

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1079

H.P. 791

House of Representatives, February 18, 1997

An Act to Create the Cobscook Bay Transit District.

Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative GOODWIN of Pembroke.
Cosponsored by Representatives: BAGLEY of Machias, BUNKER of Kossuth Township,
DRISCOLL of Calais.

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

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Sec. 1. Transit district in Cobscook Bay created. The towns of Eastport, Lubec, Whiting, Dennysville, Pembroke, Perry and Pleasant Point and the townships known as Trescott Township and Edmunds Township, all in Washington County, constitute a transit district under the name Cobscook Bay Transit District and referred to in this Act as the "district." The purpose of the district is to provide ferry service between the towns of Lubec and Eastport. The district is a body politic and corporate, may sue and be sued, plead and be impleaded, adopt and alter a common seal and do things necessary to furnish waterborne transportation between the towns of Lubec and Eastport, including incidental tour and charter service, for public purposes in the interest of public health, safety, comfort and convenience of the inhabitants of the district.

Sec. 2. Board of directors. The affairs of the district must be managed by a board of 9 directors. The directors must be elected by the voters of the district. Four directors must be residents or property owners of Lubec, 4 directors must be residents or property owners of Eastport and one director must be a resident or property owner of Trescott Township, Whiting, Edmunds Township, Dennysville, Pembroke, Perry or Pleasant Point.

Sec. 3. Election of directors. The directors must be elected by a plurality vote of the legal voters resident in the district at an election to be held on the first Tuesday in the month of November, with the first election to be held Tuesday, November 3, 1998. Each director shall serve for a term of 3 years, with 3 directors being elected on a rotating basis each year. The order of rotation must be decided by the directors by lot at the first meeting of the directors. Two-thirds of the directors constitutes a quorum for the transaction of business and any action taken by a majority of directors present at any meeting at which a quorum is in attendance is deemed to be the action of the full board of directors.

Nominations for directors must be by petition signed by at least 20 eligible voters resident in the district and filed with the clerk of the district not less than 21 days before the day of the election.

Pending the first election of directors, interim directors must be chosen within 180 days from the effective date of this Act to serve in lieu of the elected directors and may exercise all the powers of district directors until the election. Four of the interim directors must be residents or property owners of Eastport and be selected by majority vote by the governing body

2 of the Town of Eastport; 4 of the interim directors must be
3 residents or property owners of Lubec and be selected by majority
4 vote by the governing body of the Town of Lubec; one of the
5 interim directors must be a resident or property owner of
6 Trescott Township, Whiting, Edmunds Township, Dennysville,
7 Pembroke, Perry or Pleasant Point and be selected by majority
8 vote by the governing bodies of the towns of Lubec and Eastport.

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10 Elections for directors must be conducted by and under the
11 supervision of the clerk of the district and the result must be
12 certified by the clerk. The expenses of the election must be
13 paid by the district. If such election is held in conjunction
14 with any municipal election, the district shall reimburse the
15 municipality for any additional expense caused by the district
16 election.

17 **Sec. 4. Meetings.** The directors shall meet at least monthly
18 or more often if required by the bylaws, or upon call of the
19 president, and the president shall call such other meetings as
20 are requested in writing directed to the president signed by at
21 least 1/3 of the members of the board of directors. The
22 directors shall elect from among their members a president,
23 treasurer, clerk and such other officers as they may desire and
24 shall adopt bylaws and rules for the conduct of the affairs of
25 the district. The directors shall appoint and fix the salary of
26 a district manager who may not be a director and who is the chief
27 executive officer of the district and who shall appoint such
28 other employees as are required for district purposes and shall
29 fix the salaries of such employees. The directors may, by
30 resolution, indicate which appointments by the manager and
31 salaries established by the manager require confirmation of the
32 board of directors.

33 **Sec. 5. Interest in contracts.** No director, officer or employee
34 of the district may be interested directly or indirectly in any
35 contract entered into by or in behalf of a district for work or
36 material, or the obtaining of work or the purchase of material or
37 in any property acquired or to be acquired by the district. All
38 contracts made in violation of this section are void. Nothing in
39 this section precludes a passenger or shipper of freight with no
40 other interest in a contract from being a director, officer or
41 employee of the district.
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43 **Sec. 6. Certificate of organization.** The district shall, after
44 its organization, file a certificate with the Secretary of State
45 setting forth the following information:
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- 47 1. Name of the district;
48
49 2. Its purposes;
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- 2 3. Islands included within the district;
- 4 4. Location of the principal office;
- 6 5. Number and names of the directors and their addresses;
and
- 8 6. Names and addresses of the officers.

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12 The certificate must be signed by the president and
14 treasurer and a majority of the directors, and the president or
16 treasurer shall make oath that the signatures set forth in the
 certificate are true. From time to time as changes may occur,
 the district shall file an amended certificate with the Secretary
 of State setting forth such changes.

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Sec. 7. Powers of directors. The directors of the district may
20 take, purchase, hold, maintain, operate, lease, rent, mortgage or
22 convey any and all real and personal property, or lease or
24 sublease the same, or enter into contracts with private companies
 for the purpose of providing public transportation services and
 for such purpose contract with the Federal Government, State
 Government and municipal governments for donations, loans,
26 grants, gifts or other assistance and in such contracts agree to
 be bound by all applicable provisions of federal, state and
 municipal statutes, regulations and rules as the case may be.

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Sec. 8. Routes and fares; sinking fund. The directors of the
30 district may establish routes and shall fix rates of fare to be
32 charged for public transportation service that to the extent
34 possible reasonably assure sufficient income to meet the cost of
 the service, including, but not limited to, operating expenses,
 insurance, taxes, rentals, annual serial bond payments, interest,
36 allocation for a reserve account and an allowance for
 depreciation. If, after all such obligations have been met, a
38 surplus remains, the directors may deposit all or any part of
 such surplus in a reserve account for retirement of indebtedness
 or for other proper purpose.

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Sec. 9. Exempt from taxation; fuel tax refund. The accomplishment
42 by the district of the authorized purpose stated in this Act is
44 for the benefit of the people of the State and for the
 improvement of their commerce and prosperity, in which
 accomplishment the district will be performing essential
46 governmental functions. The district, when operated for the
 purpose of providing public transportation, is exempt from all
48 registration fees and excise, sales and use, income and any other
 taxes that may be assessed by

2 the State or any political subdivision of the State. The
4 district is entitled to reimbursement and must be paid to the
6 extent of the full amount of the tax paid for fuel used in
8 vessels owned and operated by the district for that purpose. The
10 district shall present its claim to the State Tax Assessor, in
such form and with such information as the State Tax Assessor may
prescribe, accompanied by original invoices showing such
purchases. Applications for refunds as provided must be filed
with the State Tax Assessor within 9 months from the date of
purchase.

12 **Sec. 10. Sale of bonds.** For accomplishing the purposes of this
14 Act and for other expenses necessary for carrying out those
16 purposes, the district, through the district directors, is
18 authorized to issue, from time to time, bonds, notes or other
20 evidences of indebtedness of the district in one series, or in
22 separate series, in an amount or amounts, bearing interest at a
24 rate or rates and having terms and provisions determined by the
26 directors. The district must operate its service as a toll
28 system to retire the bonds issued and to provide for all the
30 expenses and maintenance incurred by the issuance of bonds. All
32 such bonds, notes and evidences of indebtedness so issued by the
district are legal obligations of the district. The district is
not a quasi-municipal corporation. Such bonds may be secured by
a mortgage or security interest in any assets of the district.
The district may refund and reissue from time to time, in one or
in a separate series, its bonds and notes and constitute a
separate loan. All bonds, notes and evidences of indebtedness
issued by the district are legal investments for savings banks in
the State and are tax exempt. The amortization of and interest
paid on bonds issued in this Act must be included as an operating
expense for rate-making purposes by the Public Utilities
Commission.

34 **Sec. 11. Regulation by the Public Utilities Commission.** Nothing in
36 this Act may be construed to exempt the district from regulation
38 by the Public Utilities Commission.

40 SUMMARY

42 This bill establishes a transit district in Cobscook Bay for
44 the purpose of providing ferry service between Eastport and
46 Lubec. It creates an elected 9-member board of directors for the
48 district, with 4 members from Eastport, 4 from Lubec and one
member from Trescott Township, Whiting, Edmunds Township,
Dennysville, Pembroke, Perry or Pleasant Point.