

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 113

H.P. 124

House of Representatives, January 21, 2003

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

Reference to the Committee on Transportation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative GOODWIN of Pembroke.
Cosponsored by Representatives: BUNKER of Kossuth Township, DUGAY of Cherryfield,
MOORE of the Passamaquoddy Tribe.

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

2

4

PART A

6

Sec. A-1. 5 MRSA §12004-F, sub-§19 is enacted to read:

8

19. 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 1

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

40

§8202. Initiation and establishment of freight rail service

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1. Establishment of service. The authority shall take all actions that are reasonably necessary to establish, repair, upgrade and maintain a railroad line between Calais and Eastport, in Washington County, and to initiate, establish or promote freight rail service between Calais and Eastport. These actions

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2 may include, but are not limited to, the acquisition, holding,
3 use, operation, repair, construction, reconstruction,
4 rehabilitation, modernization, rebuilding, relocation,
5 maintenance and disposition of railroad lines, railway
6 facilities, rolling stock, machinery and equipment, trackage
7 rights, real and personal property of any kind and any rights in
8 or related to that property.

9
10 2. Acquisition of properties; rights. The authority may
11 acquire any of the properties or rights listed in subsection 1
12 through purchase, lease, lease-purchase, gift, devise or
13 otherwise. In making these acquisitions the authority may
14 exercise the power of eminent domain following the same procedure
15 set forth in section 7154, subsection 5, except that any notice
16 of condemnation must be filed in the registry of deeds for the
17 county or counties or registry division or divisions in which the
18 property is located, in the case of real property, and with the
19 office of the Secretary of State in the case of personal property.

20 §8203. Contracts; studies

21 In order to implement section 8202 and this chapter, the
22 authority shall:

23
24
25 1. Conduct studies. Conduct or cause to be conducted any
26 studies that the authority determines necessary or proper;

27
28 2. Enter into contracts. Enter into and fulfill any
29 contracts and agreements the authority determines necessary or
30 proper;

31
32 3. Acquire property. Acquire property, including, but not
33 limited to, railroad lines both within and outside of this State;
34 and

35
36 4. Cooperate with government agencies. Cooperate and enter
37 into agreements, contracts and compacts with any government
38 agency and any other person, public or private, that the
39 authority determines necessary.

40 §8204. Funding; expenditures of funds

41
42
43 1. Source of funds. The authority may accept money from
44 the Federal Government or any public or private source. The
45 authority may also obtain funds by charging for the use of
46 authority facilities or by borrowing.

47
48 2. Expenditure of funds. Funds credited to the authority
49 must be expended to implement this chapter.

2 2. Terms. Each director serves a 2-year term, except that
4 each appointing governing body under subsection 1 initially
 appoints one director who serves for one year and one director
 who serves for 2 years.

6 3. Election of officers; bylaws. The authority shall elect
8 from among its members a president, a treasurer, a clerk and
10 other officers the authority considers appropriate. The
 authority shall adopt bylaws for the conduct of the affairs of
 the authority.

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

22 **§8213. Conflict of interest**

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

30 **§8214. Powers**

32 The authority may:

34 1. Suit. Sue and be sued;

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

38 3. Bylaws; rules. Adopt from time to time and amend bylaws
40 covering its procedure and rules for the purposes set forth in
42 this chapter, develop and adopt rules, publish bylaws and rules
44 as necessary or advisable and cause records of its proceedings to
 be kept. Rules adopted pursuant to this subsection are routine
 technical rules as defined in Title 5, chapter 375, subchapter
 2-A;

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

50 5. Department of Transportation. Utilize the services of
 the Department of Transportation that are available and

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 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
39 commissioner. Any balance of an allocation that at any time is
40 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-C, section 102, subsection 4.

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
50 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, 2004, 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

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Sec. B-1. Department of Transportation to transfer right-of-way.

14 The Department of Transportation shall transfer without
15 compensation any interest it has in the railroad right-of-way
16 known as the Calais-Cherryfield rail corridor in the following
17 manner.

18

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

22

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

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

32

34

SUMMARY

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37 This bill creates the Calais to Eastport Rail Authority.
38 The authority's purpose is to establish freight rail service
39 between Calais and Eastport. The bill transfers to the authority
40 the Department of Transportation's interest in the existing rail
41 line between Calais and Ayers Junction. It also transfers the
42 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.