

MAINE STATE LEGISLATURE

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EIGHTY-FOURTH LEGISLATURE

Senate Document

No. 46

S. P. 75

In Senate, Jan. 24, 1929.

Referred to Committee on Ways and Bridges and 1,000 copies ordered printed. Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Martin of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-NINE

AN ACT to Incorporate the Penobscot Bridge Company for the Purpose of Building, Maintaining and Operating a toll Bridge across the Penobscot River between the Counties of Waldo and Hancock.

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

Section 1. Hodgdon C. Buzzell, E. C. Robbins, Benedict 2 F. Maher, L. T. Layton, and their associates, successors and 3 assigns, are hereby created a body corporate by the name 4 of Penobscot Bridge Company, hereinafter called the com- 5 pany, for the purposes set forth in section two with all the 6 powers and privileges and with all the duties and liabilities 7 not inconsistent with laws appertaining to corporations or-

8 ganized under chapter fifty-one of the revised statutes of
9 Maine, as amended.

Sect. 2. The company, its successors and assigns, is here-
2 by authorized to locate, construct, maintain and operate a
3 bridge and approaches thereto across the Penobscot river,
4 in a location suitable to the interests of navigation, between
5 a point in the town of Prospect or in the town of Stockton,
6 in the county of Waldo, and a point in the town of Verona
7 or in the town of Bucksport in the county of Hancock, at
8 such a site as shall be approved by the chief of engineers
9 and the secretary of war of the United States and the public
10 utilities commission of the state of Maine.

Sect. 3. There is hereby conferred upon the company, its
2 successors and assigns, all such rights and powers to enter
3 upon lands and to acquire, condemn, occupy, possess and
4 use real estate and other property needed for the location,
5 construction, operation and maintenance of such bridge and
6 its approaches, and necessary or convenient ways leading
7 thereto, as are possessed by railroad corporations for rail-
8 road purposes in the state, upon making just compensation
9 therefor, to be ascertained and paid according to the laws
10 of the state, and the proceedings therefor shall be the same
11 as in the condemnation or expropriation of property for
12 public purposes in the state. The company shall further
13 have the right to dispose of and convey all or any part of
14 the real estate or other property acquired as above pro-
15 vided.

Sect. 4. The capital stock may be constituted in such
2 classes, with or without par value, and of such preferences,
3 voting powers, restrictions and qualifications and increased
4 from time to time in such amounts as a majority in interest
5 of the incorporators at the first meeting or of the stock-
6 holders thereafter, shall vote. Subject to all the rights
7 given or reserved to the state under the provisions of this
8 act, the company may issue, in such amount or amounts
9 from time to time as it may deem necessary, its bonds, notes
10 or debentures which may be unsecured or secured in whole
11 or in part by mortgage, pledge or lien on the whole or any
12 part of its property, rights or franchises.

Sect. 5. The company, its successors and assigns, shall
2 operate the bridge for public use for the passage of per-
3 sons, animals and vehicles and also for the carrying of such
4 pipes, wires, cables, conduits or other structures as may be
5 permitted upon the bridge by the company; provided, how-
6 ever, that the owners of said bridge may adopt and enforce
7 such reasonable rules and regulations as to the weight and
8 width of vehicles and the character and width of tires and
9 supporting surfaces of vehicles, which may come in contact
10 with the said bridge; and also such other rules and regula-
11 tions as may be reasonably necessary or incident to the
12 proper protection of and to safeguard said bridge and its
13 approaches and appurtenances from damage, injury or un-
14 reasonable use.

Sect. 6. The state hereby pledges itself, and it is hereby

2 agreed with those subscribing to the obligations of the com-
3 pany for the construction of such bridge, that within a
4 period of thirty years from the completion of the bridge,
5 unless during that period the bridge shall have been taken
6 over by public agency, the state will not authorize the con-
7 struction, maintenance or operation of any other highway
8 crossing for vehicular traffic over or under the Penobscot
9 river in competition with the said bridge, nor will it limit
10 or alter the rights vested in the company to establish and
11 levy charges and tolls as prescribed in this act; provided
12 that such crossing shall be considered as competitive with
13 said bridge only if it shall form a highway connection for
14 vehicular traffic over or under the Penobscot river within
15 a distance of fifteen miles from said bridge. The company
16 may include in the bonds or other evidence of its obliga-
17 tions issued by it for the construction of said bridge such
18 part of this section as it shall deem proper as evidence, to
19 the holders of the said bonds or other obligations, of the
20 foregoing agreement made by the state.

Sect. 7. The company, its successors and assigns, is here-
2 by authorized to fix and charge tolls or rentals for transit
3 over and use of such bridge, the rates of toll or rental to
4 be subject to the approval of the public utilities commission;
5 and the rates of toll or rental so fixed and approved shall
6 be the legal rates until changed by the company under au-
7 thority or direction of the public utilities commission. The
8 rates of toll or rental shall be so fixed and adjusted as to

9 provide a fund sufficient to pay for the reasonable cost of
10 maintaining, repairing and operating the bridge and its ap-
11 proaches under economical management, and to fully cover
12 the carrying charges on funds invested, including the actual
13 cost of constructing the bridge and its approaches, the actual
14 cost of acquiring any interest in real property necessary
15 therefor, and the actual financing and promotion costs, with
16 due authority to cover amortization of all said costs.

Sect. 8. After the completion of such bridge, either the
2 state of Maine, any public agency of the state, or any politi-
3 cal subdivision of the state within or adjoining which any
4 part of such bridge is located, or any two or more of them
5 jointly, may at any time acquire and take over all right,
6 title and interest of the company in such bridge and its
7 approaches, and any interest in real property necessary
8 therefor, by purchase or by condemnation or expropriation,
9 in accordance with the laws of the state governing the ac-
10 quisition of private property for public purposes by con-
11 demnation or expropriation. If at any time after the ex-
12 piration of twenty years after the completion of such bridge,
13 the same is acquired by condemnation or expropriation, the
14 amount of damages or compensation to be allowed shall not
15 include good will, going value, or prospective revenues or
16 profits, but shall be limited to the total sum of (1) the actual
17 original cost of constructing such bridge and its approaches,
18 less a reasonable deduction for actual depreciation in value
19 due to a physical deterioration of the structure; (2) the

20 actual costs of acquiring such interests in real property;
21 (3) the actual financing and promotion cost, not to exceed
22 ten per centum of the sum of the cost of constructing the
23 bridge and its approaches and acquiring such interests in
24 real property; and (4) actual expenditures for necessary
25 improvements.

Sect. 9. If such bridge shall at any time be taken over
2 or acquired by the state or by any municipality or other
3 political subdivision or public agency thereof, under the
4 provisions of section eight of this act, and if tolls are there-
5 after charged for the use thereof, the rates of toll shall be
6 so adjusted, with the approval of the public utilities com-
7 mission, as to provide a fund sufficient to pay for the rea-
8 sonable cost of maintaining, repairing and operating the
9 bridge and its approaches under economical management
10 and sufficient to provide a sinking fund to amortize the
11 amount paid therefor, including reasonable interest and
12 financing cost, as soon as possible under reasonable charges,
13 but within a period of not to exceed thirty years from the
14 date of acquiring the same. After a sinking fund sufficient
15 for such amortization shall have been so provided, such
16 bridge shall thereafter be maintained and operated free of
17 tolls, or the rates of toll shall thereafter be so adjusted, with
18 the approval of the public utilities commission, as to pro-
19 vide a fund of not to exceed the amount necessary for the
20 proper maintenance, repair and operation of the bridge and
21 its approaches under economical management. An accurate

22 record of the amount paid for acquiring the bridge and its
23 approaches, of the actual expenditures for maintaining, re-
24 pairing and operating the same, and of the daily tolls col-
25 lected, shall be kept and shall be available for the informa-
26 tion of all persons interested.

Sect. 10. The company, its successors and assigns, shall
2 within ninety days after the completion of such bridge file
3 with the public utilities commission a sworn itemized state-
4 ment showing the actual original cost of constructing the
5 bridge and its approaches, the actual cost of acquiring any
6 interest in real property necessary therefor, and the actual
7 financing and promotion costs. The public utilities com-
8 mission shall, within one year, investigate such costs and
9 determine the accuracy and the reasonableness of the costs
10 alleged in the statement of costs so filed, and shall make a
11 finding of the actual and reasonable costs of acquiring in-
12 terest in real property and of constructing, financing and
13 promoting such bridge and its approaches; for the purpose
14 of such investigation the company, its successors and
15 assigns, shall make available all of its records in connection
16 with acquiring interests in real property and with the con-
17 struction, financing and promotion of such bridge and its
18 approaches. From time to time, as necessary improvements
19 are made in the property, involving capital expenditure,
20 other than expenditures for necessary maintenance of the
21 property originally constructed or acquired, the company
22 shall file with the public utilities commission similar item-

23 ized statements shall be reviewed by the public utilities com-
24 mission, all in the manner above prescribed. The findings
25 of the public utilities commission as to the reasonable costs
26 of construction, financing and promotion of the bridge and
27 its approaches, and of acquiring interests in real property
28 necessary therefor, and of necessary improvements thereto,
29 shall be conclusive for the purposes mentioned in section
30 eight of this act, subject only to review in a court of equity
31 for fraud or gross mistake.

Sect. 11. For the purpose of making surveys and borings
2 the company or its agents shall have the power to enter upon
3 private property without being guilty of trespass; provided,
4 however, that the company shall have due regard for the
5 care of such property and shall be liable for any damages
6 suffered by the owner or owners thereof through or because
7 of such entry.

Sect. 12. The right to sell, assign, transfer, and mortgage
2 all the rights, powers and privileges conferred by this act
3 is hereby granted to the company, its successors and assigns,
4 and any corporation to which or any person or persons to
5 whom such rights, powers and privileges may be sold,
6 assigned, or transferred, or who shall acquire same by
7 mortgage foreclosure or otherwise, is hereby authorized and
8 empowered to exercise the same as fully as though con-
9 ferred herein directly upon such corporation, person or
10 persons.

Sect. 13. The first meeting of this corporation shall be

2 called at Bucksport by a notice signed by any two of the
3 corporators named in section one, setting forth the time,
4 place, and purpose of the meeting, and three shall constitute
5 a quorum. Such notice shall be mailed to each of the cor-
6 porators, postage prepaid, seven days at least before the
7 day of such meeting.

Sect. 14. The authority hereby granted shall cease and
2 be null and void unless the construction of said bridge be
3 commenced within two years and completed within three
4 years from the date this act becomes effective.

Sect 15. The provisions of this act are subject to all valid
2 and applicable provisions of the laws of the United States
3 concerning bridges over navigable waters of the United
4 States.

Sect. 16. The authority hereby granted is on the further
2 and express condition that the fair value of the property
3 and business as a going concern of the Bucksport-Prospect
4 Ferry Company is acquired by the within corporation at a
5 valuation fixed by the public utilities commission of the
6 state of Maine, or by three commissioners appointed by the
7 chief justice of the supreme judicial court upon petition by
8 either of said companies to either of said tribunals.