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No. 1538

H.P. 1130

House of Representatives, May 3, 2011

**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**

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.
Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative CEBRA of Naples.
Cosponsored by Senator COLLINS of York and
Representatives: BLACK of Wilton, BURNS of Whiting, BURNS of Alfred, CHASE of Wells,
COTTA of China, CRAFTS of Lisbon, CURTIS of Madison, CUSHING of Hampden, DAMON of
Bangor, DAVIS of Sangerville, FLOOD of Winthrop, FOSSEL of Alna, FOSTER of Augusta,
FREDETTE of Newport, GIFFORD of Lincoln, GILLWAY of Searsport, HOGAN of Old Orchard
Beach, JOHNSON of Greenville, KESCHL of Belgrade, KNIGHT of Livermore Falls, LIBBY of
Waterboro, LONG of Sherman, MAZUREK of Rockland, McCLELLAN of Raymond, NEWENDYKE
of Litchfield, Speaker NUTTING of Oakland, O'CONNOR of Berwick, OLSEN of Phippsburg,
PARRY of Arundel, PEOPLES of Westbrook, PLUMMER of Windham, SANDERSON of Chelsea,
THERIAULT of Madawaska, TILTON of Harrington, VOLK of Scarborough, WEAVER of York,
WILLETTE of Mapleton, WINSOR of Norway, Senators: COURTNEY of York, DIAMOND of
Cumberland, HILL of York, KATZ of Kennebec, MASON of Androscoggin, PLOWMAN of
Penobscot, President RAYE of Washington, THOMAS of Somerset, TRAHAN of Lincoln,
WHITTEMORE of Somerset.

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

2 **Sec. 1. 5 MRSA §12004-F, sub-§4**, as enacted by PL 1987, c. 786, §5, is
3 amended to read:

4 **4.**

5 Maine Turnpike Authority, Legislative Per Diem 23 MRSA §1965
6 Board of Directors 1964-A

7 **Sec. 2. 23 MRSA §1961, sub-§2**, as amended by PL 1995, c. 504, Pt. C, §1, is
8 further amended to read:

9 **2. Cooperation with the Department of Transportation.** ~~The Department of~~
10 ~~Transportation must be provided each year the operating surplus of the Maine Turnpike~~
11 ~~Authority. The Maine Turnpike Authority authority~~ may issue bonds or other obligations
12 to pay for ~~Department of Transportation department~~ projects. These amounts are
13 considered necessary for use by the department for construction, reconstruction, operation
14 and maintenance of all roads on the state highway system, which serve and benefit users
15 of the turnpike by providing direct and indirect access to and from the turnpike as part of
16 the integrated highway system. Due to the utilization of the state highway system by
17 users of the turnpike, the turnpike and its users have received and will continue to receive
18 a benefit from, or have caused and will continue to cause, or both, the State acting by and
19 through the ~~Department of Transportation department~~ to incur costs for the construction,
20 operation and maintenance of the state highway system, which provides direct and
21 indirect access to and from the turnpike to areas in the State for which the State may
22 properly be and should be compensated from the tolls to be collected. ~~The Maine~~
23 ~~Turnpike Authority should~~ authority must be maintained to carry out the purposes of this
24 chapter in cooperation with the ~~Department of Transportation department~~.

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

27 **6. Appropriation.** On or before January 31st of each year, the authority shall
28 present to each regular session of the Legislature for its approval ~~a budget for the~~
29 ~~operating expenses of the authority for the calendar year that begins after the adjournment~~
30 ~~of that regular session and the authority's revenue fund budget for the next fiscal year of~~
31 ~~the authority. The authority~~ shall present to each regular session of the Legislature for
32 informational purposes a statement of the revenues necessary ~~for to fund~~ capital
33 expenditures and reserves, and to meet the requirements of ~~any resolution authorizing~~
34 ~~bonds of the authority during that calendar~~ the authority's current bond resolution for the
35 next fiscal year of the authority, including debt service and the maintenance of reserves
36 for debt service and reserve maintenance. The authority shall present a detailed budget of
37 expenditures from the authority's reserve maintenance fund and shall include
38 cross-references to show the total of similar expense categories that are included in both
39 the revenue and reserve maintenance funds. The authority may only pay operating
40 expenses in accordance with allocations approved by the Legislature or as necessary to
41 satisfy the requirements of any resolution authorizing bonds of the authority. ~~The~~

1 ~~operating surplus must be transferred to the Department of Transportation and expended~~
2 ~~in accordance with allocations approved by the Legislature.~~

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

4 **7. Funds for department projects.** On or before September 1st of each year,
5 commencing on September 1, 2013, the authority shall transfer to the department an
6 amount equal to 5% of operating revenues for the preceding fiscal year of the authority.
7 From the amount to be transferred, the authority shall deduct the amounts spent by the
8 authority during its preceding fiscal year on department projects, on purchases or leases
9 of transportation infrastructure from the department, on bonds issued for the benefit of the
10 department and on transportation projects funded jointly with the department.

11 Amounts transferred pursuant to this subsection may be spent by the department only on
12 projects located within 25 highway miles of an interchange or other connecting point
13 between the turnpike and the state highway system. No later than 30 days following the
14 end of each state fiscal year, the department shall provide a public accounting of how
15 authority funds were spent during that year to the authority.

16 **Sec. 5. 23 MRSA §1964, sub-§§2-A and 2-B** are enacted to read:

17 **2-A. Away agency.** "Away agency" means a tolling authority in a jurisdiction other
18 than the State that imposes an administrative fee or a civil liability on the registered
19 owner of a vehicle whose operator fails to pay a required toll for the use of a highway,
20 bridge or tunnel.

21 **2-B. Board.** "Board" means the board of directors of the authority established
22 pursuant to section 1964-A.

23 **Sec. 6. 23 MRSA §1964, sub-§4-B** is enacted to read:

24 **4-B. Fiscal year of the authority.** Prior to July 1, 2013, "fiscal year of the
25 authority" means the calendar year. Beginning July 1, 2013, "fiscal year of the authority"
26 means the period from July 1st of each calendar year to June 30th of the subsequent
27 calendar year.

28 **Sec. 7. 23 MRSA §1964, sub-§6-A,** as amended by PL 1995, c. 613, §2 and
29 affected by §7, is repealed.

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

31 **7-A. Reserve maintenance fund.** "Reserve maintenance fund" means a fund
32 established by a resolution authorizing bonds of the authority to pay certain insurance
33 premiums and other perennial costs including projects for maintenance, rehabilitation and
34 repair as recommended by the consulting engineer appointed by the authority, but not
35 including costs for new capital construction, reconstruction or expansion of the turnpike.

36 **7-B. Revenue fund.** "Revenue fund" means a fund established by a resolution
37 authorizing bonds of the authority as the initial depository for all operating income of the

1 turnpike; operating expenses are paid from the revenue fund before further transfers are
2 made to funds for debt service, reserve maintenance and general reserves.

3 **Sec. 9. 23 MRSA §1964-A** is enacted to read:

4 **§1964-A. Board of directors**

5 The authority is managed by a board of 7 members. Except for the member from the
6 department who serves ex officio, all members are appointed by the Governor subject to
7 review by the joint standing committee of the Legislature having jurisdiction over
8 transportation matters and to confirmation by the Senate.

9 **1. Qualifications.** The 7 members of the board are as follows:

10 A. The Commissioner of Transportation or the commissioner's designee from within
11 the department, who serves ex officio;

12 B. Four members, one each from a municipality through which the turnpike passes
13 from each of York, Cumberland, Androscoggin and Kennebec counties who serves as
14 the representative from the county in which the member resides; and

15 C. Two at-large members who are residents of the State.

16 **2. Term.** Each appointed member holds office for 7 years or until a qualified
17 successor has been confirmed. Each term expires on March 31st of the last year of the
18 term. The terms of the appointed members must be staggered so that no more than one
19 term expires in any given year.

20 **3. Vacancy.** A member's term is vacated if the member dies, resigns, becomes
21 incapacitated, is removed for cause or no longer meets a requirement under which the
22 member was appointed. By majority vote of the remaining members, the board may
23 declare and bring to the Governor's attention any circumstances creating a vacancy.
24 When a vacancy occurs, the Governor may appoint a member to serve only for the
25 unexpired portion of the term vacated.

26 **4. Removal.** The Governor may remove a member from the board only for gross
27 misconduct. For purposes of this subsection, "gross misconduct" means financial
28 malfeasance, a deliberate or reckless failure to attend to duties required for governance of
29 the authority or unexcused absences from 4 or more meetings of the board in a 12-month
30 period.

31 **5. Chair.** The Governor may appoint the chair from among members appointed to
32 the board. In the absence of such appointment or if the position of chair is vacated, the
33 board may elect a chair from among the members of the board. The chair must be
34 appointed or elected for a one-year term at the board's annual meeting.

35 **6. Annual meetings; quorum; action.** The board shall convene annually at a
36 meeting held in September and more often as determined by the chair. Four members of
37 the board constitute a quorum. Four votes are required to act on any matter, although a
38 lesser number may adjourn a meeting.

1 **7. Compensation.** Appointed members of the board are compensated in accordance
2 with Title 5, section 12004-F, subsection 4.

3 **8. Executive director.** At its annual meeting each September, the board shall
4 appoint or reappoint an executive director who is not a member of the board. An
5 executive director's first appointment is subject to review by the joint standing committee
6 of the Legislature having jurisdiction over transportation matters and to confirmation by
7 the Senate.

8 **9. Secretary and treasurer.** At its annual meeting each year, the board shall elect a
9 secretary and a treasurer, who may be the same person and need not be a member of the
10 board. The secretary and treasurer are responsible in their respective capacities directly
11 to the board and may be relieved of their duties only by the board. Before the issuance of
12 any bonds under this chapter, the secretary and the treasurer shall each execute a security
13 bond in the penalty of \$50,000. Each security bond must be approved by the Attorney
14 General and conditioned upon the faithful performance of the duties of the secretary and
15 treasurer. The bond must be filed in the office of the State Auditor.

16 **10. Internal auditing.** The board shall maintain a system for ongoing internal
17 auditing of the authority's books and accounts and for compliance with the authority's
18 financial policies and controls. The treasurer shall report directly to the board at least
19 quarterly on the findings of the internal audit.

20 **Sec. 10. 23 MRSA §1965**, as amended by PL 2007, c. 270, §1, is further amended
21 to read:

22 **§1965. Maine Turnpike Authority; powers**

23 **1. Powers.** The Maine Turnpike Authority, as created by Private and Special Law
24 1941, chapter 69 and as authorized by Title 5, section 12004-F, subsection 4, is and ~~shall~~
25 ~~continue~~ continues to be a body both corporate and politic in the State and may:

- 26 A. Sue and be sued;
- 27 B. Have a seal and alter the seal at pleasure;
- 28 C. Adopt from time to time and amend bylaws covering its procedure and rules
29 governing use of the turnpike and any of the other services made available in
30 connection with the turnpike; develop and adopt, in accordance with ~~the Maine~~
31 ~~Administrative Procedure Act~~, Title 5, chapter 375, rules governing the use of the
32 turnpike and other services; publish those bylaws, rules as publication is necessary or
33 advisable; and cause records of its proceedings to be kept;
- 34 D. Construct, maintain, reconstruct and operate a toll turnpike from a point at or near
35 Kittery in York County to a point at or near Augusta in Kennebec County, except that
36 the traveled way may not be widened or expanded beyond 3 lanes for each direction
37 of travel from the southern terminus of the turnpike to mile marker 53 and beyond 2
38 lanes for each direction of travel elsewhere on the turnpike without the express
39 approval of the Legislature.

- 1 Except as provided in section 1965-A, a license, permit or approval necessary for the
2 widening or expansion of the turnpike may not be issued by any state agency unless
3 that agency makes an affirmative finding that the widening or expansion is consistent
4 with state transportation policy, as established in section 73, as well as rules
5 implementing that policy;
- 6 D-1. Construct, acquire, install, maintain and reconstruct communications facilities
7 and equipment within the boundaries of the turnpike for the use of the authority, the
8 use of others or both on such terms and conditions as the authority may determine;
- 9 E. Acquire, hold and dispose of personal property for its purposes;
- 10 F. Acquire in the name of the authority by purchase, eminent domain, lease or
11 otherwise, real property and rights or easements therein ~~deemed~~ determined by it
12 necessary or desirable for its purposes, and use that property;
- 13 G. Acquire any such real property by the exercise of the power of eminent domain in
14 the manner provided by section 1967;
- 15 H. Charge and collect fees, fares and tolls for the use of the turnpike and other
16 services made available in connection with the turnpike and use the proceeds of such
17 fees, fares and tolls for the purposes provided in this chapter, both as subject to and in
18 accordance with such agreement with bondholders as may be made as provided in
19 this chapter;
- 20 I. Make contracts with the United States or any instrumentality or agency of the
21 United States, another state or any instrumentality, municipality or agency of another
22 state, including multi-state entities composed of other state agencies, this State or any
23 of its agencies or instrumentalities, municipalities, public corporations, or bodies
24 existing therein, private corporations, partnerships, associations and individuals;
- 25 J. Accept grants and the cooperation of the United States or any agency thereof in the
26 construction, maintenance, reconstruction, operation and financing of the turnpike
27 and do any and all things necessary in order to avail itself of that aid and cooperation
28 and repay any such grant or portion thereof;
- 29 J-1. ~~Provide Contract with other public agencies and political subdivisions of the~~
30 ~~State to provide maintenance services on connecting interstate highways for a~~
31 ~~maximum road distance of 5 miles from the point of connection with the turnpike and~~
32 ~~only~~ in accordance with reimbursement arrangements that are ~~mutually~~ satisfactory to
33 the authority ~~and the department~~;
- 34 K. Employ such assistants, agents and servants, engineering, traffic, architectural and
35 construction experts and inspectors and attorneys and such other employees as it
36 ~~deems~~ considers necessary or desirable for its purposes;
- 37 L. Exercise any of its powers in the public domain of the United States, unless the
38 exercise of those powers is not permitted by the laws of the United States;
- 39 M. Borrow money, make, issue and sell at public or private sale negotiable notes,
40 bonds and other evidences of indebtedness or obligations of the authority for the
41 purposes set forth in this chapter and secure the payment of that obligation or any part
42 thereof by pledge of all or any part of the operating revenues of the turnpike;

- 1 N. Enter into loan or security agreements with one or more lending institutions,
2 including, but not limited to, banks, insurance companies and pension funds, or
3 trustees for those institutions for purposes for which bonds may be issued and to
4 exercise with respect to such loan or security agreements all of the powers delineated
5 in this chapter for the issuances of bonds;
- 6 O-1. Provide for an annual amount not to exceed a maximum of \$4,700,000 to
7 secure obligations issued pursuant to section 1968, subsection 2-A or to pay
8 principal, interest or premium, if any, with respect to these obligations, after money
9 has been set aside or adequate provision has been made to pay operating expenses
10 and to meet the requirements of any resolution authorizing revenue bonds of the
11 authority;
- 12 O-2. Make a contract or enter into an agreement with or provide certifications and
13 assurances to the Department of Transportation, or any other 3rd party, necessary in
14 connection with the determination of Department of Transportation projects, the
15 issuance of bonds or other obligations pursuant to section 1968, subsection 2-A, the
16 pledge of revenues to the payment of these bonds or obligations or the payment of the
17 costs or a portion of the costs of Department of Transportation projects;
- 18 P. Provide from revenues to or for the use of the department funds for the
19 maintenance, construction or reconstruction of interchanges determined pursuant to
20 section 1974, subsection 3, for which the authority has not otherwise provided;
- 21 Q. Use toll revenues to provide payment of obligations, if any, as may be due to the
22 United States in order to continue the use of the turnpike as a toll type facility;
- 23 S. Prior to the issuance of any bonds, issue interim certificates in such manner and
24 with such conditions as the authority may determine to be exchanged for those bonds
25 when issued;
- 26 S-1. Utilize the Department of Transportation, Office of Legal Services or the
27 Department of the Attorney General for general counsel, bond counsel, labor defense,
28 workers' compensation, legislative issues and other required legal services on a
29 fee-for-service basis at rates determined by those agencies;
- 30 T. Take all other lawful action necessary and incidental to these powers;
- 31 U. Adopt rules, in accordance with the Maine Administrative Procedure Act, to
32 establish a logo signing program on the turnpike. The authority may charge fees for
33 signs that contain names, symbols, logos or other identifiers of specific commercial
34 enterprises. This paragraph may not be interpreted as limiting the authority's general
35 power to collect fees under paragraph H; ~~and~~
- 36 V. Develop programs whereby a patron of the turnpike who uses the authority's
37 electronic toll collection system, as defined in section 1980, subsection 2-A,
38 paragraph B, may elect to use the patron's electronic toll collection system device to
39 pay for services other than tolls for the use of the turnpike, whether those services are
40 provided by the authority itself or 3rd parties, and allow the patron to participate in
41 similar programs developed by other tolling authorities; and
- 42 W. Provide, receive or exchange services with other political agencies, political
43 subdivisions of a state or tolling authorities upon terms beneficial to the authority.

1 **2. Membership of the authority.** ~~The membership of the authority shall be as~~
2 follows.

3 A. ~~Members of the authority are appointed by the Governor, subject to review by~~
4 ~~the joint standing committee of the Legislature having jurisdiction over transportation~~
5 ~~and subject to confirmation by the Legislature. The Commissioner of Transportation~~
6 ~~is a member ex officio. The Commissioner of Transportation may designate a~~
7 ~~deputy, director, assistant or other officer or employee of the department to represent~~
8 ~~the Commissioner of Transportation at meetings of the authority with full power to~~
9 ~~act and vote on behalf of the Commissioner of Transportation. Upon the expiration~~
10 ~~of the term of office of any member, the Governor shall appoint a new member who~~
11 ~~serves in office for a term of 7 years and until a successor is duly appointed and~~
12 ~~qualified, and any member of the authority is eligible for reappointment. In the event~~
13 ~~of a vacancy in the membership of the authority caused by the death, incapacity,~~
14 ~~resignation or removal of a member, the Governor shall appoint a member to fill that~~
15 ~~vacancy only for the unexpired term of office of the member whose death, incapacity,~~
16 ~~resignation or removal created the vacancy, but the newly appointed member may be~~
17 ~~reappointed at the end of the unexpired term in accordance with this subsection. In~~
18 ~~all events, a member may not be appointed to the authority who is not a resident of~~
19 ~~the State at the time of the appointment and qualification, or who has not been a~~
20 ~~qualified voter in the State for a period of at least one year next preceding the~~
21 ~~appointment.~~

22 A-1. ~~The authority consists of the Commissioner of Transportation, who is an ex~~
23 ~~officio member, and:~~

24 (1) ~~Four members appointed by the Governor pursuant to paragraph A. Three~~
25 ~~members of the authority constitute a quorum and 3 votes are required for the~~
26 ~~authority to act on any matter, although a lesser number may adjourn a meeting;~~

27 (2) ~~On and after August 1, 2000, 5 members appointed by the Governor pursuant~~
28 ~~to paragraph A. Three members of the authority constitute a quorum and 3 votes~~
29 ~~are required for the authority to act on any matter, although a lesser number may~~
30 ~~adjourn a meeting; and~~

31 (3) ~~On and after August 1, 2002, 6 members appointed by the Governor pursuant~~
32 ~~to paragraph A. After August 1, 2002, 4 members of the authority constitute a~~
33 ~~quorum and 4 votes are required for the authority to act on any matter, although a~~
34 ~~lesser number may adjourn a meeting.~~

35 A-2. ~~In making appointments under this subsection, the Governor shall ensure that~~
36 ~~after August 1, 2002 or at the earliest opportunity thereafter, the authority includes at~~
37 ~~least one person who is a resident of York County and who is named by the Governor~~
38 ~~as that county's representative on the authority; one person who is a resident of~~
39 ~~Cumberland County and who is named by the Governor as that county's~~
40 ~~representative on the authority; one person who is a resident of Androscoggin County~~
41 ~~and who is named by the Governor as that county's representative on the authority;~~
42 ~~and one person who is a resident of Kennebec County and who is named by the~~
43 ~~Governor as that county's representative on the authority. A member named to~~
44 ~~represent a certain county ceases to be a member if that person's residency changes to~~

1 another county. Vacancies created as a result of changes in residency must be filled
2 by the Governor as provided for other vacancies in paragraph A.

3 ~~B. Immediately after their appointments, the members of the authority shall enter
4 upon their duties. The Governor shall name one of the appointed members as chair
5 of the authority. The authority shall elect a secretary and a treasurer, who need not be
6 members of the authority. The offices of secretary and treasurer may be held
7 simultaneously by the same person. The authority shall elect an executive director or
8 general manager who is not a member of the authority. A vacancy in the authority
9 does not impair the right of a quorum of the members to exercise all the rights and
10 perform all the duties of the authority.~~

11 ~~C. Before the issuance of any bonds under this chapter, the secretary and the
12 treasurer shall each execute a security bond in the penalty of \$50,000. Each security
13 bond must be approved by the Attorney General and must be conditioned upon the
14 faithful performance of the duties of the secretary's and treasurer's offices, which
15 bond must be filed in the office of the State Auditor. Each member of the authority is
16 entitled to compensation according to the provisions of Title 5, chapter 379. The
17 Governor may remove a member from the authority only for gross misconduct.~~

18 **Sec. 11. 23 MRSA §1966, sub-§2**, as amended by PL 1997, c. 743, §1, is further
19 amended to read:

20 **2. Coordination between authority and department on construction or**
21 **reconstruction.** ~~All contracts and agreements relating to the construction~~ Construction
22 ~~or reconstruction of the turnpike and the construction or reconstruction of its~~ or reconstruction of the turnpike and the construction or reconstruction of its connecting
23 ~~tunnels and bridges, overpasses, underpasses, interchanges and toll facilities must be~~ tunnels and bridges, overpasses, underpasses, interchanges and toll facilities must be
24 ~~approved by~~ approved by ~~coordinated with the Department of Transportation and the turnpike and~~ coordinated with the Department of Transportation and the turnpike and
25 ~~connecting tunnels and bridges, overpasses, underpasses, interchanges and barriers must~~ connecting tunnels and bridges, overpasses, underpasses, interchanges and barriers must
26 ~~be constructed or reconstructed under the supervision of the department~~ be constructed or reconstructed under the supervision of the department ~~department and~~ department and
27 ~~performed in a fashion generally consistent with applicable department standards under~~ performed in a fashion generally consistent with applicable department standards under
28 ~~oversight of professional engineers registered in the State. The department shall~~ oversight of professional engineers registered in the State. The department shall
29 ~~coordinate with the authority on all department projects that are likely to affect turnpike~~ coordinate with the authority on all department projects that are likely to affect turnpike
30 ~~projects and operations.~~ projects and operations.

31 Contractors and subcontractors on all authority construction and reconstruction projects
32 must be equal opportunity employers and, in connection with contracts in excess of
33 \$250,000, also pursue in good faith affirmative action programs designed to remedy
34 underrepresentation of minorities, women and persons with disabilities. The authority
35 may by rule provide for the enforcement of this requirement. To the extent practical, the
36 authority may use program and technical information developed by and available through
37 the Department of Transportation to carry out this subsection.

38 All authority construction and reconstruction projects are governed by the prevailing
39 wage provisions in Title 26, chapter 15.

40 **Sec. 12. 23 MRSA §1966, sub-§2-A** is enacted to read:

1 **2-A. Contracts for goods and services.** Except as otherwise permitted by law,
2 contracts for goods and services must be awarded by the authority through a competitive
3 procurement process. The requirement for competitive procurement may be waived:

4 A. By the executive director when the purchase is for \$25,000 or less and the
5 executive director determines that procurement from a single source is the most
6 economical, effective and appropriate means of fulfilling a demonstrated need;

7 B. By the chair of the board when the chair determines that procurement is required
8 by a state of emergency; or

9 C. By the board pursuant to a written finding that:

10 (1) Procurement from a single source is the most economical, effective and
11 appropriate means of fulfilling a demonstrated need;

12 (2) The service or product is uniquely available from only one source; or

13 (3) Only one known source can meet the authority's needs within the required
14 time.

15 **Sec. 13. 23 MRSA §1966, sub-§2-B** is enacted to read:

16 **2-B. Contracts for engineering services.** When bond indentures require the
17 authority to appoint an engineering consultant who may thereby gain a disproportionate
18 advantage when competing for other design and inspection contracts, the authority shall
19 adopt policies to mitigate this advantage and promote a fair distribution of the available
20 work among qualified competing applicants.

21 **Sec. 14. 23 MRSA §1977**, as amended by IB 1991, c. 1, §9, is further amended to
22 read:

23 **§1977. Trust funds**

24 Subject to any agreement with the bondholders, all revenue received from the
25 operation of the turnpike after deducting expenditures required for the construction,
26 reconstruction, operation and maintenance of the turnpike and for the payment of the
27 principal and the interest on the bonds of the authority or otherwise in accordance with
28 the provisions thereof, and after deducting the ~~operating surplus amount~~ provided to the
29 ~~Department of Transportation~~ department pursuant to section 1961, subsection 7, must be
30 held and invested by the authority to establish trust funds for reserve and sinking funds
31 for the retirement of bonded indebtedness.

32 **Sec. 15. 23 MRSA §1980, sub-§2-A, ¶G**, as repealed and replaced by PL 2003,
33 c. 591, §2, is amended to read:

34 G. The authority shall notify the Secretary of State, who shall, in accordance with
35 Title 29-A, section 154, subsection 6, suspend the registration certificate and plates
36 issued for the vehicle involved in the alleged failure to pay if a registered owner:

37 (1) Does not dispute a notice of liability and pay the tolls, administrative fees
38 and civil penalties as required by paragraph C, subparagraph (4);

1 (2) Does not pay the required tolls, administrative fees and civil penalties within
2 30 days of a final decision of a violation clerk as provided in paragraphs I and J;
3 ~~or~~

4 (3) Does not pay the required tolls, administrative fees and civil penalties within
5 30 days of final adjudication of liability under paragraph K; or

6 (4) Does not pay the required tolls, administrative fees or civil penalties within
7 30 days of final adjudication of liability by an away agency with whom the
8 authority has a reciprocal collection arrangement under subsection 2-C.

9 When notifying the Secretary of State under this paragraph, the authority shall send a
10 notice by certified mail, return receipt requested, informing the registered owner of
11 the pending suspension.

12 **Sec. 16. 23 MRSA §1980, sub-§2-C** is enacted to read:

13 **2-C. Reciprocity with away agencies.** The authority may enter into reciprocal
14 collection arrangements with away agencies in accordance with this subsection. When an
15 away agency certifies with supporting evidence that the operator of a motor vehicle
16 registered in this State has failed to pay a toll, the authority may collect the civil penalties
17 and tolls properly imposed by the away agency as though those penalties and tolls were
18 imposed by the authority if:

19 A. The away agency has its own effective reciprocal procedures for collecting
20 penalties and tolls imposed by the authority and does, in fact, reciprocate in collecting
21 penalties and tolls of the authority by employing sanctions that include denial of a
22 person's right to register or reregister a motor vehicle;

23 B. The penalties, exclusive of tolls, claimed by the away agency against an owner of
24 an automobile registered in this State do not exceed \$100 for a first violation or \$600
25 for all pending violations;

26 C. The away agency provides due process and appeal protections to avoid the
27 likelihood that a false, mistaken or unjustified claim will be pursued against an
28 owner; and

29 D. An owner of an automobile registered in this State may present evidence to the
30 away agency or to the authority by mail, telephone, electronic means or other means
31 to invoke rights of due process without having to appear personally in the jurisdiction
32 where the violation occurred.

33 **Sec. 17. Transition; staggered terms; board of directors of the Maine**
34 **Turnpike Authority.** Notwithstanding the Maine Revised Statutes, Title 23, section
35 1964-A, subsections 1 and 2, a member of the Maine Turnpike Authority appointed
36 pursuant to former Title 23, section 1965, subsection 2 continues as a member of the
37 board of directors of the Maine Turnpike Authority until the 7-year term to which that
38 member was appointed expires or until the position becomes vacant due to resignation,
39 death, incapacity or removal of that member, whichever comes first. As each position
40 becomes vacant, the Governor shall appoint or reappoint a member to a new term of 7
41 years or less in such fashion as to complete a rotation that will, as soon as possible, yield
42 terms that are staggered to comply with Title 23, section 1964-B, subsections 1 and 2.

1 8. It requires the authority to establish reciprocity agreements with other toll
2 collecting authorities for the collection of tolls owed by owners of motor vehicles
3 registered in Maine to those other toll collection authorities.