

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1255

S.P. 459

In Senate, April 11, 1995

**An Act to Create the Northern New England Passenger Rail Authority.**

(EMERGENCY)

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Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS  
Secretary of the Senate

Presented by Senator HARRIMAN of Cumberland. (GOVERNOR'S BILL).  
Cosponsored by Representative O'GARA of Westbrook and  
Senators: AMERO of Cumberland, CAREY of Kennebec, CASSIDY of Washington,  
LAWRENCE of York, MILLS of Somerset, PARADIS of Aroostook, RAND of Cumberland,  
RUHLIN of Penobscot, SMALL of Sagadahoc, STEVENS of Androscoggin, Representatives:  
ADAMS of Portland, BAILEY of Township 27, BRENNAN of Portland, CARLETON of  
Wells, CLARK of Millinocket, DEXTER of Kingfield, DiPIETRO of South Portland,  
HICHBORN of Lagrange, JACQUES of Waterville, KERR of Old Orchard Beach,  
LINDAHL of Northport, MADORE of Augusta, MITCHELL of Vassalboro, MURPHY of  
Berwick, POULIOT of Lewiston, RICKER of Lewiston, SAXL of Portland, STROUT of  
Corinth, TUTTLE of Sanford.

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

4  
6           **Whereas,** the promotion of passenger rail service is  
essential to the economy and well-being of the State; and

8           **Whereas,** there is an immediate need to create the Northern  
New England Passenger Rail Authority; and

10  
12           **Whereas,** in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
14 necessary for the preservation of the public peace, health and  
safety; now, therefore,

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

18           **Sec. 1. 5 MRSA §12004-F, sub-§16** is enacted to read:

20                    16. Northern New            Legislative            23 MRSA  
22                    England Passenger Rail    Per Diem            §8111  
24                    Authority

26           **Sec. 2. 23 MRSA c. 615, sub-c. III,** as amended, is repealed.

28           **Sec. 3. 23 MRSA c. 621** is enacted to read:

30                                    CHAPTER 621  
32                                    PASSENGER RAIL SERVICE  
34                                    SUBCHAPTER I  
36                                    GENERAL PROVISIONS

38           §8001. Short title

40                    This chapter may be known and cited as the "Passenger Rail  
Service Act."

42           §8002. Definitions

44                    As used in this chapter, unless the context otherwise  
indicates, the following terms have the following meanings.

46                    1. Authority. "Authority" means the Northern New England  
48                    Passenger Rail Authority and any successors to that authority.

2           2. Government agency. "Government agency" includes any  
3 department, agency, commission, bureau, authority,  
4 instrumentality and political subdivision of:

6           A. The Federal Government;

8           B. The State;

10          C. Any other state; and

12          D. The Dominion of Canada and any of its provinces.

14           3. Railroad line. "Railroad line" or "lines" means the  
15 right-of-way, track, track appurtenances, ties, bridges, station  
16 houses and other appurtenant structures.

18           §8003. Initiation and establishment of passenger rail service

20           1. Establishment of service. The authority is directed to  
21 take all actions that are reasonably necessary to initiate,  
22 establish or reinitiate regularly scheduled passenger rail  
23 service between points within this State and points within and  
24 outside this State. These actions may include, but are not  
25 limited to, the acquisition, holding, use, operation, repair,  
26 construction, reconstruction, rehabilitation, modernization,  
27 rebuilding, relocation, maintenance and disposition of railroad  
28 lines, railway facilities, rolling stock, machinery and  
29 equipment, trackage rights, real and personal property of any  
30 kind and any rights in or related to that property.

32           2. Acquisition of properties; rights. The authority may  
33 acquire any of the properties or rights listed in subsection 1  
34 through purchase, lease, lease-purchase, gift, devise or  
35 otherwise. In making these acquisitions the authority may  
36 exercise the power of eminent domain following the same procedure  
37 set forth in section 7154, subsection 5; except that any notice  
38 of condemnation must be filed in the registry of deeds for the  
39 county or counties, or registry division or divisions, in which  
40 the property is located, in the case of real property, and with  
41 the office of the Secretary of State in the case of personal  
42 property.

44           §8004. Contracts; studies

46           In order to implement section 8003 and the purposes of this  
47 chapter, the authority is directed to:

48           1. Conduct studies. Conduct or cause to be conducted any  
49 studies that the authority determines necessary or proper;  
50

2       2. Enter into contracts. Enter into and fulfill any  
contracts and agreements the authority determines necessary or  
proper;

4  
6       3. Acquire property. Acquire property, including, but not  
limited to, railroad lines, both within and outside of this  
State; and

8  
10       4. Cooperate with government agencies. Cooperate and enter  
into agreements, contracts and compacts with any government  
agency, the National Railroad Passenger Corporation and any other  
person, public or private.

14       **§8005. Initial funding**

16       1. Funds for implementation. The authority is directed to  
seek and use funds necessary for the implementation of this  
chapter, in an amount not less than \$40,000,000, exclusive of any  
interest or other debt service or expenses paid for funds  
borrowed through bond issues or otherwise.

22       2. Expenditure of funds. These funds must be spent first  
to reinstate, on or before December 31, 1995 regularly scheduled  
passenger rail service between Portland, Maine and Boston,  
Massachusetts, and points between. Any funds that exceed those  
necessary to reinstate service between those points must be  
spent by the authority to extend, to the extent practicable,  
regularly scheduled passenger rail service to other points within  
and outside of this State.

30       **§8006. Additional funding**

32       The authority is directed to use any revenues it receives  
34 from the operation of the passenger rail service established  
pursuant to this chapter to pay the operational expenses of that  
36 service. The authority is directed to seek and use funds  
necessary to pay all operational expenses of this passenger rail  
38 service that are not met by fares and other funds or revenues.  
For the purposes of this section, "operational expenses" include,  
40 but are not limited to, all additional capital expenses necessary  
to maintain the passenger rail service.

42       **§8007. Federal funds**

44       The authority may take all actions consistent with this  
46 chapter necessary to qualify for, accept and disburse any money  
that the Federal Government may grant or loan to the authority to  
48 fund any actions required of the authority under the terms of  
this chapter.

2 **§8008. Government agencies**

4 Any government agency may allocate money and take other  
6 actions that may aid in the implementation of this chapter. The  
8 authority may provide funds, including loans and matching grants,  
to government agencies in order to encourage their participation  
in implementing this chapter.

10 **§8009. Reasonable fares**

12 Fares for the passenger rail service established pursuant to  
14 this chapter must be set at reasonable levels to encourage use of  
this service.

16 **§8010. Satisfaction of operating deficits**

18 The authority is directed to obtain all additional funds,  
20 through borrowing, revenues or other means, necessary to satisfy  
22 operating deficits arising from expenses, including capital  
expenditures, necessary to ensure the continuation of passenger  
rail service established pursuant to this chapter.

24 **§8011. Rules of construction**

26 This chapter must be construed liberally to effectuate the  
28 purposes of this chapter. Any amount of money set forth in this  
30 chapter is intended to represent a minimum amount that may be  
spent to effect those purposes. The State may appropriate to the  
authority, and the authority may expend, additional amounts for  
those purposes.

32 **SUBCHAPTER II**

34 **NORTHERN NEW ENGLAND PASSENGER RAIL AUTHORITY**

36 **§8111. Purpose**

38 The Northern New England Passenger Rail Authority, as  
40 established by Title 5, section 12004-F, subsection 16, is a body  
42 both corporate and politic in the State established for the  
44 general purpose of promoting passenger rail service as set forth  
in subchapter I. It is declared that the purposes of this  
chapter are public and that the authority shall be regarded as  
46 performing a governmental function in carrying out this chapter.  
The authority, as successor in interest of the Department of  
48 Transportation and to its rights, privileges and liabilities as  
set forth in subchapter I, shall receive any federal and state  
50 funds previously authorized to the department for that purpose,  
and upon creation of the authority all such rights, privileges  
and liabilities of the department cease.

52

2  
3 **§8112. Directors**

4 **1. Board of directors.** The authority consists of a board  
5 of 5 directors appointed by the Governor each to serve for 5  
6 years; except for those first appointed one director is appointed  
7 for one year, one director for 2 years, one director for 3 years  
8 and one director for 4 years. Immediately after their  
9 appointments, the directors of the authority shall enter upon  
10 their duties. The Governor shall name one of the appointed  
11 members as chair of the authority. The directors shall elect a  
12 treasurer and a secretary who need not be members of the  
13 authority and any other officers as the board of directors from  
14 time to time considers necessary. Any vacancy must be filled for  
15 the unexpired term by the Governor. A vacancy in the authority  
16 does not impair the right of a quorum of the directors to  
17 exercise all the rights and perform all the duties of the  
18 authority. The Governor may remove a member from the authority  
19 for misconduct.

20 **2. Meetings of directors; compensation.** All the powers of  
21 the authority may be exercised by the board of directors in  
22 lawful meeting and a majority of the directors are necessary for  
23 a quorum. Regular meetings of the board of directors may be  
24 established by bylaw and notice need not be given to the  
25 directors of the regular meeting. Each director is entitled to  
26 compensation according to the provisions of Title 5, chapter 379.

28 **§8113. Conflict of interest**

30 A director, officer or employee of the authority may not  
31 acquire any interest, direct or indirect, in any contract or  
32 proposed contract of the authority. A director, officer or  
33 employee may not participate in any decision on any contract  
34 entered into by the authority if that individual has any  
35 interest, direct or indirect, in any firm, partnership,  
36 corporation or association that will be party to such a contract  
37 or financially involved in any transaction with the authority;  
38 except this prohibition does not apply to the execution of  
39 agreements by banking institutions for the deposit or handling of  
40 authority funds in connection with any contract or to utility  
41 services, the rates for which are fixed or controlled by a  
42 governmental agency.

44 **§8114. Powers**

46 The authority may:

48 **1. Suit.** Sue and be sued;

50 **2. Seal.** Have a seal and alter the seal at pleasure;

2           3. Bylaws; rules. Adopt from time to time and amend bylaws  
3 covering its procedure and rules for the purposes set forth in  
4 this chapter; develop and adopt rules in accordance with the  
5 Maine Administrative Procedure Act; publish bylaws and rules as  
6 necessary or advisable; and cause records of its proceedings to  
7 be kept;

8  
9           4. Employees. Employ such assistants, attorneys, experts,  
10 inspectors and such other employees and consultants as the  
11 authority considers necessary or desirable for its purposes;

12           5. Department of Transportation. Utilize the services of  
13 the State Department of Transportation that are available and  
14 expedient and all charges for services provided by the department  
15 may be paid to it by the authority as mutually agreed upon; and

16           6. Other action. Take all lawful action necessary and  
17 incidental to effectuate the purposes set forth in this chapter.

18  
19           **§8115. Obligations of the authority**

20  
21           All expenses incurred in carrying out this chapter must be  
22 paid solely from funds provided to or obtained by the authority  
23 pursuant to this chapter. Any notes, obligations or liabilities  
24 under this chapter may not be deemed to be a debt of the State or  
25 a pledge of the faith and credit of the State; but those notes,  
26 obligations and liabilities are payable exclusively from funds  
27 provided to or obtained by the authority pursuant to this  
28 chapter. Pecuniary liability of any kind may not be imposed upon  
29 the State or any locality, town or landowner in the State because  
30 of any act, agreement, contract, tort, malfeasance, misfeasance  
31 or nonfeasance by or on the part of the authority or its agents,  
32 servants or employees. The records and correspondence relating  
33 to negotiations, trade secrets received by the authority and  
34 estimates of costs on projects to be put out to bid are  
35 confidential and the authority is deemed to have a lawyer-client  
36 privilege.

37  
38           **§8116. Report to the Legislature; departmental review**

39           1. Annual report. Beginning January 1, 1996, on an annual  
40 basis, the authority shall present its report to the Legislative  
41 Council and send copies to the joint standing committee of the  
42 Legislature having jurisdiction over transportation matters and  
43 the Commissioner of Transportation. The report shall include a  
44 description of the authority's activities for the preceding  
45 fiscal year, including a report of its receipts and expenditures  
46 from all sources.



2           2. Operating budget. Beginning January 31, 1996, on an  
3 annual basis, the authority shall present the operating budget of  
4 the authority for the next fiscal year beginning July 1st to the  
5 Commissioner of Transportation for approval. The authority may  
6 only make expenditures in accordance with allocations approved by  
7 the commissioner. Any balance of an allocation that at any time  
8 may not be required for the purpose named in that allocation may  
9 be transferred at any time prior to the closing of the books to  
10 any other allocation for the use of the authority for the same  
11 fiscal year subject to review and approval by the commissioner.  
12 Fiscal statements describing a transfer must be submitted by the  
13 authority to the commissioner 30 days before the transfer is to  
14 be implemented. These fiscal statements must include information  
15 specifying the accounts that are affected, amounts to be  
16 transferred, a description of the transfer and a detailed  
17 explanation as to why the transfer is needed.

18           **§8117. Fair practices; affirmative action**

19           The authority is subject to and shall comply with Title 5,  
20 chapter 65.

21           **§8118. Property of the authority**

22           1. Property of the authority. All property of the  
23 authority pursuant to the provisions of this chapter is exempt  
24 from levy and sale by virtue of any execution and an execution or  
25 other judicial process is not a valid lien upon its property held  
26 pursuant to the provisions of this chapter. The authority may  
27 use its property only for the purposes set forth in this chapter.

28           2. Entry upon lands. The authority and its authorized  
29 agents and employees may enter upon any lands, waters and  
30 premises in the State for the purpose of making surveys,  
31 soundings, drillings and examinations as it determines necessary  
32 or convenient for the purpose of this chapter and the entry may  
33 not be deemed a trespass nor is the authority liable for the  
34 discovery of any form of waste or environmental contamination.

35           3. Authority for transfer of interest in land to the  
36 authority. Any county, municipality or other political  
37 subdivision, any public agency or commission of the State and any  
38 public service corporation or district, notwithstanding any  
39 contrary provisions of law, may lease, lend, grant or convey to  
40 the authority, upon its request and upon such terms and  
41 conditions as the proper authorities of the political  
42 subdivision, agency, commission, public service corporation or  
43 district determine reasonable and fair, any real or personal  
44 property or rights in the property that are necessary or  
45

2 convenient to the effectuation of the authorized purposes of the  
3 authority, including real and personal property or rights in the  
4 property already devoted to public use. As used in the  
5 subsection, the term "public service corporation" includes a  
6 public utility as defined in Title 35-A, section 102, subsection  
7 13 and a corporation referred to in Title 13-A.

8 **§8119. Exemption from taxes**

10 Because the accomplishment by the authority of the  
11 authorized purpose stated in this chapter is for the benefit of  
12 the people of the State and for the improvement of their commerce  
13 and prosperity and is the performance of essential governmental  
14 functions, the authority may not be required to pay any taxes or  
15 assessment on any property acquired or used by it for the  
16 purposes provided in this chapter; except that service facilities  
17 leased or rented by the authority to business entities are  
18 subject to taxation and assessments must be made against the  
19 tenant in possession based upon the value of the leasehold  
20 interest, both real and personal. The authority may not be  
21 required to pay any tax upon its income except as may be required  
22 by the laws of the United States.

24 **Sec. 4. Transfer of funds from the State Department of**  
25 **Transportation to the Northern New England Passenger Rail Authority.**

26 The State Department of Transportation is authorized to transfer  
27 up to \$3,000,000 allocated to railroad and airport improvements  
28 by Private and Special Law 1991, chapter 113, Part B, section 6  
29 to the Northern New England Passenger Rail Authority.

30 **Sec. 5. Authority expenditures.** Before July 1, 1996, the  
31 Northern New England Passenger Rail Authority may make  
32 expenditures only upon the review by and approval of the  
33 Commissioner of Transportation.

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

38  
39  
40 **STATEMENT OF FACT**

41 This bill creates the Northern New England Passenger Rail  
42 Authority for the general purpose of promoting passenger rail  
43 service. This authority is the successor in interest to the  
44 Department of Transportation in promoting this service.

45 The bill authorizes the transfer of existing funds reserved  
46 for railroad improvements in Private and Special Law 1991,  
47 chapter 113, Part B, section 6 to the authority.