

# MAINE STATE LEGISLATURE

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NEW DRAFT OF S. P. 84—L. D. 191 (NEW TITLE)

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

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**Legislative Document**

**No. 1518**

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S. P. 578

In Senate, April 24, 1953

Reported by Senator Reid of Kennebec from the Committee on Judiciary  
and ordered printed under Joint Rules No. 10.

CHESTER T. WINSLOW, Secretary

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**STATE OF MAINE**

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-THREE

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**AN ACT to Confer Additional Powers Upon Municipalities in the State  
of Maine in Relation to Parking Facilities.**

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

**R. S., c. 80, §§ 89-A - 89-R, additional.** Chapter 80 of the revised statutes is hereby amended by adding thereto 18 new sections, to be numbered 89-A to 89-R, inclusive, to read as follows:

‘Parking Facilities

‘Sec. 89-A. Declaration of public necessity. It is hereby determined and declared that the free circulation of traffic of all kinds through the streets of the municipalities in the state is necessary to the health, safety and general welfare of the public, whether residing in such municipalities or travelling to, through or from such municipalities in the course of lawful pursuits; that in recent years the greatly increased use by the public of motor vehicles of all kinds has caused serious traffic congestion in the streets of such municipalities; that the parking of motor vehicles in the streets has contributed to this congestion to such an extent as to constitute a the presen time a public nuisance; that such parking prevents the free circulation of traffic in, through and from such municipalities, impedes the rapid and effective fighting of fires and disposition of police forces, threatens irreparable loss in values of urban property which can no longer be

readily reached by vehicular traffic, and endangers the health, safety and welfare of the general public; that this traffic congestion is not capable of being adequately abated except by provision for sufficient off-street parking facilities; that adequate off-street parking facilities have not been provided and parking spaces now existing must be forthwith supplemented by off-street parking facilities provided by public undertaking; and that the enactment of the provisions of sections 89-A to 89-R, inclusive, is hereby declared to be a public necessity.

Sec. 89-B. Definition. As used in sections 89-A to 89-R, inclusive, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

The word "municipality" shall mean any city or town in the state, whether incorporated by special act of the legislature or under the general laws of the state, which may desire to finance parking facilities under the provisions of sections 89-A to 89-R, inclusive.

The term "governing body" shall mean the city council of a city or the board of selectmen of a town or any other board or body of a city or town vested with similar powers.

The words "parking facilities" shall mean and shall include lots, garages, parking terminals or other structures either single or multilevel and either at, above or below the surface for the off-street parking of motor vehicles, open to public use for a fee, including, but without limiting the generality of the foregoing, terminal facilities for trucks and busses, facilities for servicing motor vehicles and for the sale of gasoline, oil and other accessories, waiting rooms, lockers, space for concessions, stores and offices catering primarily to those using such parking facilities or necessary to the financing of such parking facilities, and all facilities appurtenant thereto and all property, rights, easements and interests relating thereto which are deemed necessary for the construction or the operation thereof.

The word "cost" as applied to parking facilities or to extension or additions thereto shall include the cost of acquisition, construction or reconstruction, the cost of all labor, materials, machinery and equipment, the cost of all lands, property, rights, easements and interests acquired by the municipality for such parking facilities or the operation thereof, the cost of demolishing or removing any building or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, financing charges, interest prior to and during construction and, if deemed advisable by the governing body, for 1 year after completion of construction, cost of engineering and legal services, plans,

specifications, surveys and estimates of cost and of revenues, administrative expense, and such other expense as may be necessary or incident to such acquisition, construction or reconstruction, the financing thereof and the placing of the parking facilities in operation. Any obligation or expenses incurred by the governing body in connection with any of the foregoing items of cost may be regarded as a part of such cost and reimbursed to the governing body out of the proceeds of revenue bonds issued under the provisions of sections 89-A to 89-R, inclusive.

Sec. 89-C. General grant of powers. The governing body of any municipality in the state is hereby authorized and empowered:

I. to acquire, construct, reconstruct, equip, improve, extend, enlarge, maintain, repair and operate parking facilities within the corporate limits of such municipality;

II. to issue revenue bonds of the municipality as hereinafter provided to pay the cost of such acquisition, construction, reconstruction, equipment, improvement, extension or enlargement;

III. to issue revenue refunding bonds of the municipality as hereinafter provided to refund any revenue bonds then outstanding which shall have been issued under the provisions of sections 89-A to 89-R, inclusive;

IV. to establish and revise from time to time and to collect rates, rentals, fees and other charges for the services and facilities furnished by such parking facilities, and to establish and revise from time to time regulations in respect of the use, operation and occupancy of such parking facilities or part thereof;

V. to accept from any authorized agency of the federal government loans or grants for the planning, construction or acquisition of any parking facilities and to enter into agreements with such agency respecting any such loans or grants, and to receive and accept aid and contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such loans, grants or contributions may be made;

VI. to acquire in the name of the municipality, either by gift, purchase or the exercise of the right of eminent domain, such lands and rights and interests therein, and to acquire such personal property, as it may deem necessary in connection with the construction, reconstruction, improvement, extension, enlargement or operation of any parking facilities, and to hold and dispose of all real and personal property under its control;

VII. to lease all or any part of such parking facilities upon such terms and conditions and for such term of years as it may deem advisable to carry out the provisions of sections 89-A to 89-R, inclusive;

VIII. to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under sections 89-A to 89-R, inclusive, including a trust agreement or trust agreements securing any revenue bonds issued hereunder, and to employ such engineers, attorneys, accountants, construction and financial experts, superintendents, managers and other employees and agents as it may deem necessary, and to fix their compensation; provided, however, that all such expenses shall be payable solely from funds made available under the provisions of sections 89-A to 89-R, inclusive; and

IX. to do all acts and things necessary or convenient to carry out the powers expressly granted in sections 89-A to 89-R, inclusive.

Sec. 89-D. Issuance of revenue bonds. The governing body of any municipality in the state is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of revenue bonds of the municipality for the purpose of paying the cost of acquiring, constructing, reconstructing, equipping, improving, extending or enlarging any one or more parking facilities; provided, however, that no bonds of a town shall be issued until their issuance shall first have been approved by the vote of a majority of the inhabitants of such town voting on the question of such issuance at an annual or special town meeting. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates, and shall bear interest at such rate or rates not exceeding 5% per annum, as may be determined by the governing body, and may be made redeemable before maturity, at the option of the municipality, at such price or prices and under such terms and conditions as may be fixed by the governing body prior to the issuance of the bonds. The governing body shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. In case any officer whose signature or facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of sections 89-A to 89-R, inclusive, or any recitals in any bonds issued under the provisions of sections 89-A to 89-R,

inclusive, all such bonds shall be deemed to be negotiable instruments under the laws of this state. The bonds may be issued in coupon or registered form or both, as the governing body may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The governing body may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the municipality, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than 5% per annum, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized, and shall be disbursed in such manner and under such restrictions, if any, as the governing body may provide in the authorizing resolution or in any trust agreement. If the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the governing body may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the governing body may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The governing body may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued under the provisions of sections 89-A to 89-R, inclusive, without obtaining the consent of any commission, board, bureau or agency of the state or of the municipality, and without any other proceeding or the happening of any other condition or thing than those proceed-

ings, conditions or things which are specifically required by sections 89-A to 89-R, inclusive.

Revenue bonds issued under the provisions of sections 89-A to 89-R, inclusive, shall not be deemed to constitute a debt of the municipality or a pledge of the faith and credit of the municipality, but such bonds shall be payable solely from the funds herein provided therefor, and a statement to that effect shall be recited on the face of the bonds.

Sec. 89-E. Revenues. The governing body shall fix the initial schedule of rates, rentals, fees and other charges for the use of, and for the services and facilities furnished or to be furnished by, the parking facilities. After any parking facilities shall have been in operation the governing body may revise such schedule of rates, rentals, fees and charges from time to time. Such rates, rentals, fees and charges shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the municipality or of the state, and the municipality shall charge and collect the rates, rentals, fees and charges so fixed and revised. Such rates, rentals, fees and charges shall be so fixed and revised as to provide funds sufficient at all times to pay the cost of maintaining, repairing and operating the parking facilities, including reserves for such purposes, and to pay the principal of and the interest on the revenue bonds as the same become due and reserves therefor.

Sec. 89-F. Application of revenues. The resolution authorizing the issuance of revenue bonds under the provisions of sections 89-A to 89-R, inclusive, or any trust agreement securing such bonds, may provide that all or a sufficient amount of the revenues derived from parking facilities, after providing for the payment of the cost of maintenance, repair and operation and reserves therefor as may be provided in such resolution or trust agreement, shall be set aside at such regular intervals as may be provided in such resolution or trust agreement and deposited to the credit of a sinking fund for the payment of the interest on and principal of revenue bonds issued under the provisions of sections 89-A to 89-R, inclusive, as the same shall become due and the redemption price or purchase price of bonds retired by call or purchase. The use and disposition of moneys to the credit of such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of the revenue bonds or in the trust agreement securing such bonds and, except as may otherwise be provided in such resolution or trust agreement, such sinking fund shall be a fund for the benefit of all bonds without distinction or priority of one over another.

**Sec. 89-G. Parking meters.** The governing body of any municipality in the state is hereby authorized to install parking meters, or cause the same to be installed, at or near the curbs of the streets within the municipality and to adopt such regulations and impose such charges in connection with any parking meters heretofore or hereafter installed as it may deem advisable. The governing body is further authorized to pledge to the payment of such revenue bonds all or any part of the revenues derived from such parking meters.

**Sec. 89-H. Pledges and covenants; trust agreement.** In the discretion of the governing body of any municipality, each or any issue of revenue bonds may be secured by a trust agreement by and between the municipality and a corporate trustee, which may be any trust company within or without the state. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received, but shall not convey or mortgage any parking facilities or any part thereof, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the municipality and the governing body in relation to the acquisition, construction, reconstruction, improvement, maintenance, repair, operation and insurance of the parking facilities, the fixing and revising of rates, rentals, fees and charges, and provisions for the custody, safeguarding and application of all moneys, and for the employment of consulting engineers in connection with such acquisition, construction, reconstruction or operation. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and the trustee, if any, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the governing body may deem reasonable and proper for the security of the bondholders. Except as in sections 89-A to 89-R, inclusive, otherwise provided the governing body may provide for the payment of the proceeds of the sale of the bonds and the revenues to such officer, board or depository as it may designate for the custody thereof, and for the method of disbursements thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

All pledges of revenues under the provisions of sections 89-A to 89-R, inclusive, whether derived from parking facilities or parking meters, shall be valid and binding from the time when such pledge is made; all such rev-



enues so pledged and thereafter received by the municipality shall immediately be subject to the lien of such pledges without any physical delivery thereof or further act, and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the municipality, irrespective of whether such parties have notice thereof.

**Sec. 89-I. Trust funds.** Notwithstanding the provisions of any other law, all moneys received pursuant to the authority of sections 89-A to 89-R, inclusive, shall be deemed to be trust funds, to be held and applied solely as provided in sections 89-A to 89-R, inclusive. The resolution authorizing the issuance of bonds or the trust agreement securing such bonds shall provide that any officer to whom, or bank, trust company or other fiscal agent to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as sections 89-A to 89-R, inclusive, and such resolution or trust agreement may provide.

**Sec. 89-J. Remedies.** Any holder of revenue bonds issued under the provisions of sections 89-A to 89-R, inclusive, or of any of the coupons appertaining thereto, and the trustee under any trust agreement securing such bonds, except to the extent the rights herein given may be restricted by the authorizing resolution or by such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolution or trust agreement and may enforce and compel the performance of all duties required by sections 89-A to 89-R, inclusive, or by such resolution or trust agreement to be performed by the municipality, the governing body, or any officer of the municipality, including the fixing, charging and collecting of rates, rentals, fees and charges for the services and facilities furnished by the parking facilities.

**Sec. 89-K. Miscellaneous.** The resolution authorizing the issuance of bonds under the provisions of sections 89-A to 89-R, inclusive, may contain such regulations with respect to the use and operation of any parking facilities as may be deemed reasonable and proper.

The municipality shall cause to be made at least once each year a report of the operations of the parking facilities, including all matters relating to rates, revenues, expenses of maintenance, repair and operations and all renewals and replacements, principal and interest payments and the status of all funds. Copies of such annual reports shall be filed with the clerk of the municipality and shall be open to the inspection of all interested persons.

Sec. 89-L. Revenue refunding bonds. The governing body is hereby authorized to provide by resolution for the issuance of revenue refunding bonds of the municipality for the purpose of refunding any revenue bonds then outstanding which shall have been issued under the provisions of sections 89-A to 89-R, inclusive, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the governing body, for the additional purpose of constructing improvements, extensions or enlargements of the parking facilities in connection with which the bonds to be refunded shall have been issued. The governing body is further authorized to provide by resolution for the issuance of revenue bonds of the municipality for the combined purpose of refunding any revenue bonds or revenue refunding bonds then outstanding which shall have been issued under the provisions of sections 89-A to 89-R, inclusive, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds and paying the cost of any additional parking facilities. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the municipality and the governing body with respect to the same, shall be governed by the foregoing provisions of this act in so far as the same may be applicable.

Sec. 89-M. Authorizing resolution. Notwithstanding the provisions of any other law, either general, special or local, or the provisions of any charter or charter amendment theretofore adopted by such municipality, or the provisions of any ordinance, resolution, by-law, rule or regulation of such municipality, it shall not be necessary to publish any resolution adopted under the provisions of sections 89-A to 89-R, inclusive, either before or after its final passage and any such resolution may be adopted by the governing body at any regular or special meeting and shall take effect immediately upon its adoption. The governing body shall, however, cause to be published once in a newspaper published in the municipality, or if there is no newspaper published in the municipality then in a newspaper published in the state and having a general circulation in the municipality, a notice reciting that such resolution, setting forth its title, has been adopted by the governing body and that any action or proceeding to contest the validity of such resolution or any of its provisions must be commenced within 30 days after the publication of such notice. Any action or proceeding in any court to set aside such resolution or any of its provisions or to obtain any other relief upon the ground that such resolution is invalid must be commenced within 30 days after the publication of such notice.

After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of such resolution or any of its provisions shall be asserted, nor shall the validity of such resolution or any of its provisions be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period.

Sec. 89-N. Exemption from taxation. As adequate off-street parking facilities are essential to the health, safety and general welfare of the public, and as the exercise of the powers conferred by sections 89-A to 89-R, inclusive, to effect such purposes constitute the performance of essential municipal functions, and as parking facilities acquired or constructed under the provisions of sections 89-A to 89-R, inclusive, constitute public property and are used for municipal purposes, no municipality shall be required to pay any taxes or assessments upon any such parking facilities or any part thereof, or upon the income therefrom, and any bonds issued under the provisions of sections 89-A to 89-R, inclusive, their transfer and the income therefrom including any profit made on the sale thereof shall at all times be free from taxation within the state.

Sec. 89-O. Bonds eligible for investment. Bonds issued under the provisions of sections 89-A to 89-R, inclusive, are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies and their commercial departments, banking associations, investment companies, savings banks, executors, trustees and other fiduciaries, and all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of a similar nature, may properly and legally invest funds, including pension and retirement funds or capital under their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds may be authorized by law.

Sec. 89-P. Alternative method. Sections 89-A to 89-R, inclusive, shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local; provided, however, that the issuance of revenue bonds or revenue refunding bonds under the provisions of sections 89-A to 89-R, inclusive, need not comply with the requirements of any other law applicable to the issuance of bonds.

**Sec. 89-Q. Liberal construction.** The provisions of sections 89-A to 89-R, inclusive, being necessary for the welfare of the municipalities and their inhabitants, shall be liberally construed to effect the purposes thereof.

**Sec. 89-R. Provisions of act severable.** The provisions of sections 89-A to 89-R, inclusive, are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the deviation of such court shall not affect or impair any of the remaining provisions.'