

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

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J.S. McCarthy Company
Augusta, Maine
1993

chapter, unless approved by a 2/3 majority of the Legislature.

See title page for effective date.

CHAPTER 729

H.P. 1275 - L.D. 1723

An Act to Increase the Jurisdiction of the Loring Development Authority of Maine

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

Sec. 1. 5 MRSA §13080, as enacted by PL 1993, c. 474, §1, is repealed and the following enacted in its place:

§13080. Loring Development Authority of Maine established

The Loring Development Authority of Maine is established as a body corporate and politic and a public instrumentality of the State to carry out the provisions of this article and shall take title, acquire and manage the properties within the geographical boundaries of Loring Air Force Base in the name of the State.

Sec. 2. 5 MRSA §13080-A, sub-§7, as enacted by PL 1993, c. 474, §1, is amended to read:

7. Operating revenues. "Operating revenues" means funds available to the authority from fees, fares, rental or sale of property and miscellaneous revenue and interest ~~not otherwise pledged or dedicated~~ generated by the airport and collected in accordance with the provisions of the Surplus Property Act, 49 United States Code App. Section 2210 and Federal Aviation Administration Order 5190.6A.

Sec. 3. 5 MRSA §13080-B, sub-§1, ¶¶F, L and M, as enacted by PL 1993, c. 474, §1, are amended to read:

F. Charge and collect fees, charges and rents for the use of the properties and other services and use the proceeds of those fees, charges and rents for the purposes provided in this article, both subject to and in accordance with any agreement with bondholders that may be made as provided in this article. Fees, charges and rents collected from properties contained in the public benefit transfer or otherwise generated by the airport must be used to support the development, maintenance and operation of aeronautical facilities and in accordance with Federal Aviation Administration Order 5190.6A;

L. Provide from operating revenues for the maintenance, construction or reconstruction of facilities to ensure the public safety for which the authority has not otherwise provided and in keeping with limitations set forth in paragraph F;

M. Use operating revenues to provide payment of obligations, if any, due to the United States to implement the readjustment or reuse of the facility. Use of operating revenues for this purpose must be in accordance with the provisions of the Surplus Property Act, 50 United States Code App. Section 1622 et seq. and Federal Aviation Administration Order 5190.6A;

Sec. 4. 5 MRSA §13080-B, sub-§4, as enacted by PL 1993, c. 474, §1, is amended to read:

4. Liability. The liability of the authority is governed by the Maine Tort Claims Act, Title 14, chapter 741. Trustees serving on the board of the authority may not be subject to any personal liability for having acted in the service of their duty as board members of the authority.

Sec. 5. 5 MRSA §13080-C, sub-§1, as enacted by PL 1993, c. 474, §1, is repealed and the following enacted in its place:

1. Use of revenue. Operating revenue generated from property transferred in the Federal Aviation Administration public benefit transfer or otherwise generated by the airport must be used to support the development, maintenance and operation of aeronautical facilities, operating costs of the airport and costs substantially related to the actual air transportation of passengers or property. Revenues generated from other properties granted to the authority in subsequent or different transfers must be used as the authority determines appropriate within the powers established by this article.

Sec. 6. 5 MRSA §13080-F, sub-§3, as enacted by PL 1993, c. 474, §1, is amended to read:

3. Zoning. The authority may not adopt zoning or land-use ordinances but may coordinate zoning and land-use regulation with interested primary impact communities. The authority shall secure rights-of-way, easements and zoning rules needed to adequately clear and protect the aerial approaches to the airport by removing, lowering, relocating, marking, lighting or otherwise mitigating existing airport hazards. The authority shall endeavor, to the extent reasonable, to ensure compatible use of land adjacent to or in the immediate vicinity area of the airport as provided in the Maine Aeronautics Act, Title 6, section 122.

Sec. 7. 5 MRSA §13080-G, sub-§2, ¶B, as enacted by PL 1993, c. 474, §1, is amended to read:

B. Bonds issued under this section do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to other laws or charters relating to the authorization, issuance or sale of bonds. Notwithstanding this paragraph, the authority may issue bonds in an original principal amount not to exceed \$20,000,000 to which the authority may designate section 13080-N to apply. Bonds issued under this article are declared to be issued for an essential public and governmental purpose and, together with interest on and income from the bonds, are exempt from all taxes.

Sec. 8. 5 MRSA §13080-G, sub-§2, ¶C is enacted to read:

C. Bonds may not be issued by the authority until the authority has received a certificate of approval from the Finance Authority of Maine authorizing issuance of bonds. Before issuing a certificate of approval under this section, the authority shall determine that there is a reasonable likelihood that the income, proceeds, revenues and funds of the authority derived from or held for activities under this article will be sufficient to pay principal, interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the Finance Authority of Maine must consider the authority's analysis of the proposed bond issue and the revenues to make payments on the bond and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge the authority reasonable fees and expenses. The Finance Authority of Maine of a certificate of approval under this section does not constitute an endorsement of the bonds or the projects or purposes for which those bonds are issued and neither the authority nor any other person or entity, including, without limitation, any holders of bonds of the authority, have any cause of action against the Finance Authority of Maine with respect to any such certificate of approval. The Finance Authority of Maine may require that it be indemnified, defended and held harmless by the authority for any liability or cause of action arising out of or with respect to the bonds.

Sec. 9. 5 MRSA §13080-M is enacted to read:

§13080-M. Relationship to other laws

The activities of the authority must be conducted in accordance with the terms and conditions of the Federal Surplus Property Act, 50 United States Code,

Section 1622 et seq.; the federal Airport and Airway Improvement Act of 1982, 49 United States Code App. Section 2201 et seq.; and Federal Aviation Administration Order 5190.6A. If a conflict exists between this article and those federal laws and rules, the federal requirements control.

Sec. 10. 5 MRSA §13080-N is enacted to read:

§13080-N. Capital reserve funds; obligation of State

1. Capital reserve fund. The authority may create and establish one or more capital reserve funds and may pay into any such capital reserve fund money appropriated and made available by the State for the purposes of any such fund, any proceeds of sale by the authority of bonds to the extent determined by the authority and any other money available to the authority. For purposes of this section, the amount of any letter of credit, insurance contract, surety bond or similar financial undertaking available to be drawn on and applied to obligations to which money in any such fund may be applied is considered and counted as money in the capital reserve fund.

2. Application. Money held in any capital reserve fund, except as provided in this section, must be used solely with respect to bonds, repayment of which is secured by any such fund and solely for the payment of principal of the securities, the purchase or redemption of the securities, including any fees or premiums, or the payment of interest on the securities. In addition, if the authority obtains a letter of credit, insurance contract, surety bond or similar financial undertaking to establish and fund a capital reserve fund under subsection 1, money in the fund may be used to pay, when due, whether by acceleration or otherwise, all reimbursement obligations of the authority established in connection with that letter of credit, insurance contract, surety bond or similar financial undertaking, including, but not limited to, all fees, expenses, indemnities and commissions. Money in excess of the reserve requirement established as provided in subsection 3 may be transferred to other funds and accounts of the authority.

3. Reserve requirement. The authority may provide that money in a capital reserve fund under subsection 2 may not be withdrawn at any time in an amount that would reduce the amount of that fund below an amount, referred to in this section as the "capital reserve requirement," established by the authority, except for the purpose of paying the amount due and payable with respect to bonds, repayment of which is secured by that fund, or reimbursement obligations of the authority with respect to any letter of credit, insurance contract, surety bond or similar financial undertaking pertaining to that fund.

4. Issuance limit. The authority may provide that it will not issue bonds if the capital reserve requirement established by the authority with respect to securities outstanding and then to be issued and secured by a capital reserve fund will exceed the amount of that fund, including the amount available under any letter of credit, insurance contract, surety bond or other similar financial undertaking given to secure the capital reserve requirement, at the time of issuance, unless the authority, at the time of issuance of the securities, deposits in that fund from proceeds of the securities to be issued, or from other sources, an amount that, together with the amounts then in that fund and amounts available under any letter of credit, insurance contract, surety bond or other similar financial undertaking will not be less than the capital reserve requirement.

5. Appropriation. On or before December 1st, annually, the authority shall certify to the Governor the amount, if any, necessary to restore the amount in any capital reserve fund. In trust agreements or other pertinent documents between the authority and the Governor, it must be clearly stated that this subsection applies to the capital reserve requirement. The Governor shall pay from the Contingent Account to that fund as much of the amount as is available in the Contingent Account and shall transmit to the Legislature a certification and a statement of the amount, if any, remaining to be paid and the amount certified must be appropriated and paid to the authority during the then current state fiscal year.

6. Securities outstanding. The authority may not have at any one time outstanding bonds, which, in the trust agreement or other document, subsection 5 is stated to apply to, in principal amount exceeding an amount equal to \$20,000,000. The amount of bonds issued to refund securities previously issued may not be taken into account in determining the principal amount of securities outstanding, provided that proceeds of the refunding securities are applied as promptly as possible to the refunding of the previously issued securities. In computing the total amount of bonds of the authority that may at any time be outstanding for any purpose, the amounts of outstanding bonds that have been issued as capital appreciation bonds or as similar instruments are valued as of any date of calculation at their then current accreted value rather than their face value.

See title page for effective date.

CHAPTER 730

S.P. 614 - L.D. 1712

An Act to Clarify the Licensing Authority of the Department of Public Safety

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

Sec. 1. 17 MRSA §332, sub-§1, as enacted by PL 1977, c. 350, §4, is amended to read:

1. Organizations eligible. Notwithstanding other provisions of law, the Chief of the State Police may issue a license to operate a game of chance to an agricultural society eligible for the state stipend under Title 7, section 62, or to a bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic or religious organization, or to a volunteer fire department or to an auxiliary of any of these organizations, any of which ~~shall have been~~ must be founded, chartered or organized in this State prior to its application before applying for a license.

Sec. 2. 25 MRSA §3901, sub-§1, as enacted by PL 1987, c. 45, Pt. A, §2, is repealed and the following enacted in its place:

1. Bureau of Liquor Enforcement. The Department of Public Safety, Bureau of Liquor Enforcement, as established in this chapter, is responsible for the enforcement of liquor laws and rules established governing the manufacture, importation, storage, transportation and sale of all liquor.

Sec. 3. 25 MRSA §3901, sub-§§2 and 3, as enacted by PL 1987, c. 45, Pt. A, §2, are amended to read:

2. Chief. The Commissioner of Public Safety shall appoint as ~~Director~~ chief of the bureau a person experienced in law enforcement or enforcement of liquor laws, who may be removed for cause by the commissioner.

A. The ~~director~~ chief, subject to the Civil Service Law, may appoint as many liquor enforcement officers as ~~may be found~~ necessary. The liquor enforcement officers ~~shall be~~ are under the direct supervision and control of the ~~director~~ chief.

3. Eligibility. The ~~director~~ chief and the employees of the bureau are subject to the ~~same~~ eligibility requirements of Title 28-A, section 52.

Sec. 4. 28-A MRSA §2, sub-§6, as amended by PL 1993, c. 410, Pt. ZZ, §1, is further amended to read: