

CHAPTER 621

PASSENGER RAIL SERVICE

SUBCHAPTER 1

GENERAL PROVISIONS

§8001. Short title

This chapter may be known and cited as the "Passenger Rail Service Act." [PL 1995, c. 374, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW).

§8002. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1995, c. 374, §3 (NEW).]

1. Authority. "Authority" means the Northern New England Passenger Rail Authority and any successors to that authority.

[PL 1995, c. 374, §3 (NEW).]

2. Government agency. "Government agency" includes any department, agency, commission, bureau, authority, instrumentality and political subdivision of:

A. The Federal Government; [PL 1995, c. 374, §3 (NEW).]

B. The State; [PL 1995, c. 374, §3 (NEW).]

C. Any other state; and [PL 1995, c. 374, §3 (NEW).]

D. Canada and any of its provinces. [PL 2005, c. 312, §1 (AMD).]
[PL 2005, c. 312, §1 (AMD).]

3. Railroad line. "Railroad line" or "lines" means the right-of-way, track, track appurtenances, ties, bridges, station houses and other appurtenant structures.

[PL 1995, c. 374, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW). PL 2005, c. 312, §1 (AMD).

§8003. Initiation and establishment of passenger rail service

1. Establishment of service. The authority is directed to take all actions that are reasonably necessary to initiate, establish or reinstate regularly scheduled passenger rail service between points within this State and points within and outside this State. These actions may include, but are not limited to, the acquisition, holding, use, operation, repair, construction, reconstruction, rehabilitation, modernization, rebuilding, relocation, maintenance and disposition of railroad lines, railway facilities, rolling stock, machinery and equipment, trackage rights, real and personal property of any kind and any rights in or related to that property.
[PL 1995, c. 374, §3 (NEW).]

2. Acquisition of properties; rights. The authority may acquire any of the properties or rights listed in subsection 1 through purchase, lease, lease-purchase, gift, devise or otherwise. In making

these acquisitions the authority may exercise the power of eminent domain following the same procedure set forth in section 7154, subsection 5; except that any notice of condemnation must be filed in the registry of deeds for the county or counties, or registry division or divisions, in which the property is located, in the case of real property, and with the office of the Secretary of State in the case of personal property.

[PL 1995, c. 374, §3 (NEW).]

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

[PL 2005, c. 312, §2 (NEW).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW). PL 2005, c. 312, §2 (AMD).

§8004. Contracts; studies

In order to implement section 8003 and the purposes of this chapter, the authority is directed to:
[PL 1995, c. 374, §3 (NEW).]

1. Conduct studies. Conduct or cause to be conducted any studies that the authority determines necessary or proper;

[PL 1995, c. 374, §3 (NEW).]

2. Enter into contracts. Enter into and fulfill any contracts and agreements the authority determines necessary or proper;

[PL 1995, c. 374, §3 (NEW).]

3. Acquire property. Acquire property, including, but not limited to, railroad lines, both within and outside of this State; and

[PL 1995, c. 374, §3 (NEW).]

4. Cooperate with government agencies. Cooperate and enter into agreements, contracts and compacts with any government agency, the National Railroad Passenger Corporation and any other person, public or private.

[PL 1995, c. 374, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW).

§8005. Initial funding

(REPEALED)

SECTION HISTORY

PL 1995, c. 374, §3 (NEW). PL 1995, c. 543, §2 (AMD). PL 2005, c. 312, §3 (RP).

§8006. Funding

The authority is directed to use any revenues it receives from the operation of the passenger rail service established pursuant to this chapter to pay the operational expenses of that passenger rail service. The authority is directed to seek and use funds necessary to pay all operational expenses of this passenger rail service that are not met by fares and other funds or revenues. For the purposes of this section, "operational expenses" include, but are not limited to, all additional capital expenses necessary to maintain the passenger rail service. [PL 2005, c. 312, §4 (AMD).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW). PL 2005, c. 312, §4 (AMD).

§8007. Federal funds

The authority may take all actions consistent with this chapter necessary to qualify for, accept and disburse any money that the Federal Government may grant or loan to the authority to fund any actions required of the authority under the terms of this chapter. [PL 1995, c. 374, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW).

§8008. Government agencies

Any government agency may allocate money and take other actions that may aid in the implementation of this chapter. The authority may provide funds, including loans and matching grants, to government agencies in order to encourage their participation in implementing this chapter. [PL 1995, c. 374, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW).

§8009. Reasonable fares

Fares for the passenger rail service established pursuant to this chapter must be set at reasonable levels to encourage use of this service. [PL 1995, c. 374, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW).

§8010. Satisfaction of operating deficits

The authority is directed to obtain all additional funds, through borrowing, revenues or other means, necessary to satisfy operating deficits arising from expenses, including capital expenditures, necessary to ensure the continuation of passenger rail service established pursuant to this chapter. [PL 1995, c. 374, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW).

§8011. Rules of construction

This chapter must be construed liberally to effectuate the purposes of this chapter. [PL 2005, c. 312, §5 (AMD).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW). PL 2005, c. 312, §5 (AMD).

§8012. Passenger rail liability limitation

In the event one or more passenger rail service providers are protected by a liability insurance policy covering liability for property damage, personal injury, bodily injury and death arising from rail incidents or accidents occurring in this State involving passenger trains with policy limits of not less than \$75,000,000 per occurrence annually and \$75,000,000 in the aggregate annually regardless of the number of passenger rail service providers protected by such an insurance policy, each passenger rail service provider protected by such an insurance policy is not liable in excess of the coverage limits of such an insurance policy for any and all claims for damage, whether compensatory or punitive, for property damage, personal injury, bodily injury or death arising out of such rail incidents or accidents. For purposes of this section, "passenger rail service provider" includes for-profit and nonprofit corporations and legal entities that own, lease, operate or manage passenger trains or passenger rail

service; the authority; railroad companies that own, lease, provide track rights to or maintain rail lines over which passenger trains pass; and operators of passenger train services. "Passenger rail service provider" does not include the National Railroad Passenger Corporation or its successor organization. This section does not affect immunities, limitation on damages, limitation of actions, limitation of liability or other protections provided to the State as defined in Title 14, section 8102, subsection 4. [PL 2005, c. 312, §6 (RPR).]

SECTION HISTORY

PL 2001, c. 54, §1 (NEW). PL 2005, c. 312, §6 (RPR).

SUBCHAPTER 2

NORTHERN NEW ENGLAND PASSENGER RAIL AUTHORITY

§8111. Purpose

The Northern New England Passenger Rail Authority, as established by Title 5, section 12004-F, subsection 16, is a body both corporate and politic in the State established for the general purpose of promoting passenger rail service as set forth in subchapter 1. It is declared that the purposes of this chapter are public and that the authority must be regarded as performing a governmental function in carrying out this chapter. [PL 2005, c. 312, §7 (AMD).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW). PL 2005, c. 312, §7 (AMD).

§8112. Directors

1. Board of directors. The authority consists of a board of 7 directors. The 7 directors are the Commissioner of Transportation, who is a director ex officio, the Commissioner of Economic and Community Development, who also is a director ex officio, and 5 directors who are members of the public, appointed by the Governor and confirmed by the Legislature for 5-year staggered terms, who shall serve until their respective successors are appointed and qualified. A vacancy in a position held by a director who is a member of the public occurring other than by the expiration of a term must be filled by the Governor and confirmed by the Legislature for the unexpired term. [PL 2005, c. 312, §8 (RPR).]

2. Compensation and removal of directors who are members of public. Each director who is a member of the public is entitled to compensation according to the provisions of Title 5, chapter 379. The Governor may remove any director who is a member of the public for cause. [PL 2005, c. 312, §8 (RPR).]

3. Ex officio directors. Each ex officio director may vote and may designate 2 employees of that director's department or agency, either of whom may represent that director and may vote and otherwise act on behalf of that director at meetings of the board. Any such designation must be in writing and delivered to the board, and the designation continues in effect until revoked or amended by the director in a written document delivered to the board. [PL 2005, c. 312, §8 (NEW).]

4. Chair. The Governor shall appoint one director to serve as chair of the board, who is responsible for scheduling, convening and chairing all board meetings. [PL 2005, c. 312, §8 (NEW).]

5. Officers. The board shall elect a treasurer, a secretary and any other officers the board from time to time considers necessary, none of whom needs to be a director. [PL 2005, c. 312, §8 (NEW).]

6. Quorum. All powers of the authority may be exercised by the board in lawful meeting, and a majority of directors then in office constitutes a quorum. A vacancy on the board does not impair the right of a quorum to exercise all the rights and perform all the duties of the authority.
[PL 2005, c. 312, §8 (NEW).]

7. Regular meetings. Regular meetings of the board may be established by bylaw, and notice of such regular meetings need not be given to directors.
[PL 2005, c. 312, §8 (NEW).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW). PL 1995, c. 543, §3 (AMD). PL 2005, c. 312, §8 (RPR).

§8113. Conflict of interest

A director, officer or employee of the authority may not acquire any interest, direct or indirect, in any contract or proposed contract of the authority. A director, officer or employee may not participate in any decision on any contract entered into by the authority if that individual has any interest, direct or indirect, in any firm, partnership, corporation or association that will be party to such a contract or financially involved in any transaction with the authority; except this prohibition does not apply to the execution of agreements by banking institutions for the deposit or handling of authority funds in connection with any contract or to utility services, the rates for which are fixed or controlled by a governmental agency. [PL 1995, c. 374, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW).

§8114. Powers

The authority may: [PL 1995, c. 374, §3 (NEW).]

1. Suit. Sue and be sued;
[PL 1995, c. 374, §3 (NEW).]

2. Seal. Have a seal and alter the seal at pleasure;
[PL 1995, c. 374, §3 (NEW).]

3. Bylaws; rules. Adopt from time to time and amend bylaws covering its procedure and rules for the purposes set forth in this chapter; develop and adopt rules in accordance with the Maine Administrative Procedure Act; publish bylaws and rules as necessary or advisable; and cause records of its proceedings to be kept;
[PL 1995, c. 374, §3 (NEW).]

4. Employees. Employ such assistants, attorneys, experts, inspectors and such other employees and consultants as the authority considers necessary or desirable for its purposes;
[PL 1995, c. 374, §3 (NEW).]

5. Department of Transportation. Utilize the services of the State's Department of Transportation that are available and expedient and all charges for services provided by the department may be paid to it by the authority as mutually agreed upon; and
[PL 1995, c. 374, §3 (NEW).]

6. Other action. Take all lawful action necessary and incidental to effectuate the purposes set forth in this chapter.
[PL 1995, c. 374, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW).

§8115. Obligations of authority

All expenses incurred in carrying out this chapter must be paid solely from funds provided to or obtained by the authority pursuant to this chapter. Any notes, obligations or liabilities under this chapter may not be deemed to be a debt of the State or a pledge of the faith and credit of the State; but those notes, obligations and liabilities are payable exclusively from funds provided to or obtained by the authority pursuant to this chapter. Pecuniary liability of any kind may not be imposed upon the State or any locality, town or landowner in the State because of any act, agreement, contract, tort, malfeasance, misfeasance or nonfeasance by or on the part of the authority or its agents, servants or employees. [PL 2011, c. 524, §6 (AMD).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW). PL 2005, c. 312, §9 (AMD). PL 2011, c. 524, §6 (AMD).

§8115-A. Authority records

1. Confidential records. The following records of the authority are confidential:

A. Records and correspondence relating to negotiations of agreements to which the authority is a party or in which the authority has a financial or other interest. Once entered into, an agreement is not confidential; [PL 2011, c. 524, §7 (NEW).]

B. Trade secrets; [PL 2011, c. 524, §7 (NEW).]

C. Estimates prepared by or at the direction of the authority of the costs of goods or services to be procured by or at the expense of the authority; and [PL 2011, c. 524, §7 (NEW).]

D. Any documents or records solicited or prepared in connection with employment applications, except that applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired, except that personal contact information is not a public record as provided in Title 1, section 402, subsection 3, paragraph O. [PL 2011, c. 524, §7 (NEW).]

[PL 2011, c. 524, §7 (NEW).]

2. Lawyer-client privilege. The authority may claim the lawyer-client privilege in the same manner and circumstances as a corporation is authorized to do so.

[PL 2011, c. 524, §7 (NEW).]

SECTION HISTORY

PL 2011, c. 524, §7 (NEW).

§8116. Report to the Legislature; departmental review

1. Annual report. Beginning January 1, 1996, on an annual basis, the authority shall present its report to the Legislative Council and send copies to the joint standing committee of the Legislature having jurisdiction over transportation matters and the Commissioner of Transportation. The report shall include a description of the authority's activities for the preceding fiscal year, including a report of its receipts and expenditures from all sources.

[PL 1995, c. 374, §3 (NEW).]

2. Operating budget. Beginning January 31, 1996, on an annual basis, the authority shall present the operating budget of the authority for the next fiscal year beginning July 1st to the Commissioner of Transportation for approval. The authority may only make expenditures in accordance with allocations approved by the commissioner. Any balance of an allocation that at any time may not be required for the purpose named in that allocation may be transferred at any time prior to the closing of the books to any other allocation for the use of the authority for the same fiscal year subject to review and approval by the commissioner. Fiscal statements describing a transfer must be submitted by the authority to the commissioner 30 days before the transfer is to be implemented. These fiscal statements must include

information specifying the accounts that are affected, amounts to be transferred, a description of the transfer and a detailed explanation as to why the transfer is needed.

[PL 1995, c. 374, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW).

§8117. Fair practices; affirmative action

The authority is subject to and shall comply with Title 5, chapter 65. [PL 1995, c. 374, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW).

§8118. Property of the authority

1. Property of the authority. All property of the authority pursuant to the provisions of this chapter is exempt from levy and sale by virtue of any execution and an execution or other judicial process is not a valid lien upon its property held pursuant to the provisions of this chapter. The authority may use its property only for the purposes set forth in this chapter.

[PL 1995, c. 374, §3 (NEW).]

2. Entry upon lands. The authority and its authorized agents and employees may enter upon any lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations as it determines necessary or convenient for the purpose of this chapter and the entry may not be deemed a trespass nor is the authority liable for the discovery of any form of waste or environmental contamination.

[PL 1995, c. 374, §3 (NEW).]

3. Authority for transfer of interest in land to the authority. Any county, municipality or other political subdivision, any public agency or commission of the State and any public service corporation or district, notwithstanding any contrary provisions of law, may lease, lend, grant or convey to the authority, upon its request and upon such terms and conditions as the proper authorities of the political subdivision, agency, commission, public service corporation or district determine reasonable and fair, any real or personal property or rights in the property that are necessary or convenient to the effectuation of the authorized purposes of the authority, including real and personal property or rights in the property already devoted to public use. As used in the subsection, the term "public service corporation" includes a public utility as defined in Title 35-A, section 102, subsection 13 and a corporation referred to in Title 13-C.

[RR 2001, c. 2, Pt. B, §41 (COR); RR 2001, c. 2, Pt. B, §58 (AFF).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW). RR 2001, c. 2, §B41 (COR). RR 2001, c. 2, §B58 (AFF).

§8119. Exemption from taxes

Because the accomplishment by the authority of the authorized purpose stated in this chapter is for the benefit of the people of the State and for the improvement of their commerce and prosperity and is the performance of essential governmental functions, the authority may not be required to pay any taxes or assessment on any property acquired or used by it for the purposes provided in this chapter; except that service facilities leased or rented by the authority to business entities are subject to taxation and assessments must be made against the tenant in possession based upon the value of the leasehold interest, both real and personal. The authority may not be required to pay any tax upon its income except as may be required by the laws of the United States. [PL 1995, c. 374, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 374, §3 (NEW).

§8120. Employees

Employees of the Northern New England Passenger Rail Authority are subject to the state retirement provisions of Title 5, Part 20 and the state employee health insurance program under Title 5, chapter 13, subchapter II. [PL 1999, c. 152, Pt. E, §4 (NEW).]

The retirement accounts of state employees transferred to the authority in its capacity as an independent agency must remain in the state regular plan. New employees of the authority shall also become members of the Maine Public Employees Retirement System under the state regular plan. The authority shall make employer retirement plan contributions at the state regular plan rate. Employee retirement plan contributions must be at the state regular plan rate. [PL 1999, c. 152, Pt. E, §4 (NEW); PL 2007, c. 58, §3 (REV).]

The accrued fringe benefits of state employees transferred to the authority in its capacity as an independent agency, including vacation and sick leave, health and life insurance and retirement, remain with the transferred employee. [PL 1999, c. 152, Pt. E, §4 (NEW).]

Authority employees are entitled to receive the same retirement health benefits as state employees. [PL 1999, c. 152, Pt. E, §4 (NEW).]

SECTION HISTORY

PL 1999, c. 152, §E4 (NEW). PL 2007, c. 58, §3 (REV).

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