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Date: (Filing No. H-)

TRANSPORTATION

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 655, L.D. 1019, “An Act Regarding Water Testing Related to Salt and Sand Storage Facilities”

Amend the bill by striking out the title and substituting the following:

'An Act Regarding Water Testing Related to Storage Facilities'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 23 MRSA §652, sub-§2, as amended by PL 1987, c. 769, Pt. A, §84 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

2. Private water supplies. In the event an owner of land adjacent to a state or state aid highway ~~receives~~ or hydrogeologically downgradient from a state-owned salt storage facility suspects that a private water supply on that land has been destroyed or rendered unfit for human consumption by the department constructing, reconstructing or maintaining ~~the a state or state aid highway or storing salt in a state-owned salt storage facility,~~ such the owner may apply in writing to the department for a determination of the alleged cause and assessment of the damage and, ~~if such the~~ if such the claim is founded on construction, the owner shall present ~~such the~~ such the application within 24 months after the completion date of the work as that date appears in the records of the department.

The application ~~shall~~ must set forth the name and address of the owner, the owner's source of title, the location of the property, a description of the damage, the cause to which the damage is attributed and the name and address of any lien holder.

A. If the department determines that it did not cause the alleged damage to ~~such the~~ such the water supply, a copy of the determination ~~shall~~ must be served by registered or certified mail or by personal service as required for service of a summons on a complaint in the Superior Court.

B. If the department determines that any damage to the privately owned water supply was caused by the department constructing, reconstructing or maintaining the highway or storing salt, a copy of the determination ~~shall~~ must be served by registered or

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1 certified mail or by personal service as required for service of a summons on a
2 complaint in the Superior Court and the department shall set forth an offer of settlement
3 ~~which shall be either~~ that offers:

4 (1) To replace the water supply; ~~or~~

5 (2) To repair the damage to the water supply; ~~or~~

6 (3) To pay a designated sum of money; or

7 (4) To purchase the realty served by the water supply in the event the cost of repair
8 or replacement of the water supply exceeds the appraisal value of the realty.

9 C. The department may issue rules and regulations in accordance with standards of the
10 Department of Health and Human Services and the United States Department of Health
11 and Human Services, Public Health Service regarding water potability for the
12 determination of the degree of contamination, pollution or fitness for domestic use.

13 D. The department shall in its determination consider the necessity for installation or
14 replacement of piping, tanks, pumps, heating systems or other related fixtures. The
15 ~~Department of Transportation shall~~ department may not condition installation or
16 replacement on the owner giving possession or title of any privately owned piping,
17 tanks, pumps, heating systems or other related fixtures on ~~his~~ the land to any agency of
18 this State, unless agreed to by the property owner.

19 E. If the department is unable to settle at what it ~~deems~~ determines to be a reasonable
20 settlement, the department or owner may apply to the State Claims Commission in
21 writing for a determination of the alleged cause and assessment of the damage. The
22 proceedings ~~shall~~ are then ~~be~~ the same as in condemnation cases.

23 F. This subsection ~~shall~~ does not apply to private water supplies after June 26, 1969
24 where the location does not allow for or provide for adequate surface drainage.

25 G. This subsection ~~shall~~ does not apply to private water supplies now located or
26 hereafter located within the right-of-way limits.

27 H. This subsection ~~shall~~ does not apply to any private water supply damaged by
28 construction, reconstruction or maintenance ~~which~~ of the highway or the storage of salt
29 that the department determines to have already been contaminated or polluted by
30 another source to the degree ~~said~~ the contamination or pollution would have rendered
31 it unfit for human consumption.

32 I. With respect to a private water supply located on land that is adjacent to a state or
33 state aid highway or is hydrogeologically downgradient from a state-owned salt storage
34 facility, the department, on the request of the landowner, shall arrange for and pay the
35 cost of testing the private water supply for any contaminants that may derive from the
36 department constructing, reconstructing or maintaining a state or state aid highway or
37 storing salt in a state-owned salt storage facility.

38 For purposes of this subsection, "hydrogeologically downgradient" means that a location
39 receives groundwater from another location.'

40 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
41 number to read consecutively.

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SUMMARY

Current law governs the contamination of private water supplies adjacent to a state or state aid highway. This amendment includes private water supplies that are hydrogeologically downgradient from a state-owned salt storage facility in the law governing the contamination of private water supplies adjacent to state or state aid highways. It requires the Department of Transportation to arrange for and pay the cost of testing the private water supplies for any contaminants that may derive from the department constructing, reconstructing or maintaining a state aid or state-owned highway or storing salt in a state-owned salt storage facility upon request by the landowner, instead of every 2 years, as in the bill. It adds a definition of "hydrogeologically downgradient" to mean that a location receives groundwater from another location. It removes the provision in the bill that if an owner of land adjacent to a salt and sand storage facility shows the owner's water supply is contaminated by any contaminants that may derive from the salt and sand storage facility, the contamination is presumed to have been caused by that storage facility and the department is required to offer a settlement to remedy the situation unless the department can demonstrate that the contamination was not caused by the salt and sand storage facility.

FISCAL NOTE REQUIRED

(See attached)