



# 125th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2012

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Legislative Document

No. 1644

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S.P. 543

In Senate, December 21, 2011

### **An Act To Expand the Availability of Natural Gas to Maine Residents**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 19, 2011. Referred to the Committee on Energy, Utilities and Technology pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 218.

*Joseph G. Carleton Jr.*

JOSEPH G. CARLETON, JR.  
Secretary of the Senate

Presented by Senator KATZ of Kennebec.

Cosponsored by Representative BLODGETT of Augusta and

Senator: McCORMICK of Kennebec, Representative: MARTIN of Eagle Lake.

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

2 **Sec. 1. 10 MRSA §962, first ¶**, as amended by PL 1985, c. 344, §5, is further  
3 amended to read:

4 There is a statewide need to provide enlarged opportunities for gainful employment  
5 to the people of the State and to ~~insure~~ ensure the preservation and betterment of the  
6 economy and the general health, safety and welfare of the State and its inhabitants; to  
7 provide a more healthy environment through the restoration of purity to the air, the water  
8 ~~of~~ and the earth of the State ~~which that~~ are fouled with, among other things, industrial and  
9 other waste materials and pollutants, and to ~~insure~~ ensure the preservation and betterment  
10 of the living standards and health of its inhabitants; to stimulate a larger flow of private  
11 investment funds from banks, investment institutions, insurance companies and other  
12 financial institutions, including pension and retirement funds, to help finance planning,  
13 development, acquisition, construction, improvement, expansion and placing in operation  
14 of industrial, manufacturing, recreational, fishing, agricultural, business and natural  
15 resource enterprises and eligible projects of the State and its political subdivisions; ~~and~~  
16 to increase the access of smaller ~~business~~ businesses and veterans to financing at reasonable  
17 terms and rates; to diversify sources of energy available to the citizens and businesses of  
18 the State; and to distribute available domestic sources of natural gas to citizens and  
19 businesses of the State to decrease their reliance on foreign oil.

20 **Sec. 2. 10 MRSA §962, sub-§5**, as amended by PL 1989, c. 559, §1, is further  
21 amended to read:

22 **5. Natural resource financing.** Provide natural resource financing; ~~and~~

23 **Sec. 3. 10 MRSA §962, sub-§6**, as enacted by PL 1989, c. 559, §2, is amended to  
24 read:

25 **6. Student financial assistance programs.** Provide and administer a  
26 comprehensive, consolidated system of student financial assistance programs; and

27 **Sec. 4. 10 MRSA §962, sub-§7** is enacted to read:

28 **7. Bonds for natural gas projects.** Issue bonds to provide financing for energy  
29 distribution system projects that expand the supply of natural gas in the State.

30 **Sec. 5. 10 MRSA §1043, sub-§2, ¶O**, as enacted by PL 2011, c. 261, §4, is  
31 amended to read:

32 O. In the case of an energy distribution system project regulated by the Public  
33 Utilities Commission with respect to rates or terms of service or that requires, for  
34 construction or operation, authorization or certification from the commission, the  
35 following conditions are met.

36 (1) The energy distribution system project has received all authorizations or  
37 certifications from the Public Utilities Commission necessary for construction  
38 and operation of the project. The authority may issue a certificate of approval for

1 a project that has received conditional approvals or certifications from the  
2 commission, except that the authority's certificate becomes legally effective only  
3 upon fulfillment of the conditional provisions of the commission's certificates or  
4 approvals. If the commission has approved rates to be charged by the project or  
5 has issued a certificate of public convenience and necessity for the project, the  
6 authority shall take into consideration any findings and conclusions of law of the  
7 commission, including any findings and conclusions pertaining to the need for  
8 the project and the financial viability of the project.

9 (2) The authority has reviewed and considered any comments provided by the  
10 Director of the Governor's Office of Energy Independence and Security and the  
11 Public Advocate.

12 (3) The authority has determined that the applicant is creditworthy and that there  
13 is a reasonable likelihood that the revenue obligation securities will be repaid  
14 through the revenues of the project and any other sources of revenues and  
15 collateral pledged to the repayment of those securities. In order to make these  
16 determinations, the authority shall consider such factors as it considers necessary  
17 and appropriate in light of the special purpose or other nature of the business  
18 entity owning the project and the specific purposes of the project to measure and  
19 evaluate the project and the sufficiency of the pledged revenues to repay the  
20 obligations, including, but not limited to:

21 (a) Whether the individuals or entities obligated to repay the obligations  
22 have demonstrated sufficient revenues from the project or from other sources  
23 to repay the obligations and a reasonable probability that those revenues will  
24 continue to be available for the term of the revenue obligation securities;

25 (b) Whether the applicant demonstrates a reasonable probability that the  
26 project will continue to operate and provide the public benefits projected to  
27 be created for the term of the revenue obligation securities;

28 (c) Whether the applicant's creditworthiness is demonstrated by factors such  
29 as its historical financial performance, management ability, plan for  
30 marketing its product or service and ability to access conventional financing;

31 (d) Whether the applicant meets or exceeds industry average financial  
32 performance ratios commonly accepted in determining creditworthiness in  
33 that industry;

34 (e) Whether the applicant demonstrates that the need for authority assistance  
35 is due to the reduced cost and increased flexibility of the financing for the  
36 project that result from authority assistance and not from an inability to  
37 obtain necessary financing without the capital reserve fund security provided  
38 by the authority;

39 (f) Whether collateral securing the repayment obligation is reasonably  
40 sufficient under the circumstances;

41 (g) Whether the proposed project enhances the opportunities for economic  
42 development;

- 1 (h) The effect that the proposed project financing has on the authority's  
2 financial resources;
- 3 (i) The financial performance of similar projects;
- 4 (j) The need for the project, as determined by the Public Utilities  
5 Commission and as indicated by any comments provided by the Director of  
6 the Governor's Office of Energy Independence and Security, other public  
7 officials and members of the public;
- 8 (k) The nature and extent of customer commitment to use the project or the  
9 fuel or energy the project distributes or transmits; ~~and~~
- 10 (l) The cost advantages to end users of the fuel or energy to be distributed or  
11 transmitted by the project, to the extent those advantages may affect market  
12 penetration by the project; ~~and~~
- 13 (m) The nature and extent of the applicant's equity contribution to payment  
14 of the costs of the project; such a contribution may not be less than 25% of  
15 the expected cost of the project.

16 **Sec. 6. 10 MRSA §1053, sub-§5-A** is enacted to read:

17 **5-A. Capital reserve for natural gas projects.** There is a minimum capital reserve  
18 requirement and a maximum capital reserve requirement for bonds issued for energy  
19 distribution system projects for natural gas, as follows:

20 A. The minimum capital reserve requirement is an amount equal to the principal and  
21 interest due on those bonds in the fiscal year immediately following the fiscal year in  
22 which a certification is made to the Governor pursuant to subsection 5; and

23 B. The maximum capital reserve requirement is an amount equal to the maximum  
24 amount of the principal and interest due on those bonds in any year during which  
25 those bonds are outstanding.

26 **Sec. 7. 10 MRSA §1053, sub-§6, ¶A,** as amended by PL 2011, c. 261, §6, is  
27 further amended to read:

28 A. The sum of \$330,000,000 consisting of not more than \$275,000,000 for loans and  
29 up to \$55,000,000 for use of bond proceeds to fund capital reserve funds for revenue  
30 obligation securities issued pursuant to this subchapter relating to loans for electric  
31 rate stabilization projects or loans for energy distribution system projects, ~~except that~~  
32 ~~the authority's maximum financial liability for any energy distribution system project~~  
33 ~~may not exceed the limits established annually by the authority;~~

34 **SUMMARY**

35 This bill authorizes the Finance Authority of Maine to issue bonds for energy  
36 distribution system projects that expand the supply of natural gas in the State. The  
37 authority is authorized to issue a certificate of approval to an applicant for a natural gas  
38 project only if the applicant contributes at least 25% of the expected cost of the project.

1 This bill also establishes in statute minimum and maximum capital reserve requirements  
2 for bonds that are issued for natural gas projects.