

MAINE STATE LEGISLATURE

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DATE: 4/25/05

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UTILITIES AND ENERGY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 169, L.D. 230, Bill, "An Act To Authorize the Public Advocate To Represent Consumers in Federal Regulation of Railroads"

Amend the bill by striking out the title and substituting the following:

'An Act Establishing a Role for the Public Advocate in Promoting Railroad Service Quality'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 23 MRSA §7103, sub-§1, as amended by PL 2003, c. 498, §3 and affected by §12, is further amended to read:

1. Fund created. There is created the "Railroad Preservation and Assistance Fund," which receives all revenue derived from the tax levied pursuant to Title 36, chapter 361 and taxes paid under Title 36, section 1865, except any taxes deposited pursuant to Title 36, section 2625, subsection 1 in the Railroad Freight Service Quality Fund established under Title 35-A, section 1711. The fund is also eligible to receive grants from other sources. The Treasurer of State shall receive and deposit all revenue to the fund in a separate account to be known as the Railroad Preservation and Assistance Fund.

Sec. 2. 35-A MRSA §1711 is enacted to read:

§1711. Railroad service quality

In addition to the authority and duties otherwise specified in this chapter, the Public Advocate shall seek to promote and

2 enhance railroad freight service quality in accordance with this
3 section. The Public Advocate shall undertake activities under
4 this section only to the extent funding for those activities is
5 available in the fund established under subsection 5.

6 1. Definition. As used in this section, unless the context
7 otherwise indicates, "shipper" means a person or entity that uses
8 railroad freight service.

10 2. Tracking service quality. The Public Advocate shall
11 collect data on the quality of railroad freight service in this
12 State. The Public Advocate may conduct surveys or employ other
13 methods to gather information provided on a voluntary basis by
14 shippers. The Public Advocate shall collect and organize the
15 data in accordance with a performance matrix designed to measure
16 service quality. The Public Advocate shall consult with the
17 Department of Transportation and with shippers in developing the
18 performance matrix. On a schedule mutually acceptable to the
19 Public Advocate and the department, the Public Advocate shall
20 provide to the department regular reports on the quality of
21 railroad freight service based on data collected pursuant to this
22 subsection. The Public Advocate shall report the data in a
23 manner that is consistent with subsection 4. Reports provided
24 pursuant to this subsection are public records.

26 3. Authority to take certain actions. In order to enhance
27 and promote railroad freight service quality in this State the
28 Public Advocate may:

30 A. Provide information to federal, regional and state
31 agencies, groups and organizations and monitor federal and
32 state regulatory actions of interest to Maine shippers;

34 B. Provide advice and assistance to shippers;

36 C. With the consent of the parties, facilitate or mediate
37 railroad freight service disputes; and

38 D. Take any other appropriate actions consistent with the
39 purposes of this section.

42 4. Protection of persons supplying information;
43 confidentiality. In order to encourage shippers to provide
44 information to the Public Advocate under this section, the Public
45 Advocate shall institute procedures to preserve the anonymity of
46 shippers that provide railroad freight service quality
47 information to the Public Advocate. Those portions of records
48 obtained or kept by the Public Advocate pursuant to this section
49 that the Public Advocate determines would reveal the identity of
50 a shipper that provides information to the Public Advocate under

2 this section are confidential and are not public records pursuant
4 to Title 1, section 402, subsection 3, paragraph B. If the Public
6 Advocate determines that disclosure of information that would
8 reveal the identity of a shipper would assist the Public Advocate
10 in achieving the purposes of this section, the Public Advocate
12 shall, prior to the disclosure, notify the affected shipper to
14 allow the shipper to discuss the proposed disclosure. If the
16 affected shipper objects to the disclosure of the information,
18 the Public Advocate may not disclose the information.

20 5. Funding. There is created the Railroad Freight Service
22 Quality Fund, referred to in this section as "the fund."
24 Pursuant to Title 36, section 2625, the fund receives \$20,000
26 each year from the tax levied pursuant to Title 36, chapter 361.
28 Expenditures from the fund are subject to legislative approval in
30 the same manner as appropriations from the General Fund. Any
32 balance in the fund in excess of that required for the purposes
34 of this section does not lapse but is carried forward. Money in
36 the fund may be expended by the Public Advocate only for the
38 purposes of this section.

40 6. Report. The Public Advocate shall annually, no later
42 than the first Monday in February, submit to the joint standing
44 committee of the Legislature having jurisdiction over utilities
46 and energy matters a report that includes the following:

48 A. A summary of railroad freight service quality data
50 collected under subsection 2 and any actions taken pursuant
to subsection 3;

B. An evaluation of the effectiveness of any actions taken
under subsection 3 and the need for the authority granted
under that subsection, together with any recommendations for
modifications to that authority; and

C. An accounting of expenditures from the fund, prospective
funding needs and any recommendations for changes in funding
levels.

7. Repeal and review. This section is repealed 90 days
after the adjournment of the Second Regular Session of the 123rd
Legislature. In the report submitted that year pursuant to
subsection 6, the Public Advocate shall make recommendations with
regard to the continued need for the authority granted under this
section. After reviewing that report, the joint standing
committee of the Legislature having jurisdiction over utilities
and energy matters may report out legislation to the Second
Regular Session of the 123rd Legislature concerning the subject
matter of this section.

2 **Sec. 3. 36 MRSA §2625**, as amended by PL 2003, c. 498, §9 and
affected by §12, is further amended to read:

4 **§2625. Return and payment**

6 Every railroad company incorporated under the laws of this
7 State or doing business in this State shall file with the State
8 Tax Assessor annually, on or before April 15th, a railroad excise
9 tax return, on a form prescribed by the State Tax Assessor. The
10 tax must be paid in equal installments on the next June 15th,
11 September 15th and December 15th. The Except as otherwise
12 provided in subsection 1, the Treasurer of State shall deposit
13 all taxes paid under this chapter into the Railroad Preservation
14 and Assistance Fund established under Title 23, section 7103.

16 **1. Railroad Freight Service Quality Fund.** The Treasurer of
17 State shall each year deposit \$20,000 of the taxes paid under
18 this chapter in the Railroad Freight Service Quality Fund
19 established under Title 35-A, section 1711.

20 This subsection is repealed 90 days after the adjournment of the
21 Second Regular Session of the 123rd Legislature.

24 **Sec. 4. Authority to report legislation.** The Joint Standing
25 Committee on Utilities and Energy may report out legislation
26 concerning railroad freight service to the Second Regular Session
of the 122nd Legislature.

28 **Sec. 5. Appropriations and allocations.** The following
30 appropriations and allocations are made.

32 **EXECUTIVE DEPARTMENT**

34 **Public Advocate**

36 Initiative: Allocates general operating funds to assist the
37 Public Advocate in enhancing and promoting railroad service
38 quality in the State.

40 OTHER SPECIAL REVENUE FUNDS	2005-06	2006-07
All Other	\$20,000	\$20,000
42 OTHER SPECIAL REVENUE FUNDS TOTAL	\$20,000	\$20,000

44 **EXECUTIVE DEPARTMENT**

46 DEPARTMENT TOTALS	2005-06	2006-07
48 OTHER SPECIAL REVENUE FUNDS	\$20,000	\$20,000
50 DEPARTMENT TOTAL - ALL FUNDS	\$20,000	\$20,000

2 **TRANSPORTATION, DEPARTMENT OF**

4 **Railroad Assistance Program 0350**

6 Initiative: Deallocates general operating funds to reflect a loss
of revenue to the Railroad Preservation and Assistance Fund.

8	OTHER SPECIAL REVENUE FUNDS	2005-06	2006-07
10	All Other	(\$20,000)	(\$20,000)
12	OTHER SPECIAL REVENUE FUNDS TOTAL	(\$20,000)	(\$20,000)

14 **TRANSPORTATION, DEPARTMENT OF**
16 **DEPARTMENT TOTALS**

16		2005-06	2006-07
18	OTHER SPECIAL REVENUE FUNDS	(\$20,000)	(\$20,000)
20	DEPARTMENT TOTAL - ALL FUNDS	(\$20,000)	(\$20,000)

22	SECTION TOTALS	2005-06	2006-07
24	OTHER SPECIAL REVENUE FUNDS	\$0	\$0
26	SECTION TOTAL - ALL FUNDS	\$0	\$0'

28 **SUMMARY**

30

32 This amendment replaces the bill. This amendment directs
the Public Advocate to seek to promote and enhance railroad
freight service quality. The amendment:

34

36 1. Directs the Public Advocate to collect data on the
quality of railroad freight service in this State, to organize
that data in accordance with a performance matrix developed in
38 consultation with the Department of Transportation and shippers
and to provide to the Department of Transportation regular
40 reports on the quality of railroad freight service;

42

2. Authorizes the Public Advocate:

44

A. To provide information to federal, regional or state
agencies, groups or organizations;

46

B. To provide advice and assistance to shippers;

48

C. With the consent of the parties, to facilitate or
mediate railroad freight service disputes; and

50

COMMITTEE AMENDMENT "A" to H.P. 169, L.D. 230

2 D. To take any other appropriate actions consistent with
the purposes of this legislation;

4

6 3. Provides for confidential treatment of the identity of
shippers who provide service quality information to the Public
Advocate;

8

10 4. Provides \$20,000 each year from the railroad excise tax
to fund these activities of the Public Advocate;

12 5. Requires the Public Advocate to report annually to the
joint standing committee of the Legislature having jurisdiction
14 over utilities and energy matters with regard to activities taken
under this legislation and recommendations for any modifications
16 to the legislation, including funding levels;

18 6. Repeals all the provisions 90 days after the adjournment
of the Second Regular Session of the 123rd Legislature but
20 authorizes the joint standing committee of the Legislature having
jurisdiction over utilities and energy matters to report out
22 legislation in that session regarding the subject matter of this
legislation; and

24

26 7. Authorizes the joint standing committee of the
Legislature having jurisdiction over utilities and energy matters
to report out legislation concerning railroad freight service to
28 the Second Regular Session of the 122nd Legislature.

30

32

FISCAL NOTE REQUIRED
(See attached)



122nd MAINE LEGISLATURE

LD 230

LR 1979(02)

An Act to Authorize the Public Advocate To Represent Consumers in Federal Regulation of Railroads

Fiscal Note for Bill as Amended by Committee Amendment 'A'

Committee: Utilities and Energy

Fiscal Note Required: Yes

Fiscal Note

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
Appropriations/Allocations				
Other Special Revenue Funds	\$0	\$0	\$0	\$0
Revenue				
Other Special Revenue Funds	\$0	\$0	\$0	\$0

Fiscal Detail and Notes

This legislation creates a dedicated Railroad Freight Service Quality Fund to be administered by the Public Advocate within the Executive Department. The Railroad Freight Service Quality Fund will receive funding of \$20,000 for fiscal year 2005-06, 2006-07 and 2007-08 from the tax levied pursuant to Title 36, section 2625 which currently is deposited in the Railroad Preservation and Assistance Fund pursuant to Title 23, section 7103. An allocation is included to authorize the Public Advocate to expend these funds for general operating expenses to enhance railroad service quality in the state of Maine.

The aforementioned revenue increases to the Public Advocate represent Other Special Revenue Funds revenue that is currently budgeted and allocated to the Railroad Assistance Program within the Department of Transportation, thereby resulting in equivalent revenue losses and deallocations to the department.