

§1951. Jail authority bonds and notes

1. Authorization of bonds. Subject to the limitations in this subchapter, the jail authority may provide by resolution of its board of directors and commissioners and with consent of the counties for the borrowing of money and the issuance from time to time of bonds and notes for any of its corporate purposes, including, but not limited to:

- A. Paying and refunding its indebtedness; [PL 2003, c. 228, §1 (NEW).]
- B. Paying any necessary expenses and liabilities incurred under this chapter, including organizational and other necessary expenses and liabilities, whether incurred by the jail authority or any county in the jail authority. The jail authority may reimburse either county in the jail authority for any such expenses incurred or paid by that county; [PL 2003, c. 228, §1 (NEW).]
- C. Paying costs directly or indirectly associated with acquiring properties, paying damages, constructing, maintaining and operating correctional facilities; and making renewals, additions, extensions and improvements to the property or facilities; and covering interest payments during the period of construction and for such period as the directors and commissioners may determine; [PL 2003, c. 228, §1 (NEW).]
- D. Providing such reserves for debt service, repairs and replacements or other capital or current expenses as may be required by a trust agreement or resolution securing bonds or notes; [PL 2003, c. 228, §1 (NEW).]
- E. Financing all or part of a correctional facility for a user. The term "user," as used in this section, means one or more persons or entities, other than a jail authority, acting as lessee, purchaser, mortgagor, borrower or contracting party; and [PL 2003, c. 228, §1 (NEW).]
- F. Any combination of these purposes. [PL 2003, c. 228, §1 (NEW).]

Bonds may be issued by the jail authority under this chapter as general obligations of the jail authority or as special obligations payable solely from particular funds. The principal, premium and interest on all bonds must be payable solely from the funds provided for that purpose from revenues. All bonds issued by the jail authority under this chapter are legal obligations of the jail authority and the jail authority is declared to be a quasi-municipal corporation within the meaning of section 5701. Bonds may be issued under this chapter without obtaining the consent of any commission, board, bureau or agency of the State. Bonds issued by the authority under this section are a municipal security as defined by section 5903 and are eligible for purchase by the Maine Municipal Bond Bank. Except as provided in this subchapter, bonds issued under this chapter by the jail authority do not constitute a debt or liability of the State or of either county in the jail authority or a pledge of the faith and credit of the State or either county, and a statement to that effect must be recited on the face of the bonds. [PL 2003, c. 228, §1 (NEW).]

2. Notes. The jail authority may also provide by resolution of its board of directors for the issuance from time to time of:

- A. Notes in anticipation of bonds authorized under this chapter; [PL 2003, c. 228, §1 (NEW).]
- B. Notes in anticipation of the revenues to be collected or received in any year; or [PL 2003, c. 228, §1 (NEW).]
- C. Notes in anticipation of the receipt of federal or state grants or other aid. The issuance of these notes is governed by the applicable provisions of this chapter relating to the issuance of bonds, as long as notes in anticipation of revenue mature no later than one year from those notes' respective dates of issuance. Notes issued in anticipation of federal or state grants or other aid and renewals of grants or aid must mature no later than the expected date, as determined by the board of directors, of receipt of those grants or aid. The board of directors may adjust the maturity date of notes issued in anticipation of federal or state grants or other aid to reflect changes in the expected date of

receipt. Notes in anticipation of revenue issued to mature less than one year from dates of issuance of the notes may be renewed from time to time by the issuance of other notes, except that the period from the date of an original note to the maturity of any note issued to renew or pay the original note or the interest on the original note may not exceed one year. [PL 2003, c. 228, §1 (NEW).]

The jail authority may enter into agreements with the State Government or Federal Government, or any agency of either, or any county, corporation, commission or board authorized to grant or loan money or to otherwise assist in the financing of projects of the type that the jail authority is authorized to carry out. The jail authority may also accept grants and borrow money from the State Government or the Federal Government or any agency of either, or any county, corporation, commission or board authorized to grant or loan money as may be necessary or desirable to accomplish the purposes of the jail authority.

[PL 2003, c. 228, §1 (NEW).]

3. Maturity; interest; form; temporary bonds. The bonds issued under this chapter must be dated, must mature at such time or times not exceeding 40 years from their date or dates of issuance and must bear interest at such rate or rates as may be determined by the board of directors or determined pursuant to a formula approved by the board of directors or by a 3rd party rate-setting agent selected by the board of directors. The bonds may be made redeemable before maturity, at the option of the jail authority, at such price or prices and under such terms and conditions as may be fixed by the board of directors prior to the issuance of the bonds. The board of directors shall determine the form of the bonds including any interest coupons to be attached, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any financial institution having trust powers inside or outside the State. Bonds must be executed in the name of the jail authority by the manual or facsimile signature of such officer or officers as may be authorized in the resolution to execute the bonds, but at least one signature on each bond must be a manual signature. Coupons, if any, attached to the bonds must be executed with the facsimile signature of the officer or officers of the jail authority designated in the resolution. If an officer whose signature or facsimile signature appears on any bonds or coupons ceases to hold that office before the delivery of the bonds, the signature or its facsimile is valid and sufficient for all purposes, as if the officer had remained in office until the delivery.

Notwithstanding any other provisions of this chapter or any recitals in any bonds issued under this chapter, all such bonds are deemed to be negotiable instruments under the laws of this State. The bonds may be issued in coupon or registered form, or both, as the board of directors may determine, and provision may be made for the registration of any coupon bonds as to principal alone and as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The board of directors may sell the bonds in the manner, either at public or private sale, and for such price as they may determine to be for the best interests of the jail authority. The proceeds of the bonds of each issue must be used solely for the purpose for which those bonds have been authorized and must be disbursed in such manner and under such restrictions as the board of directors may provide.

The resolution providing for the issuance of bonds, and any trust agreement securing the bonds, may contain such limitations upon the issuance of additional bonds as the board of directors may determine proper, and these additional bonds must be issued under such restrictions and limitations as may be prescribed by that resolution or trust agreement. Prior to the preparation of definitive bonds, the board of directors may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when those bonds are executed and are available for delivery. The board of directors may provide for the replacement of any bond that is mutilated, destroyed or lost.

[PL 2003, c. 228, §1 (NEW).]

4. Pledges; covenants; trust agreement. In the discretion of the board of directors, each or any issue of bonds may be secured by a trust agreement by and between the jail authority and a corporate trustee, which may be any financial institution having trust powers inside or outside the State.

The resolution of the directors authorizing the issuance of the bonds or the trust agreement may pledge or assign, in whole or in part, the revenues and other money held or to be received by the jail authority and any accounts and contracts or other rights to receive the revenues or money, whether existing or coming into existence and whether held or acquired by the jail authority and the proceeds of the bonds, and may convey or mortgage the multicounty jail or any other properties of the jail authority. The resolution may also contain provisions for protecting and enforcing the rights and remedies of the bondholders, including, but not limited to, covenants setting forth the duties of the jail authority and the board of directors in relation to the acquisition, construction, reconstruction, improvement, repair, maintenance, operation and insurance of the multicounty jail or any of the authority's other properties; the fixing and revising of rates, tolls, assessments, rents and transportation charges and other charges; the application of the proceeds of bonds; the custody, safeguarding and application of revenues; the defining of defaults and providing for remedies in the event of defaults, which may include the acceleration of maturities, the establishment of reserves and the making and amending of contracts. The resolution or trust agreement may set out the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. The resolution or trust agreement may contain such other provisions as the board of directors may determine reasonable and proper for the security of the bondholders, including means by which the resolution or trust agreement may be amended.

All expenses incurred in carrying out the resolution or trust agreement may be treated as a part of the cost of operation. The pledge by any such resolution or trust agreement is valid and binding and is deemed continuously perfected for the purposes of the Uniform Commercial Code from the time when the pledge is made. All revenues, money, rights and proceeds so pledged and received by the jail authority are immediately subject to the lien of the pledge without any physical delivery or segregation or further action under the Uniform Commercial Code or otherwise, and the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the jail authority irrespective of whether those parties have notice of the lien of the pledge.

The resolution authorizing the issuance of bonds under this chapter, or any trust agreement securing those bonds, may provide that all or a sufficient amount of revenues and assessments, after providing for the payment of the cost of repair, maintenance and operation and reserves for the cost of repair, maintenance and operation as may be provided in the resolution or trust agreement, must be set aside at such regular intervals as may be provided in the resolution or trust agreement and deposited in the credit of a fund for the payment of the interest on and the principal of bonds issued under this chapter as the bonds become due, and the redemption price or purchase price of bonds retired by call or purchase. The use and disposition of money in or to the credit of the fund is subject to such regulations as may be provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds and, except as may otherwise be provided in the resolution or trust agreement, the fund is a fund for the benefit of all bonds without distinction or priority of one over another.

[PL 2003, c. 228, §1 (NEW).]

5. Trust funds. All money set aside for payment of the bonds, or other purposes pursuant to the provisions of any trust agreement securing the bonds, is deemed to be a trust fund to be held and applied as provided by the trust agreement; except that investment or deposit of those funds is subject to the provisions applicable to municipal funds under chapter 223, subchapter 3-A. The resolution authorizing the issuance of bonds or the trust agreement securing the bonds must provide that any officer of a bank or trust company or other financial institution or fiscal agent to which money is paid shall act as trustee of the money and shall hold and apply the money for the purposes pursuant to this

subsection, subject to any regulations as may be provided in the resolution or trust agreement or as may be required by this chapter.

[PL 2003, c. 228, §1 (NEW).]

6. Remedies. Any holder of bonds issued under this chapter or of any of the coupons attached to those bonds, and the trustee under any trust agreement, except to the extent the rights given may be restricted by the resolution authorizing the issuance of those bonds or trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, including proceedings for the appointment of a receiver to take possession and control of the properties of the jail authority, protect and enforce any and all rights under the laws of the State or granted under this chapter or under the resolution or trust agreement. A holder of bonds or a trustee may enforce and compel the performance of all duties required by this chapter or by the resolution or trust agreement to be performed by the jail authority or by any officer of the jail authority, including the fixing, charging and collecting of rates, fees and charges for the use of or for the services and facilities furnished by the jail authority, or if applicable, the making of any assessments against the counties under section 1952.

[PL 2003, c. 228, §1 (NEW).]

7. Refunding bonds. The jail authority formed under this chapter by resolution of its board of directors without consent of either county may issue refunding bonds for the purpose of paying any of its bonds at maturity or upon acceleration of maturity or redemption of those bonds. The refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the board of directors determines to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium on the bonds, any interest accrued or to accrue to the date of payment of those bonds, the expenses of issuance of the refunding bonds, the expenses of redeeming the bonds being refunded and such reserves for debt service or other capital or current expenses from the proceeds of the refunding bonds as may be required by the trust agreement or resolution securing bonds. The issuance of refunding bonds, the maturities and other details of the issuance of refunding bonds, the security for the issuance of refunding bonds, the rights of the holders of the issuance of refunding bonds and the rights, duties and obligations of the jail authority in respect of the same is governed by the applicable provisions of this chapter relating to the issuance of bonds.

[PL 2003, c. 228, §1 (NEW).]

8. Tax exemption. All bonds, notes or other evidences of indebtedness issued under this chapter, and their transfer and the income from bonds, notes or other evidences of indebtedness, including any profit made on the sale of bonds, notes or other evidences of indebtedness, are at all times free from taxation inside the State.

[PL 2003, c. 228, §1 (NEW).]

9. Bonds declared legal investments. Bonds and notes issued by the jail authority under this chapter are securities in which: all public officers and public bodies of the State and its political subdivisions; all insurance companies and associations and other persons carrying on an insurance business; trust companies, banks, bankers, banking associations, savings banks and savings associations, including savings and loan associations, credit unions, building and loan associations, investment companies, executors, administrators, trustees and other fiduciaries of pension, profit-sharing, retirement funds; other persons carrying on a banking business; and all other persons who are now, or may be, authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital in their control or belonging to them. The bonds and notes are made securities that may properly and legally be deposited with and received by any state, municipal or public officer, or any agency or political subdivision of the State, for any purpose for which the deposit of bonds or other obligations of the State is now or may be authorized by law.

[PL 2003, c. 228, §1 (NEW).]

10. Certain bond issues; notice; special meeting; vote. In the event that the directors vote to authorize bonds or notes for any of the corporate purposes of the jail authority, excluding notes payable within one year or notes in anticipation of the revenues to be collected or received in any year or notes in anticipation of bonds that have already been authorized in accordance with this chapter or notes in anticipation of the receipt of approved federal or state grants, the authorized amount of which, singly or in the aggregate included in any one financing, is 10% or less of the operating budget, the directors do not need consent of the counties, but shall provide notice to the general public:

A. Of the proposed bond or note issue and the purposes for which the debt is being incurred; and [PL 2003, c. 228, §1 (NEW).]

B. Of a special jail authority meeting for the purpose of permitting the collection of testimony from the public concerning the amount of the debt so authorized. [PL 2003, c. 228, §1 (NEW).]

Notice of the proposed bond or note issue, the purposes for which the debt is being issued and the call of the special meeting must be published at least once in a newspaper having general circulation in the 2 counties.

[PL 2003, c. 228, §1 (NEW).]

11. Negotiated or competitive bidding process. Any notes, bonds or other instruments of indebtedness may be the subject of a negotiated or competitive bidding process or any other process that may be advantageous to the jail authority. Determination of the process to be used must be made by and at the discretion of the directors.

[PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

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