

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

SECOND REGULAR SESSION
January 6, 2010 to April 12, 2010

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 12, 2010

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

Augusta, Maine
2010

of employers. All labor representatives must be from a list provided by the Executive Board of the Maine AFL-CIO or other bona fide labor organization or association of employees representing at least 10% of the Maine work force. Any list submitted to the Governor must have at least 4 times the number of names as there are vacancies for the group represented by the vacancies.

A member of the board is not liable in a civil action for any act performed in good faith in the execution of duties as a board member.

A member of the board may not be a lobbyist required to be registered with the Commission on Governmental Ethics and Election Practices, a service provider to the workers' compensation system or a representative of a service provider to the workers' compensation system. In addition to the conflict of interest provisions in section 152, subsection 8, a member of the board may not take part in reaching a decision or recommendation in any matter that directly affects an insurer, self-insurer, group self-insurer or labor organization that the member represents.

Members of the board representing management and labor hold office for staggered terms of 4 years, commencing and expiring on February 1st, except for initial appointees and members appointed to fill unexpired terms. ~~A member representing management or labor may not serve for more than 2 full terms.~~

See title page for effective date.

CHAPTER 641

S.P. 629 - L.D. 1664

**An Act To Enhance the
Redevelopment of the
Brunswick Naval Air Station**

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

Whereas, the imminent closure of the Brunswick Naval Air Station will result in the reduction of state, regional and local tax base; and

Whereas, the closure is estimated to negatively affect the State by \$140,000,000; 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. 5 MRSA §13083-G, as enacted by PL 2005, c. 599, §1, is amended to read:

§13083-G. Midcoast Regional Redevelopment Authority established; goals

The Midcoast Regional Redevelopment Authority is established as a body corporate and politic and a public instrumentality of the State to carry out the purposes of this article. The authority is entrusted with acquiring and managing the properties within the geographic boundaries of Brunswick Naval Air Station.

The authority is established to facilitate the rapid development of the properties within the geographic boundaries of Brunswick Naval Air Station. In order to achieve this objective, the authority shall make every effort to:

1. Short-term goal. Recover civilian job losses in the primary impact community resulting from the base closure;

2. Intermediate goal. Recover economic losses and total job losses in the primary impact community resulting from the base closure; and

3. Long-term goal. Facilitate the maximum redevelopment of base properties.

Sec. 2. 5 MRSA §13083-I, sub-§4, as enacted by PL 2005, c. 599, §1, is amended to read:

4. Liability. The liability of the authority is governed by the Maine Tort Claims Act. A member of the board of trustees or an employee of the authority is not subject to any personal liability for having acted in the service of the member's or employee's duty as a member of the board or an employee of the authority within the course and scope of membership or employment to carry out a power or duty under this article. The authority shall indemnify a member of the board or an employee of the authority against expenses actually and necessarily incurred in connection with the defense of an action or proceeding in which a member of the board or an employee is made a party by reason of past or present association with the authority.

Sec. 3. 5 MRSA §13083-L, sub-§5 is enacted to read:

5. Airport; Brunswick Naval Air Station Fund established. The authority has all the powers of a municipality to operate as an airport authority under Title 30-A, chapter 213 for use in connection with a public airport, heliport or other location for the landing or taking off of aircraft. To support this operation, there is established a nonlapsing fund to be known as the Brunswick Naval Air Station Airport Fund, referred to in this section as "the fund," for the purpose of receiving funds from the State and gifts, grants, devises, bequests, trusts or security documents. The State shall credit to the fund any appropriation made to the authority in each fiscal year.

A. The fund must be used to:

(1) Purchase, lease, acquire, own, improve, use, sell, convey, transfer or otherwise deal in and with airport property, an airport project or any interest in the airport property or airport project, whether tangible or intangible, as otherwise authorized under this article;

(2) Pay the costs of operating, maintaining, improving and repairing all airport property and airport projects of the authority;

(3) Pay the costs of administering and operating the authority, including, but not limited to, all wages, salaries, benefits and other expenses authorized by the board of trustees or the executive director;

(4) Pay the principal and premium, if any, and the interest on the outstanding bonds of the authority related to airport property or airport projects as the same become due and payable;

(5) Create and maintain reserves required or provided for in any resolution authorizing or any security document securing such bonds of the authority related to airport property or airport projects;

(6) Create and maintain a capital improvement fund for airport property and airport projects to be established by the board;

(7) Pay all taxes owed by the authority related to airport property or airport projects; and

(8) Pay all expenses incident to the management and operation of the authority operating as an airport authority as are consistent with its statutory purpose and as the board may from time to time determine.

B. The fund constitutes a continuing appropriation for the benefit of the authority. Any amount remaining in the fund at the close of any fiscal year is carried over and credited to the fund for the succeeding year.

C. Money in the fund must be paid to the authority on manifests approved by the Governor and Legislature in the same manner as other state claims are paid.

D. The revenues received and due to the authority from all other sources, except by way of state appropriation, from whatever source derived, must be retained by the authority and must be used in such a manner as the board of trustees may determine consistent with the provisions of this section or as is otherwise provided by law or by the terms and conditions incident to any gift, grant, devise, bequest, trust or security document.

Sec. 4. 5 MRSA §13083-N, sub-§4, as enacted by PL 2005, c. 599, §1, is amended to read:

4. Price sold. The bonds may be:

~~A. Sold at not less than par at public sales held after notice has been published in a newspaper of general circulation in the area of operation and in any other medium of publication that the authority designates;~~

B. Exchanged for other bonds on the basis of par; ~~or~~

C. Sold to the Federal Government at private sale at not less than par. If less than all of the authorized principal amount of the bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the municipality that does not exceed the interest cost to the municipality of the portion of the bonds sold to the Federal Government; ~~or~~

D. Sold to a person on such terms as the authority may negotiate.

Sec. 5. 5 MRSA §13083-P, sub-§2, ¶B, as enacted by PL 2005, c. 599, §1, is amended to read:

B. Apply to or limit the right of an obligee to foreclose or otherwise enforce a mortgage of the authority or to pursue remedies for the enforcement of a pledge or lien given by the authority on its rents, fees, grants ~~or~~ revenues or other sources pledged by the authority to the payment of its bonds.

Sec. 6. 5 MRSA §13083-S, sub-§1, ¶G, as enacted by PL 2005, c. 599, §1, is amended to read:

G. A statement of the authority's proposed and projected activities for the ensuing year; ~~and~~

Sec. 7. 5 MRSA §13083-S, sub-§1, ¶H, as enacted by PL 2005, c. 599, §1, is amended to read:

H. Recommendations regarding further actions that may be suitable for achieving the purposes of this article; ~~and~~

Sec. 8. 5 MRSA §13083-S, sub-§1, ¶I is enacted to read:

I. A description of the authority's progress toward achieving the goals set forth in section 13083-G.

Sec. 9. 5 MRSA §13083-S-1 is enacted to read:

§13083-S-1. Brunswick Naval Air Station Job Increment Financing Fund

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Affiliated business" means one of 2 businesses exhibiting either of the following relationships:

- (1) One business owns 50% or more of the stock of the other business or owns a controlling interest in the other; or
- (2) Fifty percent of the stock of each business or a controlling interest in each business is directly or indirectly owned by a common owner or owners.

B. "Assessor" means the State Tax Assessor.

C. "Base level of employment" means either the total employment of an employer as of the March 31st, June 30th, September 30th and December 31st of the calendar year immediately preceding the date the employer begins operations at the base area divided by 4 or its average employment during the base period, whichever is greater.

D. "Base period" means the 3 calendar years prior to the year in which an employer begins operations at the base area.

E. "College" means Southern Maine Community College in the Maine Community College System.

F. "Commissioner" means the Commissioner of Economic and Community Development.

G. "Fund" means the Brunswick Naval Air Station Job Increment Financing Fund established pursuant to subsection 2.

H. "Job tax increment" means that level of state income tax withholding attributed to any employees employed within the base area above the base level of employment for an employer in the base area or its average employment during the base period. "Job tax increment" does not include withholding from employees or positions shifted by an employer as calculated generally pursuant to Title 36, chapter 917. The shifting restriction must apply to all employers in the base area.

2. Fund established. The Brunswick Naval Air Station Job Increment Financing Fund is established to receive job tax increment transfers from job creation in the base area. The fund must receive annually from the State the amount calculated under subsection 5.

3. Limitations. The fund is subject to the following limitations.

A. Subject to the provisions of paragraph E, payments from the fund allocated to the authority must be used solely to fund the costs of municipal services, including, but not limited to, water, sewer, electricity, telecommunications, fire protection, police protection, sanitation services and the maintenance of buildings, facilities, grounds and roads in the base area.

B. Subject to the provisions of paragraph E, payments allocated to the college must be used solely to fund the costs of higher education services, including, but not limited to, faculty and staff salaries and instruction, operations, equipment, maintenance and financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity.

C. To the extent that revenues received by the fund are not expended for current costs under paragraphs A and B, the fund must retain the revenues to defray future costs under those paragraphs.

D. State income tax withholding eligible for reimbursement to a qualified business pursuant to Title 36, chapter 917 or to a qualified pine tree development zone business under Title 30-A, chapter 206 is not eligible for use in the calculation of a payment to the fund under subsections 4 and 5. State income tax withholding under Title 36, chapter 919, or any other tax credit or reimbursement program based on state income tax withholding, is not eligible for use in calculation of a payment to the fund under subsections 4 and 5.

E. Payments made to the fund must be allocated as follows:

- (1) For payments transferred to the fund in 2011 and 2012, 100% must be allocated to the college;
- (2) For payments made to the fund in 2013, 75% must be allocated to the college and 25% must be allocated to the authority; and
- (3) For payments made to the fund in 2014 and after, 50% must be allocated to the college and 50% must be allocated to the authority.

F. Payments to the fund are not allowed for calendar years beginning on or after January 1, 2031. If at least 5,000 net new jobs are created in the base area prior to 2031, the services funded under paragraphs A and B must be reviewed by the joint standing committee of the Legislature having jurisdiction over economic development matters in order to determine whether continuance of the fund is necessary.

4. Certification by authority. By February 15th of each year, beginning in 2011, the authority shall provide a report identifying each employer located at the base area to the commissioner. The commissioner shall certify annually to the assessor on or before June

30th of each year, beginning in 2011, the following information:

A. Employment, payroll and state withholding data necessary to calculate the base level of employment;

B. The total number of employees added during the previous year within the base area above the base level of employment, including additional associated payroll and withholding data necessary to calculate the job tax increment and establish the appropriate payment to the fund;

C. A listing of all employers within the base area that pay withholding taxes, the locations of those employers and the number of employees at each location;

D. A listing of all affiliated businesses, data regarding current employment, payroll and Maine income tax withholding for each affiliated business within the base area; and

E. Any information required by the assessor to determine the employment tax increment revenues pursuant to Title 36, chapter 917.

5. Procedure for payment of revenue to the fund. On or before July 15th of each year, the assessor shall review the information required by subsection 4 and calculate the job tax increment for the preceding calendar year. The assessor shall also calculate the employment tax increment in the base area for reimbursement to qualified businesses and qualified Pine Tree Development Zone businesses pursuant to Title 36, chapter 917. On or before July 15th of each year, the assessor shall certify to the State Controller the total remaining job tax increment after reimbursements have been made to qualified businesses and qualified Pine Tree Development Zone businesses pursuant to Title 36, chapter 917. On or before July 31st of each year, the State Controller shall transfer 50% of the remaining job tax increment to the state job tax increment contingent account established, maintained and administered by the State Controller from General Fund undedicated revenue within the withholding tax category. On or before July 31st of each year, the State Controller shall deposit this revenue into the fund and distribute the payments pursuant to subsection 3.

6. Administration. The Commissioner of Administrative and Financial Services shall administer the fund and may adopt rules pursuant to the Maine Administrative Procedure Act for implementation of the fund. Rules adopted pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

Sec. 10. Establishment of campus. The Maine Community College System shall establish the Midcoast Campus as a campus of Southern Maine

Community College at Brunswick Naval Air Station. The Maine Community College System shall establish the Midcoast Campus to:

1. Collaborate with other higher education entities and enter into partnerships with businesses and industry on workforce development, innovation, product development and marketing;

2. Support an incubator center in manufacturing, composites and advanced energy systems; and

3. Offer seamless transfer programs among associate degree programs, bachelor's degree programs and master's degree programs.

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

Effective April 12, 2010.

CHAPTER 642

S.P. 582 - L.D. 1504

An Act To Provide Predictable Benefits to Maine Communities That Host Wind Energy Developments

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

PART A

Sec. A-1. 12 MRSA §685-F, sub-§3, as enacted by PL 2005, c. 107, §2 and affected by §4, is amended to read:

3. Accounting system. The director shall require that all staff involved in any aspect of an application review for a project designated as an extraordinary project keep accurate and regular daily time records. These records must describe the matters worked on, services performed and amount of time devoted to those matters and services as well as amounts of money expended in performing those functions. The director shall keep records of all expenses incurred in reviewing a project, including staff time records ~~and~~, billing statements for contracted services and billing statements from other state agencies for the actual cost of review.

Sec. A-2. 35-A MRSA §3451, sub-§1-B is enacted to read:

1-B. Community benefit agreement. "Community benefit agreement" means an agreement between the developer of an expedited wind energy development and a host community that involves payments by the developer to the host community to be utilized for public purposes, including, but not limited to, for property tax reductions, economic development proj-