

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 719

I.B. 1

House of Representatives, February 20, 1991

Transmitted to the Clerk of the House of the 115th Maine Legislature by the Secretary of State on February 19, 1991.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Deauthorize the Widening of the Maine Turnpike and to
Create a Sensible Transportation Policy.**



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

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Sec. 1. 23 MRSA §73 is enacted to read:

§73. Transportation policy

1. Short title. This section may be known and cited as the "Sensible Transportation Policy Act."

2. Purposes and findings. The people of the State find that decisions regarding the State's transportation network are vital to the well-being of Maine citizens, to the economic health of the State and to the quality of life that the citizens treasure and seek to protect.

The people also find that these decisions have profound, long-lasting and sometimes detrimental impacts on the natural resources of the State, including its air quality, land and water.

The people further find that substantial portions of the state highway system are in disrepair and improvements to the State's roads and bridges are necessary to provide a safe, efficient, and adequate transportation network throughout the State.

The people further find that the State's transportation network is heavily dependent on foreign oil, that such reliance is detrimental to the health of the State's economy and that the health and long-term stability of the State's economy require increased reliance on more efficient forms of transportation.

The people further find that improvements to the transportation network are necessary to meet the diverse transportation needs of the people of the State including rural and urban populations and the unique mobility requirements of the elderly and disabled.

The people further find that the decisions of state agencies regarding transportation needs and facilities are often made in isolation, without sufficient comprehensive planning and opportunity for meaningful public input and guidance.

3. Transportation policy. It is the policy of the State that transportation planning decisions, capital investment decisions and project decisions must:

A. Minimize the harmful effects of transportation on public health and on air and water quality, land use and other natural resources;

B. Require that the full range of reasonable transportation alternatives be evaluated for all significant highway construction or reconstruction projects and give preference to transportation system management options, demand management

2 strategies, improvements to the existing system, and other
3 transportation modes before increasing highway capacity through
4 road building activities;

5 C. Ensure the repair and necessary improvement of roads and
6 bridges throughout the State to provide a safe, efficient and
7 adequate transportation network;

8 D. Reduce the State's reliance on foreign oil and promote
9 reliance on energy-efficient forms of transportation;

10 E. Meet the diverse transportation needs of the people of the
11 State, including rural and urban populations and the unique
12 mobility needs of the elderly and disabled;

13 F. Be consistent with the purposes, goals and policies of the
14 Comprehensive Planning and Land Use Regulation Act; and

15 G. Incorporate a public participation process in which local
16 governmental bodies and the public have timely notice and
17 opportunity to identify and comment on concerns related to
18 transportation planning decisions, capital investment decisions
19 and project decisions. The department and the Maine Turnpike
20 Authority shall take the comments and concerns of local citizens
21 into account and shall be responsive to them.

22 4. Rulemaking. The Department of Transportation shall
23 adopt a rule within one year of the effective date of this Act,
24 in coordination with the Maine Turnpike Authority and state
25 agencies including the Department of Economic and Community
26 Development, the State Planning Office and the Department of
27 Environmental Protection, to implement the statewide
28 comprehensive transportation policy. The rule must incorporate a
29 public participation process that provides municipalities and
30 other political subdivisions of the State and members of the
31 public notice and opportunity to comment on transportation
32 planning decisions, capital investment decisions, project
33 decisions and compliance with the statewide transportation policy.

34 5. Applicability to Department of Transportation.
35 Transportation planning decisions, capital investment decisions
36 and project decisions of the Department of Transportation are
37 governed by and must comply with the transportation policy set
38 forth in this section and rules implementing that policy.

39 **Sec. 2. 23 MRSA §1961, sub-§2, as enacted by PL 1987, c. 793,**
40 **Pt. A, §6, is amended to read:**

41 **2. Cooperation with the Department of Transportation.** The
42 Department of Transportation shall must be provided each year a
43 ~~maximum amount of \$8,700,000 of the total annual operating~~
44 ~~surplus revenue after money has been put aside to pay operating~~

2 expenses--and--to--meet--the--requirements--of--any--resolution
authorizing--bonds of the Maine Turnpike Authority. Any--funds
4 received--by--the--department--under--this--provision--in--excess--of
\$4,700,000--shall--be--expended--for--highway--and--bridge--improvements
6 within--counties--which--contain--turnpike--mileage. These amounts
are deemed considered necessary for use by the department for
8 construction, reconstruction, operation and maintenance of access
all roads on the state highway system, which serve and benefit
10 users of the turnpike by providing direct and indirect access to
and from the turnpike as part of the integrated highway system.
12 Due to the utilization of the state highway system by users of
the turnpike, the turnpike and its users have received and will
14 continue to receive a benefit from, or have caused and will
continue to cause, or both, the State acting by and through the
Department of Transportation to incur costs for the construction,
16 operation and maintenance of the state highway system, which
provides direct and indirect access to and from the turnpike to
18 areas in the State for which the State may properly be and should
be compensated from the tolls to be collected. The Maine
20 Turnpike Authority should be maintained to carry out the purposes
of this chapter in cooperation with the Department of
22 Transportation.

24 **Sec. 3. 23 MRSA §1961, sub-§§5 and 6** are enacted to read:

26 **5. Transportation policy.** Transportation planning
28 decisions, capital investment decisions and project decisions of
the Maine Turnpike Authority are governed by and must comply with
30 the transportation policy set forth in section 73 and rules
implementing that policy.

32 **6. Appropriation.** On or before December 1st, annually, the
34 authority shall present to the Legislature for its approval the
operating budget of the authority and the revenues necessary to
36 meet the requirements of any resolution authorizing bonds of the
authority. The authority may only make expenditures in
38 accordance with allocations approved by the Legislature. The
operating surplus must be transferred to the Department of
40 Transportation and expended in accordance with allocations
approved by the Legislature.

42 **Sec. 4. 23 MRSA §1964, sub-§6-A** is enacted to read:

44 **6-A. Operating surplus.** "Operating surplus" means the
46 total annual operating revenues of the Maine Turnpike Authority,
after money has been put aside to pay the reasonable operating
48 expenses and to meet the requirements of any resolution
authorizing bonds of the Maine Turnpike Authority.

50 **Sec. 5. 23 MRSA §1965, sub-§1, ¶D,** as amended by PL 1987, c.
52 457, §2, is further amended to read:

2 D. Construct, maintain, reconstruct and operate a toll turnpike
3 from a point at or near York in York County to a point at or near
4 Augusta in Kennebec County, except that the traveled way shall
5 ~~may not be widened or expanded beyond 3 lanes for each direction~~
6 ~~of travel from Exit 1 to and including Exit 6A and beyond 2 lanes~~
7 ~~for each direction of travel elsewhere on the turnpike~~ without
8 the express approval of the Legislature.

9
10 A license, permit, or approval necessary for the widening or
11 expansion of the turnpike may not be issued by any state agency
12 unless that agency makes an affirmative finding that the widening
13 or expansion is consistent with state transportation policy as
14 well as rules implementing that policy;

15
16 **Sec. 6. 23 MRSA §1965, sub-§1, ¶10, as repealed and replaced by**
17 **PL 1987, c. 793, Pt. A, ¶7, is repealed.**

18 **Sec. 7. 23 MRSA §1968, sub-§1, as amended by PL 1987, c. 457,**
19 **§5, is further amended to read:**

20
21 **1. General.** The authority is authorized to provide by
22 resolution from time to time for the issuance of turnpike revenue
23 bonds, including notes or other evidences of indebtedness or
24 obligations defined to be bonds under this chapter, but not
25 exceeding \$20,000,000 in the principal amount at any one time
26 outstanding exclusive of refundings, for the purpose of paying
27 the cost of constructing, reconstructing or making extraordinary
28 repairs to the turnpike and the location thereof, for the purpose
29 of repaying grants or loans from the Federal Government the
30 proceeds of which were used to construct or reconstruct the
31 turnpike or portions thereof of the turnpike or access roads or
32 portions thereof of the access roads, but only to the extent
33 repayment is required in order for the authority to continue to
34 collect tolls on the turnpike and, with the approval of the
35 Department of Transportation, for the purpose of paying the cost,
36 or a portion of the cost, of construction or reconstruction of
37 interchanges, or portions thereof of interchanges. In addition to
38 bonds from time to time outstanding pursuant to this subsection,
39 the authority is authorized to provide by resolution for the
40 issuance, from time to time, of turnpike revenue bonds, including
41 notes or other evidences of indebtedness or obligations defined
42 to be bonds under this chapter, not exceeding \$66,000,000 in the
43 principal amount, exclusive of refundings, ~~to pay the cost, or a~~
44 ~~portion of the cost, of widening and expansion of the turnpike~~
45 ~~from 2 lanes of travel in each direction to 3 lanes of travel in~~
46 ~~each direction to the extent permitted in section 1965,~~
47 ~~subsection 1, paragraph D, and to pay the cost or a portion of~~
48 the cost of construction of interchanges or improvements to
49 interchanges which that are determined by the Department of
50 Transportation and the authority to have a sufficient
51 relationship to the public's use of the turnpike and the orderly
52 regulation and flow of traffic on the turnpike in accordance with

2 the requirements of section 1974, subsection 3. The bonds of the
3 authority shall do not constitute a debt of the State or of any
4 agency or political subdivision thereof, but shall ~~be~~ are payable
5 solely from the operating revenues of the turnpike. Notwithstanding any provision of any law, any bonds issued
6 pursuant to this chapter shall ~~be~~ are fully negotiable. ~~In case~~
7 If any of the members or officers of the authority whose
8 signatures appear on the bonds or coupons, if any, shall cease to
9 be members or officers before the delivery of the bonds, the
10 signature shall is, nevertheless, be valid and sufficient for all
11 purposes the same as if the members or officers had remained in
12 office until that delivery.

14 Whether or not the bonds are of such form and character as to be
15 negotiable instruments under the Uniform Commercial Code, Title
16 11, Article 8, the bonds shall ~~be and~~ are hereby made negotiable
17 instruments within the meaning of and for all the purposes of the
18 Uniform Commercial Code, Title 11, Article 8, subject only to the
19 provisions of the bonds for registration.

20 It is the intention of this chapter that any pledge made by the
21 authority in respect of the bonds or notes shall ~~be~~ is valid and
22 binding from the time when the pledge is made; that the moneys
23 funds or property so pledged and thereafter received by the
24 authority shall is immediately be subject to the lien of such
25 that pledge without any physical delivery thereof of that lien or
26 further act; and that the lien of any such a pledge shall ~~be~~ is
27 valid and binding as against all parties having claims of any
28 kind in tort, contract or otherwise against the authority
29 irrespective of whether those parties have notice thereof of that
30 lien. Neither the resolution, trust indenture nor any other
31 instrument by which a pledge is created need be recorded.

34 **Sec. 8. 23 MRSA §1974, sub-§4, as amended by PL 1987, c. 793,**
35 **Pt. A, §8, is repealed.**

36 **Sec. 9. 23 MRSA §1977, as enacted by PL 1981, c. 595, §3, is**
37 **amended to read:**

40 **§1977. Trust funds**

42 Subject to any agreement with the bondholders, all revenue
43 received from the operation of the turnpike after deducting
44 expenditures required for the construction, reconstruction,
45 operation and maintenance of the turnpike and for the payment of
46 the principal and the interest on the bonds of the authority or
47 otherwise in accordance with the provisions thereof, shall and
48 after deducting the operating surplus provided to the Department
49 of Transportation, must be held and invested by the authority to
50 establish trust funds for reserve and sinking funds for the
51 retirement of bonded indebtedness.

2 **Sec. 10. Revenues accrued.** All revenues accrued as of the
effective date of this Act, excluding operating expenses and
4 those revenues necessary to meet the requirements of any
resolution authorizing bonds of the Maine Turnpike Authority,
6 must be provided to the Department of Transportation and must be
used for the same purposes as the operating surplus of the
authority.

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STATEMENT OF FACT

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14 Decisions affecting the State's transportation network
involve public policy choices that directly affect the well-being
16 of Maine people, the State's economic vitality and the quality of
life that the citizens treasure and seek to protect. These
18 decisions have had profound, long-lasting and sometimes
detrimental impacts on the public health and natural resources of
the State, including its air quality, land and water.
20 Substantial portions of the highway system are in disrepair and
improvements to certain of the State's roads and bridges are
22 needed to provide an adequate transportation network throughout
the State.

24
26 The State's transportation network is heavily dependent on
foreign oil and the health and long-term stability of Maine's
28 economy require increased reliance on more efficient forms of
transportation. Additionally, Maine has diverse transportation
30 needs arising from a unique mix of rural and urban populations
and the special mobility requirements of the elderly and disabled
32 that must be incorporated into transportation planning. Finally,
decisions of state agencies regarding transportation needs and
34 facilities are often made in isolation, without sufficient
comprehensive planning and opportunity for meaningful public
input and guidance.

36
38 This initiative has 3 major sections designed to ensure that
transportation decisions and the substantial commitments of
40 public funds resulting from them are made in the context of a
comprehensive, statewide transportation policy that addresses the
concerns listed above.

42
44 First, the initiative establishes a statewide transportation
policy that:

- 46 1. Requires evaluation of the full range of alternatives to
48 highway construction or reconstruction and gives preference
to nonconstruction alternatives, such as traffic management
and public transit systems, to meet transportation needs;
- 50 2. Minimizes public health and environmental impacts of
52 transportation decisions;

- 2 3. Establishes a public participation process for municipal and
4 citizen involvement in transportation planning and decisions;
6 4. Promotes use of energy-efficient forms of transportation and
discourages transportation modes reliant on foreign oil;
8 5. Integrates land use planning decisions with transportation
10 planning decisions; and
12 6. Ensures that the State's transportation network meets the
14 diverse needs of rural and urban populations, as well as the
mobility requirements of the elderly and the disabled.

16 The Department of Transportation is to establish rules to
18 implement this policy in conjunction with the Maine Turnpike
Authority and other relevant state agencies. Department of
20 Transportation and Maine Turnpike Authority transportation
decisions must comply with this policy.

22 Second, the initiative deauthorizes the widening of the
Maine Turnpike from Exit 1 to Exit 6-A and requires that any
24 future proposals to widen the turnpike comply with the
transportation policy. The initiative does not alter the
26 existing requirement that the Legislature approve future turnpike
widening proposals.

28 Third, the initiative requires the transfer of surplus money
collected by the Maine Turnpike Authority to the Department of
30 Transportation. Once transferred to the Department of
Transportation, this money is available for road and bridge
32 projects throughout the State that are consistent with the
statewide transportation policy. Under the initiative, the
34 Legislature must approve the Maine Turnpike Authority's budget
and expenditures.