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ENERGY, UTILITIES AND TECHNOLOGY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 775, L.D. 1124, Bill, "An Act To Manage Risks Associated with the Installation of Natural Gas Pipelines"

Amend the bill by striking out all of sections 3 to 5 and inserting the following:

'Sec. 3. 35-A MRSA §2503, sub-§21, as enacted by PL 1999, c. 753, §12, is repealed and the following enacted in its place:

21. Default standards. This subsection governs standards applied by local licensing authorities.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Local licensing authority" means municipal officers or their designees or county commissioners.

(2) "Underground location standards" means standards governing the location and depth of and distance between utility facilities, including the underground portion of aboveground facilities such as utility pole bases.

B. For all state and state-aid highways within compact areas of urban compact municipalities as defined in Title 23, section 754, rules adopted by the Department of Transportation under subsection 16 serve as the minimum standard.

C. Except within areas identified in paragraph B, a local licensing authority may adopt underground location standards for utility facilities within its jurisdiction as designated in section 2502, subsection 1, paragraph A or B. If a local licensing authority has not adopted underground location standards for utility facilities, the underground location standards adopted by the Department of Transportation under subsection 16 govern.

D. A local licensing authority that has not adopted underground location standards for utility facilities in accordance with paragraph C may grant exceptions to the underground location standards adopted by the Department of Transportation under subsection 16 if the licensing authority finds one of the following:

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- 1 (1) Application of the underground location standards would present an
2 exceptional hardship or unreasonable cost under the circumstances and
3 alternative standards will adequately ensure public safety;
 - 4 (2) All affected parties, as determined by the local licensing authority, have
5 agreed to alternative underground location standards that will adequately ensure
6 public safety;
 - 7 (3) A unique situation exists that requires an adjustment of the standards in a
8 manner that ensures public safety; or
 - 9 (4) The underground location standards exceed the limits of the available space
10 within the right-of-way.
- 11 E. The owners of a new, planned underground utility facility shall coordinate directly
12 with owners of existing underground utility facilities in the public way during the
13 design phase of the new, planned facility. Both the new and existing facility owners
14 shall make reasonable accommodation for each other's facilities in accordance with
15 applicable underground location standards to allow ease of access to and maintenance
16 of those facilities and adequately ensure public safety.'

17 **SUMMARY**

18 This amendment retains sections of the bill that address the application process and
19 objection process relating to the regulation of facilities in the public way. This
20 amendment defines "underground location standards" and specifies that a local licensing
21 authority may adopt underground location standards for utility facilities within its
22 jurisdiction, except along state or state-aid highways within compact areas of urban
23 compact municipalities, in which case the location standards adopted by the Department
24 of Transportation serve as the minimum standard. The amendment specifies that if a
25 local licensing authority has not adopted underground location standards for utility
26 facilities within its jurisdiction, the standards adopted by the Department of
27 Transportation govern. This amendment allows a local licensing authority that has not
28 adopted standards to grant an exception to the standards adopted by the Department of
29 Transportation if it finds that applying the standards would present an exceptional
30 hardship or unreasonable cost under the circumstances and alternative standards will
31 adequately ensure public safety; all affected parties, as determined by the local licensing
32 authority, have agreed to alternative underground location standards that will adequately
33 ensure public safety; a unique situation exists that requires an adjustment of the standards
34 in a manner that ensures public safety; or the underground location standards exceed the
35 limits of the available space within the right-of-way. Lastly, this amendment requires
36 coordination among underground utility facility owners.