

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

S.P. 415 - L.D. 1168

An Act To Prohibit the Use of Eminent Domain in Certain Public-private Partnerships and To Prohibit the Use of Eminent Domain by a Private Business Entity in a Public-private Partnership

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

Sec. 1. 23 MRSA §4251, sub-§3, as enacted by PL 2009, c. 648, Pt. A, §1, is amended to read:

3. Authorization. Notwithstanding any other provision of law, the department is authorized to receive or solicit proposals to form a public-private partnership with respect to a transportation facility. Proposals must be reviewed in accordance with this subchapter. Upon approval of the Legislature as provided in this subchapter, the department may enter into an agreement. All proposals must comply with section 73.

Sec. 2. 23 MRSA §4251, sub-§§7 and 9, as enacted by PL 2009, c. 648, Pt. A, §1, are amended to read:

7. Exercise of powers. If the department exercises its power of eminent domain for the development and construction of a transportation facility pursuant to this subchapter and section 73, the department must retain ownership rights and interests taken. The department's power of eminent domain may not be conferred on a private entity. The State may provide maintenance, law enforcement and other services with respect to a transportation facility owned by a private entity when the agreement provides for reasonable reimbursement for such services.

9. Legislative approval. If the department determines that a public-private partnership proposal and draft agreement meets the standards of this subchapter, the department shall submit to the Legislature a bill that authorizes the agreement. The bill must include a statement that the proposal meets the standards in subsection 4, a summary of the substance of the draft agreement and a description of the nature and amount of state investment, if any, including effects on programmed capital work. If legislative approval is granted, the department shall report to the joint standing committee of the Legislature having jurisdiction over transportation matters by February 1st of each

year as to the status of the project and any substantive changes to the public-private partnership proposal.