

Draft Report Back – LD 1513 Discontinued Roads Subcommittee

TO: SLG Committee
FROM: LD 1513 Discontinued Roads Subcommittee
Representative Ann Matlack, Chair
DATE: January 11, 2022
SUBJECT: Report Back

The Presiding Officers of the 130th Legislature authorized the formation of the LD 1513 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 four times during the interim (September 22nd, October 26th, December 14th and January 3rd) and one time after session started (January 12th).¹ The first 2 meetings of the subcommittee focused on collecting and considering relevant information from a variety of interested parties, including the Maine Municipal Association, Maine ROADWays, Maine Woodland Owners Association, Maine Department of Transportation (MDOT) and Maine 9-1-1. At the end of the subcommittee's second meeting, the interested parties were asked to working together to develop a proposal for consideration by the subcommittee at its next meeting.

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.² At the first meeting, each was invited to identify the statutory change they would like the subcommittee to consider and the specific problem their proposal would address. 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 residential building permit and/or taxes property located on a public easement. (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 suggested state funds be appropriated to assist municipalities in repairing damage caused by the public's use of a public easement. MMA did not propose any statutory changes stating that a specific problem to be solved was not identified making a statutory solution unnecessary and potentially ill advised. (See Attachment C).

During the interested parties' 2nd meeting considerable time was spent seeking unanimous consensus on a single proposal. The suggestions that state funds be appropriated to assist in the maintain of public easements was the only area of agreement among the 3 parties. However, consensus on specific conditions around use of the funds was not achieved.

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 process.

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On December 14th, the subcommittee was informed of the interested parties work. The lack of consensus among the parties lead the subcommittee to consider, and then vote to recommend that a permanent commission be created to provide on ongoing mechanism to prioritize and consider the varied and complex issues and interests affected when a road is abandoned or discontinued.

To allow adequate time to complete proposal for the SLG Committee, 2 additional meetings were held, one with approval of the Presiding Officers, and one with approval of the SLG Committee.

RECOMMENDATIONS

The LD 1513 Subcommittee on Discontinued Roads recommends that the SLG Committee submit a request to the Presiding Officer to hold a 2nd public hearing for LD 1513 to consider the attached amendment. The amendment establishes the Maine Abandoned and Discontinued Roads Commission. The commission is charged _____. The commission is required to submit a report to both the ACF and SLG committees by December 15, 2023, and every other year thereafter. The committees are authorized to introduce legislation based on the commission's recommendations.

The subcommittee also recommends that the SLG Committee invite representatives from the Department of Inland Fisheries and Wildlife and the Department of Agricultural, Conservation and Forestry to provide information to the committee to assist in selecting the appropriate oversight agency for this commission.