

# Appendix J

## Chapter 696 (2012 bond)

### Question 3: Bond Issue

Do you favor a \$5,000,000 bond issue to purchase land and conservation easements statewide from willing sellers for public land and water access, conservation, wildlife or fish habitat and outdoor recreation, including hunting and fishing and deer wintering areas, and to preserve working farmland and working waterfronts to be matched by at least \$5,000,000 in private and public contributions?

#### STATE OF MAINE

#### Chapter 696

#### Public Laws of 2011

Approved May 29, 2012

### **“An Act To Authorize a General Fund Bond Issue To Support Maine’s Natural Resource-based Economy”**

**Preamble.** Two-thirds of both Houses of the Legislature deeming it necessary in accordance with the Constitution of Maine, Article IX, Section 14 to authorize the issuance of bonds on behalf of the State of Maine to provide funds as described in this Act,

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

**Sec. 1. Authorization of bonds.** The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding \$5,000,000 for the purposes described in section 5 of this Act. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 10 years from the date of the original issue of the bonds.

**Sec. 2. Records of bonds issued; Treasurer of State.** The Treasurer of State shall ensure that an account of each bond is kept showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the bond, the date of sale and the date when payable.

**Sec. 3. Sale; how negotiated; proceeds appropriated.** The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned,

pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set forth in this Act. Any unencumbered balances remaining at the completion of the project in this Act lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.

**Sec. 4. Interest and debt retirement.** The Treasurer of State shall pay interest due or accruing on any bonds issued under this Act and all sums coming due for payment of bonds at maturity

**Sec. 5. Disbursement of bond proceeds.** The proceeds of the bonds must be expended as set out in this Act under the direction and supervision of the Department of Conservation.

1. The proceeds of the bonds for the Land for Maine's Future Board as set out in section 6 must be expended by the Department of Conservation for acquisition of land and interest in land for conservation, water access, outdoor recreation, wildlife or fish habitat, farmland preservation in accordance with the provisions for such acquisitions under the Maine Revised Statutes, Title 5, chapter 353 and working waterfront preservation in accordance with the terms of Public Law 2005, chapter 462, Part B, section 6, including all costs associated with such acquisitions, except that use of the proceeds of these bonds is subject to the following conditions and requirements.

A. Hunting, fishing, trapping and public access may not be prohibited on land acquired with bond proceeds, except to the extent of applicable state, local or federal laws, rules and regulations and except for working waterfront projects and farmland protection projects.

B. Payment from bond proceeds for acquisitions of local or regional significance, as determined by the Land for Maine's Future Board, may be made directly to cooperating entities as defined in Title 5, section 6201, subsection 2 for acquisition of land and interest in land by cooperating entities, subject to terms and conditions enforceable by the State to ensure its use for the purposes of this Act. In addition to the considerations required under Title 5, chapter 353, the board shall give a preference to acquisitions under this paragraph that achieve benefits for multiple towns and that address regional conservation needs including public recreational access, wildlife, open space and farmland.

C. The bond funds expended for conservation, recreation, farmland and water access must be matched with at least \$5,000,000 in public and private contributions. Seventy percent of that amount must be in the form of cash or other tangible assets, including the value of land and real property interest acquired by or contributed to cooperating

entities, as defined in Title 5, section 6201, subsection 2, when property interests have a direct relationship to the property proposed for protection, as determined by the Land for Maine's Future Board. The remaining 30% may be matching contributions and may include the value of project-related, in-kind contributions of goods and services to and by cooperating entities

D. Because portions of the State have deer populations that are struggling and deer wintering habitat protection is vital to the survival and enhancement of these populations, projects that conserve and protect deer wintering areas are considered to have special value and must receive preferential consideration during scoring of new applications for support under Title 5, section 6200 et seq.

E. To the extent the purposes are consistent with the disbursement provisions in this Act, 100% of the bond proceeds may be considered as state match for any federal funding to be made available to the State.

2. The Department of Conservation and the Department of Inland Fisheries and Wildlife shall take a proactive approach to pursuing land conservation projects that include significant wildlife habitat conservation, including conservation of priority deer wintering areas. Priority deer wintering areas are of at least 500 acres or contiguous with existing conservation land so that the combined acreage constitutes at least 500 acres, have been historically used by deer at some point since 1950 and are capable of providing shelter for deer on the effective date of this Act or within 20 years. The Department of Inland Fisheries and Wildlife shall include in conservation negotiations under this section provisions for the appropriate management of priority deer wintering areas. Land and interest in land purchased by the State that contains wildlife or fish habitat must be managed by the Department of Conservation using protocol provided by the Department of Inland Fisheries and Wildlife, and land and interest in land that is subject to a conservation easement and that contains wildlife or fish habitat must be managed using protocol provided by the Department of Inland Fisheries and Wildlife.

**Sec. 6. Disbursement of bond proceeds from General Fund bond issue.** The proceeds of the sale of the bonds authorized under this Act must be expended as designated in the following schedule.

## CONSERVATION, DEPARTMENT OF

### Land for Maine's Future Board

Provides funds in order to leverage \$5,000,000 in other funds to be used for the acquisition of land and interest in land for conservation; water access, wildlife or fish habitat including deer wintering areas; outdoor recreation, including hunting and fishing; and working farmland preservation and working waterfront preservation.

Total	\$5,000,000
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**Sec. 7. Contingent upon ratification of bond issue.** Sections 1 to 6 do not become effective unless the people of the State ratify the issuance of the bonds as set forth in this Act.

**Sec. 8. Appropriation balances at year-end.** At the end of each fiscal year, all unencumbered appropriation balances representing state money carry forward. Bond proceeds that have not been expended within 10 years after the date of the sale of the bonds lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.

**Sec. 9. Bonds authorized but not issued.** Any bonds authorized but not issued within 5 years of ratification of this Act are de-authorized and may not be issued, except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining unissued bonds for an additional amount of time not to exceed 5 years.

**Sec. 10. Referendum for ratification; submission at election; form of question; effective date.** This Act must be submitted to the legal voters of the State at a statewide election held in the month of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:

"Do you favor a \$5,000,000 bond issue to purchase land and conservation easements statewide from willing sellers for public land and water access, conservation, wildlife or fish habitat and outdoor recreation, including hunting and fishing and deer wintering areas, and to preserve working farmland and working waterfronts to be matched by at least \$5,000,000 in private and public contributions?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If a majority of the legal votes are cast in favor of this Act, the Governor shall proclaim the result without delay and this Act becomes effective 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purposes of this referendum.

**Intent and Content****Prepared by the Office of the Attorney General**

This Act would authorize the State to issue bonds in an amount not to exceed five million dollars (\$5,000,000) to raise funds for the acquisition of land and interests in land for conservation, water access, wildlife habitat (including deer wintering areas) or fish habitat, outdoor recreation (including hunting and fishing), and preservation of farmland and working waterfronts, subject to a number of conditions and requirements. The bonds would run for a period not longer than 10 years from the date of issue and would be backed by the full faith and credit of the State.

Proceeds of the sale of the bonds would be expended under the direction and supervision of the Department of Conservation, which has now been merged into the new Department of Agriculture, Conservation and Forestry. *See* Public Laws of 2011, chapter 657, section W-1 (effective Aug. 30, 2012). The funds would be expended in accordance with the provisions of the Land for Maine's Future statute, Title 5 chapter 353. The bond funds would be matched by five million dollars (\$5,000,000) of funds from other public or private sources.

The Act specifies that projects that conserve and protect deer wintering areas are to be given priority in the scoring of applications submitted to the Land for Maine's Future Board. It also directs the Department of Conservation and the Department of Inland Fisheries and Wildlife to be proactive in pursuing conservation of priority deer wintering areas – defined as areas containing at least 500 acres of land (including the acreage of any contiguous land that is already conserved) that have been used by deer at some point since 1950 and are capable of sheltering deer as of the effective date of this Act or within 20 years. Land and easements purchased by the State for wildlife or fish habitat protection must be managed using protocols provided by the Department of Inland Fisheries and Wildlife.

Payment of bond proceeds may be made directly to “cooperating entities” to acquire land or interests in land of local or regional significance. In awarding funds for such projects, the Land for Maine's Future Board is required to give preference to acquisitions that achieve benefits for multiple towns and address regional conservation needs including public recreational access, wildlife, open space and farmland. “Cooperating entities” are defined in statute (Title 5, section 6201, subsection 2) to include local governments, municipal conservation commissions, federal agencies, private nonprofit organizations, and other entities designated by the Land for Maine's Future Board as able to assist the State in the acquisition or management of conservation lands.

Bond funds expended for conservation, recreation, farmland and public access to water must be matched with an equivalent amount of funding in public and private contributions. Seventy percent (70%) of the match for each project must be in the form of cash or other tangible assets, which may include the value of any land or other real property

interests being acquired by or contributed to cooperating entities. The remaining 30% of the match may be in the form of in-kind contributions of goods or services related to the project, made by or to cooperating entities.

Any grants awarded by the Land for Maine's Future Board with these bond proceeds for working waterfront projects must be made in accordance with the terms of the Working Waterfront Access Pilot Program established by the Public Laws of 2005, chapter 462, part B.<sup>4</sup> This means each grant must be matched, dollar for dollar, by the organizations or local governments receiving the award and must be made subject to a condition that the property not be used, altered or developed in a manner that precludes its use by commercial fisheries businesses. The state must retain a permanent right of first refusal on any waterfront property that is acquired with bond proceeds, or is protected by an easement acquired with bond proceeds.

With the exception of working waterfront projects and farmland protection projects, hunting, fishing, trapping and public access may not be prohibited on lands acquired with these bond proceeds, except to the extent of applicable federal, state or local laws and regulations.

If approved, the bond authorization would take effect 30 days after the Governor's proclamation of the vote.

A "YES" vote favors the issuance of up to five million dollars (\$5,000,000) in general obligation bonds for the above activities.

A "NO" vote opposes the bond issue in its entirety.

#### **Debt Service**

##### **Prepared by the Office of the Treasurer**

Total estimated life time cost of borrowing this amount of money is **\$6,237,500** representing **\$5,000,000** in principal and **\$1,237,500** in interest (assuming **4.50%** over **10** years).

#### **Fiscal Impact Statement**

##### **Prepared by the Office of Fiscal and Program Review**

This bond issue has no significant fiscal impact other than the debt service costs identified above.

#### **Public Comments**

No public comments were filed in support of or in opposition to Question 3.

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<sup>4</sup> This pilot program has since been established in statute as the Maine Working Waterfront Access Protection Program. See Public Laws of 2011, chapter 266, part B (effective Sept. 28, 2011), enacting new language in Title 5 chapter 353 (the Land for Maine's Future statute) and in Title 12 (the Department of Marine Resources statute).