

L.D. 1177

2 Date: _____ (Filing No. S-)

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**STATE OF MAINE
SENATE
126TH LEGISLATURE
SECOND REGULAR SESSION**

SENATE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to S.P. 414,
L.D. 1177, Bill, “An Act To Implement the Recommendations from the Discontinued and
Abandoned Roads Stakeholder Group”

11 Amend the amendment by striking out all of section 5 and inserting the following:

12 'Sec. 5. 23 MRSA §3026-A is enacted to read:

§3026-A. Discontinuance of town ways

14 A municipality may terminate in whole or in part any interests held by it for highway
15 purposes. A municipality discontinuing a town way or public easement in this State must
16 meet the following requirements.

1. Notification of discontinuance to abutting property owners and municipal planning board. The municipal officers shall give best practicable notice to all abutting property owners and the municipal planning board or office of a proposed discontinuance of a town way or public easement. As used in this subsection, "best practicable notice" means, at minimum, the mailing by the United States Postal Service, postage prepaid, first class, of notice to abutting property owners whose addresses appear in the assessment records of the municipality.

24 **2. Municipal officers meet to discuss proposed discontinuance and file order of**
25 **discontinuance.** The municipal officers shall discuss a proposed discontinuance of a
26 town way or public easement at a public meeting and file an order of discontinuance with
27 the municipal clerk that specifies:

- A. The location of the town way or public easement;
 - B. The names of abutting property owners;
 - C. The amount of damages, if any, determined by the municipal officers to be paid to each abutter;
 - D. For a town way, whether or not a public easement will be retained. If the existing legal rights of abutting property owners to access their property will be eliminated, a public easement must be retained; and
 - E. If a public easement is to be retained:

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- 1 (1) The extent of municipal maintenance and liability responsibilities, if any; and
- 2 (2) The restrictions on how the public may use the public easement, if any.

3 **3. Public hearing.** The municipal officers shall hold a public hearing on the order of
4 discontinuance of a town way or public easement filed pursuant to subsection 2.

5 **4. Approval of order of discontinuance and damage awards.** Within the time
6 frames provided in subsection 5, after the public hearing pursuant to subsection 3, the
7 municipal legislative body must vote upon the order of discontinuance submitted to it:

- 8 A. To approve the order of discontinuance, including the public easement and the
9 restrictions set in the order and the damage awards, and to appropriate the money to
10 pay the damages; or
- 11 B. To disapprove the order of discontinuance.

12 **5. Time frames for vote.** In the case of a municipality with a city or town council,
13 the municipal legislative body must vote upon the order of discontinuance in accordance
14 with subsection 4 not less than 10 but not more than 60 business days after the public
15 hearing. In the case of a municipality without such a council, the municipal legislative
16 body must vote upon the order of discontinuance at the next scheduled town meeting.

17 **6. Certificate of discontinuance filed.** The municipal clerk shall record an attested
18 certificate of discontinuance within 10 days after a vote by the municipal legislative body
19 under subsection 4 in the registry of deeds, with the Department of Transportation and
20 with the municipality. The certificate must describe the town way or public easement and
21 the final action by the municipal legislative body. The date the certificate of
22 discontinuance is filed is the date the town way or public easement is discontinued. The
23 registry of deeds shall record a certificate of discontinuance under the name of the town
24 way or public easement, the name of the municipality and the names of the abutters.

25 An easement for public utility facilities necessary to provide or maintain service
26 remains in a discontinued town way regardless of whether a public easement is retained.
27 Upon approval by a municipal legislative body of an order to discontinue a town way and
28 retain a public easement, unless otherwise stated in the order, all remaining interests of
29 the municipality pass to the abutting property owners in fee simple to the center of the
30 way.'

31 Amend the amendment by striking out all of section 12 and inserting the following:

32 **'Sec. 12. Municipalities to develop list of town ways.** By January 1, 2016, a
33 municipality shall prepare a list of all town ways in that municipality that are currently
34 maintained with public funds; a list of all town ways that have been discontinued since
35 1965 and whether or not a public easement was retained, if such information can be
36 provided without research; and a list of all town ways that have been abandoned since
37 1965 and whether or not a public easement was retained, if such information can be
38 provided without research. A municipality shall publish the lists on its publicly accessible
39 website or make copies available at the municipal office. A municipality shall record the
40 lists at the appropriate county registry of deeds and with the Department of
41 Transportation. The registry of deeds shall record these lists under the name of the

1 municipality. The Department of Transportation may provide a municipality a list of that
2 municipality's state and state aid highways and individual town ways.'

3 **SUMMARY**

4 This amendment amends Committee Amendment "A" in the following manner:

5 1. It amends the time frames in which a municipal legislative body must vote on an
6 order of discontinuance based on the type of municipal legislative body;

7 2. It adds a time limit to the requirement that the municipal clerk record a certificate
8 of discontinuance;

9 3. It removes the requirement that a municipality, 21 years after a certificate of
10 discontinuance has been filed, reconsider and vote on the discontinuance; and

11 4. It changes the requirement that a municipality develop lists of all town ways that
12 have been discontinued or abandoned since 1965 if known to a requirement that a
13 municipality develop those lists if the information can be provided without research.

14 **SPONSORED BY:** _____

15 **(Senator LACHOWICZ)**

16 **COUNTY: Kennebec**