



125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1127

H.P. 839

House of Representatives, March 15, 2011

An Act To Amend the Authority of the Washington County Development Authority

(EMERGENCY)

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
Clerk

Presented by Representative PARKER of Veazie.
Cosponsored by President RAYE of Washington and
Representatives: BURNS of Whiting, DAMON of Bangor, LONG of Sherman, MAKER of
Calais, McFADDEN of Dennysville, TILTON of Harrington, TURNER of Burlington,
Senator: RECTOR of Knox.

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

3 **Whereas,** it is immediately necessary to allow the Washington County Development
4 Authority to borrow money and issue bonds; and

5 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
6 the meaning of the Constitution of Maine and require the following legislation as
7 immediately necessary for the preservation of the public peace, health and safety; now,
8 therefore,

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

10 **Sec. 1. 5 MRSA §13083-B, sub-§2-A** is enacted to read:

11 **2-A. Operating revenues.** "Operating revenues" means funds available to the
12 authority from fees, fares, rental or sale of property and miscellaneous revenue and
13 interest not otherwise pledged or dedicated.

14 **Sec. 2. 5 MRSA §13083-C, sub-§1, ¶F-4** is enacted to read:

15 F-4. Borrow money, make, issue and sell at public or private sale negotiable notes,
16 bonds and other evidences of indebtedness or obligation of the authority for the
17 purposes under this article and secure the payment of that obligation or any part of
18 that obligation by pledge of all or any part of the operating revenues of the authority;

19 **Sec. 3. 5 MRSA §13083-C, sub-§1, ¶F-5** is enacted to read:

20 F-5. Enter into loan or security agreements with one or more lending institutions,
21 including, but not limited to, banks, insurance companies and institutions that
22 administer pension funds, or trustees for those institutions for the issuance of bonds
23 and exercise with respect to those loan or security agreements all of the powers
24 delineated in this article for the issuance of bonds;

25 **Sec. 4. 5 MRSA §13083-D-1** is enacted to read:

26 **§13083-D-1. Bonds**

27 **1. Hearing required.** The authority may issue bonds to finance its activities only
28 after giving notice of the proposed issuance and its terms at least twice in a newspaper of
29 general circulation in Washington County and holding a duly advertised public hearing
30 on the issuance.

31 **2. Authority.** The authority may issue bonds from time to time in its discretion to
32 finance the undertaking of an authorized activity under this article, including but not
33 limited to the payment of principal and interest upon advances for surveys and plans, and
34 may issue refunding bonds for the payment or retirement of bonds previously issued.

35 **A.** The principal and interest of bonds must be made payable solely from the income,
36 proceeds, revenues and funds of the authority derived from or held for activities

1 under this article. Payment of the principal and interest of bonds may be further
2 secured by a pledge of a loan, grant or contribution from the Federal Government or
3 other source in aid of activities of the authority under this article and by a mortgage
4 of an urban activity or a project or part of a project, title to which is in the authority.

5 B. Bonds issued under this section do not constitute an indebtedness within the
6 meaning of any constitutional or statutory debt limitation or restriction and are not
7 subject to other laws or charters relating to the authorization, issuance or sale of
8 bonds. Bonds issued under this article are declared to be issued for an essential public
9 and governmental purpose and, together with interest on and income from the bonds,
10 are exempt from all taxes.

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

31 **3. General characteristics.** Bonds authorized under this section may be issued in
32 one or more series. The resolution, trust indenture or mortgage under which the bonds
33 are issued may include the following:

34 A. The date or dates borne by the bonds;

35 B. Whether the bonds are payable upon demand or mature at a certain time or times;

36 C. The interest rate or rates of the bonds;

37 D. The denomination or denominations of the bonds;

38 E. The form of the bonds, whether coupon or registered;

39 F. The conversion or registration privileges carried by the bonds;

40 G. The rank or priority of the bonds;

41 H. The manner of execution of the bonds;

42 I. The medium and place or places of payment;

1 J. The terms of redemption of the bonds, with or without premium;

2 K. The manner secured; and

3 L. Any other characteristics of the bonds.

4 **4. Price sold.** The bonds may be:

5 A. Sold to a person on such terms as the authority may negotiate;

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

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

12 **5. Signatures of outgoing officers; negotiability.** If an official of the authority
13 whose signature appears on a bond or coupon issued under this article ceases to be an
14 official before the bond is delivered, the signature is nevertheless valid for all purposes as
15 if the official had remained in office until the delivery. Notwithstanding contrary
16 provisions of law, bonds issued under this article are fully negotiable.

17 **6. Bond recitation; conclusive presumptions.** In actions or proceedings involving
18 the validity or enforceability of a bond issued under this article or the security for that
19 bond, a bond reciting in substance that it has been issued by the authority in connection
20 with an activity is conclusively deemed to have been issued for that purpose and the
21 activity is conclusively deemed to have been planned, located and carried out in
22 accordance with this article.

23 **7. No personal liability; not debt of State or municipality.** Neither the trustees of
24 the authority nor the person executing the bonds is liable personally on the bonds by
25 reason of the issuance of the bonds. The bonds and other obligations of the authority
26 must have stated on their face that they are not a debt of the State and that the State is not
27 liable on the bonds. The bonds or obligations may not be payable out of funds or
28 properties other than those of the authority acquired for the purposes of this article.

29 **8. Bonds as legal investments.** Public officers, municipal corporations, political
30 subdivisions and public bodies; banks, trust companies, bankers, savings banks and
31 institutions, building and loan associations, savings and loan associations, investment
32 companies and other persons carrying on a banking business; insurance companies,
33 insurance associations and other persons carrying on an insurance business; and
34 executors, administrators, curators, trustees and other fiduciaries may legally invest
35 sinking funds, money or other funds belonging to them or within their control in bonds or
36 other obligations issued by the authority under this article. These bonds or other
37 obligations are authorized security for all public deposits. It is the purpose of this section
38 to authorize persons, political subdivisions and officers, public or private, to use funds
39 owned or controlled by them for the purchase of these bonds or other obligations. This
40 section does not relieve a person of any duty or of exercising reasonable care in selecting
41 securities.

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9. Investment of funds; redemption of bonds. The authority may:

A. Invest, in property or securities in which savings banks may legally invest funds subject to their control, funds held in reserves, sinking funds or funds not required for immediate disbursement; and

B. Cancel its bonds by redeeming them at the redemption price established in the bonds or by purchasing them at less than redemption price.

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

SUMMARY

This bill grants to the Washington County Development Authority the same authority given to the Midcoast Regional Redevelopment Authority to borrow money and issue bonds.