

# MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 2013

H. P. 1541

House of Representatives, January 24, 1972

The Committee on State Government suggested.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Jalbert of Lewiston.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-TWO

**AN ACT Implementing the Reorganization of the Department of  
Transportation.**

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

**Sec. 1. R. S., T. 6, § 3, sub-§ 18, repealed and replaced.** Subsection 18 of section 3 of Title 6 of the Revised Statutes, as repealed and replaced by section 3 of chapter 498 of the public laws of 1969, is repealed and the following enacted in place thereof:

**18. Department.** "Department" means the Department of Transportation.

**Sec. 2. R. S., T. 6, § 3, sub-§ 19, repealed and replaced.** Subsection 19 of section 3 of Title 6 of the Revised Statutes, as amended by section 4 of chapter 498 of the public laws of 1969, is repealed and the following enacted in place thereof:

**19. Director.** "Director" means Commissioner of Transportation.

**Sec. 3. R. S., T. 6, § 11, repealed.** Section 11 of Title 6 of the Revised Statutes, as amended, is repealed.

**Sec. 4. R. S., T. 23, § 51, repealed.** Section 51 of Title 23 of the Revised Statutes, as amended, is repealed.

**Sec. 5. R. S., T. 23, c. 3, sub-c. II, repealed.** Subchapter II of chapter 3 of Title 23 of the Revised Statutes is repealed.

**Sec. 6. R. S., T. 23, § 201, repealed and replaced.** Section 201 of Title 23 of the Revised Statutes is repealed and the following enacted in place thereof:

### § 201. Appointment

The commissioner shall, subject to the Personnel Law, appoint a civil engineer as chief engineer in the Bureau of Highways.

**Sec. 7. R. S., T. 23, c. 3, sub-c. VI, repealed.** Subchapter VI of chapter 3 of Title 23 of the Revised Statutes is repealed.

**Sec. 8. R. S., T. 23, § 1251, amended.** The 2nd sentence of section 1251 of Title 23 of the Revised Statutes is amended to read as follows:

Such signs shall be placed on each side of such crossing at such distances as shall be determined upon by the ~~Public Utilities Commission and the State Highway Commission~~ **which a commissions Department of Transportation** ~~which are~~ is required, and vested with authority, to cause to be located and maintained such warning signs.

**Sec. 9. R. S., T. 23, § 1252, repealed and replaced.** Section 1252 of Title 23 of the Revised Statutes is repealed and the following enacted in place thereof:

### § 1252. Signs to be clearly visible; removal of obstructions

The signs referred to in section 1251 shall be of such size, design and color as shall be established by order of the Department of Transportation. Such signs shall be placed in conspicuous locations at a distance not less than 300 feet from the nearest rail of such crossing unless conditions make it reasonable to cause such signs to be located at a lesser distance from said rail. Such locations shall always be kept clear that such signs shall be plainly visible and the municipal officers of the several towns in which such signs are located are authorized and required either on their own motion or when requested by the Department of Transportation to cut down, trim or remove all bushes, trees or other obstructions which may impair the view of any such signs.

**Sec. 10. R. S., T. 23, § 1253-A, amended.** The first and 2nd sentences of section 1253-A of Title 23 of the Revised Statutes, as enacted by section 1 of chapter 387 of the public laws of 1969, are amended to read as follows:

The ~~State Highway Commission~~ **Department of Transportation** is authorized to designate any highway-railroad grade crossing ~~on state and state aid highways~~ as a stop intersection and to install and maintain stop signs thereat. The ~~Public Utilities Commission~~ **Department of Transportation** is authorized to so designate such highway-railroad grade crossings on town ways, and local municipalities shall, when ordered by the ~~Public Utilities Commission~~ **Department of Transportation**, erect and maintain stop signs on such town ways.

**Sec. 11. R. S., T. 23, c. 19, sub-c. II, repealed.** Subchapter II of chapter 19 of Title 23 of the Revised Statutes is repealed.

**Sec. 11-A. R. S., T. 23, c. 19, sub-c. II-A, additional.** Chapter 19 of Title 23 of the Revised Statutes is amended by adding a new subchapter II-A to read as follows:

## SUBCHAPTER II-A

## BOND ISSUANCE

## § 1553. Issuance of bonds

The State, under proper authorization of the Governor and Executive Council, shall issue all highway and bridge bonds.

Sec. 12. R. S., T. 23, § 2902, repealed and replaced. Section 2902 of Title 23 of the Revised Statutes is repealed and the following enacted in place thereof:

## § 2902. Location of railroad crossings; expense; appeals

Town ways and highways may be laid out across, over or under any railroad track or through or across any land or right-of-way of any railroad corporation if the Department of Transportation, after notice and hearing, so determines. The Department of Transportation may refuse its permission or grant permission on such terms and conditions as it may prescribe, and the need, if any, for installation, maintenance and operation of signals, gates or other protective measures and may determine whether the expense of building and maintaining so much of said way as is within the limits of such railroad corporation shall be borne by such corporation or by the municipality in which such way is located or by the State, or the Department of Transportation may apportion such expense between the railroad corporation and the municipality or State. The expense of operating and maintaining any protective device shall be borne by the corporation operating the railroad. The expense of installing protective devices at crossings on state and state aid highways shall be apportioned between such railroad corporation and the State as the Department of Transportation shall determine. The expense of installing protective devices at crossings on town ways shall be apportioned between the railroad corporation and the municipality as the Department of Transportation shall determine. The Department of Transportation shall report its determinations and decisions, file the same in its principal office at Augusta and send copies by mail or otherwise to each of the parties subject to the determination, order or decision. Such determinations, orders or decisions shall be final and binding upon all parties unless an appeal therefrom shall be taken to the Superior Court in the county where the crossing is located. The Department of Transportation shall be made a party in such appeal. The appellant shall, within 14 days from the date of the filing of such determination, order or decision, file in the office of the Department of Transportation its reasons for appeal and shall forthwith cause to be served upon such other interested parties a copy of such reasons for appeal certified by the Department of Transportation. The presiding Justice shall make such order or decree thereon as law and justice may require. An appeal may be taken to the law court as in other actions. The final adjudication shall be recorded as provided in section 2904 and a copy of such final decision sent to the Department of Transportation. Costs may be taxed and allowed to either party at the discretion of the court.

Sec. 13. R. S., T. 23, § 3411, repealed and replaced. Section 3411 of Title

23 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 3411. Petition; damages; expenses; temporary ways

The municipal officers in instances of town ways crossing or crossed by a railroad, whether such crossing be at grade or otherwise, or any railroad corporation may petition the Department of Transportation alleging that public safety or public convenience either to the traveling public or in the operation of the railroad services requires abolishment of or reconstruction of or alteration of such crossings or its approaches; or change in the method of crossing a public way; or the closing of a crossing and the substitution of another therefor; or the removal of obstructions to the sight at such crossing and praying the same may be ordered. The Department of Transportation shall appoint a time and place for a hearing after notice of not less than 10 days to the petitioners, the railroad corporation, the municipality in which the crossing is situated, the owners or occupants of the land adjoining such crossing or adjoining that part of the way to be changed in grade. After notice and hearing, the Department of Transportation shall make its determination to insure safety or public convenience and by whom such abolishment, reconstruction, alteration, change or removal shall be made. The jurisdiction of the Department of Transportation shall exist whether the change or alterations in such crossing is within or without the limits of a public way. To facilitate such abolishment, reconstruction, alterations, changes or removals, highways and other ways may be raised or lowered or the courses of the same way may be altered to permit a railroad to pass at the side thereof. For the purposes aforesaid land may be taken and damages awarded as provided for laying out highways. The Department of Transportation shall determine how much land may be taken and shall fix the damages sustained by any person whose land is taken and the special damages which the owner of land adjoining the public way may sustain by reason of any change in the grade of such way.

Appeal from any decision, order or award of the commission may be had as provided in section 3413. The Department of Transportation shall apportion the expenses pertaining thereto and damages as follows: If the way involved is a state highway, 50% to the Department of Transportation and 50% to the railroad corporation; if the way involved is a state aid highway, 50% to the Department of Transportation and the municipality or municipalities in which the way is located, the pro rata share being determined by the percentage of state aid granted on the way involved and 50% to the railroad corporation; if the way involved is a town way, 35% to the State, to be paid out of the General Fund, 15% to the town, or in cases under the last paragraph of this section 15% to the county commissioners of the county in which the way is located and over which the county commissioners have jurisdiction, and 50% to the railroad corporation, provided that the Department of Transportation may vary the aforesaid percentages of expense and damages as it may deem proper after due consideration of the relative benefits to be derived from such abolishment, alteration or reconstruction, and provided that the amount ordered to be paid by the railroad corporation shall not in

any event exceed 50% of said expenses and damages. The Department of Transportation may approve agreements made by the railroad corporation and other parties in interest in respect to the work or varying the percentages, provided the amount to be paid by the town shall not exceed the 15% specified unless the town shall vote otherwise, as to any elimination or alteration made under this section, the Department of Transportation may determine what work fairly and properly should be regarded as highway construction.

The Department of Transportation may make such order relative to the maintenance of crossings at grade or otherwise as it may deem necessary, and may determine whether such expense shall be borne by such railroad corporation, by the municipality in which any such crossing is located or by the State by or through the Department of Transportation; or the Department of Transportation may apportion such expense equitably between such railroad corporation, such municipality and the State by or through the Department of Transportation.

While the use of any way is obstructed in carrying out the foregoing provisions of this section, such temporary way shall be provided as the commission may order. The Department of Transportation shall not make any order upon any petition filed under this section until they are satisfied, by investigation or otherwise, that the financial condition of the corporation operating the railroad in question will enable said corporation to comply with such order, and that the probable benefit to the public will warrant said order and the probable expense resulting therefrom, and that said order can be complied with without exceeding the state appropriation available therefor.

The county commissioners shall have the same right of petition under this section, with respect to roads in unorganized places laid out by them under section 4001, as have municipal officers of a municipality under the foregoing provisions of this section. In case a petition is filed by them, all parties interested in the subject matter of the petition shall be notified by the Department of Transportation of the filing of such petition and given opportunity to appear and be heard thereon.

Sec. 14. R. S., T. 23, § 3413, repealed and replaced. Section 3413 of Title 23 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 3413. Order of Department of Transportation; appeals

The order of the Department of Transportation relating to any matter upon which they may act under the authority of section 3411 and 3412 shall be communicated in writing to the petitioners and to all persons to whom notice of the hearing on such petition was given. Any person aggrieved by such order, who was a party to such proceedings, may appeal from such order to the Superior Court within and for the county in which such way or crossing is located in the manner now provided in section 2902. Any person aggrieved by the decision or judgment of the Department of Transportation in relation to damages for land taken for the purposes of section 3411 may appeal from said decision to the Superior Court to be held in the county

where the land is situated, within 30 days after the report of the Department of Transportation is made, which court shall determine the same by a committee of reference if the parties so agree or by a verdict of its jury, and shall render judgment for the damages recovered with costs to the party prevailing in the appeal, but the committee or jury shall not alter the requirements in the report of the Department of Transportation. The appellants shall, when such appeal is taken, include in the complaint a statement setting forth substantially the facts of the case and shall give written notice of such appeal with a copy of the complaint to the opposite party. An appeal may be taken to the law court as in other actions.

**Sec. 15. R. S., T. 23, § 4201, repealed.** Section 4201 of Title 23 of the Revised Statutes, as enacted by section 1 of chapter 498 of the public laws of 1971, is repealed.

**Sec. 16. R. S., T. 23, §§ 4202, 4203, 4204, 4205 and 4206, additional.** Title 23 of the Revised Statutes is amended by adding 5 new sections to read as follows:

**§ 4202. Short title**

This chapter shall be known as and may be cited as the **Maine Transportation Act**.

**§ 4203. Definitions**

The following terms, when used in this chapter, shall have the following meanings, unless the context otherwise requires:

1. **Commissioner.** "Commissioner" means the Commissioner of Transportation.
2. **Department.** "Department" means the Department of Transportation.
3. **Transportation.** "Transportation" means any form of transportation for people or goods within, to or from the State, whether by highway, air, water or rail.

**§ 4204. Declaration of policy**

It is declared to be the policy of the State of Maine that adequate, safe and efficient transportation facilities and services are essential to the economic growth of the State and the well-being of its people and that the planning and development of such facilities and services shall be coordinated by a state department of transportation with overall responsibility for balanced transportation policy and planning.

**§ 4205. Department; commissioner**

There is created and established the Department of Transportation to consist of a Commissioner of Transportation appointed by the Governor, with the advice and consent of the Council, who shall serve a term coterminous with that of the Governor and until his successor is appointed and qualified subject to removal for cause by the Governor and Council, and the following as heretofore created and established:

1. The Department of Aeronautics,
2. The State Highway Commission,
3. The Economic Advisory Board,
4. The Maine Port Authority,
5. The Advisory Committee of Ferry Service,
6. The Scenic Highway Board, and
7. The Highway Safety Committee.

§ 4206. Duties of commissioner

1. Duties. The commissioner shall have the following general powers, duties and responsibilities:

A. To develop for the State, comprehensive, balanced transportation policy and planning as will meet the present and future needs for adequate, safe and efficient transportation facilities and services;

B. To assist in the development and operation of transportation facilities and services in the State;

C. To promote the coordinated and efficient use of all available and future modes of transportation;

D. To exercise and perform such other functions, powers and duties as shall have been or may be from time to time conferred or imposed by law, including all the functions, powers and duties assigned and transferred to the Department of Transportation from and as now imposed by law or otherwise conferred on these units designated in section 4205;

E. To appear as chief spokesman for the State before such national, regional, state and local agencies, groups or organizations including regulatory agencies as he deems necessary to enhance and promote the transportation interest of Maine, to counsel, advise and participate for the furtherance of the intent and purpose of this chapter;

F. To stimulate active support for and to develop, administer and promote transportation safety action programs throughout the State of Maine and to formulate and recommend to the Legislature specific measures for these purposes;

G. To establish a system of scenic highways in the State of Maine and preserve the scenic values along the system of highways; to develop and adopt procedures for the designation and development of that system of scenic highways and the preservation of the scenic value in the highway corridor and in the implementation of this intent and purpose consider the scenic value, safety aspects, economic implications, preservation of scenic value and compatibility with other national, regional and local conservation plans;



H. To acquire, construct, operate and maintain such harbor facilities as may be necessary to implement the planned development of coastal resources, ports and harbors; to operate and maintain the port facilities as now within or as may hereafter come within the jurisdiction of the Department of Transportation;

I. To accept and receive and be the sole administrator of all federal or other moneys for and in behalf of this State or any political subdivision thereof now or hereafter available for purposes of transportation or which would further the intent and specific purposes of this chapter.

2. Organization. The commissioner shall organize the department into such bureaus, divisions and other units as he deems necessary to fulfill the duties of the department, provided at all times there shall be the following boards, bureaus and staff:

- A. Bureau of Administration;
- B. Bureau of Transportation Planning and Services;
- C. Bureau of Aeronautics;
- D. Bureau of Highways;
- E. Bureau of Waterways; and
- F. Legal Services Division.

3. Advisory boards. The commissioner, subject to approval by the Governor and Council, shall organize and create such advisory committees and boards to serve at the pleasure of the commissioner for such terms and purposes as are deemed to be in the best interest of furthering the intent and purposes of this chapter. Such committees and boards shall be made up of persons especially skilled, knowledgeable or experienced in some phase of transportation. The commissioner shall fix the compensation for those who serve on such boards and committees with the consent and approval of the Governor and Council.

4. Personnel. The commissioner may, subject to the Personnel Law, appoint such deputies, directors, assistants, general counsel and other officers and employees as may be needed for the performance of his duties; except the Director of Aeronautics and the Director of Waterways shall be in the unclassified service and their appointments shall be made by the commissioner, with the advice and consent of the Governor and Council, to serve at the pleasure of the commissioner.

5. Rules and regulations. The commissioner may prescribe and promulgate all necessary rules and regulations in order to fulfill the purposes of this Title.

6. Hearings. The commissioner may conduct investigations, inquiries and hearings concerning all matters within the jurisdiction of the department. The commissioner may administer oaths and affirmations, certify to all official acts, issue subpoenas and compel the attendance and testimony of wit-

nesses and the production of papers, records, books and documents and if any person refuses to attend, testify or produce papers, records, books and documents as ordered, a Justice of the Superior Court, upon application of the commissioner, may make such order as is appropriate to aid in enforcement of the order.

7. **Delegation.** The commissioner may delegate to deputies, directors, assistants and other officers and employees of the department such of his duties as he deems appropriate.

8. **Experimental projects.** The commissioner may engage in such experimental projects as he deems will contribute to furthering the purposes of this chapter.

**Sec. 17. R. S., T. 35, § 813, amended.** Section 813 of Title 35 of the Revised Statutes is amended to read as follows:

**§ 813. Discontinuance of railroad crossings**

Any railroad corporation ~~the State Highway Commission~~ or the municipal officers of a city or town in which a public way crosses or is crossed by a railroad, whether at grade or otherwise, may file a petition in writing with the ~~Public Utilities Commission~~ **Department of Transportation** alleging that such crossing is no longer required by the public and praying that it may be closed or discontinued. The ~~commission~~ **Department of Transportation** shall thereupon appoint a time for hearing thereon after notice of not less than 10 days to the petitioners, ~~the State Highway Commission~~ the railroad corporation owning or operating such railroad and the city or town in which such crossing is located. After such notice and hearing, if the ~~commission~~ **Department of Transportation** shall find that such crossing is no longer required by the public, it may order that the same be closed or discontinued. The **Department of Transportation** may close or discontinue railroad crossings after notice of not less than 10 days to the railroad and municipality or after hearing if requested within the 10 days either by the railroad or the municipality.

**Sec. 18. R. S., T. 35, § 1189, repealed and replaced.** Section 1189 of Title 35 of the Revised Statutes is repealed and the following enacted in place thereof:

**§ 1189. Obstructions ordered removed; notice**

At every crossing of a highway or other way except state and state aid highways and a railroad at grade the municipal officers of the town or unorganized place in which the crossing is located are authorized and required on order of the Department of Transportation to remove embankments and other obstructions within highway limits and to enter upon private property and properly trim, cut down, remove or apply chemical treatment to bushes, and from time to time as may be necessary to cut down and remove trees, fences, signboards and encroachments which obstruct the view of an engine, train or car by a traveler at or near any such crossing. The Department of Transportation will cause the same to be done on state and state aid highways. The authority of the department in any order to the municipal officers

shall not extend beyond the land bounded on a line from a point 300 feet on either side of any such crossing measured along the highway or other way and a point 300 feet on either side of any such crossing measured along the railroad right-of-way, the purpose being to enable a traveler on any such way, when such traveler is 300 feet or less distant from any such crossing, to have a fair view of an approaching train, engine or car from one or more angles continuously from the time such train, engine or car is 300 feet from such crossing until it has passed over the same. Entry on private property for the purposes stated shall be only after a 10 days' notice mailed to the last known address of the property owner and the posting of notice in a conspicuous place in the municipality.

**Sec. 19. Amendatory clause.** Whenever in the Revised Statutes, Title 23, sections 2903, 2904, 3412 and 3414 the words "Public Utilities Commission" appear they shall mean "Department of Transportation."

**Sec. 20. Amendatory clause.** Whenever in the Revised Statutes, Title 23 the term "commission" appears it shall mean "Department of Transportation" unless the context otherwise requires.

**Sec. 21. Amendatory clause.** Whenever in the Revised Statutes, Title 35, sections 811, 812, 826, 1187, 1188, 1190 and 1191 the word "commission" or words "Public Utilities Commission" appear they shall mean "Department of Transportation."

**Sec. 22. Amendatory clause.** Whenever in the Revised Statutes and in the private and special laws the terms "State Highway Commission" or "State Highway Department" appear they shall mean "Department of Transportation."

**Sec. 23. Amendatory clause.** Whenever in the Revised Statutes and in the private and special laws the terms "Maine Aeronautics Commission" or "Department of Aeronautics" or "Aeronautics Commission" appear they shall mean "Department of Transportation."

**Sec. 24. Amendatory clause.** Whenever in the Revised Statutes and in the private and special laws the terms "Chairman of Highway Commission" or "Chairman of the Maine State Highway Commission" appear they shall mean "Commissioner of Transportation."

**Sec. 25. P. & S. L., 1929, c. 114, § 1, sub-§ (b), amended.** The first 2 sentences of subsection (b) of section 1 of chapter 114 of the private and special laws of 1929, as amended by section 1 of chapter 196 of the private and special laws of 1969, are further amended to read as follows:

The said Port Authority is constituted a public agency of the State of Maine for the general purpose of acquiring, constructing and operating piers and terminal facilities within the State of Maine ~~and for the purpose of securing and maintaining adequate ferry transportation for persons and property between the mainland and the islands in Casco Bay located within the limits of the City of Portland and the Town of Cumberland,~~ with all the rights, privileges and power necessary therefor, and shall have the power of buying,

leasing and otherwise acquiring and of holding, owning, controlling, constructing, leasing, operating and otherwise using and of selling and otherwise disposing of real and personal property and such rights and easements therein as its directors may from time to time consider necessary for the above purposes, ~~including ferry lines, boats, landing areas~~ constructing or securing the constructing or utilizing of piers and in connection therewith, highways, waterways, railroad connections, storage yards and sites for warehouses and industrial establishments, and may lay out and build thereon such piers, with buildings and appurtenances, docks, highways, waterways, railroad connections, storage yards, elevators, public warehouses, and every kind of railroad and marine terminal facility, as, in the opinion of its directors may be desirable; for a term not exceeding 5 years, it may lease, demise or rent any of its real or personal property not required in the performance of its functions; and for a period not exceeding 5 years, and in a sum not exceeding \$50,000 by vote of its directors, it may make any contract or agreement for the carrying on or performance of its purposes or for the more advantageous, expeditious or convenient discharge of its duties; no form of indebtedness issued or liabilities incurred by said Port Authority shall become an obligation of the State of Maine and all instruments so issued shall so state; it may acquire, hold and operate lighters and other vessels necessary or convenient; it may establish and collect the fees, rates, rentals and other compensation for the use of its property and facilities; it shall keep account of its income and expenditures, property and liabilities, in manner prescribed by the Department of Finance and Administration, through the Bureau of Accounts and Control, and it shall make an annual report of the condition of its property and finances to the Governor and Council; the net income of the Port Authority may be used for improvements and extensions of the property of the Port Authority in the discretion of its directors. It may grade and surface any suitable railroad locations or traffic ways which are or may be located on lands, flats or rights therein, now owned or hereafter acquired by it under the provisions of this Act, and may carry said ways or railroads across any railroad or railway location or public way at, above or below grade, subject however to the approval of the ~~Public Utilities Commission~~ **Department of Transportation**, and may provide suitable and convenient tract connections between the rails serving any pier or piers and those of any existing or proposed railroad that now reaches or hereafter may reach any port where facilities are or may be operated by said Port Authority.

**Sec. 26. P. & S. L., 1929, c. 114, § 1, sub-§ (e), amended.** Subsection (e) of section 1 of chapter 114 of the private and special laws of 1929, as enacted by section 11 of chapter 190 of the private and special laws of 1957 and as amended by section 1 of chapter 125 of the private and special laws of 1959, is further amended to read as follows:

(e) **Ferry service for North Haven, Vinalhaven, Islesboro, Swan's Island and Long Island Plantation.** It shall be the duty of the ~~Maine Port Authority~~ **Department of Transportation** to operate a ferry line or lines between the mainland and the Towns of North Haven, Vinalhaven, Islesboro and Swan's Island for the purpose of transporting vehicles, freight and passengers to and from said towns, and the ~~Maine Port Authority~~ **Department of Trans-**

**portation** may operate such ferry line or lines to and from Long Island Plantation.

**Sec. 27. P. & S. L., 1929, c. 114, § 1, sub-§ (f), amended.** Subsection (f) of section 1 of chapter 114 of the private and special laws of 1929, as enacted by section 3 of chapter 79 of the private and special laws of 1959, is amended to read as follows:

(f) **Ferry service between mainland and islands in Casco Bay.** Whenever it is determined by the Public Utilities Commission that ferry transportation for persons and property between the mainland and the islands in Casco Bay located within the limits of the City of Portland and the Town of Cumberland can no longer feasibly be provided by private operators at rates established by said Public Utilities Commission, the ~~Port Authority~~ **Department of Transportation** shall take such means as shall be necessary to provide such service, either through contract with private operators or by acquiring and operating the necessary facilities as provided herein.

**Sec. 28. P. & S. L., 1929, c. 114, § 1, sub-§ (g), amended.** The first sentence of subsection (g) of section 1 of chapter 114 of the private and special laws of 1929, as enacted by chapter 55 of the private and special laws of 1971, is amended to read as follows:

The ~~Maine Port Authority~~ **Department of Transportation** may operate a special charter service to Hurricane and Matinicus Islands in Knox County, or to ports added or to be added by legislative enactment.

**Sec. 29. P. & S. L., 1929, c. 114, § 2, repealed and replaced.** Section 2 of chapter 114 of the private and special laws of 1929 is repealed and the following enacted in place thereof:

**Sec. 2. Directors; appointment, president, vacancy.** The Port Authority shall consist of a board of 5 directors. Two directors shall be appointed by the Governor with the advice and consent of the Council, each to serve for 3 years, except the first term one shall be appointed for one year and one for 2 years; one director shall be appointed by the city council of Portland; and one director shall be appointed by the city council of South Portland. In the event the City of South Portland or the City of Portland fail to appoint a director within 60 days after notice from the office of the Governor, the Governor shall make such appointment forthwith. The other director shall be the Commissioner of Transportation who shall serve as president. The directors shall elect a treasurer and such other officers as the board of directors may from time to time deem necessary. Any vacancy shall be filled for the unexpired term by the Governor or by the city council according as the vacancy occurs.

(a) **Meetings of directors; compensation.** All the powers of the Port Authority may be exercised by the board of directors in lawful meeting and a majority of the directors shall be necessary for a quorum. Regular meetings of the board of directors may be established by bylaw and no notice need be given to the directors of such regular meeting. Each director shall receive from the Port Authority \$25 for each in attendance at an official

meeting, except the president of the board shall serve without pay, and the director shall be reimbursed for necessary expenses incurred in the discharge of his duties as such director. The board of directors shall determine and fix the salary of all other officers and employees of the Port Authority.

(b) **Actions at law or in equity.** Actions at law or in equity in the courts of this State or before the Public Utilities Commission or Industrial Accident Commission may be brought by or against the Port Authority as if it were a private corporation, except that its property may not be attached, trusteeed or sequestered, but if a judgment recovered against it is not paid within 30 days, its personal property may be seized on execution.

Sec. 30. P. & S. L., 1929, c. 114, § 3, amended. Section 3 of chapter 114 of the private and special laws of 1929 is amended by adding at the end a new paragraph to read as follows:

The Maine Port Authority shall convey to the State of Maine any and all right, title and interest which it has in and to any real and personal property which property shall thereafter be under the jurisdiction and control of the Department of Transportation. It shall transfer or assign all moneys, accounts receivable, insurance and other property of whatever nature in the custody and control of the authority, however, the money and receivables together with income accruing to the Department of Transportation, from the property and facilities transferred, in an amount equal to the authority's indebtedness, shall be deposited in a separate debt retirement fund for the retirement of any indebtedness of the authority outstanding and existing at the date of transfer. The account so created shall be drawn on in payment of the indebtedness as it becomes due and payable.

Sec. 31. P. & S. L., 1957, c. 190, § 1, amended. Section 1 of chapter 190 of the private and special laws of 1957, as amended by section 2 of chapter 125 of the private and special laws of 1959 and by section 1 of chapter 187 of the private and special laws of 1959, is further amended to read as follows:

Sec. 1. **Ferry service for North Haven, Vinalhaven, Islesboro, Swan's Island and Long Island Plantation.** It shall be the duty of the ~~Maine Port Authority~~ Department of Transportation to operate a ferry line or lines between the mainland and the Towns of North Haven, Vinalhaven, Islesboro and Swan's Island for the purpose of transporting vehicles, freight and passengers to and from said towns, and the ~~Maine Port Authority~~ Department of Transportation may operate such ferry line or lines to and from Long Island Plantation. Such ferry line or lines shall be designated as "Maine State Ferry Service."

Sec. 32. P. & S. L., 1957, c. 190, § 3, repealed. Section 3 of chapter 190 of the private and special laws of 1957 is repealed.

Sec. 33. P. & S. L., 1957, c. 190, § 4, repealed and replaced. Section 4 of chapter 190 of the private and special laws of 1957, as amended by section 2 of chapter 210 of the private and special laws of 1957 and as repealed and replaced by chapter 183 of the private and special laws of 1961, is repealed and the following enacted in place thereof:

**Sec. 4. Tolls.** The Department of Transportation shall charge and collect such tolls for the use of such ferry line or lines by vehicles, freight and passengers as may from time to time be determined by it, after public hearing as provided in the Revised Statutes, Title 23, section 4206, subsection 6.

**Sec. 34. Authorization.** The Commissioner of Transportation is authorized to retain members of the Economic Advisory Board, the Advisory Committee of Ferry Service, the Scenic Highway Board and the Highway Safety Committee to serve in an advisory capacity in the Department of Transportation at the pleasure of the commissioner for a period not to exceed 2 years and they shall receive the same compensation and reimbursement for out-of-pocket expenses as they heretofore received.

**Sec. 35. Port Authority Directors.** The term of the present board of directors for the Maine Port Authority shall terminate concurrently with new appointments to be made in accordance with the provisions set forth in section 29 of this Act. The new appointments shall be made as expeditiously after enactment hereof as is possible.

**Sec. 36. Amendatory clause.** Whenever in subsection (e) of section 1 of chapter 114 of the private and special laws of 1929, as amended by chapter 178 of the private and special laws of 1963, the words "Maine Port Authority" appear they shall mean "Department of Transportation."

**Sec. 37. Amendatory clause.** Whenever in chapter 113 of the private and special laws of 1971 of words "Maine State Planning Office" appear they shall mean "Department of Transportation."

**Sec. 38. Members.** The Commissioner of Transportation is authorized to retain members of the Economic Advisory Board, the Advisory Committee of Ferry Service, the Scenic Highway Board and the Highway Safety Committee to serve in an advisory capacity for a period not to exceed 2 years. The members of these boards will receive the same compensation as they presently receive. The commissioner has authority, subject to the approval of the Governor and Council, to organize and create such advisory committees of experts to serve for whatever purposes and whatever lengths of time the commissioner deems necessary. The department hopes to take advantage of the wide range of citizen expertise in the State on transportation matters without creating permanent boards and commissions.

**Sec. 39. Funds and equipment transferred.** Notwithstanding the Revised Statutes, Title 5, section 1585, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in any account, or subdivision of an account, of any agency to be reallocated to another department strictly as a result of the reorganization effort, shall be transferred to the proper place in the new structure by the State Controller, upon recommendation of the department head, the State Budget Officer and upon approval by the Governor and Executive Council.

## STATEMENT OF FACT

This bill implements the Department of Transportation. The department will have the duties of the following agencies: (1) State Highway Commission; (2) Department of Aeronautics; (3) Maine Port Authority; (4) Advisory Committee of Ferry Service; (5) Scenic Highway Board; (6) Highway Safety Committee; and (7) Economic Advisory Board. It does not include the Board of Harbor Commissioners for the Harbor of Portland or the Penobscot Bay and River Pilotage Commission. It also transfers from the Public Utilities Commission to the Department of Transportation certain functions in regard to the location of railroad crossings.

The department will be composed of the following bureaus: Bureau of Administration, Bureau of Transportation Planning and Services, Bureau of Aeronautics, Bureau of Highways and Bureau of Waterways. The commissioner will appoint the Director of Aeronautics and the Director of Waterways with the advice and consent of the Governor and Council to serve at the pleasure of the commission. All other bureau directors in the department will be appointed subject to the Personnel Law. All of the assets, liabilities and present duties of the Maine Port Authority are transferred to the Department of Transportation. The Maine Port Authority, however, is retained as a corporate shell in case it is needed sometime in the future to borrow money without pledging the credit of the State, for the purposes for which the Port Authority was originally enacted.

Section 37 of the bill transfers the duty of making a feasibility study for a high speed railroad in Maine from the Maine State Planning Office to the Department of Transportation.

The Commissioner of Transportation will be appointed by the Governor, with advice and consent of the Council, to serve a term coterminous with that of the Governor, subject to removal for cause.