

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Create the Maine Fishery Infrastructure Tax Credit**

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

**Sec. 1. 5 MRSA §13070-J, sub-§1, ¶D,** as amended by PL 2005, c. 519, Pt. TTT, §1, is further amended to read:

D. "Economic development incentive" means:

- (1) Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;
- (2) The Governor's Training Initiative Program under Title 26, chapter 25, subchapter 4;
- (3) Municipal tax increment financing under Title 30-A, chapter 206;
- (4) The jobs and investment tax credit under Title 36, section 5215;
- (5) The research expense tax credit under Title 36, section 5219-K;
- (6) Reimbursement for taxes paid on certain business property under Title 36, chapter 915;
- (7) Employment tax increment financing under Title 36, chapter 917;
- (8) The shipbuilding facility credit under Title 36, chapter 919;
- (9) The credit for seed capital investment under Title 36, section 5216-B; ~~or~~
- (10) The credit for pollution-reducing boilers under Title 36, section 5219-Z.; or
- (11) The credit for Maine fishery infrastructure contributions under Title 36, section 5216-D.

**Sec. 2. 12 MRSA c. 903, sub-c. 8** is enacted to read:

### **SUBCHAPTER 8**

### **MAINE FISHERY INFRASTRUCTURE TAX CREDIT CERTIFICATES**

## **§ 10331. Tax credit certificates**

**1. Authorization.** In order to encourage equity contribution in infrastructure improvements and facilities that enhance the State's fisheries, the department is authorized to issue certificates of eligibility for the Maine fishery infrastructure contribution tax credit permitted by Title 36, section 5216-D, subject to the requirements of this section.

**2. Eligibility for tax credit certificate; rules.** The department shall adopt rules in accordance with the Maine Administrative Procedure Act to implement this subchapter. Rules adopted pursuant to this subsection are major substantive rules as defined by Title 5, chapter 375, subchapter 2-A. The rules must establish requirements for public fishery infrastructure project eligibility for a tax credit certificate and must include at least the following.

A. A tax credit certificate may be issued in an amount not more than 50% of the amount of cash actually contributed to an eligible public fishery infrastructure project in any calendar year.

B. Eligible public fishery infrastructure projects must be determined by the department to have a public benefit and constitute:

(1) A publicly owned infrastructure improvement or facility that enhances the State's fisheries;  
or

(2) A privately owned infrastructure improvement or facility that is publicly accessible.

C. A tax credit certificate may not be issued for a contribution to an eligible public fishery infrastructure project in which the contributor has a financial interest.

**3. Credit certificate limit.** The aggregate contribution eligible for tax credits under this subchapter may not exceed \$5,000,000 per eligible public fishery infrastructure project.

**4. List of projects.** The department shall develop and maintain a list of public fishery infrastructure projects eligible under this subchapter.

**5. Revocation of tax credit certificate.** The department may revoke a tax credit certificate under this subchapter if any representation to the department in connection with the application for the certificate proves to have been false when made or if the applicant violates any conditions established by the department and stated in the tax credit certificate. The revocation may be in full or in part as the department determines. The department shall specify the amount of credit being revoked and send notice of the revocation to the contributor and to the State Tax Assessor.

**6. Reports.** As a condition for determination of eligibility or continuation of eligibility for a tax credit certificate under this subchapter, the department may require any information or reports from the eligible public fishery infrastructure project that it considers necessary.

**Sec. 3. 36 MRSA §5216-D** is enacted to read:

**§ 5216-D. Maine fishery infrastructure contribution tax credit**

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

A. "Certificate" means a tax credit certificate issued by the Department of Inland Fisheries and Wildlife pursuant to Title 12, chapter 903, subchapter 8.

B. "Contribution" means a contribution for which a certificate has been received.

C. "Contributor" means a taxpayer who has received a certificate.

**2. Credit.** A contributor, except for a flow-through entity subject to the franchise tax imposed pursuant to chapter 819, is entitled to a credit against the tax otherwise due under this Part equal to the amount of the tax credit certificate issued by the Department of Inland Fisheries and Wildlife in accordance with Title 12, section 10331 and as limited by subsection 3. In the case of partnerships, limited liability companies, S corporations, nontaxable trusts and any other entities that are treated as flow-through entities for tax purposes under the Code, except for flow-through entities subject to the franchise tax imposed pursuant to chapter 819, the individual partners, members, stockholders, beneficiaries or equity owners of such entities must be treated as the contributors under this section and are allowed a credit against the tax otherwise due from them under this Part in proportion to their respective interests in those partnerships, limited liability companies, S corporations, nontaxable trusts or other flow-through entities. Except as limited or authorized by subsection 3 or 4, 25% of the credit must be taken in the taxable year the investment is made and 25% per year must be taken in each of the next 3 taxable years.

**3. Limitation.** The amount of the credit allowed under this section for any one taxable year may not exceed 50% of the tax imposed by this Part on the contributor for the taxable year before application of the credit.

**4. Carry-forward.** A credit under this section not taken because of the limitation in subsection 3 must be taken in the next taxable year in which the credit may be taken, and the limitation of subsection 3 also applies to the carry-forward years. In no case may this carry-forward period exceed 15 years.

**5. Recapture; interest; time limit.** In the event that the Department of Inland Fisheries and Wildlife revokes a certificate, there must be added to the tax imposed on the contributor under this Part for the taxable year in which the revocation occurs an amount equal to the excess of the amount of credit revoked over the amount of credit not yet taken, plus interest at the legal rate.

The penalty specified in this subsection may be imposed only for the shorter of 5 tax years and the number of years a tax credit was allowed under a certificate subsequently revoked by the Department of Inland Fisheries and Wildlife.

**Sec. 4. Application.** This Act applies to tax years beginning on or after January 1, 2010.

## **SUMMARY**

This bill provides an income tax credit for contributions to eligible public fishery infrastructure projects in the State. Eligible projects must be certified by the Department of Inland Fisheries and Wildlife, which is required to adopt rules for determination of eligibility. Tax certificates may be issued for up to \$5,000,000 per project. Credits must be taken in increments of 25% over 4 years and may not exceed 50% of the total tax imposed on the contributor for the applicable year. Unused credits may be carried forward for up to 15 years.