

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 237

S.P. 83

In Senate, January 26, 2017

An Act To Establish a State Bank

Reference to the Committee on Insurance and Financial Services 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 MIRAMANT of Knox.

Cosponsored by Representative CASÁS of Rockport, Representative MOONEN of Portland and

Senators: CARPENTER of Aroostook, CYRWAY of Kennebec, DAVIS of Piscataquis, DESCHAMBAULT of York, Representatives: SCHNECK of Bangor, SPEAR of South Thomaston.

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

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

3 **19.**

4 Maine Street Bank, Board of Expenses Only 9-B MRSA §1253
5 Directors

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

7 **2-H.**

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

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

11 **CHAPTER 125**

12 **MAINE STREET BANK**

13 **§1251. Definitions**

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

16 **1. Advisory committee.** "Advisory committee" means the Maine Street Bank
17 Advisory Committee under section 1254.

18 **2. Bank.** "Bank" means the Maine Street Bank established in section 1252.

19 **3. Board.** "Board" means the Board of Directors of the Maine Street Bank under
20 section 1253.

21 **4. Participation loan.** "Participation loan" means a loan in which one or more than
22 one bank, bank holding company, state-chartered or federally chartered financial
23 institution, any other financial institution or any other entity that provides financial
24 services participates pursuant to a written agreement with the originator of the loan.

25 **5. Public funds.** "Public funds" means funds under the control or in the custody of a
26 public official by virtue of office.

27 **§1252. Bank established; purposes**

28 The Maine Street Bank is established and is a public body corporate and politic and
29 an instrumentality of the State. The bank is established for the following purposes:

1 **1. Economic development.** To support job creation in and the economic
2 development of the State by increasing access to capital for businesses and farms within
3 the State in partnership with local financial institutions;

4 **2. Financial stability.** To provide stability to the State's financial sector, but not to
5 compete with state-chartered financial institutions, credit unions or other financial
6 institutions;

7 **3. Basic banking services.** To reduce costs paid by the State for basic banking
8 services; and

9 **4. Return profits.** To return profits, beyond the revenue needed to accomplish the
10 purposes and for continued sound operation of the bank, to the Maine Budget
11 Stabilization Fund established in Title 5, section 1532.

12 **§1253. Board; duties and powers**

13 **1. Members.** The Board of Directors of the Maine Street Bank, as established in
14 Title 5, section 12004-F, subsection 19, consists of 5 voting members appointed by the
15 Governor and subject to approval by the joint standing committee of the Legislature
16 having jurisdiction over appropriations and financial affairs and confirmation by the
17 Senate. The Treasurer of State and the Commissioner of Administrative and Financial
18 Services serve as ex officio nonvoting members of the board. The board shall oversee the
19 operation, management and control of the bank in accordance with this chapter. The
20 board shall designate one of its members as chair and shall determine the location of the
21 bank's main office and maintain places of business of the bank.

22 **2. Meetings; quorum.** The board shall establish the frequency of regular board
23 meetings in bylaws and public notice requirements for meetings through rulemaking
24 under subsection 5. A special meeting may be called at any time upon notice by the
25 Governor or by 3 members of the board. Three voting members constitute a quorum and
26 may transact business and exercise all rights, duties and powers of the board.

27 **3. Appointment of president; employment of officers and agents.** The board shall
28 appoint a person with extensive experience in banking as the president of the bank. The
29 board may appoint and employ any subordinate officers, employees and agents that the
30 board considers necessary and shall define the duties, designate the titles and fix the
31 compensation of all those positions.

32 The board may designate the president or another officer or employee as its agent with
33 respect to the functions of the bank, subject to the supervision, limitation and control of
34 the board. The board may discharge any person appointed and employed under this
35 subsection.

36 **4. Compensation.** Board members serve without compensation except that
37 members may be reimbursed for travel expenses associated with their duties under this
38 chapter.

39 **5. Rulemaking.** The board, through rulemaking, shall adopt bylaws and operating
40 policies and shall enforce orders necessary to fulfill its functions under this section.

1 Rules adopted under this subsection are routine technical rules as defined in Title 5,
2 chapter 375, subchapter 2-A.

3 **§1254. Advisory committee**

4 The board shall appoint the Maine Street Bank Advisory Committee, as established in
5 Title 5, section 12004-I, subsection 2-H, to actively enlist the help of private enterprise
6 and encourage use of the bank.

7 **1. Members.** The advisory committee consists of 7 members and must include:

8 A. Representatives of the State's financial, business, agricultural and labor sectors;
9 and

10 B. At least 2 officers of state-chartered financial institutions that do not maintain
11 offices outside the State.

12 **2. Officers.** The board shall appoint a chair, vice-chair and secretary for the
13 advisory committee from the members of the advisory committee.

14 **3. Terms.** Advisory committee members serve a term of office of 4 years.

15 **4. Vacancies.** If a vacancy occurs on the advisory committee, the board shall
16 appoint a successor to fill the unexpired term.

17 **5. Quorum.** A majority of the members of the advisory committee constitutes a
18 quorum.

19 **6. Duties.** The advisory committee shall:

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

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

24 C. Make recommendations to the board relating to the establishment of objectives
25 for the operation of the bank;

26 D. Make recommendations to the board concerning the appointment of officers of
27 the bank; and

28 E. Participate on loan committees.

29 **7. Compensation.** Advisory committee members serve without compensation
30 except that members may be reimbursed for travel expenses associated with their duties
31 under this chapter.

32 **§1255. Deposit of funds**

33 The bank may accept deposits of public funds. Except as provided in section 1256,
34 the bank may not accept deposits of private funds. All income earned by the bank on
35 public funds must be credited to and becomes a part of the revenues and income of the
36 bank.

1 **1. Paying of interest.** The bank shall pay interest on deposits of public funds at a
2 rate comparable to rates paid by private depositories of public funds and may offer other
3 financial products to the Treasurer of State on a competitive basis.

4 **2. Deposit by the Treasurer of State.** The Treasurer of State shall deposit with the
5 bank 50% of the funds in the State Treasury according to Title 5, section 130 no later than
6 December 31, 2022, 75% of these funds no later than December 31, 2027 and 100% of
7 these funds no later than December 31, 2032.

8 **3. Investment by Maine Public Employees Retirement System.** The bank may
9 accept funds from the Maine Public Employees Retirement System pursuant to section
10 1257.

11 **§1256. Powers of the bank**

12 **1. Loans.** The bank may:

13 **A. Make loans to and purchase, guarantee, modify or hold loans originated by state-**
14 **chartered financial institutions;**

15 **B. Make, purchase, guarantee, modify or hold loans:**

16 **(1) That are insured or guaranteed in whole or in part by the United States or its**
17 **agencies or instrumentalities; and**

18 **(2) Obtained as security pledged for, or originated in the restructuring of, any**
19 **other loan properly originated or participated in by the bank;**

20 **C. Make loans to and purchase, guarantee, modify or hold loans of instrumentalities**
21 **of this State; and**

22 **D. Purchase, guarantee, modify or hold loans originated by financial institutions**
23 **authorized to do business in this State.**

24 **Except as provided in subsection 2, paragraph B, the bank may not make loans to any**
25 **private individual or legal entity.**

26 **2. Participation interests.** The bank may:

27 **A. Purchase participation interests in loans made or held by banks, bank holding**
28 **companies, state-chartered or federally chartered financial institutions, any other**
29 **financial institutions or any other entity that provides financial services and that**
30 **meets underwriting standards that are generally accepted by state or federal financial**
31 **regulatory agencies; and**

32 **B. Make loans in the form of participation loans to qualified persons residing in or**
33 **doing business in this State if the originator of the loan is a private financial**
34 **institution.**

35 **3. Investments.** The bank shall invest its funds in conformity with policies of the
36 board and the investment standards in Title 5, chapter 7.

37 **4. Federal bonds.** The bank may buy and sell federal bonds.

1 **5. Corporate bonds.** The bank may issue corporate bonds.

2 **6. Property.** The bank may lease, assign, sell, exchange, transfer, convey, grant,
3 pledge or mortgage all real and personal property to which the bank has, in any manner,
4 acquired title.

5 **7. Services to other banks.** The bank may:

6 A. Act as a custodian bank for financial institutions authorized to do business in this
7 State and accept deposits from the financial institutions in connection with this
8 function;

9 B. Issue bank stock loans to financial institutions authorized to do business in this
10 State; and

11 C. For financial institutions that make the bank a reserve depository, perform the
12 functions and render the services of a clearinghouse, including all functions for
13 providing domestic and foreign exchange and rediscount notes, on terms prescribed
14 by the board.

15 **8. Reserves.** The bank may hold reserves in the form of gold or silver bullion.

16 **9. Other powers.** The bank may perform all acts and do all things necessary,
17 convenient, advisable or desirable to carry out the powers expressly granted or
18 necessarily implied in this chapter through or by means of its president, officers, agents or
19 employees or by contracts with any person, firm or corporation.

20 **§1257. Investment by Maine Public Employees Retirement System authorized**

21 **1. Investment authorized.** The Maine Public Employees Retirement System,
22 referred to in this section as "the retirement system," may invest funds in the bank in the
23 exercise of its discretion and consistent with its fiduciary duties to the beneficiaries of the
24 retirement system. This subsection does not mandate or require any investment by the
25 retirement system or give the retirement system any responsibilities in the governance
26 and oversight of the bank.

27 **2. Investment restrictions.** The retirement system may not invest more than
28 \$20,000,000 in the bank.

29 **3. Disclosure of investment.** The retirement system shall make available to the
30 public the following information with respect to any investment in the bank pursuant to
31 this section:

32 A. The amount of the retirement system's total investment in the bank;

33 B. The date of the investment; and

34 C. The rate of interest paid on the investment by the bank in accordance with section
35 1255, subsection 1.

1 **§1258. Transfer to Maine Budget Stabilization Fund**

2 Except as provided in Title 5, section 1533, as soon as possible after the end of each
3 calendar year, the board shall determine the amount of income, if any, earned by the bank
4 in that prior calendar year that is in excess of amounts necessary to pay for expenses of
5 administering the activities of the bank less any reserves required pursuant to rules
6 adopted in accordance with section 1259, subsection 1, paragraph E for delinquencies and
7 future business and payment of debts from any initial funding. The amount of the excess
8 must be transferred to the Maine Budget Stabilization Fund established in Title 5, section
9 1532.

10 **§1259. Rulemaking; oversight**

11 **1. Rule-making authority.** The bank shall adopt rules to:

12 A. Ensure the safety and soundness of the bank that, to the extent possible, reflect
13 applicable standards for safety and soundness set forth in 12 Code of Federal
14 Regulations, Part 364 (2016);

15 B. Specify the bank's powers and permissible investments and activities consistent
16 with section 1256;

17 C. Specify services that the bank may provide;

18 D. Specify limits for loans and other obligations the bank makes or undertakes;

19 E. Specify reserve requirements; and

20 F. Set requirements that the board considers necessary to administer the bank under
21 this chapter and to accomplish the purposes listed in section 1252.

22 Rules adopted under this subsection are major substantive rules as defined in Title 5,
23 chapter 375, subchapter 2-A.

24 **2. Examination and report.** The bureau shall examine the bank at least once each
25 calendar quarter to verify and ensure that the bank is complying with the rules adopted
26 under subsection 1. The bureau shall report the results of the examination to the board
27 and to the Commissioner of Administrative and Financial Services. The bureau's report
28 is a public record subject to disclosure.

29 **3. Audit.** The State Auditor shall audit the accounts and financial affairs of the
30 bank at least once every 2 years.

31 **4. Annual report; performance measures.** Beginning July 1, 2020 and annually
32 thereafter, the bank shall report to the Governor and the Legislature on the financial
33 condition and performance of the bank and provide an analysis of the bank's effect on the
34 State consistent with the bank's purposes set forth in section 1252, particularly the bank's
35 effect on job creation and economic development.

1 the bank on public funds must be credited to and becomes a part of the revenues and
2 income of the bank.

3 **4. Audit.** The State Auditor shall audit the accounts and financial affairs of a public
4 bank established pursuant to this section at least once every 2 years.

5 **5. Rules.** The bureau shall adopt rules, which are routine technical rules as
6 described in Title 5, chapter 375, subchapter 2-A, governing the operation and
7 examination of public banks established pursuant to this section.

8 **Sec. 5. Treasurer of State, Commissioner of Administrative and**
9 **Financial Services and Chief Executive Officer of the Finance Authority of**
10 **Maine to make recommendations.** No later than January 15, 2018, the Treasurer of
11 State, the Commissioner of Administrative and Financial Services and the Chief
12 Executive Officer of the Finance Authority of Maine, in consultation with the Attorney
13 General, shall submit a report to the Joint Standing Committee on Appropriations and
14 Financial Affairs with recommendations for implementing the Maine Street Bank, as
15 established in the Maine Revised Statutes, Title 9-B, chapter 125 and referred to in this
16 section as "the bank." The report must include:

17 1. A draft of any legislation needed to amend the Constitution of Maine to authorize
18 the State to establish the bank;

19 2. A recommendation on the amount of money needed to adequately capitalize the
20 bank;

21 3. A draft of any legislation needed to transfer funds to the bank;

22 4. A description and draft of statutory changes needed to fully use the resources and
23 powers of the bank, to eliminate any duplication of efforts or conflict with the authority
24 or responsibilities of the Maine Municipal Bond Bank and any other state agencies and to
25 merge the Finance Authority of Maine into the bank. The statutory changes must provide
26 that programs and services offered by the Finance Authority of Maine must continue to
27 be offered by the bank and rights and obligations of the Finance Authority of Maine must
28 be assigned to the bank;

29 5. Recommendations for guaranteeing funds deposited in the bank;

30 6. Recommendations pertaining to the liability of the State and the bank in civil
31 actions; and

32 7. Recommendations regarding the confidentiality of certain records held by the
33 bank.

34 **Sec. 6. Initial appointments.** Notwithstanding the Maine Revised Statutes, Title
35 9-B, section 1254, subsection 3, of the initial appointments to the Maine Street Bank
36 Advisory Committee, one member must be appointed for a one-year term, 2 members
37 must be appointed for a 2-year term, 2 members must be appointed for a 3-year term and
38 2 members must be appointed for a 4-year term.

