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An Act To Allow Additional Slot Machines at a Harness Horse Racing Track To Support Harness Horse Racing, Passenger and Freight Train Service on the Mountain Division Rail Line and Passenger Train Service Overseen by the Northern New England Passenger Rail Authority

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

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

19.

23 MRSA §9001

Mountain Division Rail
Line Authority

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Sec. 2. 8 MRSA §1020, sub-§3, as amended by PL 2005, c. 663, §9, is further amended to read:

3. Limits on total slot machines. The board shall determine the number of slot machines to be registered in the State. The board shall make this determination based upon the minimum net slot machine income, when distributed pursuant to section 1036 and section 1071, subsection 6, necessary to maintain the harness horse racing industry in this State, except that:

- A. The total number of slot machines registered in the State may not exceed ~~1,500~~3,000; and
- B. A slot machine operator may not operate more than 1,500 slot machines at any one commercial track.

Sec. 3. 8 MRSA c. 31, sub-c. 7 is enacted to read:

SUBCHAPTER 7

slot machines in facility in railway corridor

§ 1071. Operation of slot machines permitted

1. Application. Notwithstanding section 1011, subsection 2, an entity that operates an agricultural fair and that operated such a fair in 2006 or a person licensed to operate a commercial track and who operated such a track in 2006 may apply to the board no later than December 31, 2009 for a license to operate slot machines pursuant to this subchapter.

2. Location. Slot machines may be operated pursuant to this subchapter only:

- A. In a municipality:

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(1) Through which runs the railroad line from Portland to the New Hampshire border overseen by the Northern New England Passenger Rail Authority described in Title 23, section 8111; or

(2) Through which runs the railroad line from Portland through Westbrook, Gorham, Standish and Fryeburg to the New Hampshire border, known as the Mountain Division rail line; and

B. If slot machines are located on property that is within 200 feet of the outside edge of the racing oval at a commercial track and that is owned by the person that owns the property on which the track is located or on property that is within 200 feet of the outside edge of the racing oval at a facility at which harness horse races licensed pursuant to section 271 are held and that is owned by the entity that owns the property on which the racing oval is located.

3. Municipal approval required. A municipality must approve the operation of slot machines in that municipality before slot machines may be operated in that municipality pursuant to this subchapter. A municipality may approve the operation of slot machines by a vote of the legislative body of that municipality or by a vote of the citizens of that municipality at a referendum.

4. Submission of applications to the board. An entity or person who is eligible pursuant to subsection 1 to be licensed to operate slot machines may submit an application for a license to operate slot machines to the board. An applicant shall:

A. Demonstrate that the applicant owns a facility or can develop a facility that can accommodate harness horse racing and slot machines in proximity to each other as described in subsection 2, paragraph B;

B. Provide proof that the municipality in which the applicant proposes to operate slot machines has approved the operation of slot machines pursuant to subsection 3;

C. Possess a valid license to hold harness horse races issued by the State Harness Racing Commission pursuant to section 271; and

D. Meet all requirements of the board pursuant to this chapter.

5. Award of license. The board may award only one license to operate slot machines pursuant to this subchapter. The board may award a license to operate slot machines pursuant to this subchapter to an applicant who is eligible pursuant to subsection 1 and who meets the criteria set forth in subsection 4. In determining to which applicant to award a license, the board shall consider:

A. Which application contains the proposal that would provide the greatest benefit to the harness racing industry;

B. Which application contains the proposal for the best market area to generate the most revenue at a facility; and

C. Whether the municipality for which a facility is proposed has a comprehensive plan that is consistent with the facility.

6. Allocation of funds. Notwithstanding section 1036, income from slot machines operated pursuant to this subchapter must be allocated as specified in this subsection.

A. The slot machine operator shall collect and distribute 1% of gross slot machine income to the Treasurer of State for deposit in the General Fund for the administrative expenses of the board.

B. The slot machine operator shall collect and distribute 39% of the net slot machine income from slot machines operated by the slot machine operator to the board for distribution by the board as follows:

(1) Two percent of the net slot machine income must be deposited to the General Fund for administrative expenses of the board, including gambling addiction counseling services, in accordance with rules adopted by the board;

(2) Ten percent of the net slot machine income must be forwarded by the board to the Treasurer of State, who shall credit the money to the fund established in section 298 to supplement harness racing purses;

(3) Three percent of the net slot machine income must be credited by the board to the Sire Stakes Fund created in section 281;

(4) Three percent of the net slot machine income must be forwarded by the board to the Treasurer of State, who shall credit the money to the Agricultural Fair Support Fund established in Title 7, section 91;

(5) Five percent of the net slot machine income must be forwarded by the board to the Town of Standish to establish a drinking water protection fund to protect the quality of the drinking water for communities served by the Portland Water District and to establish a recreational area on Sebago Lake in Standish;

(6) One percent of the net slot machine income must be forwarded by the board to the University of Maine System Scholarship Fund created in Title 20-A, section 10909;

(7) One percent of the net slot machine income must be forwarded by the board to the board of trustees of the Maine Community College System to be applied by the board of trustees to fund its scholarships program under Title 20-A, section 12716, subsection 1;

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(8) Ten percent of the net slot machine income must be forwarded by the board to the Mountain Division Rail Line Authority described in Title 23, section 9001 to fund the acquisition, financing, construction, operation, improvement and repair of a railroad line from Portland through Westbrook, Gorham, Standish and Fryeburg to the New Hampshire border;

(9) Two percent of the net slot machine income must be forwarded by the board to the Northern New England Passenger Rail Authority described in Title 23, section 8111 to support the operation of a train on the railroad line from Portland to the New Hampshire border that is overseen by the Northern New England Passenger Rail Authority;

(10) One percent of the net slot machine income must be forwarded by the board to the Department of Agriculture, Food and Rural Resources to be used for equine rescue and other animal protection programs; and

(11) One percent of the net slot machine income must be forwarded directly to the municipality in which the slot machines are located.

7. License contingency. A license to operate slot machines issued by the board pursuant to this subchapter is valid only so long as the entity or person to whom the license is issued possesses a valid license to hold harness horse races issued by the State Harness Racing Commission pursuant to section 271.

8. Regulation by board. The operation of slot machine facilities; the registration, distribution and operation of slot machines authorized pursuant to this subchapter; and the licensing of a slot machine operator, slot machine distributor and gambling services vendor and employees of these entities are subject to the regulation, supervision and exercise of general control of the board pursuant to this chapter.

Sec. 4. 23 MRSA c. 631 is enacted to read:

CHAPTER 631

mountain division rail line authority

§ 9001. Authority established; purpose

The Mountain Division Rail Line Authority, as established by section 12004-F, subsection 19 and referred to in this chapter as "the authority," is a body both corporate and politic and a public instrumentality of the State established for the purpose of acquiring, financing, constructing, operating, improving and repairing the Mountain Division Rail Line from Portland through Westbrook, Gorham, Standish and Fryeburg to the New Hampshire border with all the rights, privileges and power necessary to carry out its purpose.

The purposes of this chapter are public and the authority is performing a governmental function in carrying out this chapter.

§ 9002. Board of trustees; appointment; chair; employees

1. Membership. The authority is governed by the Board of Trustees of the Mountain Division Rail Line Authority, referred to in this chapter as "the board of trustees," composed of 5 voting members as follows:

- A. Four members appointed by the Governor and confirmed by the Legislature; and
- B. The Commissioner of Transportation or the commissioner's designee, who serves ex officio.

2. Terms of office. Members appointed under subsection 1, paragraph A are appointed for 4-year terms except that, for initial appointments, one member is appointed to a 2-year term, 2 members to 3-year terms and 2 members to 4-year terms.

A member continues to hold office until a successor is appointed and qualified, but the term of the successor is not altered from the original expiration date of the holdover member's term.

3. Limitation on terms; removal. Except for the ex officio member, a member of the board of trustees may serve no more than 2 full consecutive terms. Any member may be removed by the Governor for cause.

4. Chair. The Governor shall appoint one member to serve as chair of the board of trustees.

5. Meetings; compensation. All the powers of the authority may be exercised by the board of trustees in lawful meeting, and a majority of the members is necessary for a quorum. Regular meetings of the board of trustees may be established by bylaw. Notice of the regular meeting need not be given to the members. Each member is compensated according to the provisions of Title 5, chapter 379.

6. Limitation of liability. A member of the board of trustees or an employee of the authority may not be subject to any personal liability for having acted within the course and scope of that person's membership or employment to carry out any power or duty under this chapter. The authority shall indemnify any member of the authority, any member of the board of trustees and any employee of the authority against expenses actually and necessarily incurred by that person in connection with the defense of any action or proceeding in which that person is made a party by reason of past or present association with the authority.

7. Employees. The authority may employ an executive director and such other technical experts, agents and employees, permanent and temporary, that it requires and may determine their qualifications, duties and compensation. Permanent employees of the authority are eligible to elect to participate in the Maine State Retirement System, the state employee health plan under section 285, any state-deferred compensation plan or any other plan or program adopted by the board of trustees to the extent the board may determine. For required legal services, the authority may employ or retain its own counsel and legal staff.

§ 9003. Receive, use and invest funds

The authority may receive and accept from any source allocations, appropriations, loans, grants and contributions of money or other things of value to be held, used or applied to carry out this chapter, subject to the conditions upon which the loans, grants and contributions may be made, including, but not limited to, appropriations, allocations, loans, grants or gifts from any federal agency or governmental subdivision or the State and its agencies.

The authority may invest funds received from any source for carrying out this chapter and expend interest and other earnings on those funds as appropriate to implement this chapter, including use for program and administrative costs.

§ 9004. Acquisition, use and disposition of property

All real and personal property owned by and in the name of the authority is property of the State and entitled to the privileges and exemptions of property of the State, except insofar as waived by the duly authorized contract or other written instrument of the authority or by this chapter.

The authority may acquire, use, lease, improve and dispose of real and personal property to accomplish the purposes of this chapter. Revenues to the authority resulting from the lease, sale or other use of property in which the authority has an interest become operating revenues or assets of the authority. The authority may contract for services as necessary to accomplish this purpose.

§ 9005. Taxation and fees

Notwithstanding any other provision of law, for the purposes of this chapter, transactions and property of the authority must be treated as follows.

1. Revenue obligation securities; exemption from taxation. Revenue obligation securities of the authority are issued for an essential public and governmental purpose, are public instruments and, together with interest and income, including the profit made from their transfer or sale, are exempt from taxation within the State.

2. Conveyances, leases, mortgages, deeds of trust; trust indentures; exemptions from taxation. Conveyances by or to the authority and leases, mortgages and deeds of trust or trust indentures by or to the authority are exempt from all taxation by the State or any of its political subdivisions, including, but not limited to, any applicable license, excise or other taxes imposed in respect of the privilege of engaging in any of the activities in which the authority may engage.

3. Property exemption from taxation and other assessments. Property acquired, held or transferred by the authority is exempt from all taxes and from betterments and special assessments of the city, town, county, State or any political subdivision of State Government or county or local governments. The authority may agree to make payments in lieu of taxes to the applicable political subdivisions.

§ 9006. Bonds

1. Authorization. The authority may provide by resolution for the issuance of bonds for the purpose of funding the acquisition, financing, construction, operation, improvement and repair of a railroad line from Portland through Westbrook, Gorham, Standish and Fryeburg to the New Hampshire border. The bonds of the authority do not constitute a debt of the State or of any agency or political subdivision of the State but are payable solely from the revenue of the authority, and neither the faith nor credit nor taxing power of the State or any political subdivision of the State is pledged to payment of the bonds. Notwithstanding any other provision of law, any bonds issued pursuant to this chapter are fully negotiable. If any member of the board of trustees whose signature appears on the bond or coupons ceases to be a member of the board of trustees before the delivery of those bonds, that signature is valid and sufficient for all purposes as if that member of the board of trustees had remained a member of the board of trustees until delivery. As used in this section, "railroad line" has the same meaning as in section 8002, subsection 3.

2. Resolution; prospective issues. The authority may, by resolution authorizing prospective issues, provide:

- A. The manner of executing bonds and coupons;
- B. The form and denomination of bonds or coupons;
- C. Maturity dates;
- D. Interest rates on bonds or coupons;
- E. For redemption prior to maturity and the premium payable;
- F. The place or places for the payment of interest and principal;
- G. For registration if the authority determines it to be desirable;
- H. For the pledge of all or any of the revenue for securing payment;
- I. For the replacement of lost, destroyed or mutilated bonds;
- J. For the setting aside and the regulation and disposition of reserve and sinking funds;
- K. For limitation on the issuance of additional bonds;
- L. For the procedure, if any, by which the contract with a bondholder may be abrogated or amended;
- M. For the manner of sale and purchase of bonds;
- N. For covenants against pledging of any of the revenue of the authority;
- O. For covenants fixing and establishing rates and charges for use of the authority's facilities and services made available so as to provide funds that will be sufficient to pay all costs of operation and maintenance, to meet and pay the principal and interest of all bonds as they severally become

due and payable, for the creating of such revenues for the principal and interest of all bonds and for the meeting of contingencies and the operation and maintenance of its facilities as the board of trustees determines;

P. For such other covenants as to rates and charges as the board of trustees determines;

Q. For covenants as to the rights, liability, powers and duties arising upon the breach by the authority of any covenant, condition or obligation;

R. For covenants as to the bonds to be issued, as to the issuance of those bonds in escrow and otherwise and as to the use and disposition of the proceeds;

S. For covenants as to the use of its facilities and their maintenance and replacement, and the insurance to be carried on them, and the use and disposition of insurance money;

T. For the issuance of bonds in series;

U. For the performance of any and all acts as may be in the discretion of the board of trustees necessary, convenient or desirable to secure bonds or that tend to make bonds more marketable; and

V. For the issuance of bonds on terms and conditions to effectuate the purpose of this chapter.

3. Money received. All money received from any bonds issued must be applied solely for the acquisition, financing, construction, operation, improvement and repair of a railroad line from Portland through Westbrook, Gorham, Standish and Fryeburg to the New Hampshire border and for the fulfillment of other undertakings that are within the power of the authority. There is created a lien upon the money until so applied in favor of the bondholders or any member of the board of trustees as may be provided in respect of the bonds.

4. Trust indenture. In the discretion of the board of trustees, bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company, located either within or outside the State. Such a trust indenture may pledge or assign the revenues of the authority or any part of it. Any trust indenture may set forth the rights and remedies of the bondholders and the trustee, restrict the individual right of action of bondholders and contain such other provisions as the board of trustees may consider reasonable and proper for the security of bondholders. Expenses incurred in carrying out any trust indenture may be treated as a part of maintenance.

5. Rights of bondholders. Provisions may be made for protecting and enforcing the rights and remedies of bondholders, including covenants as to acquisition of property, construction, maintenance, operation and repair and insurance and the custody, security and application of all money.

6. Depositories. Any trust company or bank having the powers of a trust company and located either within or outside the State may act as a depository of the proceeds of bonds and revenue and may furnish such indemnity or pledge such securities as may be required by the authority.

7. Tax free. The purposes of this chapter being public and for the benefit of the people of the State, bonds of the authority are free from taxation by the State.

8. Revenue refunding bonds. The authority may issue revenue refunding bonds for the purpose of refunding revenue bonds issued under this chapter. The issuance of any refunding bonds is the same as provided for in this chapter relating to revenue bonds.

9. Default. In the event of default on bonds and in the event the default continues for a period of 3 months, action may be brought to enforce the rights of the bondholders by insuring that the operation by the board of trustees be in conformity with the covenants of the bonds or trust indenture.

§ 9007. Interest of trustee or employee

1. Acquisition of interest. A member of the board of trustees or employee of the authority may not acquire or hold a direct or an indirect personal financial interest in:

A. An authority activity;

B. Property or facilities included, planned to be included or expected to directly benefit from an authority activity; or

C. A contract or proposed contract in connection with an authority activity.

When an acquisition is involuntary, the interest acquired must be disclosed immediately in writing to the board of trustees and the disclosure must be entered in the board of trustees' minutes.

2. Present or past interest in property. If a member of the board of trustees or employee of the authority presently owns or controls, or owned or controlled within the preceding 2 years, a direct or an indirect interest in property known to be included or planned to be included in an authority activity, that member or employee shall disclose this fact immediately in writing to the board of trustees and the disclosure must be entered in the board of trustees' minutes.

3. Recusal. A member of the board of trustees or employee of the authority with an interest under subsection 2 may not participate in an action by the authority affecting that property.

4. Violation. A violation of this section is a Class E crime.

§ 9008. Audit

The authority shall provide the Treasurer of State, within 120 days after the close of its fiscal year, its annual financial report certified by an independent certified public accountant, who may be the accountant who or a member of the firm of accountants that regularly audits the books and accounts of the authority, selected by the authority. The authority is also subject to the provisions of Title 5, chapter 11. The authority may combine for accounting purposes any or all funds established for its programs and activities.

§ 9009. Rules

Pursuant to Title 5, chapter 375, the authority may adopt any rule, including its bylaws, necessary or useful for carrying out any of its powers or duties. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. Statutory referendum procedure; submission at election; form of question; effective date. This Act must be submitted to the legal voters of the State at a statewide election held in the month of November following the passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:

"Do you favor permitting additional slot machines at a harness horse racing track to support harness horse racing and passenger and freight train service?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If a majority of the legal votes are cast in favor of this Act, the Governor shall proclaim the result without delay and this Act becomes effective 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purposes of this referendum.

SUMMARY

This bill permits the operation of additional slot machines at a harness horse racing track in a municipality along the railroad line from Portland to the New Hampshire border overseen by the Northern New England Passenger Rail Authority or the railroad line from Portland through Westbrook, Gorham, Standish and Fryeburg to the New Hampshire border known as the Mountain Division rail line. The bill limits the location of the operation of these slot machines to one harness horse racing track and to within 200 feet of the outside edge of the racing oval at that harness horse racing track. A municipality must approve the operation of slot machines before slot machines authorized by this bill may be operated in that municipality.

An entity that operates an agricultural fair or a person licensed to operate a commercial track may apply to the Department of Public Safety, Gambling Control Board no later than December 31, 2009 for a license to operate slot machines authorized by this bill. The Gambling Control Board will choose one applicant to receive the license authorized by this bill. Slot machines authorized by this bill are subject to regulation and supervision by the Gambling Control Board.

The bill is subject to approval by the voters of this State at referendum.

The slot machine operator will be required to collect and distribute 1% of gross slot machine income for deposit in the General Fund. The slot machine operator will be required to collect and distribute 39% of the net slot machine income as follows:

1. Two percent for deposit in the General Fund for administrative expenses of the Gambling Control Board, including gambling addiction counseling services;
2. Ten percent to supplement harness racing purses;
3. Three percent for deposit in the Sire Stakes Fund;
4. Three percent for deposit in the Agricultural Fair Support Fund;
5. Five percent for the Town of Standish to establish a drinking water protection fund to protect the quality of the drinking water for communities served by the Portland Water District and to establish a recreational area on Sebago Lake in Standish;
6. One percent for scholarships for students at the University of Maine System;
7. One percent for scholarships for students at the Maine Community College System;
8. Ten percent for the Mountain Division Rail Line Authority, which is established in this bill and may issue bonds, to fund the acquisition, financing, construction, operation, improvement and repair of a railroad line from Portland through Westbrook, Gorham, Standish and Fryeburg to the New Hampshire border;
9. Two percent for the Northern New England Passenger Rail Authority to support the operation of a train on the railroad line from Portland to the New Hampshire border;
10. One percent for the Department of Agriculture, Food and Rural Resources to be used for equine rescue and other animal protection programs; and
11. One percent for the municipality in which the slot machines are located.