

MAINE STATE LEGISLATURE

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(EMERGENCY)
(Governor's Bill)
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1351

H. P. 1198

House of Representatives, March 19, 1981

Referred to the Committee on Transportation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Beaulieu of Portland.

Cosponsors: Senator Emerson of Penobscot, Senator Conley of Cumberland and Representative Dillenback of Cumberland.

STATE OF MAINE

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

AN ACT to Create the Casco Bay Island Transit District.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is the purpose of this Act to create a Casco Bay Island Transit District which may take over service to the Casco Bay Islands which have in the past been served by Casco Bay Lines which is presently in bankruptcy; and

Whereas, if the district is to have realistic opportunity to take over service and to obtain assets from the bankruptcy, it is vital that the district be created at once so that service may be maintained and the purpose of this Act effectuated; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. Transit district in Casco Bay created. There shall be formed a transit district in Casco Bay for the purpose of providing ferry service among and

between the islands of Casco Bay and the mainland, Cumberland County. This district shall be constituted of the people and territory of Peaks Island, Great Diamond Island, Little Diamond Island, Long Island, Chebeague Island and Cliff Island. The district so formed shall be a body politic and corporate, may sue and be sued, plead and be impleaded, adopt a name, adopt and alter a common seal, and do things necessary to furnish waterborne transportation in this area, including incidental tour and charter service, for public purposes in the interest of public health, safety, comfort and convenience of the inhabitants of the islands comprising the district.

Sec. 2. Board of directors. The affairs of this district shall be managed by a board of 12 directors. Ten directors shall be elected by the voters of the 6 Casco Bay islands named in section 1. Three of such directors shall be residents or property owners of Peaks Island, one director shall be a resident or property owner of Little Diamond Island, one director shall be a resident or property owner of Great Diamond Island, one director shall be a resident or property owner of Long Island, one director shall be a resident or property owner of Cliff Island, one director shall be a resident of Great Chebeague Island, and two directors shall be residents or property owners of the State. One director shall be appointed by the City Council of the City of Portland and one director shall be appointed by the Commissioner of Transportation.

Sec. 3. Election of directors. The elected directors shall be elected by a plurality vote of the legal voters in each of these islands at an election to be held on the 4th Monday of May. Each director shall serve for a term of 3 years, with 2 directors being elected on a rotating basis each year. The order of rotation shall be decided by the directors by lot at the first meeting of the directors elected. Two-thirds of the directors so appointed shall constitute a quorum for the transaction of business and any action taken by a majority of directors present at any meeting at which a quorum is in attendance shall be deemed to be the action of the full board of directors.

Sec. 4. Meetings. The directors shall meet at least monthly or more often if required by the bylaws, or upon call of the president, and the president shall call such other meetings as shall be requested in writing directed to him signed by at least 1/3 of the members of the board of directors. They shall elect from among their members a president, treasurer, clerk and such other officers as they may desire and shall adopt bylaws and rules for the conduct of the affairs of the district. They shall appoint and fix the salary of a district manager who shall not be a director and who shall be the chief executive officer of the district and who shall appoint such other employees as are required for district purposes and shall fix the salaries of such employees. The directors may, by resolution, indicate which appointments by the manager and salaries established by the manager shall require confirmation of the board of directors.

Sec. 5. Interest in contracts. No director, officer or employee of the district may be interested directly or indirectly in any contract entered into by or in behalf of a district for work or material, or the purchase thereof, or in any

property acquired or to be acquired by the district, and all contracts made in violation of this section are void. Nothing in this section shall preclude a passenger or shipper of freight with no other interest in a contract from being a director, officer or employee of the district.

Sec. 6. Certificate of organization. The district shall after its organization file a certificate with the Secretary of State setting forth the following information:

1. Name of the district;
2. Its purposes;
3. Islands included within the district;
4. Location of the principal office;
5. Number and names of the directors and their addresses; and
6. Names and addresses of the officers.

Such certificate shall be signed by the president and treasurer and a majority of the directors, and the president or treasurer shall make oath that the signatures set forth in the certificate are true. From time to time as changes may occur, the district shall file an amended certificate with the Secretary of State setting forth such changes.

Sec. 7. Powers of directors. The directors of the district may take, purchase, hold, maintain, operate, lease, rent, mortgage and convey any and all real and personal property, or lease or sublease the same, or enter into contracts with private companies, for the purpose of providing public transportation services, and for such purpose contract with the federal, state and municipal governments for donations, loans, grants, gifts or other assistance and in such contracts agree to be bound by all applicable provisions of federal, state and municipal statutes and regulations as the case may be.

Sec. 8. Routes and fares; sinking fund. The directors of a district may establish such routes and shall fix such rates of fare to be charged for such public transportation service as shall to the extent possible reasonably assure sufficient income to meet the costs of the service, including, but not limited to, operating expenses, insurance, taxes, rentals, annual serial bond payments, interest, allocation for a reserve account and an allowance for depreciation. If, after all such obligations have been met, a surplus remains, the directors may deposit all or any part of such surplus in a reserve account for retirement of indebtedness or for other proper purpose.

Sec. 9. Exempt from taxation; fuel tax refund. The accomplishment by the district of the authorized purpose stated in this Act is for the benefit of the people of the State and for improvement of their commerce and prosperity, in which accomplishment the district will be performing essential governmental functions. The property, both real and personal, of the district, when held and operated for

the purpose of providing public transportation, shall be exempt from all registration fees, real estate, personal property, excise, sales and use, income and any other taxes which may now or hereafter be assessed by the State or any political subdivision thereof. The district shall be entitled to be reimbursed and paid to the extent of the full amount of the tax paid for fuel used in vessels owned and operated by it for such purpose. The district shall present its claim to the State Tax Assessor, in such form and with such information as the State Tax Assessor may prescribe, accompanied by original invoices showing such purchases. Applications for refunds as provided shall be filed with the State Tax Assessor within 9 months from the date of purchase.

Sec. 10. Powers. This district may acquire by purchase or by the exercise of the right of condemnation, which right is expressly delegated to this district for the purpose, any properties, stock, franchises, rights and privileges of Casco Bay Lines. For the purpose of providing necessary and convenient transportation to its service area, the district may also purchase other properties necessary for providing transportation. Any necessary condemnation proceedings shall be taken under the Revised Statutes, Title 35, chapter 263.

Sec. 11. Sale of bonds. The costs incurred in acquiring the Casco Bay Lines and establishing the service shall be paid by the district from the proceeds of the sale of bonds upon approval of the directors of the district. The district shall operate its service as a toll system to retire the bonds issued and to provide for all the expenses and maintenance incurred hereunder. All such bonds, notes and evidences of indebtedness so issued by the district shall be legal obligations of the district, which is declared to be a quasi-municipal corporation. Such bonds may be secured by a mortgage or security interest in any assets of the district. The district may refund and reissue from time to time, in one or in a separate series, its bonds, notes and constitute a separate loan. All bonds, notes and evidences of indebtedness issued by the district shall be legal investments for savings banks in the State and shall be tax exempt.

Sec. 12. Regulation by the Public Utilities Commission. Nothing in this chapter may be construed to exempt the district from regulation by the Public Utilities Commission. The district shall operate under all the restraint, responsibilities and privileges as have applied to Casco Bay Lines.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is to establish a transit district to provide ferry service in Casco Bay. The transit district may acquire the assets and property of Casco Bay Lines and run the ferry as a nonprofit, publicly-owned mass transit district. It will have the power to issue bonds for the purpose of acquiring Casco Bay Lines and other required equipment. These bonds shall be retired through revenues. This Act is enabling legislation and does not resolve any dispute or issue existing or which may arise in any other forum.