

Draft Report Back – LD 1513 Discontinued Roads Subcommittee

TO: SLG Committee
FROM: LD 1513 Discontinued Roads Subcommittee
Representative Ann Matlack, Chair
DATE: January 14, 2021
SUBJECT: Report Back

The Presiding Officers of the 130th Legislature authorized the Subcommittee on Discontinued Roads to meet during the interim to examine issues and recommend legislation related to [LD 1513, An Act to Require Maintenance of a discontinued Public Road That Provides the Sole Access to One or More Residences](#).

PROCESS

The Subcommittee met three times during the interim on September 22nd, October 26th and December 14th.¹ The first 2 meetings focused on collecting and considering relevant information from a variety of interested parties, including the Maine Municipal Association, Maine ROADWays, Maine Woodland Owners Association, MDOT and Maine 9-1-1. At the 2nd meeting, the subcommittee invited these parties to continue working together to develop a proposal for consideration by the subcommittee at its final meeting.²

The Maine Municipal Association, Maine ROADWays and the Maine Woodland Owners Association attended remote meetings facilitated by the OPLA analyst on November 4th and November 9th. Each were asked to identify the statutory change they would like the subcommittee to consider recommending to the full committee and the specific problem their proposal would address. During the 2nd meeting, time was spent seeking consensus among the parties on the suggestions.

The primary suggestions identified by each were:

1. Maine ROADWays proposed that a town be required to provide sufficient maintenance to support use of the road if the town grants a building permit and/or taxes property on a public easement as residential property (See Attachment A). This proposal is similar to LD 1513.
2. Maine Woodland Owners Association suggested clarifying the scope of public easements on discontinued and abandoned roads, particularly with respect to ATV use (See Attachment B).
3. Maine Municipal Association did not propose any statutory changes at this time stating that a specific problem to be solved was not identified making a solution . (See Attachment C).

¹ Materials from the subcommittee are located at <https://legislature.maine.gov/slg-roads-subcommittee-2021>

² MDOT and Maine 9-1-1 did not participate in the interested parties' discussion but were kept informed of the discussions.

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During the 2nd meeting, considerable time was spent seeking unanimous consensus on a single proposal. This was not achieved but Maine ROADWays and Maine Woodland Owners Association were in general agreement on the following proposal:

1. Establish a process for abutting and affected property owners on a road discontinued prior to 10/18/21 to request a municipality release its public easement if;
 - a. All property owners on the road agreed to execute private easements providing access to their property;
 - b. All property owners on the road agreed to execute a maintenance agreement spelling out the maintenance standard and cost obligations of each property owner; and
 - c. The road did not provide access to state-owned land, public trust land, or water bodies.
2. If all the conditions in item #1 were met, the municipality would hold a public hearing (after notice) and decide whether to keep or release the public easement.
3. If the public easement was kept, the municipality would be responsible to maintain the road to a lesser standard than required for public roads.
4. The cost of such maintenance would be borne by the municipality except if the public easement provided access to state-owned lands, public trust lands or water bodies, the cost of such maintenance would be reimbursed by the State (MDOT was suggested).

Time did not allow this proposal to be fully developed.

RECOMMENDATIONS

After consideration of these proposal at the final meeting, the subcommittee recommends the SLG Committee [REDACTED]