

MAINE STATE LEGISLATURE

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N I N E T Y - F I R S T L E G I S L A T U R E

Legislative Document

No. 576

H. P. 1111

House of Representatives, February 17, 1943.

Referred to Committee on Judiciary, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Cross of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-THREE

AN ACT Relating to the Financing of Public Works.

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

Sec. 1. Revenue producing public works; method of financing. Any town may provide for constructing, acquiring, purchasing, extending or improving any revenue-producing public works, including utilities, to be financed by the issuance of mortgage bonds to be retired out of revenue from such public works. Any indebtedness created pursuant to sections 2 to 6 of this act shall not be considered an indebtedness of such town within the meaning of Article XXXIV of the constitution of Maine.

Sec. 2. Issuance of bonds; mode of payment. Where payment is provided by mortgage bonds, the procedure for payment shall be in the manner following: The town shall order the issuance and sale of bonds bearing interest at a rate not exceeding 6% per annum, payable semiannually, executed by the municipal officers and payable at such times not exceeding 40 years from the date thereof, and at such places, as the town shall determine, which bonds shall be payable only out of the said special redemption fund. Each such bond shall state plainly upon its face that it is payable only from the said special redemption fund, and that it does not constitute

an indebtedness of such municipality. The said bonds may be issued either as registered bonds or as coupon bonds payable to bearer. Coupon and bearer bonds may be registered as to principal in the holder's name on the books of such town, such registration being noted on the bond by the treasurer or other designated officer, after which no transfer shall be valid unless made on the books of such town by the registered holder and similarly noted on the bond. Any bond so registered as to principal may be discharged from such registration by being transferred to bearer after which it shall be transferable by delivery but may be again registered as to principal as before. The registration of the bonds as to the principal shall not restrain the negotiability of the coupons by delivery merely, but the coupons may be surrendered and the interest made payable only to the registered holder of the bonds. If the coupons be surrendered, the surrender and cancellation thereof shall be noted on the bond and thereafter interest on the bond shall be payable to the registered holder or order in cash or at his option by check or draft payable at the place or one of the places where the coupons were payable. Such bonds shall be sold in such manner and upon such terms as the municipal officers shall deem for the best interests of said town; provided, however, that if such bonds are issued bearing interest at the rate of 6% per annum, they shall not be sold for less than par; if issued bearing a lower rate than 6% per annum, they may be sold at less than par, provided always that the selling price is such that the interest cost to the municipality for the funds representing the proceeds of said bonds computed to maturity according to standard tables of bond values shall not exceed 6% per annum. All bonds shall mature serially commencing not later than 3 years after the date of issue in such amounts that the requirement each year to pay both principal and interest will be as nearly equal as practicable. All such bonds may contain a provision authorizing redemption thereof, in whole or in part, at stipulated prices, at the option of the town on any interest payment date after 3 years from the date of the bonds, and shall provide the method of selecting the bonds to be redeemed. The town may provide in any contract for purchasing, acquiring, constructing, extending, improving, a revenue-producing public works, that payment thereof shall be made in such bonds at not less than 95% of the par value thereof.

Sec. 3. Lien of bond on public works. All moneys received from any bonds issued pursuant hereto shall be applied solely for purchasing, acquiring, constructing, extending, or improving a revenue-producing public works, and in the payment of the cost of any subsequent necessary additions, improvements and extensions, and there shall be and there is hereby

granted and created a statutory mortgage lien upon the public works to the holders of the said bonds and to the holders of the coupons of said bonds. The public works shall remain subject to such statutory mortgage lien until the payment in full of the principal and interest of the bonds. Any holder of the said bonds or of any coupons attached thereto may either at law or in equity protect and enforce the statutory mortgage lien hereby conferred, and compel performance of all duties required by this subsection of the town. If there be any default in the payment of the principal or interest of any of the said bonds, any court having jurisdiction of the action may appoint a receiver to administer the said public works on behalf of the said town, and the said bondholders, with power to charge and collect rates lawfully established sufficient to provide for the payment of the operating expenses and also to pay any bonds or obligations outstanding against said public works, and to apply the income and revenues thereof in conformity with this statute and the said ordinance, or the said court may declare the whole amount of said bonds due and payable and may order and direct the sale of the said public works. Under any sale so ordered, the purchaser shall be vested with an indeterminate permit to maintain and operate the said public works. Any town may provide for additions, extensions and improvements to a public works owned by said town by additional issue of bonds in the manner herein provided; but such additional issue or issues of bonds shall be subordinate to all prior issues of bonds which may have been made hereunder. Any town may issue new bonds in the manner herein provided and secured in the same manner, to provide funds for the payment of the principal and interest of any bonds then outstanding.

Sec. 4. Distribution of revenue from public works. As accurately as possible in advance, said town shall by ordinance fix and determine (a) the proportion of the revenues of such public works which shall be necessary for the reasonable and proper operation and maintenance thereof; (b) the proportion of the said revenues which shall be set aside as a proper and adequate depreciation fund; and (c) the proportion of the said revenues which shall be set aside and applied to the payment of the principal and interest of the bonds herein authorized and shall set the same aside in separate funds. At any time after 1 year's operation, the town may recompute the proportion of the revenues which shall be assignable as provided above based upon the experience of operation or upon the basis of further financing.

Sec. 5. Depreciation fund. The proportion set aside to the depreciation fund shall be expended in making good depreciation either in said

public works or in new constructions, extensions or additions. Any accumulations of such depreciation fund may be invested, and if invested, the income from the investment shall be carried in the depreciation fund.

Sec. 6. Bond redemption fund. The proportion which shall be set aside for the payment of the principal and interest of the bonds herein authorized shall from month to month as the same shall accrue and be received, be set apart and paid into a special fund in the treasury of the said municipality to be identified as "the.....special redemption fund."