

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1159

H.P. 836

House of Representatives, February 9, 1999

**An Act to Create the Calais to Eastport Rail Authority and Transfer State
Ownership of Certain Railroad Rights-of-way.**

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.

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

4 PART A

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

8 18. Calais to Legislative 23 MRSA §8211
Eastport Rail Authority Per Diem

10 Sec. A-2. 23 MRSA c. 623 is enacted to read:

12 CHAPTER 623

14 CALAIS TO EASTPORT RAIL SERVICE

16 SUBCHAPTER I
18 GENERAL PROVISIONS

20 §8201. Definitions

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

24 1. Authority. "Authority" means the Calais to Eastport
Rail Authority.

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

30 A. The Federal Government;

32 B. The State;

34 C. Any other state; and

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

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

42 §8202. Initiation and establishment of freight rail service

44 1. Establishment of service. The authority shall take all
46 actions that are reasonably necessary to establish, repair,
upgrade and maintain a railroad line between Calais and Eastport,
48 in Washington County, and to initiate, establish or promote
freight rail service between Calais and Eastport. These actions
50 may include, but are not limited to, the acquisition, holding,

2 use, operation, repair, construction, reconstruction,
4 rehabilitation, modernization, rebuilding, relocation,
6 maintenance and disposition of railroad lines, railway
8 facilities, rolling stock, machinery and equipment, trackage
10 rights, real and personal property of any kind and any rights in
12 or related to that property.

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

34 §8203. Contracts; studies

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

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

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

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

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.

40 §8204. Funding; expenditures of funds

42 1. Source of funds. The authority may accept money from
44 the Federal Government or any public or private source. The
46 authority may also obtain funds by charging for the use of
48 authority facilities or by borrowing.

2. Expenditure of funds. Funds credited to the authority
must be expended to implement this chapter.

2 3. Loans and grants. The authority may provide loans and
matching grants to a government agency to assist in implementing
this chapter.

4
6 **§8205. Reasonable fares**

8 Fares for rail service established pursuant to this chapter
must be set at reasonable levels to encourage use of this service.

10
12 **SUBCHAPTER II**
CALAIS TO EASTPORT RAIL AUTHORITY

14 **§8211. Purpose**

16 The authority, as established by Title 5, section 12004-F,
subsection 18, is a body both corporate and politic in the State
18 established for the general purpose of establishing freight rail
service between Calais and Eastport as set forth in subchapter
20 I. It is declared that the purposes of this chapter are public
and that the authority must be regarded as performing a
22 governmental function in carrying out this chapter.

24 **§8212. Directors**

26 1. Board of directors. The authority consists of a board
of 14 directors appointed as follows:

28 A. Two members who are residents of Charlotte and appointed
30 by the governing body of Charlotte;

32 B. Two members who are residents of Perry and appointed by
the governing body of Perry;

34 C. Two members who are residents of Pembroke and appointed
36 by the governing body of Pembroke;

38 D. Two members who are residents of Baring and appointed by
the governing body of Baring;

40 E. Two members who are residents of Calais and appointed by
42 the governing body of Calais;

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

46 G. Two members who are residents of Pleasant Point and
48 appointed by the Passamaquoddy tribal government.

2 expedient, and all charges for services provided by the
3 department may be paid to it by the authority as mutually agreed
4 upon; and

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

8 **§8215. Obligations of the authority**

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

26 **§8216. Report to Legislature; departmental review**

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

34 2. Operating budget. By January 31st of each year, the
35 authority shall present the operating budget of the authority for
36 the next fiscal year beginning July 1st to the Commissioner of
37 Transportation for approval. The authority may make expenditures
38 only in accordance with allocations approved by the Commissioner
39 of Transportation. Any balance of an allocation that at any time
40 is not required for the purpose named in that allocation may be
41 transferred at any time prior to the closing of the books to any
42 other allocation for the use of the authority for the same fiscal
43 year, subject to review and approval by the commissioner. Fiscal
44 statements describing a transfer must be submitted by the
45 authority to the commissioner 30 days before the transfer is to
46 be implemented. These fiscal statements must include information
47 specifying the accounts that are affected, amounts to be
48 transferred, a description of the transfer and a detailed
49 explanation as to why the transfer is needed.

2 **§8217. Fair practices; affirmative action**

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

6 **§8218. Property of authority**

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

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

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

40 **§8219. Exemption from taxes**

42 Because the accomplishment by the authority of the
44 authorized purpose stated in this chapter is for the benefit of
46 the people of the State and for the improvement of their commerce
48 and prosperity and is the performance of essential governmental
functions, the authority may not be required to pay any taxes or
assessment on any property acquired or used by it for the
purposes provided in this chapter, except that service facilities
leased or rented by the authority to business entities are
subject to taxation, and assessments must be made against the

2 tenant in possession based upon the value of the leasehold
3 interest, both real and personal. The authority may not be
4 required to pay any tax upon its income except as required by the
5 laws of the United States.

6 **Sec. A-3. Authority expenditures.** Before July 1, 2000, the
7 Calais to Eastport Rail Authority may make expenditures only upon
8 review by and approval of the Commissioner of Transportation.

10 **PART B**

12 **Sec. B-1. Department of Transportation authorized to transfer**
13 **right-of-way.** The Department of Transportation shall transfer
14 without compensation any interest it has in the railroad
15 right-of-way known as the Calais-Cherryfield rail corridor in the
16 following manner.

17 1. That part of the railroad right-of-way between Calais
18 and Ayers Junction must be transferred to the Calais to Eastport
19 Rail Authority.

20 2. That part of the railroad right-of-way between Ayers
21 Junction and the Hancock County line must be transferred to the
22 various towns and cities and unorganized territory in which the
23 rail corridor lies.

24 For the purposes of this Part, the "Calais-Cherryfield rail
25 corridor" consists of the railroad right-of-way that extends
26 through Washington County from Calais through Cherryfield to the
27 Hancock County line.

32 **SUMMARY**

33 This bill creates the Calais to Eastport Rail Authority.
34 The authority's purpose is to establish freight rail service
35 between Calais and Eastport. The bill transfers to the authority
36 the Department of Transportation's interest in the existing rail
37 line between Calais and Ayers Junction. It also transfers the
38 Department of Transportation's interest in the existing rail line
39 between Ayers Junction and the Hancock County line to those
40 municipalities through which the line runs.
41
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