

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

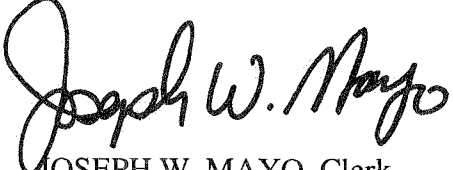
No. 1594

H.P. 1138

House of Representatives, March 19, 1997

**An Act to Transfer State Ownership of Certain Railroad Rights-of-way,
Create the Calais to Eastport Rail Authority and Authorize a General
Fund Bond Issue in the Amount of \$4,500,000 to Fund Establishment of
Freight Rail Service between Calais and Eastport.**

Reference to the Committee on Transportation suggested and ordered printed.


JOSEPH W. MAYO, Clerk

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

2 1. Establishment of service. The authority shall take all
4 actions that are reasonably necessary to establish, repair,
6 upgrade and maintain a railroad line between Calais and Eastport,
8 in Washington County, and to initiate, establish or promote
10 freight rail service between Calais and Eastport. These actions
12 may include, but are not limited to, the acquisition, holding,
14 use, operation, repair, construction, reconstruction,
 rehabilitation, modernization, rebuilding, relocation,
 maintenance and disposition of railroad lines, railway
 facilities, rolling stock, machinery and equipment, trackage
 rights, real and personal property of any kind and any rights in
 or related to that property.

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

26 §8203. Contracts; studies

28 In order to implement section 8202 and the purposes of this
30 chapter, the authority shall:

32 1. Conduct studies. Conduct or cause to be conducted any
34 studies that the authority determines necessary or proper;

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

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

48 4. Cooperate with government agencies. Cooperate and enter
 into agreements, contracts and compacts with any government
 agency and any other person, public or private, that the
 authority determines necessary.

§8204. Funding; expenditures of funds

2 F. Two members who are residents of Eastport and appointed
3 by the governing body of Eastport; and

4
5 G. Two members who are residents of Pleasant Point and
6 appointed by the Passamaquoddy tribal government.

7 2. Terms. Each director serves a 2-year term, except that
8 each appointing governing body under section 1 initially appoints
9 one director who serves for one year and one director who serves
10 for 2 years.

11 3. Election of officers; bylaws. The authority shall elect
12 from among its members a president, a treasurer, a clerk and
13 other officers the authority considers appropriate. The
14 authority shall adopt bylaws for the conduct of the affairs of
15 the authority.

16 4. Meetings of directors; compensation. All the powers of
17 the authority may be exercised by the board of directors and a
18 majority of the directors then in office is necessary for a
19 quorum. Regular meetings of the board of directors may be
20 established by bylaw. The authority president may call a meeting
21 at any time and shall call a meeting when requested in writing by
22 at least 1/3 of the members of the board of directors. Each
23 director is entitled to compensation according to Title 5,
24 section 12004-F, subsection 18.

25 §8213. Conflict of interest

26 A director, officer or employee of the authority may not be
27 interested directly or indirectly in any contract entered into by
28 or in behalf of the authority for work or material or the
29 purchase thereof or in any property acquired or to be acquired by
30 the district.

31 §8214. Powers

32 The authority may:

33 1. Suit. Sue and be sued;

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

35 3. Bylaws; rules. Adopt from time to time and amend bylaws
36 covering its procedure and rules for the purposes set forth in
37 this chapter, develop and adopt rules in accordance with the
38 Maine Administrative Procedure Act, publish bylaws and rules as
39 necessary or advisable and cause records of its proceedings to be
40 kept;

2 4. Employees. Employ any assistants, attorneys, experts,
inspectors and other employees and consultants the authority
4 considers necessary or desirable for its purposes;

6 5. Department of Transportation. Utilize the services of
the Department of Transportation that are available and
8 expedient, and all charges for services provided by the
department may be paid to it by the authority as mutually agreed
10 upon; and

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

16 §8215. Obligations of the authority

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

32 §8216. Report to the Legislature; departmental review

34 1. Annual report. By January 1st of each year, the
36 authority shall report to the joint standing committee of the
Legislature having jurisdiction over transportation matters and
38 to the Commissioner of Transportation on the programs undertaken
pursuant to this chapter and submit a report of receipts and
40 expenditures from all sources of funding.

42 2. Operating budget. By January 31st of each year the
44 authority shall present the operating budget of the authority for
the next fiscal year beginning July 1st to the Commissioner of
46 Transportation for approval. The authority may make expenditures
only in accordance with allocations approved by the Commissioner
of Transportation. Any balance of an allocation that at any time
48 is not required for the purpose named in that allocation may be
transferred at any time prior to the closing of the books to any
50 other allocation for the use of the authority for the same

2 fiscal year, subject to review and approval by the commissioner.
3 Fiscal statements describing a transfer must be submitted by the
4 authority to the commissioner 30 days before the transfer is to
5 be implemented. These fiscal statements must include information
6 specifying the accounts that are affected, amounts to be
7 transferred, a description of the transfer and a detailed
8 explanation as to why the transfer is needed.

10 **§8217. Fair practices; affirmative action**

11 The authority shall comply with Title 5, chapter 65.

12 **§8218. Property of the authority**

13 1. Property of the authority. All property of the
14 authority pursuant to the provisions of this chapter is exempt
15 from levy and sale by virtue of any execution, and an execution
16 or other judicial process is not a valid lien upon property held
17 pursuant to the provisions of this chapter. The authority may
18 use its property only for the purposes set forth in this chapter.

19 2. Entry upon lands. The authority and its authorized
20 agents and employees may enter upon any lands or waters in the
21 State for the purpose of making surveys, soundings, drillings and
22 examinations as it determines necessary or convenient for the
23 purpose of this chapter and the entry is not a trespass nor is
24 the authority liable for the discovery of any form of waste or
25 environmental contamination.

26 3. Authority for transfer of interest in land to the
27 authority. Any county, municipality or other political
28 subdivision, any public agency or commission of the State and any
29 public service corporation or district, notwithstanding any
30 contrary provisions of law, may lease, lend, grant or convey to
31 the authority, upon its request and upon terms and conditions the
32 proper authorities of the political subdivision, agency,
33 commission, public service corporation or district determine
34 reasonable and fair, any real or personal property or rights in
35 the property that are necessary or convenient to the effectuation
36 of the authorized purposes of the authority, including real and
37 personal property or rights in the property already devoted to
38 public use. As used in this subsection, the term "public service
39 corporation" includes a public utility as defined in Title 35-A,
40 section 102, subsection 13 and a corporation as defined in Title
41 13-A, section 102, subsection 8.

42 **§8219. Exemption from taxes**

43 Because the accomplishment by the authority of the
44 authorized purpose stated in this chapter is for the benefit of
45

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

24 **Sec. A-3. Authority expenditures.** Before July 1, 1998, the
26 Calais to Eastport Rail Authority may make expenditures only upon
28 review by and approval of the Commissioner of Transportation.

18 PART B

20 **Sec. B-1. Department of Transportation authorized to transfer**
22 **right-of-way.** The Department of Transportation shall transfer
24 without compensation any interest it has in the railroad
26 right-of-way known as the Calais-Cherryfield rail corridor in the
28 following manner.

30 1. That part of the railroad right-of-way between Calais
32 and Ayers Junction must be transferred to the Calais to Eastport
34 Rail Authority.

36 2. That part of the railroad right-of-way between Ayers
38 Junction and the Hancock County line must be transferred to the
40 various towns and cities and unorganized territory in which the
42 rail corridor lies.

44 For the purposes of this Act, the "Calais-Cherryfield rail
46 corridor" consists of the railroad right-of-way that extends
48 through Washington County from Calais through Cherryfield to the
50 Hancock County line.

40 PART C

42 **Sec. C-1. Authorization of bonds to provide for the establishment of**
44 **freight rail service between Calais and Eastport in Washington County.**
46 The Treasurer of State is authorized, under the direction of the
48 Governor, to issue bonds in the name and on behalf of the State
50 in an amount not exceeding \$4,500,000 to raise funds for the
establishment of freight rail service between Calais and Eastport
in Washington County as authorized by section 6. The bonds are a
pledge of the

2 full faith and credit of the State. The bonds may not run for a
4 period longer than 20 years from the date of the original issue
6 of the bonds. At the discretion of the Treasurer of State, with
8 the approval of the Governor, any issuance of bonds may contain a
10 call feature.

12 **Sec. C-2. Records of bonds issued to be kept by the Treasurer of
14 State.** The Treasurer of State shall keep an account of each bond
16 showing the number of the bond, the name of the successful bidder
18 to whom sold, the amount received for the bond, the date of sale
20 and the date when payable.

22 **Sec. C-3. Sale; how negotiated; proceeds appropriated.** The
24 Treasurer of State may negotiate the sale of the bonds by
26 direction of the Governor, but no bond may be loaned, pledged or
28 hypothecated on behalf of the State. The proceeds of the sale of
30 the bonds, which must be held by the Treasurer of State and paid
32 by the Treasurer of State upon warrants drawn by the State
34 Controller, are appropriated solely for the purposes set forth in
36 this Part. Any unencumbered balances remaining at the completion
38 of the project in section 6 lapse to the debt service account
40 established for the retirement of the bonds.

42 **Sec. C-4. Interest and debt retirement.** The Treasurer of State
44 shall pay interest due or accruing on any bonds issued under this
46 Part and all sums coming due for payment of bonds at maturity.

48 **Sec. C-5. Disbursement of bond proceeds.** The proceeds of the
bonds must be expended as set out in section 6.

Sec. C-6. Allocations from General Fund bond issue The proceeds
of the sale of bonds must be expended as designated in the
following schedule.

1996-97

DEPARTMENT OF TRANSPORTATION

Calais to Eastport Rail Authority \$4,500,000

Provides funds for the establishment of
freight rail service between Calais and
Eastport in Washington County.

Sec. C-7. Contingent upon ratification of bond issue. Sections 1
to 6 do not become effective unless the people of the State have
ratified the issuance of bonds as set forth in this Part.

2 **Sec. C-8. Appropriation balances at year end.** At the end of each
3 fiscal year, all unencumbered appropriation balances representing
4 state money carry forward. Bond proceeds that have not been
5 expended within 10 years after the date of the sale of the bonds
6 lapse to General Fund debt service.

7 **Sec. C-9. Bonds authorized but not issued.** Any bonds authorized
8 but not issued, or for which bond anticipation notes are not
9 issued within 5 years of ratification of this Part, are
10 deauthorized and may not be issued; except that the Legislature
11 may, within 2 years after the expiration of that 5-year period,
12 extend the period for issuing any remaining unissued bonds or
13 bond anticipation notes for an additional amount of time not to
14 exceed 5 years.

15 **Sec. C-10. Referendum for ratification; submission at statewide**
16 **election; form of question; effective date.** This Part must be submitted
17 to the legal voters of the State of Maine at a statewide election
18 held on the Tuesday following the first Monday of November
19 following passage of this Part. The municipal officers of this
20 State shall notify the inhabitants of their respective cities,
21 towns and plantations to meet, in the manner prescribed by law
22 for holding a statewide election, to vote on the acceptance or
23 rejection of this Part by voting on the following question:
24

25 "Do you favor a \$4,500,000 bond issue for the establishment
26 of freight rail service between Calais and Eastport in
27 Washington County?"
28

29 The legal voters of each city, town and plantation shall
30 vote by ballot on this question and designate their choice by a
31 cross or check mark placed within a corresponding square below
32 the word "Yes" or "No." The ballots must be received, sorted,
33 counted and declared in open ward, town and plantation meetings
34 and returns made to the Secretary of State in the same manner as
35 votes for members of the Legislature. The Governor shall review
36 the returns and, if a majority of the legal votes are cast in
37 favor of the Part, the Governor shall proclaim the result without
38 delay, and the Part becomes effective 30 days after the date of
39 the proclamation.
40

41 The Secretary of State shall prepare and furnish to each
42 city, town and plantation all ballots, returns and copies of this
43 Part necessary to carry out the purpose of this referendum.
44

46

SUMMARY

2

4 This bill creates the Calais to Eastport Rail Authority.
6 The authority's purpose is to establish freight rail service
8 between Calais and Eastport. The bill transfers to the authority
10 the Department of Transportation's interest in the existing rail
12 line between Calais and Ayers Junction. It also transfers the
 Department of Transportation's interest in the existing rail line
 between Ayers Junction and the Hancock County line to those
 municipalities through which the line runs. The bill proposes a
 \$4,500,000 million bond issue for use by the authority in
 establishing freight rail service between Calais and Eastport.