



131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1711

H.P. 1100

House of Representatives, April 18, 2023

An Act to Provide for Safe Roadway Construction Design Criteria

Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative MALON of Biddeford.

Cosponsored by Representatives: ANKELES of Brunswick, CRAFTS of Newcastle, KUHN of Falmouth, LEE of Auburn, O'CONNELL of Brewer, SHEEHAN of Biddeford.

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

2 **Sec. 1. 23 MRSA §73, sub-§7**, as amended by PL 2021, c. 239, §1, is further
3 amended to read:

4 **7. Priorities, service levels, asset management goals and reporting.** The
5 Department of Transportation shall classify the State's public highways as Priority 1 to
6 Priority 5 using factors such as safety metrics, crash data, the federal functional
7 classification system, local economic significance based on a value per acre analysis,
8 regional economic significance, heavy haul truck use and relative regional traffic volumes.
9 The department shall also establish customer service levels related to safety, condition and
10 serviceability appropriate to the priority of the highway, resulting in a system that grades
11 each highway as Good, Fair or Poor.

12 To provide a capital transportation program that is geographically balanced and that
13 addresses urban and rural needs and meets customer expectations and transportation system
14 needs, the department shall include the following goals as part of its asset management and
15 work plan preparation. The goals are to:

16 A-1. Maintain Priority 1 highways in accordance with the department's federally
17 required transportation asset management plan and the department's customer service
18 measures so that no more than 15% of the highways are rated as Poor;

19 B-1. Maintain Priority 2 and Priority 3 highways so that no more than 15% of the
20 highways are rated as Poor; and

21 D. Continue the light capital paving program on a 7-year cycle for Priority 4 highways
22 outside compact areas as defined in section 754.

23 The department shall report to the joint standing committee of the Legislature having
24 jurisdiction over transportation matters by March 1st of each odd-numbered year
25 quantifying the status of each of the goals. The department shall recommend any remedial
26 actions, including additional funding or revisions to the goals, that the department
27 determines to be necessary or appropriate.

28 **Sec. 2. 23 MRSA §76** is enacted to read:

29 **§76. Transportation construction project review and design criteria**

30 **1. Project review.** As part of a permit application for a transportation construction
31 project or upon reaching 25% completion of the design of a transportation construction
32 project, the department shall review the design of the project based upon the controlling
33 criteria in subsection 2.

34 **2. Controlling criteria.** The department shall apply design standards for the following
35 controlling criteria to a transportation construction project under subsection 1:

36 A. Pedestrian facilities;

37 B. Bicycle facilities;

38 C. Design speed;

39 D. Shoulder width;

40 E. Lane width;

- 1 F. Public transit provisions;
- 2 G. Roadway ramp length;
- 3 H. Design loading structural capacity;
- 4 I. Horizontal curve radius;
- 5 J. Superelevation rate. For purposes of this paragraph, "superelevation" means the bank
- 6 of a curved portion of a road that allows fast-moving vehicles to travel the curve safely
- 7 and with stability;
- 8 K. Stopping sight distance;
- 9 L. Maximum grade;
- 10 M. Cross slope; and
- 11 N. Vertical clearance.

12 **3. Review process.** Upon receipt of a design submission for a transportation

13 construction project, the project manager of the department shall forward a copy of the

14 design to the chair of the design review committee under subsection 4 and internal design

15 reviewers in the department for review and approval. The design may require further

16 approval by the Commissioner of Transportation, the chief engineer of the department and

17 the United States Department of Transportation, Federal Highway Administration. If the

18 design meets all applicable design standards for the controlling criteria under subsection 2,

19 department staff may review and approve the design as a normal part of the project delivery

20 process. If the design does not meet an applicable design standard for a controlling

21 criterion, the design must be approved by the chief engineer of the department.

22 **4. Design review committee.** The design review committee with respect to a

23 transportation construction project design submitted under subsection 3 consists of the

24 department regional manager overseeing the project and the following 6 members

25 appointed by the Commissioner of Transportation:

- 26 A. Two urban designers;
- 27 B. One municipal economic development director;
- 28 C. Two staff members of the department's planning bureau; and
- 29 D. One bicycle or pedestrian safety advocate representing a statewide organization that
- 30 represents or advocates for bicycle or pedestrian safety.

31 The regional manager is the chair of the committee. The design review committee shall

32 review and approve project designs submitted under subsection 3 and provide

33 recommendations for design standards for controlling criteria under subsection 2.

34 **5. Exemptions.** Upon application to the department, a person that submits a

35 transportation construction project design under subsection 3 may receive an exemption

36 from a design standard under subsection 2. The exemption must be based upon a

37 documented need for a variance despite all reasonable efforts to design the project under

38 the standard. A cost related to a standard that is less than 20% of the total project cost may

39 not be the sole cause for an exemption under this subsection. The following projects are

40 exempt from the standards under this section without requiring an application for an

41 exemption under this subsection:

1 A. Pavement preservation activities solely to maintain the roadway surface or bridge
2 structure, as long as the accident history of the location does not indicate any apparent
3 geometric deficiency, including:

4 (1) Crack sealing;

5 (2) Fog sealing;

6 (3) Chip sealing; and

7 (4) Rubber chip sealing;

8 B. Bridge preservation or maintenance treatments solely to maintain the roadway
9 surface or bridge structure, as long as the accident history of the location does not
10 indicate any apparent geometric deficiency, including:

11 (1) Joint repair;

12 (2) Deck repair;

13 (3) Superstructure repair; and

14 (4) Substructure repair;

15 C. A nonroadway maintenance action, including:

16 (1) Mowing;

17 (2) Catch basin cleaning; and

18 (3) Street sweeping;

19 D. Vertical construction;

20 E. A nonvehicle access permit; and

21 F. The singular activity of the construction or maintenance of:

22 (1) Drainage;

23 (2) A noise barrier;

24 (3) A guardrail;

25 (4) Lighting;

26 (5) Traffic signal equipment;

27 (6) Signs; or

28 (7) Landscaping.

29 **6. Rules.** The department shall adopt rules to carry out the purposes of this section.
30 Rules adopted pursuant to this subsection are routine technical rules under Title 5, chapter
31 375, subchapter 2-A.

32 **Sec. 3. Department of Transportation to adopt rules to establish standards**
33 **for transportation construction project review and design criteria.** The
34 Department of Transportation shall adopt rules to establish standards for transportation
35 construction project review and design criteria under the Maine Revised Statutes, Title 23,
36 section 76, subsection 2 and otherwise carry out the purposes of Title 23, section 76.

1 1. In establishing standards under this section, the department shall consult and base
2 the standards on standards and guidance provided in the latest editions of the following
3 publications:

4 A. The American Association of State Highway and Transportation Officials, Guide
5 for the Development of Bicycle Facilities;

6 B. The American Association of State Highway and Transportation Officials, Guide
7 for the Planning, Design, and Operation of Pedestrian Facilities;

8 C. The American Association of State Highway and Transportation Officials, Guide
9 for Geometric Design of Transit Facilities on Highways and Streets;

10 D. The American Association of State Highway and Transportation Officials, A Guide
11 for Achieving Flexibility in Highway Design;

12 E. The American Association of State Highway and Transportation Officials, A Policy
13 on Design Standards-Interstate System;

14 F. The American Association of State Highway and Transportation Officials, A Policy
15 on Geometric Design of Highways and Streets;

16 G. The United States Department of Transportation, Federal Highway Administration,
17 Guide for Achieving Multimodal Networks;

18 H. The United States Department of Transportation, Federal Highway Administration,
19 Small Town and Rural Multimodal Networks Guide;

20 I. The United States Department of Transportation, Federal Highway Administration,
21 Revisions to the Controlling Criteria for Design and Documentation for Design
22 Exceptions;

23 J. The National Association of City Transportation Officials, Urban Street Design
24 Guide;

25 K. The National Association of City Transportation Officials, Urban Bikeway Design
26 Guide; and

27 L. The National Association of City Transportation Officials, Transit Street Design
28 Guide.

29 2. In developing standards for pedestrian facilities under Title 23, section 76,
30 subsection 2, paragraph A, the department shall design standards that provide facilities that
31 are accessible to all users under all state and federal laws, rules and regulations. In addition
32 to guidance from the publications under subsection 1, in particular the publication under
33 subsection 1, paragraph B, the department shall develop standards for pedestrian facilities,
34 including sidewalks, shared-use paths and side paths, pursuant to the United States
35 Department of Justice 2010 ADA Standards for Accessible Design and the United States
36 Department of Transportation 2006 ADA Standards for Transportation Facilities. The
37 standards must also provide that:

38 A. If the roadway is in a growth area as defined in Title 30-A, section 4301, subsection
39 6-C, pedestrian facilities must be located on both sides of the roadway;

40 B. For a bridge project where a pedestrian is legally allowed, including the roadway
41 underneath the bridge, the minimum width of a pedestrian facility must be 5 feet and
42 must include a physical buffer of at least one foot on any roadway with a posted speed

- 1 limit of over 25 miles per hour. A minimum width under this paragraph may not include
2 the curb width or physical buffer width;
- 3 C. A transportation construction project may include a single pedestrian facility on only
4 one side of the roadway if the sidewalk is a minimum of 6 feet with a one-foot buffer.
5 A minimum width under this paragraph may not include the curb width or physical
6 buffer width;
- 7 D. Other than a shared-use path or side path, a pedestrian facility may not include the
8 width intended for bicycle travel;
- 9 E. A marked crosswalk must be provided across every leg of a signalized intersection
10 where a sidewalk is present or proposed;
- 11 F. A marked crosswalk must be provided at an existing crosswalk regardless of the
12 existence of a sidewalk; and
- 13 G. A utility pole or other physical barrier may not be constructed in a sidewalk.
- 14 3. In developing standards for bicycle facilities under Title 23, section 76, subsection
15 2, paragraph B, in addition to guidance from the publications under subsection 1, in
16 particular the publications under subsection 1, paragraphs A and K, the department shall
17 develop standards for bicycle facilities, including shared-use paths, side paths, physically
18 separated bicycle lanes and buffered bicycle lanes, pursuant to the Massachusetts Highway
19 Department, Project Development and Design Guide, chapters 5 and 11 and other states'
20 documents, policies and guidance as needed or appropriate. The standards must also
21 provide that:
- 22 A. Remnant pavement space, including an unprotected roadway shoulder, may not be
23 considered a bicycle facility or part of a bicycle facility;
- 24 B. Bicycle facilities must be provided on both sides of a roadway where a bicycle is
25 allowed, except for a roadway classified as local;
- 26 C. A bicycle facility must be provided on at least one side of a roadway if:
- 27 (1) The roadway has a posted speed limit of at least 30 miles per hour;
- 28 (2) The roadway has a volume of traffic of at least 10,000 vehicles per day;
- 29 (3) The roadway has more than one travel lane in a single direction; or
- 30 (4) The roadway has a high potential for everyday bicycling as determined by the
31 department;
- 32 D. A bicycle facility must be provided on at least one side of a roadway at an
33 intersection with more than one travel lane in a single direction; and
- 34 E. Bicycle facilities must meet minimum design standards, including:
- 35 (1) A shared-use path must have a minimum width of 10 feet;
- 36 (2) A separated 2-way bicycle lane must have a minimum width of 8 feet; and
- 37 (3) A physically separated one-way bicycle lane, buffered bicycle lane and side
38 path must have a minimum width of 5 feet.
- 39 A minimum width under this paragraph may not include a buffer zone.

1 **SUMMARY**

2 This bill concerns safe roadway construction design criteria and does the following.

3 1. It adds safety metrics, crash data and local economic significance based on a value
4 per acre analysis as factors in the Department of Transportation classification of state
5 highway priority levels.

6 2. It establishes transportation construction project design controlling criteria subject
7 to Department of Transportation review and establishes a review process, including a
8 review committee, and exemptions. The bill directs the Department of Transportation to
9 establish by rule standards for the controlling criteria based upon certain publications of
10 the American Association of State Highway and Transportation Officials, the National
11 Association of City Transportation Officials, the United States Department of Justice, the
12 United States Department of Transportation and the Massachusetts Highway Department.

13 3. It provides specific direction to the Department of Transportation in adopting by rule
14 standards for pedestrian facilities, which include sidewalks, shared-use paths and side
15 paths, and bicycle facilities, which include shared-use paths, side paths, physically
16 separated bicycle lanes and buffered bicycle lanes.