

# MAINE STATE LEGISLATURE

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(After Deadline)  
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1501

S.P. 493

In Senate, May 11, 1987

Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 27.

Reference to the Committee on Transportation suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator MATTHEWS of Kennebec.

Cosponsored by Representative DUFFY of Bangor, President PRAY of Penobscot, Representative CARTER of Winslow.

STATE OF MAINE

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

1                   AN ACT to Establish a Certificate of Public  
2                   Convenience and Necessity Requirement  
3                   for Railroads.  
4

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

7                   23 MRS A §4211-A is enacted to read:

8                   §4211-A. Certificate of public convenience and ne-  
9                   cessity required

10                   1. Certificate required. No person, corporation  
11                   or other entity receiving any type of financial as-  
12                   sistance or tax incentives, directly or indirectly  
13                   from the State or any political subdivision of the  
14                   State, may provide or continue to provide railroad

1 transportation for compensation in the State, acquire  
2 or construct an additional line of railroad in this  
3 State or provide rail transportation over or by means  
4 of an extended or additional railroad line in this  
5 State, without first obtaining from either the Inter-  
6 state Commerce Commission or the Commissioner of  
7 Transportation a certificate that the present or fu-  
8 ture public convenience and necessity require or per-  
9 mit such operation, acquisition or construction.

10 2. Criteria. In determining whether the present  
11 or future public convenience and necessity require or  
12 permit the operation, acquisition or construction of  
13 rail lines in this State, the commissioner shall con-  
14 sider, among other matters:

15 A. The need for this rail service;

16 B. The impact of this rail service on other rail  
17 carriers within this State;

18 C. The financial viability of the rail carrier  
19 proposing this rail service;

20 D. Whether the person, corporation or other en-  
21 tity proposing the rail service has the fitness  
22 and ability, including management, financial sta-  
23 bility and employee compliment, to provide safe,  
24 efficient and reliable rail service;

25 E. The impact of the proposed rail service on  
26 employees; and

27 F. Whether the applicant will comply with appli-  
28 cable federal or state laws, regulations, employ-  
29 ee protective obligations and commitments with  
30 rail employee representatives regarding the hir-  
31 ing of employees and collective bargaining obli-  
32 gations.

33 3. Application. A proceeding to obtain authority  
34 from the commissioner under subsection 1 begins when  
35 an application is filed with the Department of Trans-  
36 portation. On receiving the application, the depart-  
37 ment shall:

1           A. Send an accurate and understandable summary  
2           of the application to a newspaper of general cir-  
3           ulation in each area that would be affected by  
4           the proposed rail service for publication at the  
5           applicant's expense;

6           B. Cause the applicant to send a copy of its ap-  
7           plication to all shippers which used the rail  
8           line during any of the 12 months prior to the  
9           date the application was filed, as well as to  
10           those shippers who may be expected to use that  
11           line;

12           C. Cause the applicant to service a copy of its  
13           application on the employee representatives of  
14           the employees who may be affected by the proposed  
15           rail service; and

16           D. Take other reasonable and effective steps to  
17           publicize the application at the applicant's ex-  
18           pende.

19           Any individual or representative required to be  
20           served with a copy of the application may intervene  
21           as of right in a proceeding under this section. In-  
22           tervention of other parties shall be granted liberal-  
23           ly in order that a complete record may be developed.

24           4. Approval. Approval or denial shall be as fol-  
25           lows.

26           A. If the Commissioner of Transportation finds,  
27           at the conclusion of the proceeding, that the  
28           present or future public convenience and neces-  
29           sity require or permit the proposed rail service,  
30           the commissioner may:

31                   (1) Approve the application as filed;

32                   (2) Approve the application with such modi-  
33                   fications as the commissioner determines  
34                   necessary to assure that the proposed rail  
35                   service will be and will remain consistent  
36                   with the public interest; or

37                   (3) Deny the application.



1 of the rail service to be provided and whether the  
2 railroad will comply with existing laws, rules and  
3 regulations and other obligations concerning its em-  
4 ployees. The bill provides for review of the commis-  
5 sioner's decision under the Maine Administrative Pro-  
6 cedure Act, the Maine Revised Statutes, Title 5,  
7 chapter 375, and directs the commissioner to promul-  
8 gate rules covering implementation and enforcement of  
9 the certification procedure and to ensure continuing  
10 compliance by railroads.

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