



**MAINE MUNICIPAL
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Testimony of the Maine Municipal Association

In Opposition to

LD 928 - *An Act to Maintain Public Access to Town Ways in Maine*

March 26, 2025

Senator Baldacci, Representative Salisbury and members of the State and Local Government Committee, my name is Rebecca Graham, and I am providing testimony in opposition to LD 928 on behalf of the Maine Municipal Association's (MMA) elected 70-member Legislative Policy Committee (LPC). For reference, the LPC guides MMA's advocacy efforts and establishes positions on bills of municipal interest and is comprised of representation from Maine communities both large and small and those with capacity as well as those without capacity.

While municipal officials would like to seek clarity in the law as it applied to the litany of public road turnbacks and carriage trails that have been inherited by municipal government through the generosity of other levels of government, it appears this bill will only add further confusion to the already complicated process of legally understanding road ownership and responsibility. It is not clear what problem this bill seeks to solve but it will create yet another level of mud on the road topics this committee has the pleasure of wading through each year and another legislative milestone for the judicial process that are necessary to establish a finding of fact with regard to the ownership and access of roads more generally.

There is some significant language issues with the bill as drafted that may or may not achieve the planned policy objective. As drafted, this bill only applies to roads declared abandoned under the statutory abandonment process. It does not apply to discontinued roads or those abandoned under the common-law process which makes it very narrow in application. Additionally, the language will add further confusion to the complex rules for public easements created which are created already in different ways.

The bill seems to attempt some form of adverse possession of the gate itself. Generally, in the past, there were reasons someone might gate an easement, such as if it includes farmland or pastureland abutting the road on both sides and the landowner doesn't want cows to escape, etc.. Also, putting a gate up does not mean that the public does not have access – only that they might have to open a gate. The statute currently allows for the removal of gates and bars from an abandoned way that has a retained public easement should gates or bars exist.

As drafted, LD 928 would prohibit the erection of gates or bars on a public easement on a road deemed abandoned (only by the statutory process), but only after 15 years from the road being declared abandoned. The amendment would also allow for the removal of gates and bars on a public easement, but it limits this authorization to 15 years from the time the road on which the public easement lays being deemed abandoned. Functionally, within 15 years a public easement can be gated, but the gates can also be removed, but after 15 years no one is allowed to erect gates and bars on a public easement, but no one is allowed to remove them if someone does happen to erect them.

Municipal officials respectfully ask that you turn this muddy proposal over to the Abandoned and Discontinued Roads Commission for review and recommendations towards a solution if there is a legislative path not barred from passage due to necessary findings of fact by the judicial branch.