

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2504

S.P. 1009

In Senate, April 12, 1990

Referred to the Committee on Appropriations and Financial Affairs and ordered printed. Sent down forthwith for concurrence.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator GILL of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Authorize a General Fund Bond Issue in the Amount of \$4,500,000 for Acquisition of Certain Rail Lines, Rail Trackage Rights or Easements or Ancillary Rights and Interests for the Establishment, Preservation and Operation of a Rail System to Service Maine.



Preamble. Two thirds of both Houses of the Legislature
deeming it necessary in accordance with the Constitution of
Maine, Article IX, Section 14, to authorize the issuance of bonds
on behalf of the State of Maine to provide funds for the
acquisition of certain rail lines, rail trackage rights or
easements or ancillary rights and interests.

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

Sec. 1. Authorization of bonds to provide for the acquisition of certain rail lines, rail trackage rights or easements or ancillary rights and interests for the establishment, preservation and operation of a rail system to service Maine. The Treasurer of State is authorized, under the direction of the Governor, to issue from time to time registered bonds in the name and behalf of the State to an amount not exceeding \$4,500,000 for the purpose of raising funds to provide for the acquisition of certain rail lines, rail trackage rights or easements or ancillary rights and interests as authorized by section 6. The bonds shall be deemed a pledge of the full faith and credit of the State. The bonds shall not run for a longer period than 5 years from the date of the original issue of the bonds. Any issuance of bonds may contain a call feature at the discretion of the Treasurer of State with the approval of the Governor.

Sec. 2. Records of bonds issued to be kept by the State Auditor and Treasurer of State. The State Auditor shall keep an account of the bonds, showing the number and amount of each, the date when payable and the date of delivery of the bonds to the Treasurer of State who shall keep an account of each bond showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the same, the date of sale and the date when payable.

Sec. 3. Sale; how negotiated; proceeds appropriated. The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which shall be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated to be used solely for the purposes set forth in this Act. Any unencumbered balances remaining at the completion of the projects in section 6 shall lapse to the debt service account established for the retirement of these bonds.

Sec. 4. Interest and debt retirement. Interest due or accruing upon any bonds issued under this Act and all sums coming due for payment of bonds at maturity shall be paid by the Treasurer of State.

Sec. 5. Disbursement of bond proceeds. The proceeds of the bonds set out in section 6 shall be expended under the direction and supervision of the Commissioner of Transportation.

Sec. 6. Allocations from General Fund bond issue. The proceeds of the sale of bonds shall be expended as follows.

\$4,500,000

For the acquisition of rail lines, rail trackage rights or easements or ancillary rights and interests, including, without limitation, the following.

1. Rockland Branch Line:

Certain parcels of land and branch line (right-of-way), together with, to the extent assignable, all of the seller's right, title and interest in and to all leases, licenses, franchises, easements, joint facilities agreements and other agreements of whatsoever nature which relate to said land and branch line (right-of-way), situated in the State of Maine and bounded and described as follows:

The branch line of Railroad (right-of-way) running from MP 28.0 in the Town of Brunswick, Maine, to MP 33.79 in the Town of Brunswick, Maine, as shown on plans entitled "Right of Way and Track Map, Maine Central RR, operated by the Maine Central Railroad Company" and dated June 30, 1916, on file in the office of the Chief Engineer of the Maine Central Railroad Company, Iron Horse Park, North Billerica, Massachusetts 01862, Valuation Section 1, sheets 22 and 23 and Valuation Section 6, sheets 1 to 5, inclusive. Said line of railroad being more particularly described as all railroad rights-of-way situated in the Town of Brunswick, Cumberland County, State of Maine, together with all structures, fixtures, bridges, trackage and all other appurtenances whatsoever situated upon said railroad branch line rights-of-way which are used in connection with or are appurtenant to said railroad branch line rights-of-way.

2. Augusta-Brunswick Lower Road:

Also certain parcels of land and main line (right-of-way), together with, to the extent assignable, all of the seller's right, title and interest in and to all leases, licenses, franchises, easements, joint facilities agreements and other agreements of whatsoever nature which relate to said land and main line (right-of-way), situated in the State of Maine and bounded and described as follows:

2 The main line of Railroad (right-of-way) running from MP
4 29.40 in the Town of Brunswick, Maine to MP 63.00 in the
6 City of Augusta, Maine as shown on plans entitled
8 "Right-of-Way and Track Map, Maine Central RR Company,
10 operated by the Maine Central Railroad Company," and dated
12 June 30, 1916, on file in the office of the Chief Engineer
14 of the Maine Central Railroad Company, Iron Horse Park,
16 North Billerica, Massachusetts 01862, Valuation Section 1,
18 sheets 23 to 57 inclusive. Said line of railroad being more
particularly described as all railroad rights-of-way
situated in the Towns and Cities of Brunswick, Topsham,
Bowdoinham, Richmond, Gardiner, Farmingdale, Hallowell and
Augusta, Counties of Cumberland, Sagadahoc and Kennebec,
State of Maine, together with all structures, fixtures,
bridges, trackage and all other appurtenances whatsoever
situated upon said railroad main line rights-of-way which
are used in connection with or are appurtenant to said
railroad main line rights-of-way.

20 3. Cobbosseecontee Branch:

22 Also certain parcels of land and branch line (right-of-way),
24 together with, to the extent assignable, all of the seller's
26 right, title and interest in and to all leases, licenses,
28 franchises, easements, joint facilities agreements and other
agreements of whatsoever nature which relate to said land
and branch line (right-of-way), situated in the State of
Maine and bounded and described as follows:

30 The branch line of Railroad (right-of-way) running from
32 Valuation Station 0+00 (2626+94 on the Lower Road) to
34 Valuation Station 60+86.1 in the City of Gardiner, as shown
36 on plans entitled "Right-of-Way and Track Map, Maine Central
38 RR, operated by Maine Central Railroad Company" dated June
40 30, 1916, on file at the office of the Chief Engineer of the
42 Maine Central Railroad Company, Iron Horse Park, North
44 Billerica, Massachusetts 01862, Valuation Section 1A, sheets
1 and 2. Said line of railroad being more particularly
described as all railroad rights-of-way situated in the Town
of Gardiner, County of Kennebec, State of Maine together
with all structures, fixtures, trackage and all other
appurtenances whatsoever situated upon said railroad branch
line rights-of-way which are used in connection with or are
appurtenant to said railroad branch line rights-of-way.

46 Also, trackage or haulage rights or easements over certain
48 rail lines situated within the State for overhead freight or
50 nonrevenue operations in order to facilitate rail freight
service in the State.

52 Also, trackage rights or easements over any rail line
situated within or outside of the State for the movement of

passengers, including, without limitation, rights to locations for stations in the State for boarding and discharging passengers.

Also, any ancillary rights and interests within or outside of the State which will facilitate common carrier operations on any rail line owned or to be acquired by the State.

The Commissioner of Transportation shall endeavor to acquire such rail lines, rail trackage rights or easements or ancillary rights and interests as the commissioner finds to be necessary or proper for the establishment, preservation and operation of rail services for the State, including those set forth above, to the extent the commissioner determines appropriate.

Sec. 7. State acquisition, lease or rehabilitation of rail lines, rail trackage rights or easements or ancillary rights and interests. The Commissioner of Transportation may enter into agreements for the acquisition of any rail line, rail trackage or haulage rights or easements or ancillary rights and interests. The commissioner shall not enter into any acquisition agreement under the terms of which the State assumes any labor protection costs and any labor protection costs imposed by the Interstate Commerce Commission as a part of the authority to abandon any rail line shall not be borne by the State.

In order to carry out the purposes of this bond issue, the Department of Transportation is authorized to exercise the power of eminent domain. In the event that the department decides to acquire rail line, rail trackage rights or easements or ancillary rights and interests by condemnation, the department shall have the property appraised and offer to the owner as just compensation the constitutional minimum value. Except as otherwise required by law, the compensation shall not include the cost of providing a protective arrangement concerning the interest of the railroad's employees. The department shall file in the registry of deeds for the county or counties, or registry district or districts, where the property is located a notice of condemnation which contains a description of the property and the interest taken and the name or names of the owner or owners of record as far as they can be reasonably determined. The department may join in the same notice one or more separate properties whether in the same or different ownership. A check in the amount of the offer and a copy of the notice of condemnation shall be served on the owner or owners of record. If there is multiple ownership, the check may be served on any one of the owners of each separate property. The notice of condemnation shall be published once in a newspaper of general circulation in the county where the property is located and that publication constitutes service on any unknown owner or owners or other persons who may have or claim an interest in the property.

2 In the event that the owner or owners of record are
4 aggrieved by the department's offer, they may appeal to the
Kennebec County Superior Court within 30 days after the date of
6 service or publication of the order or notice of condemnation.
The appeal shall be taken by filing a complaint setting forth the
8 facts upon which the case shall be tried according to the Maine
Rules of Civil Procedure. The Superior Court shall determine
10 compensation by a jury verdict, or, if all parties agree, by the
court without a jury or by a referee or referees and shall render
12 judgment for any compensation, with interest when it is due.
Each party shall bear its own costs of the proceeding.

14 **Sec. 8. Contingent upon ratification of bond issue.** Sections 1 to
16 7 shall not become effective unless and until the people of the
State have ratified the issuance of bonds as set forth in this
Act.

18 **Sec. 9. Appropriation balances at year end.** At the end of each
20 fiscal year, all unencumbered appropriation balances representing
state money shall carry forward from year to year. Bond proceeds
22 which have not been expended within 10 years after the date of
the sale of the bonds shall lapse to General Fund debt service.

24 **Sec. 10. Bonds authorized but not issued.** Any bonds authorized
26 but not issued, or for which bond anticipation notes have not
been issued within 5 years of ratification of this Act, shall be
28 deauthorized and may not be issued, provided that the Legislature
may, within 2 years after the expiration of that 5-year period,
30 extend the period for issuing any remaining unissued bonds or
bond anticipation notes for an additional amount of time not to
32 exceed 5 years.

34 **Sec. 11. Referendum for ratification; submission at general election;
form of question; effective date.** This Act shall be submitted to the
36 legal voters of the State of Maine at the next general election
in the month of November following passage of this Act. The city
38 aldermen, town selectmen and plantation assessors of this State
shall notify the inhabitants of their respective cities, towns
40 and plantations to meet, in the manner prescribed by law for
holding a general election, to vote on the acceptance or
42 rejection of this Act by voting on the following question:

44 "Do you favor a \$4,500,000 bond issue for the acquisition of
46 certain rail lines, rail trackage rights or easements or
ancillary rights and interests for the establishment,
preservation and operation of rail service in Maine?"

48 The legal voters of each city, town and plantation shall
50 vote by ballot on this question and shall designate their choice

by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and, if it appears that a majority of the legal voters are in favor of the Act, the Governor shall proclaim that fact without delay, and the Act shall become effective 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purpose of this referendum.

FISCAL NOTE

The cost of this bond issue is estimated to be \$5,197,500 with principal payments of \$4,500,000 and interest payments of approximately \$697,500.

Also, the estimated cost of sending this question out to referendum will vary according to the total number of referenda enacted by this session of the Legislature. The estimated cost to the Secretary of State if one to 6 referenda are presented to the voters is \$88,000. Each additional referendum costs an additional \$5,300.

STATEMENT OF FACT

The funds provided by this bond issue, in the amount of \$4,500,000 will be used to pay for the costs associated with the acquisition, lease or rehabilitation of certain rail lines, rail trackage rights and rail interchange rights for the establishment of a rail system to service Maine.