

MAINE STATE LEGISLATURE

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Date: 5/25/11

L.D. 1538
(Filing No. H-354)

TRANSPORTATION

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1130, L.D. 1538, Bill, "An Act To Amend the Laws Governing the Maine Turnpike Authority and To Implement Certain Recommendations of the Government Oversight Committee in the Office of Program Evaluation and Government Accountability Report Concerning the Maine Turnpike Authority"

Amend the bill by striking out all of sections 3 and 4 and inserting the following:

Sec. 3. 23 MRSA §1961, sub-§6, as amended by PL 1995, c. 613, §1 and affected by §7, is further amended to read:

6. Appropriation. On or before January 31st of each year, the authority shall present to each regular session of the Legislature for its approval a the authority's revenue fund budget for the operating expenses of the authority for the calendar year that begins after the adjournment of that regular session and shall present to each regular session of the Legislature for informational purposes a statement of the revenues necessary ~~for~~ during the next calendar year to fund capital expenditures and reserves, and to meet the requirements of any resolution authorizing bonds of the authority ~~during that calendar year~~, including debt service and the maintenance of reserves for debt service and reserve maintenance. The authority shall present a detailed budget of expenditures from the authority's reserve maintenance fund for the next calendar year and shall include cross-references to show the total of similar expense categories that are paid from both the revenue and reserve maintenance funds. The authority may only pay revenue fund operating expenses in accordance with allocations approved by the Legislature or as necessary to satisfy the requirements of any resolution authorizing bonds of the authority. ~~The operating surplus must be transferred to the Department of Transportation and expended in accordance with allocations approved by the Legislature.~~ If alterations to the authority's revenue fund budget are needed, they must be reported by financial order to the joint standing committee of the Legislature having jurisdiction over transportation matters.

Sec. 4. 23 MRSA §1961, sub-§7 is enacted to read:

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1 7. Funds for department projects. As part of the budget presented in subsection 6,
2 the authority shall allocate funds for department projects in an amount such that the
3 3-year rolling average of the allocation equals at least 5% of annual operating revenues.
4 All department projects are subject to mutual agreement of the authority and the
5 department.'

6 Amend the bill by striking out all of section 6 and inserting the following:

7 '**Sec. 6. 23 MRSA §1964, sub-§4-A,** as enacted by PL 1995, c. 504, Pt. C, §2, is
8 amended to read:

9 **4-A. Department project.** "~~Department of Transportation~~ project" means the
10 rehabilitation, reconstruction or construction of any highway or bridge on the state
11 highway system determined by the department and the authority to have a sufficient
12 relationship to the public's use of the turnpike in accordance with section 1974,
13 subsection 6: and is a project or allocation to:

14 A. Build or improve an interchange;

15 B. Maintain, build or improve an access road;

16 C. Study or plan a future highway corridor and study related issues;

17 D. Maintain, build or improve a park and ride lot or other transportation
18 infrastructure for all modes of transportation relating to turnpike use;

19 E. Purchase, lease or improve highway-related infrastructure; or

20 F. Pay debt incurred by the authority for any capital project purpose in paragraphs A
21 to E.'

22 Amend the bill by striking out all of section 8 and inserting the following:

23 '**Sec. 8. 23 MRSA §1964, sub-§§7-A and 7-B** are enacted to read:

24 **7-A. Reserve maintenance fund.** "Reserve maintenance fund" means a fund
25 established by a resolution authorizing bonds of the authority as a source to pay for
26 turnpike maintenance, turnpike rehabilitation, insurance, emergency repairs of the
27 turnpike, remediation of turnpike deficiencies and other perennial costs and selected
28 capital projects as recommended by a consulting engineer.

29 **7-B. Revenue fund.** "Revenue fund" means a fund established by a resolution
30 authorizing bonds of the authority as the initial depository for all operating income of the
31 authority; certain operating expenses, defined by bond resolutions, are paid from the
32 revenue fund before further transfers are made to funds for debt service, reserve
33 maintenance and general reserves.'

34 Amend the bill in section 9 in §1964-A in subsection 1 in paragraph B in the first 2
35 lines (page 3, lines 12 and 13 in L.D.) by striking out the following: "a municipality
36 through which the turnpike passes from each of "

37 Amend the bill in section 9 in §1964-A in subsection 2 in the first line (page 3, line
38 16 in L.D.) by striking out the following: "7" and inserting the following: '6'

39 Amend the bill in section 9 in §1964-A by striking out all of subsection 10 (page 4,
40 lines 16 to 19 in L.D.) and inserting the following:

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'10. Compliance audits. In addition to retaining an annual auditor, the board shall retain a separate compliance auditor who shall:

A. Periodically monitor the authority's financial operations and management controls;

B. Test selected transactions for policy compliance;

C. Make quarterly findings directly to the board and to the joint standing committee of the Legislature having jurisdiction over transportation matters;

D. Recommend to the board any necessary or advisable improvements to management systems, policies or controls; and

E. Render an annual compliance and management report in conjunction with the report of the authority's annual auditor.'

Amend the bill in section 10 in §1965 in subsection 1 in paragraph O-2 in the 3rd line (page 6, line 14 in L.D.) by striking out the following: "Department of Transportation" and inserting the following: '~~Department of Transportation~~ department'

Amend the bill in section 10 in §1965 in subsection 1 in paragraph O-2 in the last line (page 6, line 17 in L.D.) by striking out the following: "Department of Transportation" and inserting the following: '~~Department of Transportation~~ department'

Amend the bill in section 10 in §1965 in subsection 1 in paragraph U in the 3rd line (page 6, line 33 in L.D.) by striking out the following: "indentifiers" and inserting the following: '~~indentifiers~~ indentifiers'

Amend the bill by inserting after section 13 the following:

'Sec. 14. 23 MRSA §1969, sub-§1, ¶A, as amended by PL 1995, c. 504, Pt. C, §6, is further amended to read:

A. To the payment of the cost of the construction and reconstruction of the turnpike or to the payment to the Department of Transportation of the cost of ~~Department of Transportation~~ department projects;

Sec. 15. 23 MRSA §1974, sub-§6, as enacted by PL 1995, c. 504, Pt. C, §7, is amended to read:

6. Revenues to secure special obligation bonds for department projects; determination of project eligibility for funding. Subject to the terms and conditions of this chapter, the authority may authorize turnpike revenues to be transferred to a trustee or agent designated by the authority and that trustee or agent shall hold these revenues in trust to secure or to be applied to the payment of obligations issued pursuant to section 1968, subsection 2-A and as provided for in a resolution authorizing the issuance of these bonds or in a related trust indenture or loan or other security agreement.

The Department of Transportation shall provide the authority with a list of proposed ~~Department of Transportation~~ department projects and any other information requested by the authority and relating to a project on the list. The Department of Transportation and the authority shall determine ~~Department of Transportation~~ department projects that are eligible for funding with proceeds from bonds authorized by section 1968, subsection

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12012

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1 2-A. In making this determination, the department and the authority may consider the
2 following factors:

- 3 A. The existing access roads and the state highway system;
- 4 B. The traffic impact of the maintenance, construction or reconstruction on the
5 existing road network;
- 6 C. The total cost of the state highway system;
- 7 D. The probable change in departmental expenditures resulting from maintenance,
8 construction or reconstruction of the project;
- 9 E. The relative number of vehicles using or expected to use the project on the way to
10 or from the turnpike;
- 11 F. The road distance or average road distance of the project or portions of the project
12 from the nearest entrance to or exit from the turnpike;
- 13 G. The effect that maintenance, construction or reconstruction will have on the flow
14 of traffic to, from and on the turnpike and in diverting vehicular traffic off or away
15 from the turnpike;
- 16 H. The proportionate usage of the state highway system by vehicles using the
17 turnpike and vehicles not using the turnpike;
- 18 I. Vehicle classification and travel characteristics;
- 19 J. Origins and destinations of trips;
- 20 K. Fuel type and consumption;
- 21 L. Existing sources of revenue; and
- 22 M. Any other factors considered relevant, including, but not limited to, expert
23 opinion.'

24 Amend the bill by inserting after section 15 the following:

25 '**Sec. 16. 23 MRSA §1980, sub-§2-B, ¶B**, as amended by PL 2001, c. 473, §1, is
26 further amended to read:

27 B. A photograph, micro-photograph, videotape or other recorded image prepared for
28 enforcement of authority tolls is for the exclusive use of the authority in the discharge
29 of its duties under this section. This material is confidential and is not available to
30 the public or to any person employed by the authority whose duties do not require
31 access to the material. The authority shall make this information available to a law
32 enforcement officer upon request and may share this information with other toll
33 administrative agencies as provided in section 1982. Except as provided in this
34 subsection or as may be necessary to prove a claim for indemnification under
35 subsection 2-A, paragraph F or to prosecute a criminal offense, this material may not
36 be used in a court in an action or proceeding.'

37 Amend the bill in section 16 in subsection 2-C in paragraph C in the last line (page
38 10, line 28 in L.D.) by striking out the following: "and"

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12/21/05

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1 Amend the bill in section 16 in subsection 2-C in paragraph D in the last line (page
2 10, line 32 in L.D.) by striking out the following: "." and inserting the following: '; and'

3 Amend the bill in section 16 in subsection 2-C by inserting after paragraph D the
4 following:

5 'E. The reciprocal collection arrangement between the authority and the away agency
6 provides that each party may charge the other a fee sufficient to cover the costs of
7 collection services, including costs incurred by an agency that registers motor
8 vehicles.'

9 Amend the bill by inserting after section 16 the following:

10 **'Sec. 17. 23 MRSA §4206, sub-§1, ¶N,** as amended by PL 2005, c. 277, §2, is
11 further amended to read:

12 N. To make contracts and enter into agreements with and make assurances and
13 certifications to the Maine Turnpike Authority, and other 3rd parties, necessary in
14 connection with determination of ~~Department of Transportation~~ department projects
15 and the issuance of bonds or obligations pursuant to section 1968, subsection 2-A;
16 and'

17 Amend the bill in section 17 in the 5th line (page 10, line 37 in L.D.) by striking out
18 the following: "7-year" and inserting the following: '6-year'

19 Amend the bill in section 17 in the 8th line (page 10, line 40 in L.D.) by striking out
20 the following: "7" and inserting the following: '6'

21 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
22 section number to read consecutively.

SUMMARY

23
24 This amendment:

25 1. Deletes the provisions in the bill that propose to change the fiscal year of the
26 Maine Turnpike Authority, which is currently based on the calendar year, to coincide
27 with the state fiscal year, July 1st to June 30th;

28 2. Provides that any necessary alterations to the authority's revenue fund budget must
29 be reported by financial order to the joint standing committee of the Legislature having
30 jurisdiction over transportation matters;

31 3. Deletes the requirement that any funds transferred by the authority to the
32 Department of Transportation must be spent by the department on projects that are within
33 25 miles of an interchange or other connecting point between the turnpike and the state
34 highway system;

35 4. For purposes of the transfer of operating revenues, redefines "Department of
36 Transportation project" as "department project" and limits "department project" to a
37 project or allocation to:

38 A. Build or improve an interchange;

39 B. Maintain, build or improve an access road;

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12/21/02

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- 1 C. Study or plan a future highway corridor and study related issues;
- 2 D. Maintain, build or improve a park and ride lot or other transportation
- 3 infrastructure for all modes of transportation relating to turnpike use;
- 4 E. Purchase, lease or improve highway-related infrastructure; or
- 5 F. Pay debt incurred by the authority for any capital expenditure for any of these
- 6 projects;
- 7 5. Revises the definitions of "reserve maintenance fund" and "revenue fund";
- 8 6. Changes the term of the board of directors of the Maine Turnpike Authority from
- 9 7 years to 6 years;
- 10 7. Deletes from the bill the requirement that 4 of the members of the board be from a
- 11 municipality through which the turnpike passes in each of the counties of York,
- 12 Cumberland, Androscoggin and Kennebec and instead requires that 4 of the members be
- 13 from the counties of York, Cumberland, Androscoggin and Kennebec, one from each
- 14 county;
- 15 8. Revises the provision in the bill relating to internal auditing by instead requiring
- 16 that the board of the authority, in addition to retaining an annual auditor, retain a separate
- 17 compliance auditor to periodically monitor the authority's financial operations and
- 18 management controls;
- 19 9. Revises the provision in the bill relating to reciprocity with away agencies by
- 20 specifying that the agreement between the authority and the away agency must provide
- 21 that each party may charge the other a fee sufficient to cover the costs of collection
- 22 services, including costs incurred by an agency that registers motor vehicles;
- 23 10. Clarifies that certain recorded images prepared for the enforcement of authority
- 24 tolls, which are confidential and not available to the public, are also not available to any
- 25 person employed by the authority whose duties do not require access to the material; and
- 26 11. Makes technical changes.

FISCAL NOTE REQUIRED

(See attached)

COMMITTEE AMENDMENT



125th MAINE LEGISLATURE

LD 1538

LR 2112(02)

An Act To Amend the Laws Governing the Maine Turnpike Authority and To Implement Certain Recommendations of the Government Oversight Committee in the Office of Program Evaluation and Government Accountability Report Concerning the Maine Turnpike Authority

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

Committee: Transportation

Fiscal Note Required: Yes

Fiscal Note

Current biennium savings - Highway Fund

Current biennium cost increase - Maine Turnpike Authority

Fiscal Detail and Notes

This legislation requires the Maine Turnpike Authority to allocate at least 5% of operating revenues, based upon a 3-year rolling average, on an annual basis for Department of Transportation-related projects. The department and the authority will mutually agree on the projects based upon the criteria in the bill. For the 2012-2013 biennium, the authority has projected 5% of revenues at \$12.3 million and department-related projects meeting the criteria listed in the bill at \$22.6 million.