

LD 1513 An Act To Require the Maintenance of a Discontinued Public Road That Provides the Sole Access to One or More Residences

To: Members, Joint Standing Committee on State and Local Government
From: Lynne Caswell, Esq., Legislative Analyst
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*electronic
record*

<http://legislature.maine.gov/ctl/SLG/04-30-2021?panel=0&time=0&sortdir=0&sortby=2>

SUMMARY

This bill requires that when a municipality retains a public easement in a discontinued town way, the municipality must provide sufficient maintenance to keep the way passable to access the residences on the way, as determined by the county commissioners, if the way is the only access to one or more residences and the municipality either issued permits for residential use in the way or collects property taxes on those residences. The municipality is not required to keep the way safe and convenient for travelers with motor vehicles.

TESTIMONY*

Sponsor: Representative Newman

- If public easement retained, maintain it so it is passable for taxpaying residents
- Access in case of emergency

Proponents: Maine ROADWays by Roberta Manter; David Manter (written only: Maine Association of Realtors by Andrew Cashman; Margaret Cardoza; Douglas Wilson; Katherine Ives; Paul Denis; Brent Davis)

- public easement = unrestricted motor vehicle travel
- require municipalities to take some measure of responsibility for public easement use

Opponents: MMA by Rebecca Graham

- unfunded mandate
- involvement of county governments in municipal affairs

NFNA: none

MATTERS FOR CONSIDERATION

- Mandate
- “as determined by the county commissioners”

PRIOR SESSIONS

See following page

FISCAL IMPACT - Preliminary (OFPR)

None provided as of this date.

* The section is not intended to reflect all comments and may include unintentionally errors.

LEG / LD	Proposal	PUBLIC LAW / RESOLVE
125th LD 1596	An Act to Amend the Laws Governing Discontinued Town Ways	<u>Resolve 2011, c. 120</u> , Resolve, To Review Laws and Policies Related to Discontinued and Abandoned Roads <input type="checkbox"/> Set up stakeholder group run by Dept. of Conservation; <input type="checkbox"/> Key issues: access, maintenance, damage to public easements over discontinued roads
126th LD 1177	An Act to Implement the Recommendations from the Discontinued and Abandoned Roads Stakeholder Group <input type="checkbox"/> Subcommittee approved to meet during interim <input type="checkbox"/> Held 3 meetings; prepared amendment to bring back <input type="checkbox"/> <i>Died Between Houses</i>	
127th (1st) LD 1325	An Act to Ensure a Public Process When Discontinuing or Abandoning a Public Road	<u>Public Law 2015, c. 464</u> (<i>Veto overridden</i>) An Act To Ensure a Public Process When Discontinuing or Abandoning a Public Road Key issues: maintenance of public easement on discontinued ways; notification of proposed discontinuance; public utility easements; municipal inventory of discontinued town ways; cause of action for an abutting property owner for damages to road
127th (2nd) LD 1637 Gov's bill	An Act to Assist Citizens Residing on a Public Easement <i>ONTP (7) / OTP-A (6)</i> (<i>Accepted majority ONTP report</i>)	
128th (1st) LD 1588 Gov's bill	An Act to Maintain Mail Routes and Access to Residential Structures <input type="checkbox"/> Subcommittee proposed May 2017 SLG voted to carryover <input type="checkbox"/> Subcommittee approved; up to 3 meetings in interim	<u>Public Law 2017 ch. 345</u> (<i>similar to LD 1637</i>) An Act To Maintain Access to Property on Discontinued Roads Key issues: notification of discontinuance; maintenance; access; private easements; certain town ways not allowed to be discontinued; property disclosure
129th (1st) LD 1151	An Act To Ensure Consistency in Commercial Real Estate Law by Restoring Due Diligence Responsibility to the Buyer <i>ONTP/OTP</i> (<i>Accepted majority ONTP report</i>)	
LD 1536	An Act To Require Municipalities To Maintain Access on Public Rights-of-way - <i>ONTP</i>	
129th (1st & 2nd) LD 1415	An Act To Improve the Laws Regarding Discontinued and Abandoned Roads <i>OTP-A</i> (<i>Died in Possession of the Senate Upon Conclusion of the 129th Legislature</i>)	