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Legislative Document

No. 67

H.P. 70

House of Representatives, January 22, 2013

An Act To Strengthen Collaboration in the Transfer of Responsibilities for State and State Aid Highways

Reference to the Committee on Transportation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative BOLAND of Sanford.
Cosponsored by Senator TUTTLE of York, Senator COLLINS of York and
Representatives: CHENETTE of Saco, COTTA of China, KUSIAK of Fairfield,
MacDONALD of Old Orchard Beach, MASON of Topsham, PEOPLES of Westbrook,
WEAVER of York, Senator: LACHOWICZ of Kennebec.

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

2 **Sec. 1. 23 MRSA §754, sub-§1**, as amended by PL 2011, c. 652, §2 and affected
3 by §14, is further amended to read:

4 **1. Jurisdiction.** Except as otherwise provided, all state and state aid highways
5 within compact areas of urban compact municipalities, as defined in subsection 2, as
6 determined by the department must be maintained in good ~~repair~~ condition by the town in
7 which the highways are located at the expense of the town. Municipalities must be
8 notified one year in advance of changes in compact or built-up sections that place
9 additional maintenance responsibilities on the municipalities. Municipalities may waive
10 the requirement of the one-year notice. When any town neglects to maintain the highways
11 within 14 days after notice given its municipal officers by the department, the department
12 may proceed to make necessary repairs to that way, which must be paid for by the State
13 and the cost for the repairs must be withheld from funds due the town under the Local
14 Road Assistance Program, established in chapter 19, subchapter 6. The amounts
15 collected from these towns must be added to the fund for maintenance of state and state
16 aid highways.

17 **Sec. 2. 23 MRSA §754, sub-§3**, as amended by PL 2007, c. 417, §1, is further
18 amended to read:

19 **3. Transfer of state or state aid highway.** When the responsibility for maintenance
20 of a section of state or state aid highway is to be transferred to a municipality as a result
21 of population growth, as determined using the decennial United States census, or the
22 municipality meets the definition of a compact or built-up section under section 2, and
23 when the municipality is not eligible to opt out of summer maintenance pursuant to
24 subsection 2, paragraph C, the department shall prepare a capital and maintenance plan to
25 ensure that the section of state or state aid highway is in good ~~repair~~ condition at the time
26 of transfer. ~~The plan must be developed in consultation with the affected municipality.~~
27 ~~For the purpose of this subsection, "good repair" means actions intended to reasonably~~
28 ~~avoid nonroutine maintenance activities for a minimum of 10 years and includes~~
29 ~~consideration of ditching, culverts, major structural defects and pavement condition~~
30 ~~ratings of 3.3 or higher as determined by the department.~~

31 Prior to meeting with the affected municipality to discuss the transfer, the department
32 shall provide the municipality with:

33 A. Survey and layout plans pertaining to the section of state or state aid highway to
34 be transferred;

35 B. Maintenance records for the 15 years prior to the meeting;

36 C. Information on improvement projects for the section of state or state aid highway
37 being implemented or planned for implementation, including funding sources; and

38 D. All legal documentation establishing ownership of the section of state or state aid
39 highway.

40 After providing the required materials, the department shall develop in collaboration with
41 the affected municipality a memorandum of understanding detailing the improvements

1 necessary to bring the road into good condition. In case of a dispute over the necessary
2 improvements, either party may engage the resolution process provided in subsection 5.
3 Unless otherwise addressed in the memorandum of understanding, transfer of
4 responsibility occurs 24 months after all improvements are completed.

5 **Sec. 3. 23 MRSA §754, sub-§4** is enacted to read:

6 **4. Good condition.** For purposes of this section, "good condition" means all
7 improvements necessary to avoid capital and nonroutine maintenance activities for a
8 minimum of 10 years. Improvements must address, but are not limited to, pavement
9 condition ratings of 3.3 or higher, horizontal alignment, vertical alignment, sight distance,
10 roadside clearance zones, guardrails, utilities, signs, striping, rights of way, sidewalks,
11 intersections, shoulders, culverts, closed drainage systems, minor spans, bridges and
12 high-crash locations.

13 **Sec. 4. 23 MRSA §754, sub-§5** is enacted to read:

14 **5. Dispute resolution process.** A 3-member review board must be created each
15 time a dispute between the State and a local government arises as a result of the state and
16 state aid highway transfer process. The board consists of one member appointed by the
17 department, one member appointed by an organization representing municipal
18 government and one road construction or engineering industry professional jointly
19 appointed by the department and the municipal appointee. The department shall establish
20 by rule the procedures governing the dispute resolution process, including, without
21 limitation:

22 A. The process for filing a dispute for resolution;

23 B. The dispute resolution procedures; and

24 C. The time frame within which disputes are to be resolved.

25 Final decisions of a review board represent final agency action. Rules adopted pursuant
26 to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter
27 2-A.

28 SUMMARY

29 This bill amends the existing urban compact road transfer process by requiring the
30 Department of Transportation to work collaboratively with the affected municipality to
31 ensure that a section of state or state aid highway transferred to a municipality for
32 maintenance responsibilities is in good condition. In addition to outlining the information
33 and documents that must be provided to the affected municipality, the bill provides a
34 more detailed definition of "good condition" and creates a dispute resolution process to
35 address contested issues.