

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2306

H.P. 1643

House of Representatives, February 6, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on Utilities suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative RAND of Portland.

Cosponsored by Senator RICH of Cumberland, Representative ADAMS of Portland and Representative BUTLAND of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

An Act to Ensure the Availability of Ferry Service in Casco Bay.

(AFTER DEADLINE)

(EMERGENCY)



2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

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6 **Whereas,** the Casco Bay Island Transit District was created
by the Legislature in 1981 as a community-based nonprofit
organization to provide ferry services to several islands in
8 Casco Bay previously served by Casco Bay Lines until its
bankruptcy; and

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12 **Whereas,** the Casco Bay Island Transit District has for a
decade served the residents and visitors of Chebeague Island in
Cumberland, Peak's Island, Great Diamond Island, Little Diamond
14 Island, Long Island and Cliff Island in Portland with a variety
of transit services for passengers, vehicles and freight in an
efficient and cost-effective manner; and

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18 **Whereas,** many of the services provided by Casco Bay Island
Transit District cost more to deliver than they generate in
20 revenue but are essential to meet the needs of the island
communities of Casco Bay and the few transit services that
22 generate more revenue than they cost are critically important to
the fiscal health of the district because they make it
24 financially possible to support the other essential services that
would not otherwise be offered; and

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28 **Whereas,** certain developments have created uncertainty about
the extent of the operating rights of the district that have the
potential for creating financial instability, jeopardizing the
30 delivery of essential ferry services in Casco Bay and
necessitating the expenditure of state money under the Maine
32 Revised Statutes, Title 23, section 4403 to replace the services
now provided by the district; and

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36 **Whereas,** changes to the laws governing the regulation of
ferries in Casco Bay are needed immediately to prevent the
uncertainties from undermining the ability of the district to
38 sell new bonds or to pay off existing bonds; and

40 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
42 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
44 safety; now, therefore,

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

48 **Sec. 1. 35-A MRSA §5101,** as amended by PL 1987, c. 475, §2,
is further amended to read:

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§5101. Franchise of Casco Bay Island Transit District and others

No person, except for the Casco Bay Island Transit District, created by Private and Special Law 1981, chapter 22, may, directly, by lease or other arrangement transport passengers or property by vessel, for compensation, between the mainland of Cumberland County and Peak's Island, Great Diamond Island, Little Diamond Island, Long Island, Chebeague Island or Cliff Island, or between the islands mentioned in this paragraph, without obtaining a certificate of public convenience and necessity from the commission authorizing the transportation. The district and any person who must obtain a certificate are ferries subject to the jurisdiction of the commission with respect to the service which that requires authority. The commission shall specify in the certificate the business and operation of the ferry and shall attach to it at the time of issuance and from time to time after issuance reasonable terms, conditions and limitations as it determines necessary to maintain adequate transportation to these islands. The Casco Bay Island Transit District may assign or subcontract to another person any service for which it has a franchise.

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1. Transport passengers or property. For purposes of this section, the phrase "transport passengers or property" includes:

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A. Charter arrangements for money or other consideration;

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B. Transfer or conveyance as part of a package of services when there is payment or consideration for any part or all of the package of services; and

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C. Transfer or conveyance to or from the islands or between the islands for any purpose without regard to whether the same passengers or property is then transferred or conveyed back to the starting point.

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2. Application requirement. In considering any application for a certificate of public convenience and necessity, the commission shall require the applicant to prove that:

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A. Existing service provided by the Casco Bay Island Transit District is substantially inadequate or deficient;

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B. The service to be provided by the applicant substantially improves service within the regulated area; and

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C. The granting of the certificate requested by the applicant does not result in an adverse impact on the long-term viability of the Casco Bay Island Transit District, taking into consideration the full range of

2 services provided by the district and the requirement that
3 the district provide reasonable daily, year-round passenger
4 and freight service to all the islands in the district.

6 3. Inadequacies or deficiencies of the Casco Bay Island
7 Transit District. In the event the commission finds that an
8 existing service provided by the Casco Bay Island Transit
9 District is substantially inadequate or deficient, the commission
10 shall allow the district an opportunity to correct the
11 inadequacies or deficiencies identified by the commission. The
12 district has 180 days following notice from the commission in
13 which to remedy the inadequacies or deficiencies. The
14 certificate of public convenience and necessity may be issued
15 only for services the commission finds are needed due to the
16 continued inadequacy or deficiency of existing services provided
17 by the district following the 180-day period for correcting the
18 inadequacy or deficiency.

20 The provisions of this section apply to any application for
21 a certificate of public convenience and necessity pending on, or
22 filed after, January 1, 1992.

24 **Sec. 2. 35-A MRSA §5101-A is enacted to read:**

26 **§5101-A. Financial viability of Casco Bay Island Transit**
27 **District**

28 In reviewing any application for a certificate of public
29 convenience and necessity under section 5101, the commission
30 shall take into consideration the effect of granting the
31 certificate on the continued financial viability of the Casco Bay
32 Island Transit District. The commission shall consider the
33 cumulative impact of this application in conjunction with any
34 other certificates granted or applications pending for ferry
35 services in Casco Bay.

36 In considering an application for a certificate of public
37 convenience and necessity for a transit service similar to a
38 service provided by the Casco Bay Island Transit District, the
39 commission shall consider the cost of that service only if the
40 applicant proposes to offer the service on a daily, year-round
41 basis and at the same or better level of service than currently
42 offered by the district.

44 **Sec. 3. Retroactivity.** This Act applies retroactively to
45 January 1, 1992.

48 **Emergency clause.** In view of the emergency cited in the
49 preamble, this Act takes effect when approved.
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