



127th MAINE LEGISLATURE

SECOND REGULAR SESSION-2016

Legislative Document

No. 1686

S.P. 694

In Senate, March 30, 2016

An Act To Amend the Finance Authority of Maine Act

(AFTER DEADLINE)

Submitted by the Finance Authority of Maine and approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator VOLK of Cumberland.
Cosponsored by Representative HERBIG of Belfast.

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

2 **Sec. 1. 10 MRSA §962, sub-§2**, as amended by PL 2011, c. 586, §1, is further
3 amended to read:

4 **2. Revenue obligation securities.** Issue revenue obligation securities to finance
5 eligible projects, except that revenue obligation securities may not be issued for energy
6 distribution system projects after or energy generating system projects unless the
7 authority issued a certificate of approval for those eligible projects before January 1, 2018
8 2020 pursuant to section 1044, subsection 13 subchapter 3;

9 **Sec. 2. 10 MRSA §963-A, sub-§13, ¶B**, as amended by PL 1987, c. 141, Pt. B,
10 §7, is further amended to read:

11 B. For a system ~~which that~~ does generate electricity, an energy generating system
12 which, including wires, cables and other material and equipment necessary and
13 convenient for the delivery of electricity from the electricity generating facility to the
14 transmission and distribution utility system within the State, that uses biomass, peat,
15 solar, waste, water and related dams, wind, wood or coal; and which that is owned, in
16 whole or in part, by an individual, municipality, corporation, limited liability
17 company or other governmental entity or business association ~~which that~~ qualifies as
18 a cogenerator or small power producer under Title 35-A, chapter 33.

19 **Sec. 3. 10 MRSA §1043, sub-§2, ¶O**, as amended by PL 2011, c. 655, Pt. MM,
20 §8 and affected by §26, is further amended to read:

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

25 (1) The energy distribution system project or the energy generating system
26 project has received all authorizations or certifications from the Public Utilities
27 Commission necessary for construction and operation of the project. The
28 authority may issue a certificate of approval for a project that has received
29 conditional approvals or certifications from the commission, except that the
30 authority's certificate becomes legally effective only upon fulfillment of the
31 conditional provisions of the commission's certificates or approvals. If the
32 commission has approved rates to be charged by the project or has issued a
33 certificate of public convenience and necessity for the project, the authority shall
34 take into consideration any findings and conclusions of law of the commission,
35 including any findings and conclusions pertaining to the need for the project and
36 the financial viability of the project.

37 (2) The authority has reviewed and considered any comments provided by the
38 Director of the Governor's Energy Office and the Public Advocate.

39 (3) The authority has determined that the applicant is creditworthy and that there
40 is a reasonable likelihood that the revenue obligation securities will be repaid
41 through the revenues of the project and any other sources of revenues and

1 collateral pledged to the repayment of those securities. In order to make these
2 determinations, the authority shall consider such factors as it considers necessary
3 and appropriate in light of the special purpose or other nature of the business
4 entity owning the project and the specific purposes of the project to measure and
5 evaluate the project and the sufficiency of the pledged revenues to repay the
6 obligations, including, but not limited to:

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

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

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

17 (d) Whether the applicant meets or exceeds industry average financial
18 performance ratios commonly accepted in determining creditworthiness in
19 that industry;

20 (e) Whether the applicant demonstrates that the need for authority assistance
21 is due to the reduced cost and increased flexibility of the financing for the
22 project that result from authority assistance and not from an inability to
23 obtain necessary financing without the capital reserve fund security provided
24 by the authority;

25 (f) Whether collateral securing the repayment obligation is reasonably
26 sufficient under the circumstances;

27 (g) Whether the proposed project enhances the opportunities for economic
28 development;

29 (h) The effect that the proposed project financing has on the authority's
30 financial resources;

31 (i) The financial performance of similar projects;

32 (j) The need for the project, as determined by the Public Utilities
33 Commission and as indicated by any comments provided by the Director of
34 the Governor's Energy Office, other public officials and members of the
35 public;

36 (k) The nature and extent of customer commitment to use the project or the
37 fuel or energy the project distributes or transmits;

38 (l) The cost advantages to end users of the fuel or energy to be distributed or
39 transmitted by the project, to the extent those advantages may affect market
40 penetration by the project; and

1 (m) The nature and extent of the applicant's equity contribution to payment
2 of the costs of the project; such a contribution may not be less than 25% of
3 the expected cost of the project.

4 This paragraph is repealed January 1, ~~2018~~ 2020.

5 **Sec. 4. 10 MRSA §1044, sub-§13**, as enacted by PL 2011, c. 586, §4, is amended
6 to read:

7 **13. Limitation.** The authority may not issue revenue obligation securities for energy
8 distribution system projects or energy generating system projects unless the authority
9 issued a certificate of approval for the energy distribution system project or energy
10 generating system project before January 1, ~~2018~~ 2020. Notwithstanding this subsection,
11 revenue refunding securities may be issued to refund any outstanding revenue obligation
12 securities.

13 **Sec. 5. 10 MRSA §1053, sub-§6, ¶A**, as amended by PL 2011, c. 586, §5, is
14 further amended to read:

15 A. The sum of \$180,000,000 consisting of not more than \$150,000,000 for loans and
16 up to \$30,000,000 for use of bond proceeds to fund capital reserve funds for revenue
17 obligation securities issued pursuant to this subchapter relating to loans for electric
18 rate stabilization projects, loans for energy generating system projects or loans for
19 energy distribution system projects;

20 SUMMARY

21 This bill clarifies the authority for the issuance of revenue obligation securities
22 pertaining to financing assistance for energy generating system projects under the
23 Finance Authority of Maine Act.

24 The bill prohibits the Finance Authority of Maine from issuing revenue obligation
25 securities for an energy generating system project unless the authority has issued a
26 certificate of approval before January 1, 2020.