

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 505

H.P. 380

House of Representatives, February 1, 2005

**An Act Relating to the Northern New England Passenger Rail
Authority**

Submitted by the Department of Transportation pursuant to Joint Rule 204.
Reference to the Committee on Transportation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative MARLEY of Portland.
Cosponsored by Senator SAVAGE of Knox and
Representatives: COLLINS of Wells, HOGAN of Old Orchard Beach.

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

2
4 **Sec. 1. 23 MRSA §8002, sub-§2, ¶D**, as enacted by PL 1995, c. 374, §3, is amended to read:

6 D. ~~The-Dominion-of~~ Canada and any of its provinces.

8 **Sec. 2. 23 MRSA §8003, sub-§3** is enacted to read:

10 **3. Responsibilities of State.** Nothing in this chapter
12 precludes the State from acquiring railroad lines for passenger
14 rail service or precludes the Department of Transportation from
16 taking actions to facilitate the operation of passenger rail
18 service within the State or from contracting with 3rd parties for
the operation of passenger rail service within the State.
Nothing in this chapter affects the responsibilities of the
department for transportation policy and planning as set forth in
this Title.

20 **Sec. 3. 23 MRSA §8005**, as amended by PL 1995, c. 543, §2, is
22 repealed.

24 **Sec. 4. 23 MRSA §8006**, as enacted by PL 1995, c. 374, §3, is
amended to read:

26 **§8006. Funding**

28 The authority is directed to use any revenues it receives
30 from the operation of the passenger rail service established
32 pursuant to this chapter to pay the operational expenses of that
34 passenger rail service. The authority is directed to seek and
36 use funds necessary to pay all operational expenses of this
passenger rail service that are not met by fares and other funds
or revenues. For the purposes of this section, "operational
expenses" include, but are not limited to, all additional capital
expenses necessary to maintain the passenger rail service.

38 **Sec. 5. 23 MRSA §8011**, as enacted by PL 1995, c. 374, §3, is
40 amended to read:

42 **§8011. Rules of construction**

44 This chapter must be construed liberally to effectuate the
46 purposes of this chapter. Any amount of money set forth in this
48 chapter is intended to represent a minimum amount that may be
spent to effect these purposes. The State may appropriate to the
authority, and the authority may expend, additional amounts for
these-purposes.

2 Sec. 6. 23 MRSA §8012, as enacted by PL 2001, c. 54, §1, is
repealed and the following enacted in its place:

4 **§8012. Passenger rail liability limitation**

6 In the event one or more passenger rail service providers
7 are protected by a liability insurance policy covering liability
8 for property damage, personal injury, bodily injury and death
9 arising from rail incidents or accidents occurring in this State
10 involving passenger trains with policy limits of not less than
11 \$75,000,000 per occurrence annually and \$75,000,000 in the
12 aggregate annually regardless of the number of passenger rail
13 service providers protected by such an insurance policy, each
14 passenger rail service provider protected by such an insurance
15 policy is not liable in excess of the coverage limits of such an
16 insurance policy for any and all claims for damage, whether
17 compensatory or punitive, for property damage, personal injury,
18 bodily injury or death arising out of such rail incidents or
19 accidents. For purposes of this section, "passenger rail service
20 provider" includes for-profit and nonprofit corporations and
21 legal entities that own, lease, operate or manage passenger
22 trains or passenger rail service; the authority; railroad
23 companies that own, lease, provide track rights to or maintain
24 rail lines over which passenger trains pass; and operators of
25 passenger train services. "Passenger rail service provider" does
26 not include the National Railroad Passenger Corporation or its
27 successor organization. This section does not affect immunities,
28 limitation on damages, limitation of actions, limitation of
29 liability or other protections provided to the State as defined
30 in Title 14, section 8102, subsection 4.

32 Sec. 7. 23 MRSA §8111, as enacted by PL 1995, c. 374, §3, is
amended to read:

34 **§8111. Purpose**

36 The Northern New England Passenger Rail Authority, as
37 established by Title 5, section 12004-F, subsection 16, is a body
38 both corporate and politic in the State established for the
39 general purpose of promoting passenger rail service as set forth
40 in subchapter I 1. It is declared that the purposes of this
41 chapter are public and that the authority shall must be regarded
42 as performing a governmental function in carrying out this
43 chapter. The authority, as successor in interest of the
44 Department of Transportation and to its rights, privileges and
45 liabilities as set forth in subchapter I, shall receive any
46 federal and state funds previously authorized to the department
47 for that purpose, and upon creation of the authority all such
48 rights, ~~privileges and liabilities of the department cease.~~
49

2 Sec. 8. 23 MRSA §8112, as amended by PL 1995, c. 543, §3, is
repealed and the following enacted in its place:

4 **§8112. Directors**

6 **1. Board of directors.** The authority consists of a board
of 7 directors. The 7 directors are the Commissioner of
8 Transportation, who is a director ex officio, the Commissioner of
Economic and Community Development, who also is a director ex
10 officio, and 5 directors who are members of the public, appointed
by the Governor for 5-year staggered terms, who shall serve until
12 their respective successors are appointed and qualified. A
vacancy in a position held by a director who is a member of the
14 public occurring other than by the expiration of a term must be
filled by the Governor for the unexpired term.

16 **2. Compensation and removal of directors who are members of**
public. Each director who is a member of the public is entitled
18 to compensation according to the provisions of Title 5, chapter
20 379. The Governor may remove any director who is a member of the
public for cause.

22 **3. Ex officio directors.** Each ex officio director may vote
24 and may designate 2 employees of that director's department or
agency, either of whom may represent that director and may vote
26 and otherwise act on behalf of that director at meetings of the
board. Any such designation must be in writing and delivered to
28 the board, and the designation continues in effect until revoked
or amended by the director in a written document delivered to the
30 board.

32 **4. Chair.** The Governor shall appoint one director to serve
as chair of the board, who is responsible for scheduling,
34 convening and chairing all board meetings.

36 **5. Officers.** The board shall elect a treasurer, a
secretary and any other officers the board from time to time
38 considers necessary, none of whom needs to be a director.

40 **6. Quorum.** All powers of the authority may be exercised by
the board in lawful meeting, and a majority of directors then in
42 office constitutes a quorum. A vacancy on the board does not
impair the right of a quorum to exercise all the rights and
44 perform all the duties of the authority.

46 **7. Regular meetings.** Regular meetings of the board may be
established by bylaw, and notice of such regular meetings need
48 not be given to directors.

2 Sec. 9. 23 MRSA §8115, as enacted by PL 1995, c. 374, §3, is
amended to read:

4 **§8115. Obligations of authority**

6 All expenses incurred in carrying out this chapter must be
paid solely from funds provided to or obtained by the authority
8 pursuant to this chapter. Any notes, obligations or liabilities
under this chapter may not be deemed to be a debt of the State or
10 a pledge of the faith and credit of the State; but those notes,
obligations and liabilities are payable exclusively from funds
12 provided to or obtained by the authority pursuant to this
chapter. Pecuniary liability of any kind may not be imposed upon
14 the State or any locality, town or landowner in the State because
of any act, agreement, contract, tort, malfeasance, misfeasance
16 or nonfeasance by or on the part of the authority or its agents,
servants or employees. The records and correspondence relating
18 to negotiations, trade secrets received by the authority and,
estimates of costs on projects to be put out to bid and any
20 documents or records solicited or prepared in connection with
employment applications are confidential and the. The authority
22 is deemed to have a lawyer-client privilege.

24

SUMMARY

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This bill amends the Passenger Rail Service Act. It
28 repeals the section of law pertaining to initial funding. It
modifies the composition of the board of directors of the
30 Northern New England Passenger Rail Authority and changes
provisions relating to the liability of a passenger rail service
32 provider and the confidentiality of certain documents of the
authority.