

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINTH LEGISLATURE

AT THE

SECOND REGULAR SESSION

January 2, 1980 to April 3, 1980

AND AT THE

THIRD SPECIAL SESSION

May 22, 1980

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 164, SUBSECTION 6.

K. J. Printing Co.
Augusta, Maine

PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND NINTH LEGISLATURE
January 2, 1980 to April 3, 1980

CHAPTER 688
H. P. 1767 — L. D. 1898

**AN ACT to Expand the Kinds of Projects Eligible for Financing Under the
Municipal Securities Approval Act.**

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

Sec. 1. 30 MRSA § 5325, sub-§ 1, as last amended by PL 1979, c. 324, § 1, is repealed and the following enacted in its place:

1. Kinds of projects. To acquire, construct, reconstruct, renew and replace, within the corporate limits of the municipality, the following kinds of projects:

- A. Industrial-commercial projects;**
- B. Pollution-control projects;**
- C. Health care projects;**
- D. Water supply systems;**
- E. Recreational projects;**
- F. Multi-level parking facilities;**
- G. Multi-family housing units secured by mortgages and consistent with a municipally-approved community development program;**
- H. Energy generating systems;**
- I. Energy distribution systems; and**
- J. Combined projects;**

Sec. 2. 30 MRSA § 5325, sub-§ 4, as last amended by PL 1979, c. 324, § 2, is further amended to read:

4. Acquisition of property. The municipal officers are authorized and empowered to acquire from funds provided under the authority of this chapter lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, which are located within the State as they deem necessary or convenient for the construction or operation of any ~~industrial-commercial, pollution-control, health care, water supply system, recreational or combined project, and any multi-level private parking facility~~ **project enumerated in subsection 1** upon the terms and

conditions that they deem reasonable and proper, and to dispose of any of the foregoing in the exercise of its powers and the performance of its duties under this chapter;

Sec. 3. 30 MRSA § 5325, sub-§ 6, as last amended by PL 1979, c. 324, § 3, is further amended to read:

6. Government contracts. To enter into contracts with the State or the Federal Government or any agency or instrumentality thereof or with any other municipality providing for or relating to ~~an industrial-commercial, pollution control, health care, water supply system, recreational or combined facility, or a multi-level private parking facility~~ **any project enumerated in subsection 1**; provided, in the case of contracts with the Federal Government involving pollution-control facilities, that the consent of the Board of Environmental Protection is first obtained, such board being authorized to grant its consent notwithstanding Title 38, section 362;

Sec. 4. 30 MRSA § 5325, sub-§ 7, as last amended by PL 1979, c. 324, § 4, is further amended to read:

7. Government aid. To accept from any authorized agency of the State or the Federal Government loans or grants for the planning, construction or acquisition of any ~~industrial-commercial, pollution control, health care, water supply system, recreational or combined facility or any multi-level private parking facility~~ **project enumerated in subsection 1** 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 and contributions may be made; provided, in the case of loans, grants or other aid from the Federal Government involving pollution-control facilities, that the consent of the Board of Environmental Protection is first obtained, such board being authorized to grant such consent notwithstanding Title 38, section 362; and

Sec. 5. 30 MRSA § 5326, sub-§§ 1-A and 1-B are enacted to read:

1-A. Energy generating system project. "Energy generating system project" means:

A. For a system which does not generate electricity, an energy generating system owned, in whole or in part, by a municipality, corporation or firm, and which system uses biomass, peat, solar, waste, water and related dams, wind, wood or coal, or which is an energy conservation project including a transportation project consistent with the United States Revenue Service guidelines; or

B. For a system which does generate electricity, an energy generating system which uses biomass, peat, solar, waste, water and related dams, wind, wood or coal, and which is owned, in whole or in part, by a public utility or a

municipality, corporation or firm which qualifies as a cogenerator or small power producer under Title 35, chapter 172.

1-B. Energy distribution system project. "Energy distribution system project" means an energy distribution system owned, in whole or in part, by a municipality, corporation or firm, and which uses biomass, peat, solar, waste, water and related dams, wind, wood, coal or natural gas.

Sec. 6. 30 MRSA § 5326, sub-§ 2, as last amended by PL 1975, c. 707, § 3, is repealed and the following enacted in its place:

2. Industrial-commercial project. "Industrial-commercial project" means any building, structure, dam, machinery, equipment or facilities, which may be deemed necessary for manufacturing, processing, assembling, storing, distributing, retailing or receiving raw materials or manufactured products, including hydroelectric facilities for the production of electricity; and those for transportation, communication, fishing, agriculture, research or public accommodation and facilities related thereto, including, but not limited to, lodging, dining or conventions, together with all lands, property, rights, rights-of-way, franchises, easements and interests in lands which may be acquired by the municipality or a user for the construction or operation of such project. Hydroelectric facilities which are part of an industrial-commercial project need not be owned or operated by a public utility or a municipality, corporation or firm which is a cogenerator or small power producer under Title 35, chapter 172.

Sec. 7. 30 MRSA § 5326, sub-§ 3-A, as amended by PL 1979, c. 324, § 6, is further amended to read:

3-A. Combined project. "Combined project" means any combination of an industrial-commercial project, a pollution-control project, a water supply system project, and a recreational project, **an energy generating system and an energy distribution system** undertaken by a single municipality for a common lessee or group of lessees.

Sec. 8. 30 MRSA § 5326, sub-§ 4, as last amended by PL 1979, c. 324, § 7, is further amended to read:

4. Project. "Project" means industrial-commercial project, pollution-control project, health care project, water supply system project, recreational project, **multi-level parking facilities, multi-family housing units secured by mortgages and consistent with a municipally approved community development program, energy generating system, energy distribution system** or combined project as the context may permit or require.

Any municipality, firm or corporation producing electricity by means of any such project may, without the approval of and regulation by the Public Utilities Commission, generate and distribute electricity solely for its own use or the use of its tenants, but may not sell electricity to other than an electric public utility corporation or cooperative authorized to make, generate, sell and distribute electricity.

Sec. 9. 30 MRSA § 5326, sub-§ 5, first sentence, as last amended by PL 1979, c. 324, § 8, is further amended to read:

~~“Cost” as applied to an industrial-commercial, pollution control, health care, water supply system, recreational or combined~~ any project shall include the purchase price of any project, the cost of construction, the cost of all labor, materials, machinery and equipment, the cost of improvements, the cost of all lands, property, rights, easements and franchises acquired, financing charges, premiums for lease rental insurance, interest prior to and during construction and, if deemed advisable by the municipal officers, for not more than one year after completion of construction, cost of plans and specifications, surveys and estimates of cost and of revenues, cost of engineering and legal services, reserves for payment of future debt service on bonds of not more than the maximum amount of interest plus annual serial principal or sinking fund payment due in any 12-month period, and all other expenses necessary or incident to determining the feasibility or practicability of such construction, administrative expense and such other expenses as may be necessary or incident to the financing authorized.

Sec. 10. 30 MRSA § 5326, sub-§ 10 is enacted to read:

10. Mortgage. “Mortgage,” as the term refers to multi-family housing units, means an interest-bearing obligation secured by a mortgage and consistent with a note which is a first lien on land and improvements constituting one or more housing units, which obligation may or may not be insured or guaranteed in any manner, in part or in full, by the United States or any instrumentality thereof or by the State or any instrumentality thereof.

Sec. 11. 30 MRSA § 5328, sub-§ 3, as last amended by PL 1979, c. 324, §§ 9 and 10, is further amended by adding at the end the following new paragraph:

In the case of an energy generating system, an energy distribution system or an industrial-commercial project which includes hydroelectric facilities which may be deemed necessary for the production of electricity, no project may be approved unless it complies with the requirements of this paragraph. First, the Public Utilities Commission shall certify to the authority that all licenses required from that commission have been issued or none are required. Second, when the authority has received a proposed project for consideration, it shall so notify and send a copy of the project proposal to the Director of the Office of Energy Resources. Not later than 30 days after receipt of the notice and proposal, the director shall send his comments on the project to the authority. The authority shall take the comments into consideration in its consideration of the project. No director, agent or employee of the Office of Energy Resources may divulge or disclose any information obtained from the authority concerning the name of any applicant, lessee or tenant or information supplied by any applicant, lessee, tenant, mortgagee, financial institution, municipality or local development corporation in relation to any project proposal.

Sec. 12. 30 MRSA § 5328, sub-§ 4, as last amended by PL 1979, c. 324, §§ 11 and 12, is repealed and the following enacted in its place:

4. Policy. It shall be the policy of the authority in considering the propriety of issuing a certificate of approval to determine to its satisfaction that:

A. The project will make a significant contribution to the economic growth of, the control of pollution in or the betterment of the health of the inhabitants of the State;

B. The project will not create a competitive advantage to any party to a contract entered into by any municipality under this chapter or substantial detriment to existing industry;

C. Adequate provision is being made to meet any increased demand upon public facilities that might result from the project;

D. In cases where it is proposed to relocate an energy generating system, energy distribution system, industrial-commercial, water supply system or recreational facility existing in the State, there is a clear economic justification for the relocation; and

E. In the case of projects including pollution-control facilities, the proposed users of the facilities make a significant contribution to the economy of the State, a substantial public benefit will result from the inclusion of the facilities in the project, and it is unlikely that public facilities meeting the needs of the users and securing comparable public benefit will become available in the reasonable foreseeable future;

4-A. Health care project. In the case of a health care project, the authority may not issue a certificate of approval until it has determined:

A. That the project will be owned or operated by a municipality or nonprofit or charitable institution or organization which is exempt from federal taxation pursuant to the United States Internal Revenue Code, Section 501, as amended, and which is engaged in the operation of, or formed for the purpose of, operating a health care facility in which health care is or will be rendered under the general direction of persons licensed to practice medicine in the State and which is, or will be upon completion, licensed as a health care facility under the laws of the State;

B. That the project will enable or assist a municipality or nonprofit institution or organization to provide health care to the residents of the project's proposed or existing service area; and

C. That the project has been reviewed and approved by the appropriate regional and state health service agencies or by the agency of the State which serves as the designated planning agency of the State for purposes of the United States Social Security Act, Section 1122, as amended.

4-B. Water supply system project. In the case of a water supply system project, the authority may not issue a certificate until it has determined:

A. That the project will result in substantial public benefits; and

B. That the issuance of securities for the project has been reviewed and approved by the Public Utilities Commission in accordance with Title 35, chapter 9.

4-C. Energy generating system or energy distribution system project. In the case of an energy generating system or energy distribution system project which is intended to produce or distribute energy for sale to any person, municipality, firm, corporation or the State, the authority may not issue a certificate until it has determined:

A. That the issuance of securities for the project has been reviewed and approved by the Public Utilities Commission in accordance with Title 35, chapter 9.

4-D. Advice to departments. If the authority is satisfied that the determinations of this section can be made and that a certificate of approval can be issued upon receipt of the certificate or certificates required by subsection 3, the authority may so advise the departments concerned, which may treat such advice as the completion of arrangements for financing for the purposes of Title 38, section 451, subsection 1, paragraph B.

Sec. 13. 30 MRSA § 5340, as last amended by PL 1979, c. 324, § 15, is further amended to read:

§ 5340. Leasehold or other interests of lessee taxable

The leasehold or other interest of the lessee of any ~~industrial-commercial, pollution control, water supply system, recreational or combined project or any multi-level private parking facility~~ project is subject to taxation in the manner provided for similar interests in Title 36, section 551, subject to Title 36, sections 651, 655 and 656.

Sec. 14. 30 MRSA § 5341, as last amended by PL 1979, c. 324, § 16, is further amended to read:

§ 5341. Purpose

It is declared that there is a statewide need for industrial-commercial, pollution-control, health care, water supply system, recreational **projects, multi-family housing units, energy generating systems, energy distribution systems** and combined projects and for multi-level private parking facilities to provide enlarged opportunities for gainful employment by the people, to restore purity to the air, the water or the earth of the State which are fouled with, among other things, industrial and other waste materials and pollutants, to more adequately serve the working people of this State, and to provide a more healthy environment and thus to insure the preservation and betterment of the economy of the State and the living standards and health of its inhabitants.

Sec. 15. 35 MRSA § 2323, sub-§ 1, first sentence, as enacted by PL 1979, c. 421, § 2 is amended to read:

“Cogenerator” means a **municipality**, person or corporation:

Sec. 16. 35 MRSA § 2323, sub-§ 3, first sentence, as enacted by PL 1979, c. 421, § 2, is amended to read:

“Small power producer” means a **municipality**, person or corporation owning or operating a power production facility with a power production capacity which, together with any other facilities located at the same site, does not exceed 80 megawatts of electricity and which depends upon renewable resources for its primary source of energy.

Effective July 3, 1980

CHAPTER 689

S. P. 764 — L. D. 1957

AN ACT to Extend the Period for Issuance and Coverage under the Maine Medical and Hospital Malpractice Joint Underwriting Association Act By One Year.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, a temporary Joint Underwriting Association was enacted under the Maine Medical and Hospital Malpractice Joint Underwriting Association Act; and

Whereas, this association was authorized to issue policies of medical malpractice insurance until July 1, 1980; and

Whereas, it is vitally necessary that this legislation be extended to allow issuance of policies until July 1, 1981; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 24 MRSA § 2403, sub-§ 2, as repealed and replaced by PL 1979, c. 290, § 1, is amended to read:

2. Purpose. The purpose of the association shall be to provide, until July 1, ~~1980~~ 1981, a market for medical malpractice insurance on a self-supporting basis without subsidy from its members.