the counties of
21 the State.

22 2. Officers. The advisory committee shall elect a chair, vice-chair, secretary and
23 other officers considered necessary.

24 3. Terms. Advisory committee members serve a term of office of 5 years.

25 4. Vacancies. If a vacancy occurs on the advisory committee, the Governor shall
26 appoint a successor to fill the unexpired term. The appointment of the successor must be
27 confirmed by the Senate.

28 5. Quorum. A majority of the members of the advisory committee constitutes a
29 quorum.

30 6. Duties. The advisory committee shall:

31 A. Meet with the board to review and make recommendations concerning the bank's
32 operations, finances and loan practices;

33 B. Make recommendations to the board for improving management performance,
34 customer service and internal methods, procedures and operating policies of the bank;

35 C. Make recommendations to the board relating to objectives for bank operations;

36 D. Participate, if needed, on loan committees;

37 E. Accept and discuss grievances, complaints and criticism about operations of the
38 bank, and mediate between the bank and the Governor; and

1 F. Establish bylaws and policies for the advisory committee's operation.
2 7. Compensation. Advisory committee members are eligible for compensation
3 according to the provisions of Title 5, section 12004-I, subsection 2-H.

4 8. Political affiliation. Political affiliation may not be a factor in the selection of the
5 advisory committee.

6 §1255. Powers of the bank

7 1. Deposit of funds. The bank may accept deposits of government funds.

8 2. Accounts. The bank may offer the following types of accounts.

9 A. The bank shall offer demand deposits, or checking accounts, to instrumentalities
10 of the State, individuals, institutions or political subdivisions in the State.

11 B. The bank may issue time deposits, savings accounts or certificates of deposit to
12 instrumentalities of the State, individuals, institutions or political subdivisions in the
13 State.

14 3. Paying of interest. The bank may pay interest on deposits of public funds and
15 may offer other financial products to the Treasurer of State and other public institutions.

16 4. Deposit by the Treasurer of State. The Treasurer of State shall deposit at least
17 30% of the cash in the Treasurer of State's cash pool with the bank and may borrow from
18 it.

19 5. Deposit by instrumentalities. Instrumentalities of the State shall deposit at least
20 a minimum of 30% of their cash in the bank and may borrow from it.

21 6. Deposit by political subdivisions. Political subdivisions may deposit public
22 funds in the bank and may borrow from it.

23 7. Loans. The bank may:

24 A. Make, purchase, guarantee, modify or participate in loans originated by state-
25 chartered financial institutions that are insured or guaranteed in whole or in part by
26 the United States or its agencies or instrumentalities of the State;

27 B. Make, purchase, guarantee, participate in or modify loans to instrumentalities of
28 the State;

29 C. Purchase, guarantee, modify, participate in or hold loans originated by financial
30 institutions authorized to do business in the State; and

31 D. Purchase, guarantee, modify, participate in or hold loans obtained as security
32 pledged for, or originated in restructuring of, any other loan properly originated or
33 participated in by the bank.

34 8. Prohibited activities. The bank may not:

35 A. Finance mergers or acquisition of any profitable active enterprises within or
36 outside the State. The bank may finance the acquisition of local failing or
37 unprofitable enterprises by profitable enterprises within the State only if the resulting
38 enterprises continue to provide income, jobs and tax revenues and serve local
39 communities;

- 1 B. Invest in large real estate development projects that eliminate farmland or forest
2 habitats or tend to cause or increase sprawl;
- 3 C. Merge with any privately owned enterprise or institution;
- 4 D. Fund projects that damage the environment, increase greenhouse gases, increase
5 carbon concentration of the earth's atmosphere or increase acidity, pollution or the
6 temperature of oceans, seas, lakes, rivers or waterways;
- 7 E. Underwrite stores in excess of 40,000 square feet or stores with parking lots not
8 designed for pedestrians or stores on the outskirts of communities that may affect
9 downtown businesses; or
- 10 F. Capitalize projects whose borrowers have histories of human rights abuse or other
11 malfesance.
- 12 **9. Participation interests.** The bank may:
- 13 A. Purchase interests in state-based participation loans made or held by other banks,
14 other financial institutions or other entities that meet underwriting standards accepted
15 by state or federal financial regulatory agencies; and
- 16 B. Make participation loans to qualified entities doing business in this State when the
17 loan originator is a private financial institution.
- 18 **10. Investments.** The bank shall invest its funds in conformity with the policies of
19 the board and investment standards in Title 5, chapter 7. To avoid financial distress to
20 state community banks during start-up operation of the bank, the bank may redeposit
21 funds in state community depository banks to replace those deposits removed by
22 instrumentalities of the State or the Treasurer of State to move state funds into the bank.
- 23 **11. Bonds.** The bank may issue bonds or other financial securities, except
24 derivatives.
- 25 **12. Property.** The bank may lease, assign, sell, exchange, transfer, convey, grant,
26 pledge or mortgage real and personal property.
- 27 **13. Services to other banks.** The bank may:
- 28 A. Act as a correspondent bank or custodian bank for financial institutions
29 authorized to do business in this State and accept deposits from the financial
30 institutions in connection with this function;
- 31 B. Issue bank stock loans to financial institutions authorized to do business in this
32 State;
- 33 C. For financial institutions that make the bank a reserve depository, perform
34 functions and render services of a clearinghouse, functions for providing domestic
35 and foreign exchange and rediscount notes on terms prescribed by the board; and
- 36 D. Act as a fiduciary for individuals, institutions, municipalities and instrumentalities
37 within the State.
- 38 **14. Other powers.** The bank may exercise other powers granted or implied in this
39 chapter.

1 **§1256. Transfer to Maine Budget Stabilization Fund**

2 As soon as possible after the end of each calendar year, the board shall determine the
3 amount of income, if any, earned by the bank in excess of the amount necessary to pay
4 for the expenses of administering bank operations for transfer to the Maine Budget
5 Stabilization Fund established in Title 5, section 1532.

6 **§1257. Oversight; rules and examination**

7 **1. Rule-making authority.** The board shall adopt rules to:

8 A. Ensure the soundness and safety of the bank reflecting standards set forth in 12
9 Code of Federal Regulations, Part 364 (2014);

10 B. Specify the bank's powers and permissible investments and activities;

11 C. Specify services that the bank may provide;

12 D. Describe limits for loans and other obligations the bank undertakes; and

13 E. Establish stipulations that the board considers necessary to administer the bank
14 under this chapter and to accomplish the purposes listed in section 1252.

15 Prior to their adoption by the board, rules must be approved by the advisory committee.
16 Rules adopted under this subsection are major substantive rules as defined in Title 5,
17 chapter 375, subchapter 2-A.

18 **2. Examination.** The bureau shall examine the bank at least once each calendar
19 quarter to ensure that the bank is complying with rules adopted under subsection 1. The
20 bureau shall report results of an examination to the board, advisory committee,
21 Legislature and the Commissioner of Administrative and Financial Services. The bureau's
22 report is a public record pursuant to Title 1, chapter 13.

23 **3. Audit.** The board shall employ a certified public accountant to internally audit
24 and provide comprehensive consolidated annual financial reports of the bank's operations
25 in accordance with generally accepted accounting principles. The State Auditor shall
26 audit the bank at least once per year.

27 **4. Annual report.** Beginning July 1, 2020 and annually thereafter, the bank shall
28 report to the Governor and the Legislature on the financial condition and performance of
29 the bank and provide an analysis of the bank's effect on the State to ensure that it is
30 consistent with the bank's purposes set forth in section 1252, particularly the bank's effect
31 on job creation and economic development.

32 **§1258. Use of name; execution of instruments**

33 Activities of the bank must be conducted under and title to property of the bank must
34 be obtained and conveyed as: "State of Maine doing business as Maine Green Bank."
35 Within the scope of authority granted by the board, the president of the bank may execute
36 instruments on behalf of the bank, including any instrument granting, conveying or
37 affecting interest in, or lien upon, real or personal property. Officers, employees or
38 agents of and legal counsel to the bank may execute instruments on behalf of the bank
39 when authorized by the board.

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§1259. Exemption from taxation

Notwithstanding any other provision of law, transactions, funds and property of the bank are exempt from taxation within the State.'

SUMMARY

This amendment is the minority report and replaces the bill. The amendment establishes the Maine Green Bank, specifies its purposes, establishes its board of directors and creates its advisory committee. It allows the Maine Green Bank to accept deposits of public funds, make loans and operate as a bank. It directs the Treasurer of State and instrumentalities to deposit public funds into the Maine Green Bank.

The amendment provides for a quarterly examination of the Maine Green Bank by the Department of Professional and Financial Regulation, Bureau of Financial Institutions and an annual audit by the State Auditor. The amendment also provides that the Maine Green Bank is exempt from taxation as a state entity.

FISCAL NOTE REQUIRED

(See attached)



128th MAINE LEGISLATURE

LD 237

LR 834(02)

An Act To Establish a State Bank

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Insurance and Financial Services

Fiscal Note Required: Yes

(S-12)

Fiscal Note

Potential future biennium revenue decrease - All Funds

Fiscal Detail and Notes

This legislation establishes the Maine Green Bank and requires a number of instrumentalities of the State to deposit a minimum of 30% of their cash into the new entity. Requiring such deposits into the Maine Green Bank may, and in the opinion of some of these instrumentalities will, result in lower investment earnings on the deposits and a potential increase in borrowing costs to such institutions as the Office of Treasurer of State, the Finance Authority of Maine, the University of Maine, the Maine Community College System, the Maine Technology Institute, the Maine State Housing Authority and other instrumentalities of the State. At this time it cannot be determined what the rates of return and the costs of the new bank will likely be. The largest potential impact on the General Fund would be from the Office of Treasurer of State. In addition to lower earnings rates on investments, the Treasurer has indicated her additional concern of an increased risk of losing principal.

This bill projects to require an Other Special Revenue Funds allocation of \$108,019 in fiscal year 2019-20 and of \$110,465 in fiscal year 2020-21 to the Department of Professional and Financial Regulation to hire and outfit one additional Senior Bank Examiner to manage the increased workload.

Additional costs to the Departments of Labor, Education, Health and Human Services, the Office of the State Treasurer and the Department of Agriculture, Conservation and Forestry to serve as ex-officio members of the Maine Green Bank Board of Directors can be absorbed within each agency's existing budgeted resources.