

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FIFTEENTH LEGISLATURE

SECOND SPECIAL SESSION
December 12, 1991 to January 7, 1992

SECOND REGULAR SESSION
January 8, 1992 to March 31, 1992

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1992

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1992

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

the transferee corporation shall offer those individuals any vacant positions within their job classifications that are filled prior to June 30, 1993.

Sec. 6. State support; intent. The Legislature intends that the State support and provide funding in accordance with section 3 to meet the costs of delivering broadcast services so that all the people of the State may share equitably in the advantages of public broadcasting, regardless of geographic location or economic circumstances.

Sec. 7. Transfer; findings; intent. The Legislature finds that it is in the best interest of the people of the State in all regions to develop, maintain and support a structure of public broadcasting that will ensure the most cohesive and efficient system possible. The Legislature finds that it is desirable to unify the operations of the Maine Public Broadcasting Network, or MPBN, operated by the University of Maine System, and WCBB, operated by the Colby-Bates-Bowdoin Educational Telecasting Corporation, in a nonprofit corporation that will provide public noncommercial radio and television programs for audiences throughout the State, using broadcast systems and other delivery mechanisms that new technological developments may allow. The Legislature further finds that unifying of the operations of MPBN and WCBB will provide a unique and more valuable service to the people of Maine, producing, promoting and delivering more high-quality programs to all Maine residents; unify the people of this State in all geographic areas by increased public awareness of matters of state-wide importance; protect public broadcasting's free press function; offer greater efficiency in delivering the best possible service for the lowest possible cost; retain flexibility for combining federal, state and private financial assistance; and develop the independent fundraising potential that public broadcasting has demonstrated.

The Legislature intends that this Act will bring about the orderly transfer of licenses and operational responsibilities for state-owned educational noncommercial radio and television stations to a nonprofit, nonstock private corporation that will combine the broadcasting facilities and capabilities of MPBN and WCBB.

Sec. 8. Freedom of access. In recognition of the fact that the transferee corporation will receive public funds and public assets the transferee corporation is subject to the Maine Revised Statutes, Title 1, chapter 13 and must adopt bylaws and policies to implement the requirements of that chapter.

Sec. 9. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1992-93

**UNIVERSITY OF MAINE SYSTEM,
BOARD OF TRUSTEES OF THE**

Maine Public Broadcasting Network

All Other	(\$80,258)
Deappropriates funds not needed.	

Maine Public Broadcasting Network

All Other	\$80,258
Provides funds for the construction of a radio transmitter to serve the St. John Valley.	

**BOARD OF TRUSTEES OF THE
UNIVERSITY OF MAINE SYSTEM
TOTAL**

\$ -0-

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 9, 1992.

CHAPTER 849

H.P. 1708 - L.D. 2389

**An Act to Implement the Jobs Creation
Bond Package**

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

Whereas, the State is in a severe economic downturn and tens of thousands of jobs have been lost in the State during that downturn; and

Whereas, bond issues for infrastructure construction projects are a proven method of creating jobs; and

Whereas, many of the State's infrastructure facilities are in need of immediate improvement; and

Whereas, numerous infrastructure construction projects could begin this summer if funding were available; and

Whereas, those projects are urgently needed to create jobs within the State and to make needed repairs and improvements; 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. 10 MRSA §§1023-I and 1026-J are enacted to read:

§1023-I. Economic Recovery Program Fund

1. Creation. The Economic Recovery Program Fund, referred to in this section as the "fund," is created under the jurisdiction and control of the authority.

2. Sources of money. The fund consists of the following:

A. All money appropriated or allocated for inclusion in the fund, from whatever source;

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money from the fund;

C. Subject to any pledge, contract, fee or other obligation, any money that the authority receives in repayment of advances from the fund; and

D. Any other money available to the authority and directed by the authority to be paid into the fund.

3. Application of the fund. Money in the fund may be applied to carry out any power of the authority under or in connection with section 1026-J or to pay obligations incurred in connection with the fund. Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested in a manner permitted by law.

4. Accounts within fund. The authority may divide the fund into separate accounts it determines necessary or convenient for carrying out this section.

5. Revolving fund. The fund is a nonlapsing, revolving fund. All money in the fund must be continuously applied by the authority to carry out this section and section 1026-J.

§1026-J. Economic Recovery Program

The Economic Recovery Program, referred to in this section as the "program," is established to provide loans to businesses that do not have sufficient access to credit but demonstrate the ability to survive, preserve and create jobs, and repay the loans.

1. Eligibility for loans. Businesses may apply to the authority for loans under the program.

A. The projects to be financed must pertain to manufacturing, industrial, recreational or natural resource enterprises, be located in the State and provide significant public benefit in relation to the amount of the loan, as determined by the authority. Public benefits include, but are not limited to, preservation of jobs, increased opportunities for employment, increased capital flows, particularly capital flowing in from outside the State, and increased state and municipal tax revenues. Loan proceeds may be used for any appropriate commercial purpose, as determined by the authority, including working capital.

B. The authority must determine that the borrower is a for-profit or nonprofit commercial entity, that it is creditworthy and reasonably likely to repay the loan.

C. The authority must determine that the borrower has insufficient access to other funds and that the loan is necessary in order for the public benefits of the application to be realized.

D. The authority must determine that the borrower has exhausted all other reasonably available sources of capital in order to minimize the amount of the loan from the fund.

2. Loan terms and conditions. Loans may not exceed \$1,000,000 per project. The authority may establish prudent terms and conditions for loans, including limits on the amount of loans for any one project and requiring adequate collateral for the loans. Loan terms may not exceed 20 years in the case of loans primarily secured by real estate, 10 years in the case of loans secured primarily by machinery and equipment and 7 years for other loans. The interest rate charged on each loan may not exceed the prime rate for interest plus 4%, as determined by the authority. The authority may establish conditions, such as balloon payments, to encourage borrowers to make the transition to conventional financing as soon as they are reasonably able to do so.

3. Rulemaking. The authority shall establish rules for the implementation of the program established by this section, including, but not limited to, the establishment of fees that may be charged for the administration of the program, and may do so notwithstanding:

A. The omission of any such rules from the authority's current regulatory agenda prepared pursuant to Title 5, section 8060 or provided pursuant to Title 5, section 8053-A, subsection 2; or

B. Any limitation imposed by Title 5, section 8064.

Sec. 2. Criteria for Finance Authority of Maine awarding funds; report. In awarding bond proceeds to businesses or other commercial enterprises in distressed loan situations under the Economic Recovery Program when the demand for funds exceeds the funds available, the Finance Authority of Maine shall consider the following:

1. The number of jobs likely to be lost if foreclosure occurs;
2. The immediacy and severity of the threat of foreclosure;
3. The likelihood of long-term success of the business if assistance is awarded; and
4. The availability of other sources of assistance to supplement state funds.

The Finance Authority of Maine shall report to the joint standing committee of the 116th Legislature having jurisdiction over economic development matters on the implementation of the Economic Recovery Program. The report must be in writing and submitted by January 1, 1993.

Sec. 3. Criteria for the Department of Economic and Community Development awarding funds; report. In awarding bond proceeds authorized by the \$37,000,000 bond issue for public infrastructure capital improvements for municipal infrastructure projects when the demand for funds exceeds funds available, the Department of Economic and Community Development shall establish a weighted ranking system using the following criteria, objectives and policies.

1. Short-term job creation is worth a maximum of 40% of a project's ranking and is based on:
 - A. The estimated number of person-weeks of employment that the project will create; and
 - B. The ratio of grant funds to the number of hours of employment the project will require.
2. The ability of a project to leverage other funds is worth a maximum of 25% of the project's ranking. Other sources of funding must be currently available or be demonstrated to be available by the time the award is made. Leveraged funds must relate directly to the viability of the project needing state bond funding. Under this criterion, points will be awarded to projects on the basis of the ratio of bond funds to matched funds as follows:
 - A. A 1:1 or greater ratio is worth 25 points;
 - B. A ratio between 1:1 and 3:1 is worth 17 points;
 - C. A ratio of 3:1 or less is worth 8 points; and

D. A project that does not qualify for matching funds receives no points in the category.

3. The likelihood that the project will create jobs expected to last longer than one year is worth a maximum of 20% of a project's ranking and is based on the ability of the applicant to:

A. Identify the long-term jobs that the project will create; and

B. Indicate when the long-term jobs will be created.

4. The severity of job loss statistics in the labor market area in which the project is located is worth a maximum of 15% of a project's ranking and is based on the following:

A. The number of unemployed workers in a labor market area in 1989 will be compared with the current number. The quintile of labor market areas with the greatest increase in the number of unemployed receives 10 points, the 2nd quintile receives 8 points, the 3rd quintile receives 6 points, the 4th quintile 4 points and the lowest quintile receives 2 points; and

B. The percent of unemployed workers in a labor market area will be compared with the statewide percent of workers unemployed. The quintile of labor market areas with the highest rate of unemployment as compared to the statewide average receives 5 points, the 2nd quintile receives 4 points, the 3rd quintile receives 3 points, the 4th quintile receives 2 points and the lowest quintile receives one point.

5. The Department of Economic and Community Development:

A. Shall select and fund at least the highest rated application from each county, except that no single project is eligible to receive more than \$750,000 in funds under this Act and every county must be awarded projects totaling at least \$500,000;

B. Shall ensure, to the greatest extent possible, that projected jobs to be created through this Act will not be at the expense of jobs currently in existence;

C. May reallocate funds from projects that have not realized acceptable levels of progress, construction or job creation within 90 days following the offer of an award of a grant through this Act; and

D. Shall award up to 10 supplemental points for projects providing 200 or more construction jobs or those creating or preserving 200 or more permanent jobs.

6. It is the intent of the Legislature that the Department of Economic and Community Development require municipalities in contracting for the use of funds provided under this Act to establish performance standards to be included in contracts for projects requiring:

- A. To the maximum extent possible, a minimum of 90% of the persons employed by projects funded through this Act be Maine residents;
- B. To the maximum extent possible, that projects funded through this Act purchase materials and services from Maine suppliers; and
- C. Contractors and subcontractors on projects in excess of \$250,000 to pursue in good faith affirmative action programs.

The Department of Economic and Community Development shall report to the joint standing committee of the 116th Legislature having jurisdiction over economic development matters on the use of bond proceeds for municipal infrastructure capital improvements. The reports must be in writing and submitted by January 1, 1993.

Sec. 4. Criteria for other agencies awarding funds; assistance; report. The Department of Education, in administering bond proceeds for other than municipal infrastructure projects, to the maximum extent possible, shall follow the criteria established for the Department of Economic and Community Development in section 3 in selecting projects to receive funds authorized by this Act. If requested, the Department of Economic and Community Development shall assist those agencies in developing guidelines for project approval.

The Department of Education shall report to the joint standing committee of the 116th Legislature having jurisdiction over economic development matters on the use of bond proceeds for public infrastructure capital improvements. The report must be in writing and submitted by January 1, 1993.

Sec. 5. Performance standards in contracts. The Department of Education and the Department of Transportation shall meet the performance standards required by the Department of Economic and Community Development in accordance with section 3, subsection 6 of this Act.

Sec. 6. Administration. In administering the municipal capital construction project program established in the \$37,000,000 bond issue for public infrastructure capital improvements, the Commissioner of Economic and Community Development may take necessary, reasonable action.

Sec. 7. Application; contingent on bond issue. This Act takes effect only if a \$37,000,000 general revenue bond issue for infrastructure capital improvements and job creation and retention is approved by the voters of the State.

Sec. 8. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1992-93

**TREASURER OF STATE,
(OFFICE OF)**

Debt Service - Treasury

All Other \$796,950

Provides funds for the interest payments costs for the General Fund bonds approved at the primary election in June 1992.

Debt Service - Treasury

All Other (\$796,950)

Provides funds for the deappropriation of funds in conjunction with authority to transfer an additional \$796,950 from the General Fund Debt Service Account authorized under the Maine Revised Statutes, Title 5, section 151-A, which will provide sufficient funds to cover the projected debt service requirement.

(OFFICE OF) TREASURER OF STATE _____
TOTAL -\$0-

Sec. 9. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

1992-93

TRANSPORTATION, DEPARTMENT OF

Bond Interest - Highway

All Other \$446,600

Provides funds for the interest payments costs for the Highway Fund bonds approved at the primary election in June 1992.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved, except as otherwise indicated.

Effective April 9, 1992, unless otherwise indicated.