

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2171

S. P. 680

In Senate, February 4, 1976

On motion of Senator Speers of Kennebec, referred to the Committee on Transportation. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Greeley of Waldo.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

AN ACT to Establish the Waldo County Transportation Authority.

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

Sec. 1. Incorporation and purposes. There is created a body corporate and politic to be known as the Waldo County Transportation Authority, hereinafter called "the authority." The purpose of the authority shall be to acquire, operate, maintain and improve the railroads existing in Waldo County and to plan, acquire facilities for, construct and operate such additions to or extensions of the existing railroads and related facilities as may be necessary to provide optimum rail transportation service for Waldo County. The authority shall have all the powers, rights, privileges and immunities necessary for the accomplishment of the aforesaid purposes whether or not such powers are hereinafter specifically enumerated.

Sec. 2. Acquisition of property; right of eminent domain. The authority is authorized to acquire from the Belfast and Moosehead Lake Railroad Company and said Belfast and Moosehead Lake Railroad Company is authorized to convey or otherwise transfer to the authority the existing railroad property situated in Waldo County, consisting of land and buildings, easements, fixtures, equipment and tools and all other property, both real and personal, which is part of or used at the existing railroad facility together with all leases, bank accounts, accounts receivable and all other intangible property presently being administered by the Belfast and Moosehead Lake Railroad Company. The consideration for the aforesaid transfer shall be the assumption by the authority of all presently outstanding debts and liabilities of the railroad incurred in the course of administering the existing railroad.

The authority may also acquire by purchase, by eminent domain or otherwise such real and personal property, easements, rights and property rights, as may be necessary or convenient to the accomplishment of its purposes. The authority is authorized to extend its tracks and related facilities over or across the public highways of Waldo County where alternative means of access are or can be made available to persons served by the highway and where such construction would not unduly interfere with some other existing public purpose of the city, town or state. The authority shall assume responsibility for all costs of such work, including the cost of providing alternative roads or access ways where such is required and shall indemnify the city, town or state for any liability which it may incur to 3rd persons as a result of such construction, including damages for negligent performance of the work.

Sec. 3. Crossing public utilities. Where it is proposed that the railroad tracks or other installations of the authority shall cross or otherwise interfere with property or service of a public utility and where consent of the utility to such crossing is refused, application shall be made to the Public Utilities Commission to determine the place, manner of crossing and the conditions upon which the same may be made. Such tracks or other installation interfering with the property or service of the public utility shall thereafter be constructed only to the extent permitted by and subject to conditions imposed by the Public Utilities Commission and such work shall be performed under its supervision.

Sec. 4. Procedure in eminent domain proceedings. When property is to be taken through the exercise of the power of eminent domain, the authority shall cause to be recorded in the Waldo County Registry of Deeds a description identifying the property to be taken, with reasonable accuracy and indicating the names of the owners thereof, if known, together with a notice that the same is to be taken by the authority. Copies of the notice and description shall also be sent at the same time, by registered or certified mail, to all persons whose whereabouts are known having an interest of record in such property. No entry shall be made upon private lands so taken within 10 days after such recording, except to make surveys. At the end of said 10-day period, title to said property shall vest in the authority and possession of same be taken. After the expiration of said 10-day period, the authority shall promptly submit, in writing to the persons or corporations whose property is taken, an offer in writing to pay an amount found by the authority to represent fair compensation therefor. The offer of the authority as to the amount of damages due shall be final and binding upon all parties having an interest in the property, unless, within 60 days from the date on which such offer is made, an appeal is taken from the authority's determination as to damages in the Waldo County Superior Court. Such appeal shall be taken in the manner prescribed by Rule 80B of the Maine Rules of Civil Procedure and any amendments thereto, except in the respects in which proceedings under the rule would be inconsistent with the express provisions of this chapter.

When for any reason the authority fails legally to acquire property which it is authorized to take and which is included in its recorded description, or

if the recorded description is defective or ambiguous, it may at any time thereafter correct and perfect its proceedings or file a corrected description. In such case, the authority will be liable in damages only for property for which the owners thereof had not previously been paid, to be assessed as of the time of the original taking, and the authority shall not be liable for any act which would have been justified if the original taking had been lawful.

Sec. 5. Disposal of surplus property. When the authority determines that any real or personal property or interests therein in its possession are no longer necessary to the accomplishment of the purposes of the authority, it may dispose of the same, subject to any restrictions which may be imposed by the Federal Government or its regulatory agencies having administrative jurisdiction over the authority's operations, upon such terms as it considers advisable.

Sec. 6. Contracts. The authority is authorized to enter binding contracts with other persons, corporations, and governmental bodies or agencies thereof, including contracts to lease the use of land, buildings, or other facilities presently existing or to be constructed for the purposes set forth in section 1 upon such terms as the board of the authority shall approve. The authority may also negotiate for, receive and use grants and loans from any governmental body or agency which are available for use in the furtherance of any of the purposes of the authority.

Sec. 7. General provisions regarding borrowing. In order to accomplish its purposes, including the renewing or refunding of indebtedness heretofore or hereafter incurred, the authority is authorized to borrow money and issue from time to time, bonds, notes, or other evidences of indebtedness in one series or in separate series in such amounts and bearing interest at such rates as it shall determine to be advisable. In anticipation of any such permanent borrowing, the authority is authorized to issue its temporary notes payable from the proceeds of the bonds or other evidences of indebtedness.

Any such notes, bonds, or other evidences of indebtedness may be issued to mature serially or made to run for such periods as the authority may determine and each authorized issue shall constitute a separate loan. When bonds are issued to mature on a fixed date after issuance rather than serially, they shall be retired, in whole or in part, through the creation of a sinking fund in which the authority shall annually deposit a sum equal to at least 1% of the indebtedness secured by said bonds. The sinking fund shall be invested in such investments as are authorized for savings banks of this State and shall be held, together with accumulated income thereon, for the sole purpose of paying the principal or call premium of the bonds. Bonds, notes, or other evidences of indebtedness may be issued with or without provision for calling the same prior to maturity, and if callable, may be made callable at par or at such premium as the authority shall determine. All bonds, notes, or other evidences of indebtedness shall be signed by the treasurer and countersigned by the chairman of the board of the authority and if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile signature of the treasurer of the board. All bonds, notes, and other evidences of indebtedness issued by the authority shall be legal investments for savings banks in the State of Maine and shall be tax exempt. All such

bonds and notes shall be deemed to be negotiable instruments under the laws of this State. All such bonds, notes, and other evidences of indebtedness of the authority shall be legal obligations of the authority, enforceable against all property of whatever kind owned by it. The City of Belfast may by affirmative vote of the city council vote to guarantee payment of any bond, note, or other evidence of indebtedness issued by the authority, where such action will result in a saving to the authority in the cost of borrowing.

In the event of default in the payment of any of the bonds or attached coupons, any holder thereof may petition any Justice of the Supreme Judicial Court, for the benefit of himself, as well as for the benefit of all other holders of bonds, to declare the authority insolvent and enforce the lien of the bonds by appointment of a receiver for the authority and by sale of its property according to the usual practice in the case of insolvent private corporations.

Sec. 8. Temporary borrowing. The authority is authorized to issue from time to time its temporary notes and renewal notes in anticipation of moneys to be received. The aggregate amount of such temporary notes shall not exceed the total of the anticipated receipts for the fiscal year in which the temporary notes are to be issued, and any such temporary notes shall be payable during such fiscal year. The aggregate amount of such temporary notes shall not exceed the estimated receipts for such fiscal year as determined by the board of the authority.

Sec. 9. Estimating annual expenses. The authority shall annually prepare a budget for its next fiscal year itemizing expenses of operation, maintenance and repairs, costs of contemplated capital construction and payments of principal and interest on fixed indebtedness and other borrowings. The budget shall also include such other details as to present asset surplus, accounts receivable, expenses, and liabilities as the board of the authority shall deem advisable. The board of the authority shall also estimate the anticipated revenues of the authority for the forthcoming fiscal year to be derived from rentals of buildings and equipment, fees charged for the use of facilities, sale of surplus property and any other source.

Sec. 10. Property tax exempt. The real and personal property rights and franchises of the authority shall be exempt from taxation. The authority shall not be liable for its torts, except to the extent of the limits of any liability insurance which it may then have in force.

Sec. 11. Waldo County Transportation Authority Board. The authority shall be under the management and direction of a board of directors which will be known as the Waldo County Transportation Authority Board, also referred to herein as "the board" or "the board of the authority." The board shall consist of 7 members. The City Manager of Belfast shall be a member of the board by virtue of his office, a representative of the Town of Brooks and 5 other members shall be selected by the City Council of Belfast.

At the initial meeting for organization of the authority, or as soon thereafter as practicable, the 7 above named members of the board shall elect one of their members who shall be chairman of the board.

Members of the board shall serve without compensation, but shall be reimbursed for their actual expenses incurred in the performance of their duties upon the approval of the board.

Sec. 12. Election of officers. The board shall annually elect said chairman and a treasurer, clerk or secretary and such other officers as it may establish in its bylaws. The clerk and treasurer need not be members of the board and both offices may, in the discretion of the board, be held by the same person, except as provided in this chapter. The duties of the chairman and other officers shall be those established by the bylaws of the authority and, in addition, such duties as may from time to time be prescribed by the board and shall otherwise be those duties usually appertaining to their offices. The treasurer shall furnish to the board a bond, payable to the authority, issued by a surety company authorized to transact business within the State and satisfactory to the board in such sum as the board may prescribe and conditioned upon the faithful performance of his duties. The compensation of the treasurer and secretary or clerk, if any, shall be determined by the board.

The board may appoint a manager on a full or part-time basis to direct the general administration of the railroad and related facilities. The board may also on its own initiative or upon recommendation of the manager, employ such engineers and experts, agents, officers, clerks and other employees and agents as it deems necessary for the proper operation and administration of the railroad and it may prescribe their duties.

Sec. 13. General administration. The board shall adopt a fiscal year for the authority and shall adopt and may thereafter amend bylaws for the conduct of its affairs. The board shall also establish a schedule of reasonable rates for the use of facilities. In fixing such rates, the board shall take into account the total capital investment of the authority and its predecessors in interest, the expense of properly maintaining the railroad facilities, the cost of necessary future expansion of the railroad and related facilities and the nature, frequency and extent of the use of the railroad facilities which the tenant or licensee proposes to make.

The authority shall establish an office at the railroad at which its business may be conducted and in which maps, plans, records, and other papers relating to operation of the authority shall be kept, but the board of the authority may vote to hold its meetings at a more convenient location. The authority shall at all times keep full and accurate accounts of its receipts, expenditures, liabilities and assets, which shall at all reasonable times be open to inspection by authorized representatives of the City of Belfast or the stockholders of the Belfast and Moosehead Lake Railroad Company. The authority shall make an annual report of its activities for the preceding year to the Mayor and Council of the City of Belfast.

The authority shall have a seal consisting of a circular die bearing the words "Waldo County Transportation Authority 1976," which may be used whenever deemed advisable by the board on papers and documents issued or executed by it or its officers or employees on its behalf.

Sec. 14. Rules and regulations. The authority shall adopt and publish rules and regulations governing the use of the railroad and related facilities. Any violation of those regulations, which require compliance with standards of safe conduct by persons and corporations using the railroad and its related facilities, shall constitute a misdemeanor punishable by a fine of up to \$500.

STATEMENT OF FACT

The purpose of this bill is to make available a proper structure for receiving funds through the Regional Rail Reorganization Act of 1973. It seeks to provide a nonprofit vehicle to receive and disburse Title IV Federal Assistance money for the modernization project of the Belfast and Moosehead Lake Railroad Company which is now controlled by the City of Belfast which owns a majority of its capital stock.