

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

(AFTER DEADLINE)  
SECOND REGULAR SESSION

---

ONE HUNDRED AND THIRTEENTH LEGISLATURE

---

Legislative Document

NO. 2634

---

H.P. 1933 House of Representatives, April 15, 1988

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.

EDWIN H. PERT, Clerk

Presented by Representative CARTER of Winslow.

---

STATE OF MAINE

---

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

---

1 AN ACT to Require Application and Approval for  
2 Railroads to Receive Financial Assistance from  
3 the State and to Require Notice of Major  
4 Modifications in Rail Service.  
5

---

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

8 §4211-A. Application for financial assistance

1 1. Annual application and approval required. Any  
2 person, corporation, partnership or other business  
3 entity which provides railroad transportation for  
4 compensation in the State, or seeks to acquire or  
5 construct additional rail lines in the State, shall  
6 apply to the Department of Transportation for the  
7 privilege of receiving financial assistance from the  
8 State, for the year in question. Financial assistance  
9 from the State is defined as grants, loans, subsidies,  
10 tax exemptions, cost reimbursement for maintenance of  
11 railroad crossings or payments from other sources. The  
12 applicant may not receive the financial assistance  
13 unless the application is approved.

14 2. Criteria. In determining approval for an  
15 application under this section, the department shall  
16 consider, among other matters:

17 A. The need for this rail service;

18 B. The fitness and ability, including management,  
19 financial condition and employee complement, of  
20 the entity proposing or providing the rail service  
21 to provide safe, efficient and reliable rail  
22 service;

23 C. The effect of the rail service upon the  
24 health, safety and general welfare of the people  
25 of the State; and

26 D. For any entity which already provides railroad  
27 transportation for compensation within the State,  
28 the department shall also consider the record of  
29 that railroad in investing within the State,  
30 maintaining track and rights-of-way within the  
31 State, use of funds from previous financial  
32 assistance from the State and the safety,  
33 reliability and efficiency of the service actually  
34 provided by that railroad within the State.

35 3. Procedure for entities seeking to acquire or  
36 construct additional rail lines. An entity seeking to  
37 acquire or construct an additional rail line or lines  
38 shall proceed in accordance with this subsection.

1           A. The applicant shall provide notice by:

2                   (1) Publishing an accurate and  
3                   understandable summary of the application in  
4                   a newspaper of general circulation in each  
5                   area affected by the rail service;

6                   (2) Mailing a copy of its application to all  
7                   shippers which used the rail line during any  
8                   of the 12 months prior to the date the  
9                   application was filed, as well as those  
10                   shippers who may reasonably be expected to  
11                   use that line within one year from the date  
12                   of application;

13                   (3) Mailing a copy of its application to the  
14                   employee representatives of the employees of  
15                   the railroad or who may be affected by a  
16                   proposed rail service; and

17                   (4) Mailing a copy of its application to any  
18                   municipality served by the rail line or in  
19                   which that service may be affected.

20           B. After receipt of a substantially complete  
21           application and compliance by the applicant with  
22           the notice requirements of this subsection, the  
23           department shall hold a public hearing on any  
24           application covered by this subsection, in  
25           accordance with its rules.

26           C. Any party affected by the application has the  
27           right to intervene in a proceeding under this  
28           section. Intervention of other parties shall be  
29           granted liberally in order that a complete record  
30           may be developed.

31           4. Procedure for existing operations. An entity  
32           which intends only to continue existing operations  
33           shall proceed in accordance with this subsection.

34           A. After receipt of a substantially complete  
35           application, the department shall provide notice  
36           of the application and opportunity for hearing on  
37           any application covered by this subsection by

1 sending an accurate and understandable summary of  
2 the application to a newspaper of general  
3 circulation in each area affected by the rail  
4 service for publication at the applicant's expense.

5 B. The department may hold a public hearing on  
6 the application and shall hold a hearing when a  
7 request for a hearing shows a substantial  
8 likelihood that the application may be denied or  
9 granted with qualifications under the criteria of  
10 subsection 2 and the hearing is requested by:

11 (1) A shipper or shippers whose traffic on  
12 the railroad line totaled 500 tons in the  
13 year preceding the application;

14 (2) Any municipality having a siding,  
15 terminal, station or agency station of the  
16 railroad line within its bounds; or

17 (3) A petition of 25 individuals who state  
18 that they are affected by the operation of  
19 the railroad.

20 The hearing shall be subject to the rules of the  
21 department.

22 5. Approval. At the conclusion of the  
23 proceedings and within 30 days of the conclusion of  
24 the public hearing, if any, the department shall:

25 A. Approve the application as filed;

26 B. Approve the application with such conditions  
27 as the department determines necessary to assure  
28 that the investment of state funds in providing  
29 assistance for the rail service will be consistent  
30 with the public interest; or

31 C. Deny the application.

32 Approval shall be valid for a year. In the case of  
33 denial, reapplication shall be in accordance with the  
34 rules of the department. Approval may be revoked in  
35 case of noncompliance with any conditions.

1           6. Temporary approval. When the commissioner  
2 determines that the public interest requires immediate  
3 financial assistance from the State to a railroad, the  
4 department may issue temporary approval for a period  
5 not to exceed 90 days without notice or hearing.

6           7. Appeal. Any applicant or intervenor aggrieved  
7 by the decision of the department under subsection 5  
8 has a right to judicial review in accordance with the  
9 Maine Administrative Procedure Act, Title 5, chapter  
10 375, subchapter VII.

11           8. Rules. The department shall promulgate rules  
12 concerning the implementation and enforcement of this  
13 section.

14           9. Existing operations; temporary approval. Any  
15 operation ongoing as of the effective date of this  
16 section, as long as the ownership or management of  
17 that operation is not transferred to another entity,  
18 shall be deemed approved until March 1, 1989.

19           10. Consolidation of hearings. The Department may  
20 consolidate any hearing under this section with  
21 another hearing concerning railroad service by the  
22 same entity in the same area.

23           Sec. 1. 23 MRSA c. 615 is enacted to read:

24                               CHAPTER 615

25                               RAIL SERVICE

26           §7101. Major modifications in rail service

27           1. Findings. The Legislature finds that it is in  
28 the public interest that the State be promptly  
29 informed of any proposed major modifications to the  
30 rail service in this State.

31           2. Notice required. Any railroad which files a  
32 petition or proposal with the United States Interstate  
33 Commerce Commission concerning the sale, merger,  
34 abandonment or embargo of any railroad line in this

1 State shall concurrently file a copy of the petition  
2 or proposal with the department. Any person,  
3 corporation or other entity which proposes to acquire  
4 or construct an additional railroad line in this State  
5 or provide rail transportation over or by means of an  
6 extended or additional railroad line and which files a  
7 petition or proposal with the United States Interstate  
8 Commerce Commission to do so shall concurrently file a  
9 copy of the petition or proposal with the department.

10 3. Review; report. The department shall review  
11 any petition or proposal for major modification to the  
12 rail service in the State filed under subsection 2.  
13 Upon conclusion of its review, the department shall  
14 report to the Governor and the Legislature if the  
15 proposal has a major effect on rail service in the  
16 State.

17 Sec. 2. Appropriation. The following funds are  
18 appropriated from the General Fund to carry out the  
19 purposes of this Act.

20 1988-89

21 TRANSPORTATION, DEPARTMENT OF

22 Railroad Assistance Program

23 Personal Services	\$21,000
24 All Other	1,700
25	
26 Total	<u>\$22,700</u>

27 Provides funds for a  
28 half-time project  
29 attorney position to  
30 promulgate rules in  
31 accordance with the  
32 Maine Administrative  
33 Procedure Act, Maine  
34 Revised Statutes,  
35 Title 5, chapter 375.

36 FISCAL NOTE

1 If enacted, this bill would result in a General  
2 Fund appropriation to the Department of  
3 Transportation, Railroad Assistance Program, Account  
4 #01785.3, in the amount of \$22,700 for fiscal year  
5 1989. This appropriation would provide funds for a  
6 half-time project attorney position to promulgate  
7 rules. In addition, it is anticipated that all costs  
8 relating to the implementation of the bill, such as  
9 public hearing costs, issuing reports and other  
10 related expenses, would be absorbed by the Department  
11 of Transportation utilizing existing resources.

12

#### STATEMENT OF FACT

13 Section 1 of the bill establishes a requirement  
14 that any railroad that wishes to receive financial  
15 assistance from the State, including tax exemptions,  
16 grants, subsidies, loans, cost reimbursement for  
17 maintenance of railroad crossings, or payments from  
18 other sources must annually submit an application and  
19 receive approval from the Department of Transportation.

20 Section 2 of the bill provides that the Department  
21 of Transportation will be informed of proposed major  
22 modifications in rail service at the same time the  
23 petition or proposal to make this modification is  
24 filed with the United States Interstate Commerce  
25 Commission. The department will review the proposal  
26 and will report on it to the Governor and the  
27 Legislature, if it has a major effect on rail service  
28 in the State.

29

5588041488