

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1577

6
7 S.P. 601

In Senate, May 23, 1985

8 Under Suspension of the Rules Read Once Without Reference to a
9 Committee and Tomorrow Assigned for Second Reading.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Danton of York.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT Relating to the Maine-New Hampshire
18 Interstate Bridge Authority
19 Portsmouth-Kittery Bridge and
20 Approaches Thereto.
21

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

24 P&SL 1937, c. 18, §20 is enacted to read:

25 Sec. 20. Compact amendment relating to the
26 Maine-New Hampshire Interstate Bridge Authority
27 Portsmouth-Kittery Bridge and approaches thereto.

28 1. Amendment of compact between Maine and New
29 Hampshire.

30 Whereas, the states of Maine and New Hampshire,
31 with the express consent of the United States Con-
32 gress, have entered into a compact creating the
33 Maine-New Hampshire Interstate Bridge Authority,
34 which has resulted in the construction, operation and

1 maintenance of a bridge across the Piscataqua River
2 between Kittery, Maine and Portsmouth, New Hampshire
3 and approach roads thereto; and

4 Whereas, the United States Congress expressly re-
5 served the right to alter or amend the provisions of
6 this compact; and

7 Whereas, the condition of the Maine-New Hampshire
8 Interstate Bridge Authority highway and railroad
9 bridge now serving vehicular and rail traffic over
10 and across the Piscataqua River between the State of
11 New Hampshire and the State of Maine and the approach
12 roads thereto have been deteriorating at an acceler-
13 ated rate due to facility age, inflation and effec-
14 tive declining revenues; and

15 Whereas, the present Maine-New Hampshire Inter-
16 state Bridge Authority financial obligations for
17 maintenance, operation and repair of the bridge and
18 its approaches have expanded to the extent that the
19 authority's financial resources face rapid depletion
20 in the near future; and

21 Whereas, the states of Maine and New Hampshire do
22 not have the financial resources to undertake the
23 costs for proper maintenance, operation and repair on
24 the bridge and its approaches without cooperation
25 with the Maine-New Hampshire Interstate Bridge Au-
26 thority; and

27 Whereas, the Maine-New Hampshire Interstate
28 Bridge Authority's bridge and road facilities remain
29 critical for national defense and interstate rail and
30 highway transportation and commerce; and

31 Whereas, the realignment of various responsibili-
32 ties between the Maine-New Hampshire Interstate
33 Bridge Authority and the states of New Hampshire and
34 Maine will allow the authority to continue to provide
35 adequate highway and rail service for the citizens of
36 both states while providing for the least burdensome
37 financial impact upon the states; and

38 Whereas, the best remedy for the conditions now
39 existing which would have the least long-term finan-
40 cial impact on the states of New Hampshire and Maine

1 is to transfer some of the responsibility of the
2 Maine-New Hampshire Interstate Bridge Authority to
3 the states; and

4 Whereas, such a result can best be accomplished
5 through the joint cooperation of the Maine-New Hamp-
6 shire Interstate Bridge Authority and the states of
7 Maine and New Hampshire to effectuate such a trans-
8 fer;

9 Now, therefore, the Maine-New Hampshire Inter-
10 state Bridge Authority and the states of New Hamp-
11 shire and Maine do hereby agree and pledge each to
12 the other as follows:

13 ARTICLE I

14 Definitions:

15 1. "Main River Structure" shall include only
16 that portion of the present Maine-New Hampshire In-
17 terstate Bridge Authority facility which spans the
18 Piscataqua River from the New Hampshire bridge abut-
19 ment to the Maine bridge abutment, inclusive, for a
20 distance of 2,880 feet or 0.5456 mile.

21 2. "Approach Roads" shall include those roadway
22 portions of the present Maine-New Hampshire Inter-
23 state Bridge Authority facility known as the U.S.
24 Route 1 Bypass running from the New Hampshire bridge
25 abutment of the main river structure to the U.S.
26 Route 1 Bypass/U.S. Route 1 Junction in Portsmouth,
27 New Hampshire, a distance of approximately 2.4 miles,
28 and running from the Maine bridge abutment of the
29 main river structure to the U.S. Route 1 Bypass/U.S.
30 Route 1 Junction in Kittery, Maine, a distance of ap-
31 proximately 1.4 miles.

32 3. "Grade Separation Structures" shall include
33 10 structures on the present Maine-New Hampshire In-
34 terstate Bridge Authority facility which allows the
35 approach roads to pass either over or under predeces-
36 sor facilities, namely, at Stark Street, U.S. Route
37 1, Maplewood Avenue, Middle Road, Hodgton Brook,
38 Islington Street, and at the B & M Railroad, all lo-
39 cated in Portsmouth, New Hampshire, and at Route 236,
40 Eliot Road and an abandoned railroad tunnel, located
41 in Kittery, Maine.

1 4. "Authority" shall mean the Maine-New Hamp-
2 shire Interstate Bridge Authority.

3 5. "Compact" shall mean the compact set forth in
4 Maine Private and Special Laws, Chapter 18, Session
5 of 1937, and New Hampshire R.S.A. Chapter 234:43.

6 ARTICLE II

7 The authority shall transfer the approach roads
8 to the main river structure, all grade separation
9 structures on said approach roads and any of its real
10 property incidental to present or future highway use
11 to the respective states of Maine and New Hampshire.
12 The respective state transportation agencies shall
13 thereafter assume the responsibility for the mainte-
14 nance, operation and repair of those grade separation
15 structures and that portion of said approach roads
16 which lie within the territorial limits of each
17 state, except as set forth in Article III herein.
18 The authority shall retain all responsibilities and
19 obligations for the main river structure from the New
20 Hampshire abutment to the Maine abutment, inclusive.

21 ARTICLE III

22 The authority shall be responsible for providing
23 authority funds to be used in possible combination
24 with Federal Aid funds through the states of New
25 Hampshire and Maine for capital improvements to the
26 main river structure as well as the transferred ap-
27 proach roads and grade separation structures. The
28 authority's responsibility for capital improvements
29 on the transferred approach roads and grade separa-
30 tion structures will be limited to one major improve-
31 ment for each grade separation structure and approach
32 road segment. The specific type capital improvement
33 and the timing for the performance of each said im-
34 provement shall be determined by the authority in
35 conjunction with the joint findings of an annual in-
36 spection performed by engineering representatives of
37 each state.

38 ARTICLE IV

39 Authority employees and their positions of em-
40 ployment shall be transferred to the Maine Depart-

1 ment of Transportation and the New Hampshire Depart-
2 ment of Public Works and Highways. In effecting said
3 transfer, the respective state transportation agen-
4 cies shall endeavor to provide each transferred em-
5 ployee with comparable wages and benefits afforded
6 similarly situated state employees. Said transfer
7 shall be in accordance with the agreement between the
8 State of Maine and the Maine State Employees Associa-
9 tion, 1984-1986. For those authority employees being
10 transferred to Maine, notwithstanding 5 M.R.S.A. Sec-
11 tion 1092(14), all funds held by the Maine State Re-
12 tirement System in the Members' Contribution Fund to
13 the credit of employees of the authority shall be
14 transferred on the records of the Maine State Retirement
15 System to the state account in the Members' Con-
16 tribution Fund. Creditable service rendered by these
17 employees for retirement purposes shall be the same
18 as if the employment had been rendered as a state em-
19 ployee. Former employees of the authority who have
20 retired under the Maine State Retirement System shall
21 have their retirement benefits continued at the same
22 level as would be paid if those retired employees had
23 retired from state service. Said former employees
24 may not obtain military service credit pursuant to 5
25 M.R.S.A. Section 1094(13). Funds held by the Maine
26 State Retirement System in the account of the author-
27 ity in the Retirement Allowance Funds which were paid
28 by the authority, shall be transferred to the state
29 account in the Retirement Allowance Fund to pay bene-
30 fits to retired persons and for future retirees. If,
31 after a review by the Actuary of the Maine State Re-
32 tirement System, it is determined that additional
33 funds are required to finance in full the accrued re-
34 tirement benefits for present and retired employees
35 of the authority, the authority shall provide funds
36 necessary to fulfill this obligation within a period
37 of time mutually agreeable between the authority and
38 the Board of Trustees of the Maine State Retirement
39 System. Former employees of the authority and those
40 who are not transferred to the Maine Department of
41 Transportation who have not withdrawn their contribu-
42 tions shall be treated in the same manner as if they
43 had been state employees with respect to Maine State
44 Retirement System rights and benefits. Former em-
45 ployees who have withdrawn their contributions may
46 repurchase creditable service time with the authority
47 from the Maine State Retirement System only if said

1 former employees become contributing members on or
2 before January 1, 1986.

3 ARTICLE V

4 The authority shall transfer its equipment neces-
5 sary for the operation, maintenance and repair of the
6 transferred approach roads and grade separation
7 structures to the New Hampshire Department of Public
8 Works and Highways and the Maine Department of Trans-
9 portation by mutual agreement. The authority shall
10 contract with the states of Maine and New Hampshire
11 for performance of necessary services on the roadway
12 portion of the main river structure.

13 ARTICLE VI

14 The respective states and the authority agree to
15 and pledge, each to the other, continued faithful co-
16 operation in both the implementation and execution of
17 the provisions of this compact amendment in addition
18 to the faithful cooperation for the operation, main-
19 tenance and repair of the facility in the future.

20 ARTICLE VII

21 The provisions of the compact creating the au-
22 thority shall remain in full force and effect except
23 for those provisions inconsistent with the provisions
24 of this compact amendment.

25 1. Additional legislation. This act contem-
26 plates corresponding and concurrent legislation be
27 enacted by the Legislature of the State of New Hamp-
28 shire. Thereafter, the respective state enactments
29 contemplate an Act by the United States Congress to
30 ratify the provisions of said state enactments. Only
31 when both congressional ratification occurs and the
32 respective state enactments become effective shall
33 said enactments become binding upon the respective
34 states.

35 2. Filing of compact. This compact amendment,
36 when signed and sealed by the Governors and Attorneys
37 General of each state and ratified by the United
38 States Congress and shall be filed in the offices of
39 the Secretaries of State for each state.

1 3. Implementation. The states of Maine and New
2 Hampshire shall make every reasonable effort to im-
3 plement the provisions of this compact amendment as
4 expeditiously as possible, so as to prevent any undue
5 hardship to or burden upon authority employees or the
6 transportation agencies of the respective states.
7 Said states shall endeavor to implement the provi-
8 sions of said compact amendment within 6 months of
9 the binding date of this amendment.

10 4. Separability clause. In the event any provi-
11 sion of this compact amendment is rendered invalid
12 for any reason, the remainder of said amendment shall
13 not be affected by such invalidity. This Act shall
14 be liberally construed so as to effectuate the pur-
15 poses thereof.

16 STATEMENT OF FACT

17 The purpose of this bill is to define the trans-
18 fer of various responsibilities from the Maine-New
19 Hampshire Interstate Bridge Authority to the states
20 of Maine and New Hampshire. The bill is a product of
21 several years of analysis by the authority and a task
22 force comprised of various representatives of both
23 the New Hampshire Department of Public Works and
24 Highways and the Maine Department of Transportation.

25 Under the provisions of this bill, the authority
26 will retain the main river structure over the
27 Piscataqua River while transferring the approach
28 roads and grade separation structures to the states
29 of New Hampshire and Maine. Authority employees are
30 to be absorbed by the transportation departments of
31 each state, with the majority of the employees being
32 transferred to New Hampshire to perform necessary
33 maintenance and operations on the main river struc-
34 ture. The authority will retain the obligation of
35 funding certain capital improvements on the main riv-
36 er structure and transferred roads and structures in
37 possible combination with federal aid funds. This
38 bill provides for the most comprehensive capital pro-
39 gram to benefit the entire facility, the best use of
40 existing authority and state funds for that purpose,
41 the least long-term financial impact upon the states
42 and the maximum protection of the public interest for
43 the citizens of Maine and New Hampshire.

1 To effectuate the transfer in this bill, the au-
2 thority will be required to provide funds to the
3 Maine State Retirement System to finance accrued re-
4 tirement benefits for present and retired authority
5 employees in an amount estimated by representatives
6 of the retirement system to be approximately
7 \$300,000.

8 It is the intent of this bill that the states of
9 New Hampshire and Maine provide equal shares of fed-
10 eral aid funds for capital improvements to the main
11 river structure, when the states deem allocation of
12 the funds appropriate. It is also intended that the
13 respective states provide federal aid funds for capi-
14 tal improvements to the transferred approach roads
15 and grade separation structures within each state as
16 deemed appropriate by the state. In either of the
17 above it is intended that the authority fund the
18 nonfederal aid portion of these improvement costs.
19 Based on current projections, the cost to the State
20 of Maine for undertaking the responsibilities for the
21 transferred approach roads and grade separation
22 structures is estimated at 1985 costs to be \$81,000
23 annually in state funds for maintenance and opera-
24 tions and \$270,000 annually for 7 years in federal
25 aid funds for full replacement capital improvements.

26 This bill requires passage of corresponding and
27 concurrent legislation by the New Hampshire Legisla-
28 ture, and subsequent ratification by an Act of the
29 United States Congress to amend the original compact
30 which created the authority and shall become effec-
31 tive upon such action.

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