

MAINE STATE LEGISLATURE

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ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1676

S. P. 650

In Senate, May 28, 1981

Reported by The Majority of the Committee on Transportation and Printed
under Joint Rules No. 2.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

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

AN ACT to Continue the Maine Turnpike Authority.

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

Sec. 1. 23 MRSA c. 7-A is enacted to read:

CHAPTER 7-A

MAINE TURNPIKE

§ 311. Maine Turnpike Authority

In order to facilitate vehicular traffic between the southern core of the State, and to carry out the purposes of this chapter, the Maine Turnpike Authority, heretofore created may operate, maintain and reconstruct the turnpike from a point at or near York in York County to a point at or near Augusta in Kennebec County, together with connecting tunnels, bridges, overpasses, underpasses, interconnecting access roads and toll facilities.

§ 312. Legislative intent

The Legislature finds that the economic and social well-being of the citizens of the State depends upon the safety, efficiency and modern functional state of the Maine Turnpike; that the turnpike should be maintained as a closed toll facility whether there are turnpike bonds outstanding or not; that toll revenues should be utilized to pay for operation and maintenance of the turnpike, to pay for reconstruction of the turnpike and thereafter, to the extent possible, to pay for the

costs or a portion of the cost of maintaining, constructing or reconstructing interconnecting access roads and thereby ease the financial burden on the Department of Transportation; that safety and welfare requires the rebuilding, redesign or improvement of the existing turnpike facilities from York to Augusta to accommodate the increased traffic experienced since the opening of the turnpike and to provide turnpike facilities which are consistent with modern knowledge of safety design; that the economy of the State also requires such improvement in order to encourage travel and commerce into and out of the State; and that the Maine Turnpike Authority should be maintained to carry out the purposes of this chapter.

§ 313. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Authority. "Authority" means the Maine Turnpike Authority heretofore created or, if that authority is abolished, any board, commission of office succeeding to the principal functions of that authority, or upon whom the powers given by this chapter to that authority are given by law.

2. Interchange. "Interchange" means a system of interconnecting roadways in conjunction with one or more points of separation, providing for the interchange of traffic between 2 or more roadways or highways, one of which is the Maine Turnpike and includes sufficient lengths of intersecting roadways required for conformance with then current road design standards or standards acceptable to the Department of Transportation.

3. Interconnecting access roads. "Interconnecting access roads" means any and all highways, including bridges, underpasses and overpasses, within 10 miles of the turnpike, which are under the control of the Department of Transportation, which directly or indirectly connect with the turnpike.

4. Reconstruct or reconstruction. "Reconstruct" or "reconstruction" means any and all activities undertaken to maintain the Maine Turnpike, or any part thereof, as a modern, safe and efficient facility and includes, but is not limited to, any rebuilding, redesign, improvement or enlargement of existing facilities, traveled way, bridges, overpasses, median barriers, shoulders, embankments or interchanges which the Department of Transportation deems necessary to continuously, adequately, safely and swiftly facilitate vehicular traffic upon, to or from the Maine Turnpike, except that the traveled way shall not be enlarged, widened or expanded without the express approval of the Legislature.

5. Turnpike. "Turnpike" means the roadway constructed between York in York County and Augusta in Kennebec County pursuant to the Private and Special Laws of 1941, chapter 69, sections 1 to 20, as amended, and is deemed to include not only the roadway and all rights-of-way, bridges, overpasses and underpasses, but also all property rights, easements, leases and franchises relating thereto and deemed necessary or convenient for the construction, reconstruction, operation or maintenance of the turnpike.

§ 314. Powers of the Maine Turnpike Authority

1. Powers. The Maine Turnpike Authority, as heretofore created, shall continue to be a body both corporate and politic in the State and may:

A. Sue and be sued;

B. Have a seal and alter the seal at pleasure;

C. Adopt from time to time and amend bylaws covering its procedure, rules and regulations governing use of the turnpike and any of the other services made available in connection with the turnpike; publish those bylaws, rules and regulations as publication is necessary or advisable and cause records of its proceedings to be kept;

D. Construct, maintain, reconstruct and operate a toll turnpike from a point at or near York in York County to a point at or near Augusta in Kennebec County;

E. Acquire, hold and dispose of personal property for its purposes;

F. Acquire in the name of the authority by purchase, condemnation, lease or otherwise, real property and rights or easements therein deemed by it necessary or desirable for its purposes and use such property;

G. Acquire any such real property by the exercise of the power of condemnation in the manner provided by law;

H. Charge and collect fees, fares and tolls for the use of the turnpike and other services made available in connection with the turnpike, subject to and in accordance with such agreement with bondholders as may be made as provided in this chapter;

I. Make contracts with the United States or any instrumentality or agency of the United States, this State or any of its agencies or instrumentalities, municipalities, public corporations, or bodies existing therein, private corporations, partnerships, associations and individuals;

J. Accept grants and the cooperation of the United States or any agency thereof in the construction, maintenance, reconstruction, operation and financing of the turnpike and do any and all things necessary in order to avail itself of such aid and cooperation and repay any such grant or portion thereof;

K. Employ such assistants, agents and servants, engineering, traffic, architectural and construction experts and inspectors and attorneys and such other employees, as it deems necessary or desirable for its purpose;

L. Exercise any of its powers in the public domain of the United States, unless the exercise of those powers is not permitted by the laws of the United States;

M. Borrow money and secure the payment of any obligations or any part thereof by pledge of any part of the revenue to the turnpike;

N. Do all other lawful things necessary and incidental to these powers. All

property of the authority and all property held in the name of the State pursuant to the provisions hereof shall be exempt from levy and sale by virtue of any execution, and no execution or other judicial process may be a lien upon its property held pursuant to the provisions hereof; provided that the authority shall not lease, sell or otherwise convey, or allow to be used, any of its real or personal property or easements therein, franchises, buildings or structures, with access to any part of the turnpike or its approaches, for commercial purposes, with the exception of such gasoline filling stations, service and repair stations and restaurants as it deems necessary to service the needs of the traveling public while using the turnpike, except that the authority may permit the erection, or installation of electric power, telegraph, telephone, water, sewer or pipeline facilities;

O. Provide net revenues to or for the use of the Department of Transportation for the maintenance, construction or reconstruction of interconnecting access roads, which the department has previously determined to require that assistance; and

P. Use toll revenues to provide payment of obligations, if any, as may be due the United States in order to continue the use of the turnpike as a toll-type facility.

2. **Members of authority.** The authority shall consist of 4 members and, in addition, the Commissioner of Transportation shall be a member ex officio. The 4 members shall be appointed by the Governor and must be residents of the State at the time of their appointments and qualifications, and must also at that time have been qualified voters in the State for a period of at least one year next preceding their appointments. The existing appointed members of the authority shall continue in office for the remaining term of their appointments and until their respective successors are duly appointed and qualified. Their successors shall each be appointed for a term of 4 years, except that any person appointed to fill a vacancy shall serve only for the unexpired term, and any member of the authority shall be eligible for reappointment. Immediately after such appointments, the members of the authority shall enter upon their duties. The Governor shall name one of the appointed members as chairman of the authority. The authority shall elect a secretary and treasurer who need not be a member of the authority, and shall elect an executive director or general manager who is not a member of the authority. Three members of the authority shall constitute a quorum who for all purposes must act unanimously. No vacancy in the authority impairs the right of a quorum of the members to exercise all the rights and perform all the duties of the authority. Before the issuance of any turnpike revenue bonds under the provisions of this chapter, the secretary and treasurer shall execute a bond in the penalty of \$100,000. Each such bond must be approved by the Attorney General and shall be conditioned upon the faithful performance of the duties of his office, which bond shall be filed in the office of the State Auditor.

Each member of the authority shall receive \$50 for each day in attendance at an official meeting and be reimbursed for necessary expenses incurred in the

performance of his duties. All expenses incurred in carrying out this chapter shall be paid solely from funds provided under the authority of this chapter, and no liability or obligation may be incurred under this chapter beyond the extent to which money shall have been provided under the authority of this chapter.

3. **Contracts for construction or reconstruction.** All contracts and agreements relating to the construction or reconstruction of the turnpike and the construction or reconstruction of connecting tunnels and bridges, overpasses, underpasses, interchanges and toll facilities must be approved by the Department of Transportation and the turnpike and connecting tunnels and bridges overpasses, underpasses, interchanges and barriers shall be constructed or reconstructed under the supervision of the department.

4. **Termination.** All provisions of this section defining the powers and responsibilities of the Maine Turnpike Authority shall terminate 2 years following the date on which all bonds issued by the authority are redeemed.

§ 315. Eminent domain

1. **Use of eminent domain.** Whenever a reasonable price cannot be agreed upon for the purchase or lease of real property found necessary for the purposes of the authority or whenever the owner is legally incapacitated or is absent or is unable to convey valid title or is unknown, the authority may acquire by condemnation any such real property whether wholly or partly constructed or interest or interests therein and any land, rights, easements, franchises and other property deemed necessary or convenient for the construction or reconstruction or the efficient operation of the turnpike, its connecting tunnels, or bridges, overpasses, underpasses or interchanges, or both, in the manner provided by chapter 3, subchapter III, for the taking of property for state and state aid highways by the Department of Transportation.

2. **Title to property; payment.** Title to any property condemned by the authority shall be taken in the name of the authority. The authority shall be under no obligation to accept and pay for any property condemned or any costs incidental to any condemnation proceedings and shall in any event pay for the same except from the sums provided by this chapter and in any condemnation proceedings, the court having jurisdiction of the suit, action or proceedings may make such orders as may be just to the authority and to the owners of the property to be condemned and may require an undertaking or other security to secure the owners against loss or damage by reason of the failure of the authority to accept and pay for the property; but the undertaking or security shall impose no liability upon the State, except such as may be paid from the funds provided under the authority of this chapter.

3. **Entry upon lands.** The authority and its authorized agents and employees may enter upon any lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations as it deems necessary or convenient for the purpose of this chapter and the entry shall not be deemed a trespass.

4. Authority for transfers of interests in land to the authority. All counties, cities, towns and other political subdivisions or municipalities and all public agencies and commissions of the State, and all public service corporations and districts, notwithstanding any contrary provisions of law, may lease, lend, grant or convey to the authority, upon its request, upon such terms and conditions as the proper authorities of the counties, cities, towns, political subdivisions, other municipalities, agencies, commissions, public service corporations and districts deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality other than the regular and formal action of the authorities concerned, any real or personal property or rights therein which may be necessary or convenient to the effectuation of the authorized purposes of the authority, including real and personal property or rights therein already devoted to public use. As used in this subsection, the term "public service corporation" includes every public utility as defined in Title 35 and every corporation referred to in Title 13-A.

§ 316. Maintenance of turnpike

1. Maintenance and repair. The turnpike shall be maintained and repaired by and under the control of the authority and, at the discretion of the authority, the services of the Department of Transportation, as far as the services are available or expedient, may be utilized for this purpose. All charges and costs for such maintenance and repairs actually expended by the department shall be paid to it by the authority. The turnpike shall be operated by such force of toll takers and other operating employees as the authority may in its discretion employ. The authority may utilize the services of the State Police to enforce the rules and regulations of the authority with respect to tolls, volume, weight and speed of traffic and with respect to such other matters of enforcement as it may in its discretion require.

2. Speed limit. The authority may by regulation prescribe a maximum limitation on the speed of vehicles using the turnpike, but not exceeding 55 miles per hour or such maximum speed as is permitted on similar roads in the State, and so limit at any point or place thereon, and may regulate the volume and weight of vehicles admitted to the turnpike.

3. Tolls. The authority may fix and revise from time to time tolls for the use of the turnpike and the different parts or sections thereof, and charge and collect the toll, and contract with any persons, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion. Such tolls shall be so fixed and adjusted as to provide a fund at least sufficient with other revenues of the turnpike, if any, to pay:

A. The cost of maintaining, repairing and operating the turnpike;

B. The cost to the department of maintaining, constructing or reconstructing interconnecting access roads, as in the sole discretion of the authority are determined, as provided in subsection 6 to warrant the expenditure of turnpike revenues.

4. Use of toll revenues. Tolls shall not be subject to supervision or regulation by any state commission, board or agency.

5. Use by military. The turnpike may be used at any and all times by the Armed Forces of the United States, the State or any of their allies for defense purposes or preparations therefor free of all tolls and charges, and such use shall not constitute a taking of property without due process, provided that any structural damage to the turnpike created by such free use, ordinary deterioration or depreciation excepted, shall be compensated for at cost of repair or replacement.

6. Revenues for access roads. The authority may provide turnpike revenues to the department for the maintenance, construction or reconstruction of interconnecting access roads, provided that it shall first determine that the interconnecting access roads have or would have a sufficient relationship to the public's use of the turnpike and the orderly regulation and flow of vehicular traffic using the turnpike so that the use of turnpike revenues is warranted to pay all or any portion of the cost of maintaining, constructing or reconstructing the access roads. In making the determination of whether a sufficient relationship exists, the authority shall consider the following factors, no one of which may necessarily be determinative:

- A. The relative number of vehicles using such access roads on the way to or from the turnpike;
- B. The availability of alternate roads to or from the turnpike;
- C. The effect such maintenance, construction or reconstruction will have on the flow of traffic to, from and on the turnpike, and in diverting vehicular traffic onto, off or away from the turnpike;
- D. The probable effect of the failure of the authority to pay or assist in the payment of the costs of the maintenance, construction or reconstruction;
- E. The probable availability of turnpike revenues to make such payments and such other factors, including expert opinion, as the authority may in its discretion deem relevant; and
- F. Priority shall be given to the construction of access roads which will promote industrial and economic development of communities adjacent to or near the turnpike whose present lack of access tends to discourage that development.

In no event shall the authority pay the whole or any portion of the cost of maintenance, construction or reconstruction of access roads for more than 10 road miles from the turnpike nor for more than the extent the authority determines is necessary to achieve an orderly flow of vehicular traffic to and from the turnpike over the access roads.

§ 317. Rates

The rate of toll at each facility shall be fixed and revised from time to time upon recommendation of the authority. The authority shall present the recommendation to the Legislature during the first week of January for the Legislature's approval, rejection or change during that legislative session. In the event that the Legislature does not make a decision within that legislative session, the recommendation of the authority for the rate of toll at each facility shall be authorized. The tolls shall be so fixed and adjusted as to provide a fund sufficient to pay the cost of maintaining, improving and operating the Maine Turnpike for such purposes as defined in section 324.

1. Commuter reductions to be established. The authority shall establish a system of commuter discounts to provide passenger vehicles with reduced rates which shall not exceed 50% of the normal passenger vehicle toll for the distance traveled.

2. Volume discount. Reduced rates of fees, fares and tolls shall be made to any class of vehicle based upon volume of use.

§ 318. Turnpike revenues

All tolls collected from the Maine Turnpike toll facilities and all other revenues derived from the turnpike operations after the effective date of this chapter shall be limited to the following purposes:

1. Maintenance and operation of turnpike. Maintenance and operation of the turnpike, including any administrative costs specially incurred by the Department of Transportation or any other state agency in connection with the operation of the turnpike and its toll facilities;

2. Construction or improvement of toll facilities. The construction or improvement of toll facilities;

3. Construction or improvement of interchanges. The construction or improvement of interchanges;

4. Maintenance, construction or reconstruction of access roads. Maintenance, construction or reconstruction of interconnecting access roads where the maintenance, construction or reconstruction will improve vehicular access to the turnpike;

5. Improvement of turnpike. Construction or reconstruction to improve the turnpike to meet greater traffic demands or improve safety of operation, except that the traveled way shall not be enlarged, widened or expanded without the express approval of the Legislature; and

6. Repayment of the Federal Government. Payment of the Federal Government for any funds owed by the State as the result of maintaining tolls on the turnpike.

Sec. 2. 23 MRSA c. 8, as enacted by PL 1977, c. 658, § 2, is repealed.

Sec. 3. 23 MRSA § 4206, sub-§ 1, ¶I, as enacted by PL 1971, c. 592, § 16, is amended to read:

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; **and**

Sec. 4. 23 MRSA § 4206, sub-§ 1, ¶J, as amended by PL 1979, c. 127, § 155, is further amended to read:

J. To oversee matters relating to railroad safety, provided that jurisdiction of the commissioner shall in no way diminish, infringe upon or replace the jurisdiction of the United States Department of Transportation, Federal Railroad Administration with regard to employee safety ~~and~~.

Sec. 5. 23 MRSA § 4206, sub-§ 1, ¶K, as enacted by PL 1977, c. 658, § 3, is repealed.

Sec. 6. 23 MRSA § 4206, sub-§ 2, ¶F, as amended by PL 1979, c. 505, § 1, is further amended to read:

F. Legal Services Division; **and**

Sec. 7. 23 MRSA § 4206, sub-§ 2, ¶G, as enacted by PL 1977, c. 568, § 5 and as amended by PL 1979, c. 505, § 2, is repealed.

Sec. 8. 36 MRSA § 651, sub-§ 1, ¶B, is amended by adding after the first sentence a new sentence to read:

Notwithstanding Title 23, section 314, subsection 1, paragraph N, or any other provision of law, that property of the Maine Turnpike Authority primarily used for gasoline filling stations, service and repair stations and restaurants shall be subject to property taxes.

Sec. 9. Effective date. The effective date of this Act shall be the date of repayment of all existing bonds and interest.

STATEMENT OF FACT

This new draft removes from the Maine Turnpike Authority the ability to issue bonds; clarifies that toll revenues may be used by the authority to contract with the Department of Transportation to maintain as well as construct access roads to the turnpike; clarifies that the 20 mile corridor of access roads extends from York to Augusta; provides that property of the turnpike primarily used for service stations and restaurants is taxable by the municipalities; prohibits further widening of the turnpike without express legislative approval; and corrects earlier errors in transcription.

This new draft limits the term of turnpike authority members to 4 years; requires the turnpike to remain a closed toll system; terminates the authority 2 years subsequent to the redemption of bonds; and states that the development of access roads shall be made the priority use of revenues to encourage economic and industrial development.